

CONCURRENCE IN SENATE AMENDMENTS

AB 62 (McKinnor)

As Amended August 29, 2025

Majority vote

SUMMARY

Establishes procedures by which a person who lost property because of racially motivated eminent domain, as defined, may apply to the *Civil Rights Division (CRD)* for the return of the property, if still in possession of the entity that did the taking, other public property of equal value, or financial compensation.

Major Provisions

- 1) Makes findings and declarations regarding the impact of racial discrimination in the exercise of eminent domain in California, and declares that because the bill serves a public purpose nothing in its provisions constitute a gift of public funds within the meaning of Section six of Article XVI of the California Constitution.
- 2) Defines the following terms for purposes of this bill:
 - a) "Racially motivated eminent domain" means when a state or local agency acquires private property for public use and does not distribute just compensation to the owner at the time of the taking, and the taking, or the failure to provide just compensation, was due, in whole or in part, to the owner's ethnicity or race.
 - b) "Dispossessed owner" means a person, including a direct descendant, who had property taken from them by the state, county, city, city and county, district, or other political subdivision of the state without just compensation because of racially motivated eminent domain.
 - c) "Publicly held property" means property owned by the state or local agency that took possession of the property that is the subject of an application submitted to the Office of Legal Affairs.
- 3) Requires the *CRD*, upon appropriation and assuming the establishment of a new agency, to do the following:
 - a) Accept, review, and investigate applications from persons who claim they are the dispossessed owner of property taken because of racially motivated eminent domain.
 - b) Determine, after review, whether the applicant is a dispossessed owner of property taken because of racially motivated eminent domain.
- 4) Provides that if *CRD* determines that the applicant is a dispossessed owner, as defined, then it must also determine the present-day market value, as described, and whether issuing property or just compensation would best redress the past act of racial discrimination and serve the public interest. Sets forth a means of appeal if *CRD* determines that the applicant is *not* a dispossessed owner.

- 5) Provides that if the local or state agency that took property rejects the determination of the Office, the dispossessed owner who is entitled to compensation, as determined by *CRD*, may bring an action to challenge the taking or the amount of compensation under the relevant provisions of the Eminent Domain Law. An action brought pursuant to this provision is not subject to the statute of limitations, whether brought before or after the enactment of this bill. Specifies that nothing in this bill is to be a basis for disturbing or invalidating the title to any property taken by racially motivated eminent domain, other than through the procedures provided for in the bill.
- 6) Provides that if the *CRD* determines that an applicant is not a dispossessed owner or that issuing property or just compensation is not warranted, the office shall notify the applicant of its finding. The applicant may appeal the determination within 60 days of receiving the notice and provide additional information to support their claim. The office shall consider the appeal and any new information provided and issue a determination on the appeal within 120 days.
- 7) Specifies that every finding, decision, determination, or other official act of the proposed agency is subject to judicial review in accordance with law.
- 8) Exempts the proposed new agency from an existing law that prohibits state agencies from employing in-house counsel to act on behalf of the agency or its employees in judicial or administrative adjudicative proceedings.

Senate Amendments

- 1) Shift responsibility for carrying out the bill's provision from the Office of Legal Affairs in the Bureau for Descendants of American Slavery to the Civil Rights Department established by the Fair Employment and Housing Act.
- 2) Delete the provision of the bill that would have made it dependent upon enactment of SB 518.

COMMENTS

According to the *California Reparations Report* – the final report of the Reparations Task Force – between 1949 and 1973, approximately 2,500 eminent domain projects in 992 U.S. cities displaced over a million people. An astounding two-thirds of the persons displaced were African Americans, even though African Americans never made up more than 12% of the U.S. population during these years. In short, African Americans "were five times more likely to be displaced than they should have been when considering their portion of the population." (*California Reparations Report (Report)*, p. 206.) In light of this historical record, *this bill* comports with the Task Force recommendation that "the Legislature restore property taken during race-based uses of eminent domain to its original owners or provide another effective remedy where appropriate, such as restitution or compensation." (*California Reparations Report*, p. 687.) To implement this recommendation, the report suggested creating a designated fund and a new agency to administer the program to compensate persons displaced by racially-motivated eminent domain, as well as the other recommendations made by the Task Force.

