



The Daily Whip

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THURSDAY, NOVEMBER 3, 2005

House Meets At...	Last Vote Predicted At...
10:00 a.m.: Legislative Business Ten "One Minutes" Per Side	7:00 p.m.

FLOOR SCHEDULE AND BILL SUMMARY

H.Res. 527 - Rule providing for consideration of H.R. 4128 - Private Property Rights Protection Act of 2005 (Rep. Gingrey - Rules). The Rules Committee has recommended a restrictive rule that provides 90 minutes of general debate, provides one motion to recommit with or without instructions, and makes in order eleven amendments debatable for 10 minutes each.

Motion to go to Conference on H.R. 2528 - Military Quality of Life and Veterans Affairs Appropriations Act for FY06. Democratic Motion to Instruct.

Motion to go to Conference on H.R. 889 - Coast Guard and Maritime Transportation Act of 2005. Democratic Motion to Instruct.

H.R. 4128 - Private Property Rights Protection Act of 2005 (Rep. Sensenbrenner - Judiciary) (Subject to a Rule). This bill makes states and political subdivisions ineligible for Federal economic development funds for 2 fiscal years if they exercise "eminent domain" in the name of economic development. This bill also prohibits the Federal government from exercising eminent domain for economic development; and provides a private right of action to property owners. HR4128 is a response to *Kelo v. City of New London*. In *Kelo*, the Supreme Court decided (5-4) that the city's condemnation of private property was a "public use" within the Constitution even though the property was turned over to private developers. This bill was reported out of the Judiciary Committee on a 27-3 vote.

The eleven amendments made in order by the restrictive rule are:

- **Sensenbrenner Manager's Amendment.** To clarify that private roads that are open to the public, free or by toll, and flood control facilities are covered under the exceptions to the bill. It also adds to the bill's Sense of Congress section language provided by the Resources Committee regarding the effect of the abuse of eminent domain on irrigation and reclamation projects, and on public lands.
- **Nadler Amendment.** To remove the language withholding federal funds if a government takes property for economic development purposes, while allowing a property owner to go to a court for injunctive or declaratory relief before the taking occurs.
- **Granger Amendment.** To strike the bill's prohibition against a local government's taking "property that is subsequently used for economic development."
- **Sodrel Amendment.** To clarify that in any proceeding to prevent or remedy a taking, the burden is on the state or agency to show that it is not for economic development as defined in the Act; and to require a heightened standard of proof -- clear and convincing -- that the use fits one of the exceptions to economic development as defined in the Act.
- **Moran (VA) Amendment.** To change the bill's definition of "economic development" to specify that increasing tax revenue must be the primary purpose of the taking, and to set a hard date of seven years for property holders to bring action against the taking authority.

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- **Turner Amendment.** To enumerate several harmful uses of land which constitute a “threat to public health and safety.” It defines these conditions as dilapidation, obsolescence, overcrowding, lack of ventilation, light, and sanitary facilities, excessive land coverage, deleterious land use, or environmental consolidation.
- **Gary Miller (CA)/ Eddie Bernice Johnson (TX) Amendment.** To add language to specify that the term economic development in the bill does not include the redevelopment of “brownfield” sites (it uses the definition of brownfield site included in the Small Business Liability Relief and Brownfield Revitalization Act).
- **Gingrey Amendment.** To add a new section to prohibit a State or political subdivision of a State from the exercise of eminent domain over the property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization if that State or political subdivision received Federal economic development funds during any fiscal year in which it does so. This amendment also places the same prohibition on the Federal government. A violation of this provision will render the State or political subdivision ineligible to receive Federal economic development funds for a period of 2 fiscal years.
- **Cuellar Amendment.** To require federal agencies to review their regulations to ensure that they comply with the bill and report on these reviews to the Attorney General within 180 days of enactment.
- **Jackson-Lee Amendment.** To add a Sense of Congress that expresses that “all precautions should be taken” to protect property owned by survivors of Hurricane Katrina from eminent domain seizure for economic development or for private use.
- **Watt Amendment.** To strike all sections of the bill and retain only the Sense of Congress section recognizing the importance of property rights and that in the aftermath of the *Kelo* decision abuses of eminent domain power may occur.

TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule: on Friday, the House will meet at 9:00 a.m. for legislative business and is expected to consider the **Conference Report on H.R. 3057** – Foreign Operations Appropriations Act for FY 2006 (*Rep. Kolbe – Appropriations*).

Daily Quote...

“Courting restive conservatives with budget cuts, House Republican leaders risk a backlash from moderates that could endanger the extension of President Bush's lower 15% rate for dividends and capital gains....‘One of the significant concerns of a number of moderates is the fact that we are reducing programs that could affect the poor and working poor, and at the same time we will be voting for an extension of tax cuts,’ said Rep. Michael Castle (R., Del.).”

- A *Wall Street Journal* article, today