

SENATE BILL REPORT

SB 5444

As Passed Senate, February 2, 2007

Title: An act relating to adequate notice to property owners regarding acquisition of property for public purposes through the exercise of eminent domain.

Brief Description: Requiring notice to property owners before condemnation decisions.

Sponsors: Senators Carrell, Kline, Holmquist, Swecker, Morton, Hewitt, McAuliffe, Tom, Sheldon, Honeyford, Clements, Schoesler, Brandland, Benton, Roach, Zarelli, Spanel, Marr, Kohl-Welles, Eide, Oemig, McCaslin, Shin, Pflug, Delvin, Rasmussen, Fairley, Weinstein, Kastama, Parlette, Stevens, Kilmer, Hatfield, Jacobsen, Haugen, Rockefeller and Keiser; by request of Governor Gregoire and Attorney General.

Brief History:

Committee Activity: Judiciary: 1/24/07 [DP].

Passed Senate: 2/02/07, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove and Weinstein.

Staff: Dawn Noel (786-7472)

Background: Concern exists regarding the extent to which a government entity must notify a landowner of the entity's pending decision to condemn his or her land. Current law provides that landowners must receive notice of the hearing in which a judge or jury will determine compensation, but this hearing occurs after the entity has already decided to condemn the land. In *Reg'l Transit Auth. v. Miller*, a majority of the Washington Supreme Court stated that landowners are not legally entitled to personal notice of the public meeting in which the necessity of a condemnation will be considered.

Summary of Bill: State agencies, counties, cities, school districts, certain corporations and other entities with condemnation authority must provide landowners notice of the entity's final action or public meeting regarding condemnation of a specific parcel. The notice must contain a general description of the property, and specify that condemnation will be considered during the final action or public meeting. The notice must also describe the date, time, and location of the final action or public meeting at which the condemnor will decide whether to authorize the condemnation of the property.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Notice must be issued by certified mail to all property owners of record, and by newspaper publication, which will be considered sufficient notice for all landowners whose residences cannot be ascertained after a diligent inquiry. Lack of sufficient notice shall render subsequent proceedings void as to the person not served. A condemnor can cure insufficient notice by providing an additional sufficient notice.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is necessary to ensure that property owners receive reasonable notification regarding seizure of their property. If an owner doesn't receive notice before the decision to condemn his or her land is made, the decision is final, and the landowner has no recourse. It is important that government treat its citizens fairly.

Persons Testifying: PRO: Senator Carrell, prime sponsor; Ken Miller, citizen.