In order to achieve its aims, the bill sets forth a procedure for persons who believe that they, or their forebears, lost property because of "racially motivated eminent domain." The bill defines this term to mean any use of eminent domain in which the property was targeted, or inadequate

compensation provided, in whole or in part, because of the race or ethnicity of the property owner. Any person who believes that they fit into this category – that is, they are a "dispossessed owner" as defined by the bill – may *make an application for compensation to the Civil Rights Department (CRD) established by the Fair Employment and Housing Act*. If CRD determines that compensation is justified, it will then determine whether it shall take the form of returning the property taken, providing other property of equal value, or providing monetary compensation, *as specified*. The bill would specify that return of the property taken could only occur if it is still in the possession of the entity that did the taking; that is, in order to protect bona fide purchasers, the bill would not permit transfer of property that had already passed into private hands. Because a host of legal and state constitutional issues that would arise if the Office had the power to compel a state or local agency to transfer property or pay compensation, the Office is limited to making findings and determinations that an applicant is entitled to property or monetary compensation. If the state or local agency that engaged in the racially motivated eminent domain refuses to accept the Office's determination, the dispossessed owner would have the right to seek just compensation under the relevant provisions of the California Eminent Domain Law, *as specified*.

According to the Author

According to the author, many California communities "were forcibly displaced under the guise of public use, resulting in the loss of homes, businesses, and opportunities for generational wealth. While existing law mandates compensation at the time of taking, it does not account for situations where compensation was denied or unfairly distributed due to discrimination. This has led to long-term economic and social disparities that remain unaddressed." The author believes that AB 62 will provide "a path to justice by allowing victims and their descendants to seek the return of their property, equivalent publicly held property, or financial compensation. By creating a process for review and restitution, this bill acknowledges past harms and works to restore what was wrongfully taken, promoting fairness and accountability."

Arguments in Support

Black Women Organized for Political Action (BWOPA) supports this bill because it will "address the historical injustices of racially motivated eminent domain by assisting victims in reclaiming taken property, obtaining property of equal value, or receiving financial compensation." BWOPA continues:

For decades, racially motivated use of eminent domain uprooted communities of color, stripping families of their homes, businesses, and opportunities for generational wealth. AB62 acknowledges these injustices and works to provide pathways for redress, whether through the return of property or equitable compensation.

This legislation is critical to advancing equity in California. By addressing the harm caused by racially motivated eminent domain, AB 62 builds on California's ongoing efforts to confront and rectify the impacts of structural racism. It represents a necessary step toward justice and repair for affected communities.

Arguments in Opposition

Californians for Equal Rights Foundation opposes this bill because, if enacted, it "would violate California's constitutional principle of equal treatment as well as the U.S. Constitution and federal legislation by mandating property return and financial compensation for eminent domain on the basis of race." The Foundation explains:

Not only does the proposal applies [sic] the concept of "reparation" abusively to the topic of eminent domain, it is but also intended to discriminate victims of publicly taken property on the sole basis of race. The use and abuse of eminent domain in California, a longstanding issue of controversy and legal battles, would only be further complicated with AB 62's intent of racialization.

More importantly, race-based government programs violate a series of federal legislation and the U.S. Constitution. This includes: The Fourteenth Amendment to the U.S. Constitution (equal protection of the laws), Supreme Court rulings in *City of Richmond v. Croson* (1989), *Adarand Constructors, Inc. v. Peña* (1995), and *Ricci v. DeStefano* (2009). At the state level, government preferences also violate California Supreme Court rulings in *Hi-Voltage v. City of San Jose* [and] *Coral Construction Co. v. City and County of San Francisco*.

FISCAL COMMENTS

According to the Senate Appropriations Committee, the fiscal impact of this bill is as follows:

