

SUMMARY OF PROPOSED LEGISLATIVE AMENDMENTS TO SB 1210

PROVISIONS	SB 1210	PROPOSED CHANGES	COMMENTS
Purpose	Provide owners/occupants whose property is being condemned sufficient opportunity to oppose an Order for Possession (“OP”) if owner/occupant will suffer a hardship	Consistent with intent and purpose of SB 1210; changes cure ambiguities & procedural obstacles in existing law; no substantive changes	Result: improve procedural aspects of SB 1210
Order of Possession (OP) Motions • Hearing date	90 days after owners/occupants are <i>served</i> with motion (occupied property) 60 days after owner is <i>served</i> with motion (vacant property)	90 days after motion is <i>filed</i> Service: 60 days before hearing (occupied property); 40 days before hearing (vacant property)	Changes are consistent w/ current law and motion procedures; under SB 1210, problems arise when entity cannot locate/serve all owners/occupants
• Opposition	30 days after service of the motion	Same--30 days after service of the motion	
• Reply to opposition	15 days before hearing	5 days before hearing	
• No opposition	Court shall issue an OP; no procedures to obtain the OP if no opposition is filed	Entity may request the OP before the hearing; if OP is granted, hearing is vacated	Changes afford parties an opportunity to resolve hardship issues, if any Proposed changes cure inconsistent application by the courts
Hearings— Court must issue OP if it finds:	1. Entity is entitled to take property by eminent domain; 2. Entity has deposited probable comp.; 3. Entity has an overriding need for early possession; 4. Entity will suffer a <i>substantial hardship</i> if OP is denied/limited; and 5. Hardship to the entity outweighs <i>any</i> hardship on the owner/occupant	1. Same 2. Same 3. Owner/occupant will not suffer a <i>substantial hardship</i> ; OR Entity will suffer a <i>substantial hardship</i> if OP is denied/limited; OR Owner/occupant will suffer a <i>substantial hardship</i> but hardship can be reduced by imposing conditions on the OP	Under proposed changes, court considers all relevant facts, including project delivery schedule and situation of the property with respect to the schedule
Emergency Possession	Ex parte OP available to water/ utility companies only	Grants same right to any public entity	
Effective date of the OP	30 days after service (occupied property); 10 days after service (vacant property)	10 days after service of OP (all properties)	Change does not adversely impact owner; enhances project delivery.
Appraisal cost reimbursement up to \$5,000	1. Entity must offer to pay reasonable costs of appraisal when entity offers to purchase property under threat of eminent domain 2. Appraisal must be performed by a licensed appraiser 3. Owner need not provide entity with copy of appraisal 4. Owner is reimbursed “reasonable” costs of the appraisal, not to exceed \$5,000 5. Does not address reimbursement to multiple owners	1. Offer of reimbursement must be made when entity makes first written offer under Govt. Code section 7267.2 2. Same 3. Owner must provide entity with copy of appraisal 4. Reimbursement requests must include copy of appraisal & supporting cost documentation 5. Multiple owners—1 reimbursement	Proposed changes: (1) clarify when offer must be made and eliminate claims for multiple reimbursements; (2) address determination of reasonableness; and (3) encourage resolution. Under current law, owners’ attorneys have refused to provide names of appraisers, invoices, and copies of appraisals.