
SENATE BILL 6089

State of Washington

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By Senators Padden, Roach, Benton, Becker, Schoesler, Dammeier, O'Ban, Brown, Hewitt, Honeyford, and Braun

Read first time 01/15/14. Referred to Committee on Law & Justice.

1 AN ACT Relating to prohibiting the use of eminent domain for
2 economic development; amending RCW 35.81.080; and adding a new chapter
3 to Title 8 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Consumer-owned utility" has the same meaning as in RCW
8 19.27A.140.

9 (2) "Economic development" means any activity to increase tax
10 revenue, tax base, employment, or general economic health, when that
11 activity does not result in:

12 (a) The transfer of property to public possession, occupation, and
13 enjoyment;

14 (b) The transfer of property to a private entity that is a public
15 service company, consumer-owned utility, or common carrier;

16 (c) The use of eminent domain:

17 (i)(A) To remove a public nuisance;

18 (B) To remove a structure that is beyond repair or unfit for human
19 habitation or use; or

- 1 (C) To acquire abandoned property; and
2 (ii) To eliminate a direct threat to public health and safety
3 caused by the property in its current condition; or
4 (d) The transfer of property to private entities that occupy an
5 incidental area within a publicly owned and occupied project.

6 "Economic development" does not include the transfer of property to
7 a public service company, a consumer-owned utility, or a common carrier
8 for the purpose of constructing, operating, or maintaining generation,
9 transmission, or distribution facilities. "Economic development" also
10 does not include port districts' activities under Title 14 or 53 RCW.
11 "Economic development" also does not include highway projects.

12 (3) "Public service company" has the same meaning as defined in RCW
13 80.04.010.

14 (4)(a) "Public use" means:

15 (i) The possession, occupation, and enjoyment of the property by
16 the general public, or by public agencies;

17 (ii) The use of property for the creation or functioning of public
18 service companies, a consumer-owned utility, or common carriers; or

19 (iii) Where the use of eminent domain:

20 (A)(I) Removes a public nuisance;

21 (II) Removes a structure that is beyond repair or unfit for human
22 habitation or use; or

23 (III) Is used to acquire abandoned property; and

24 (B) Eliminates a direct threat to public health and safety caused
25 by the property in its current condition.

26 (b) The public benefits of economic development, including an
27 increase in tax base, tax revenues, employment, and general economic
28 health, may not constitute a public use.

29 NEW SECTION. **Sec. 2.** Private property may be taken only for
30 public use and the taking of private property by any public entity for
31 economic development does not constitute a public use. No public
32 entity may take property for the purpose of economic development.

33 NEW SECTION. **Sec. 3.** In an action to establish or challenge the
34 asserted public use of a taking of private property, the taking of
35 private property shall be deemed for economic development, and not a
36 proper basis for eminent domain, if the court determines that the

1 taking of the private property does not result in any of the exceptions
2 to economic development set forth in section 1(2) of this act, and
3 economic development was a substantial factor in the governmental
4 body's decision to take the property.

5 **Sec. 4.** RCW 35.81.080 and 2002 c 218 s 8 are each amended to read
6 as follows:

7 A municipality shall have the right to acquire by condemnation, in
8 accordance with the procedure provided for condemnation by such
9 municipality for other purposes, any interest in real property, which
10 it may deem necessary for a community renewal project under this
11 chapter after the adoption by the local governing body of a resolution
12 declaring that the acquisition of the real property described therein
13 is necessary for such purpose. Condemnation for community renewal of
14 blighted areas is declared to be a public use, and property already
15 devoted to any other public use or acquired by the owner or a
16 predecessor in interest by eminent domain may be condemned for the
17 purposes of this chapter. Condemnation of property in blighted areas
18 for economic development, as defined in section 1 of this act, is not
19 a public use.

20 The award of compensation for real property taken for such a
21 project shall not be increased by reason of any increase in the value
22 of the real property caused by the assembly, clearance, or
23 reconstruction, or proposed assembly, clearance, or reconstruction in
24 the project area. No allowance shall be made for the improvements
25 begun on real property after notice to the owner of such property of
26 the institution of proceedings to condemn such property. Evidence
27 shall be admissible bearing upon the insanitary, unsafe, or substandard
28 condition of the premises, or the unlawful use thereof.

29 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act constitute
30 a new chapter in Title 8 RCW.

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