- 1) Cost pressures (General Fund) to the Civil Rights Department to process, investigate, and make recommendations on claims of racially motivated eminent domain. Actual costs will depend on the number of claims submitted and level of staffing needed to handle the claims. Actual costs will also depend on the nature of future proceedings and the amount of workload those proceedings generate for the department. Costs may be higher in the short term, possibly in the low millions of dollars annually, with costs potentially tapering off over time once historical claims are resolved.
- 2) Costs (General Fund, special funds) of an unknown but likely significant amount to state entities to compensate dispossessed owners. Actual costs will depend on the number of claims substantiated by the Civil Rights Department, and the value of real property or monetary compensation ultimately awarded. State entities will likely also incur significant to in litigate cases alleging racially motivated eminent domain and to transfer real property or other compensation to dispossessed owners. Taken together, these costs may be in the tens of millions to hundreds of millions of dollars.
- 3) Likely non-reimbursable costs to local government entities to compensate dispossessed owners and litigate cases alleging racially motivated eminent domain.
- 4) Costs (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate claims for compensation based on racially motivated eminent domain that are rejected by government entities. Actual costs to the courts will depend on the number of cases filed and the amount of time needed to adjudicate each case. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund.
- 5) The California Natural Resources Agency (CNRA) estimates of impact of approximately \$14 million annually, ongoing to account for the creation of a new department or a division within an existing one. Funding would support staffing and operations which would require high-level legal/attorneys; real estate appraisal & title expertise; and administrative expertise. Size of organization would depend on the number of claims submitted. Each claim would carry with it significant workload and review time.

Fiscal impact would require legal and land use consultants to do the following: 1) review of regulations by a new entity that would require evaluation of lands and possible claims to it, 2) participation in proceedings that would potentially impact the Park and dispossess the Park of those lands, 3) impacts to leases and NDA obligations, 4) impacts to parkwide operations and parking flow/safety, and 5) direct and indirect staff needed to adequately manage this bill. *Note that this may impact operations for significant parkwide planned events such as the Olympic and Paralympic Games in 2028 and the 2026 World Cup.*

The entities listed below within CNRA report an unknown, potentially significant fiscal impact:

State Parks: The Department cannot comply with the requirements of this bill within existing resources and has identified the need for twelve PYs with annual ongoing General Fund implications of \$2.5 million. The State Park System, which encompasses over 1.6 million acres, began during an era of systemic discrimination. The Department proposes a team comprised of staff with expertise in history, archives, research, property, and law to locate, authenticate, and contextualize relevant historical documentation to ensure an objective evaluation and interpretation of historical sources regarding property within the State Park System. The expertise and credibility of this team will be crucial during efforts to reach consensus with affected parties as well as representing the Department in potential litigation. In addition to personnel costs, fiscal implications resulting from claims could be in the tens of millions to hundreds of millions. For context, Los Angeles County paid the Bruce Family \$20 million to retain the small neighborhood park for recreational purposes.

Department of Water Resources: AB 62 could cost DWR upwards of \$5 million to search records that may be responsive to requests from persons who believe that DWR, or the CVP (which we have operating agreements with), has records that would show whether or not land was subject to the eminent domain process for racially motivated reasons. In addition to personnel costs, fiscal implications resulting from claims could be in the tens of millions to hundreds of millions. Additionally, DGS would charge approximately \$12k per transaction for their services in the unlikely event that land was required to be returned.

Department of Fish and Wildlife: The Department anticipates costs of \$2.382 million per year to cover increased workload and litigation. The Department would need staff support for each region and at headquarters to coordinate, identify lands to offer as suitable compensation, and help the Department understand and trouble-shoot the potential fallout of transferring any property. These staff would also be involved if another government entity transfers property that the Department relies upon in some way, for example property with a conservation easement:

- i) Eight Staff Services Manager I (one for each region plus one for HQ) = \$1.615 million;
- ii) 1.5 Attorney IV = \$517,000;
- iii) Estimated annual litigation costs = \$250,000; and,
- iv) In addition, there would be unknown but highly significant costs to compensate dispossessed owners, should the Office conclude that there is a dispossessed owner involving land currently owned by the Department.

VOTES:

ASM JUDICIARY: 9-1-2

YES: Kalra, Bryan, Connolly, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

NO: Macedo

ABS, ABST OR NV: Dixon, Bauer-Kahan

ASM APPROPRIATIONS: 11-2-2

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

NO: Dixon, Tangipa

ABS, ABST OR NV: Sanchez, Ta

ASSEMBLY FLOOR: 57-4-18

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Gallagher, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Stefani, Valencia, Wallis, Wicks, Wilson, Zbur, Rivas

NO: DeMaio, Ellis, Hadwick, Macedo

ABS, ABST OR NV: Alvarez, Bryan, Castillo, Chen, Davies, Dixon, Flora, Jeff Gonzalez, Hoover, Lackey, Nguyen, Michelle Rodriguez, Sharp-Collins, Solache, Soria, Ta, Tangipa, Ward

UPDATED

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CONSULTANT: Tom Clark / JUD. / (916) 319-2334

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