

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1458

Chapter 68, Laws of 2007

60th Legislature
2007 Regular Session

EMINENT DOMAIN

EFFECTIVE DATE: 07/22/07

Passed by the House March 7, 2007
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 3, 2007
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved April 17, 2007, 10:04 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1458** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

April 17, 2007

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1458

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives VanDeWege, Kessler, Rodne, Appleton, Ahern, Curtis, Kenney, Clibborn, Morrell, P. Sullivan, Eickmeyer, Armstrong, Buri, Chandler, Ericksen, Hinkle, Condotta, Anderson, Eddy, Goodman, Kelley, Haler, McCune, Kretz, Kagi, Ericks, Warnick, Pedersen, Bailey, Newhouse, McDonald, Priest, Roach, Strow, Green, Campbell, Hunter, Takko, Sells, Springer, McCoy, Upthegrove, Williams, Moeller, Ormsby, Pearson, Haigh, Linville, Conway, Dickerson, Dunn, Hasegawa, Rolfes, Ross and Lantz; by request of Governor Gregoire and Attorney General)

READ FIRST TIME 02/15/07.

1 AN ACT Relating to adequate notice to property owners regarding
2 acquisition of property for public purposes through the exercise of
3 eminent domain; amending RCW 8.12.530; adding a new section to chapter
4 8.25 RCW; adding a new section to chapter 8.04 RCW; adding a new
5 section to chapter 8.08 RCW; adding a new section to chapter 8.12 RCW;
6 adding a new section to chapter 8.16 RCW; and adding a new section to
7 chapter 8.20 RCW.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 8.25 RCW
10 to read as follows:

11 (1) The condemnor must provide notice as required by this section
12 before:

13 (a) A state agency or other entity subject to chapter 8.04 RCW
14 takes a final action to authorize the condemnation of a specific
15 property;

16 (b) A county or other entity subject to chapter 8.08 RCW takes a
17 final action deeming a specific property to be "for county purposes" as
18 provided in RCW 8.08.010;

1 (c) A city or town or other entity subject to chapter 8.12 RCW
2 takes a final action authorizing condemnation as provided in RCW
3 8.12.040;

4 (d) A school district or other entity subject to chapter 8.16 RCW
5 takes a final action selecting property for condemnation as provided in
6 RCW 8.16.010;

7 (e) Any other corporation authorized to condemn property takes a
8 final action to authorize condemnation as provided in RCW 8.20.010; or

9 (f) Any other entity subject to chapter 8.04, 8.08, 8.12, 8.16, or
10 8.20 RCW takes any final action to authorize the condemnation of a
11 specific property.

12 (2)(a)(i) Notice of the planned final action shall be mailed by
13 certified mail to each and every property owner of record as indicated
14 on the tax rolls of the county to the address provided on such tax
15 rolls, for each property potentially subject to condemnation, at least
16 fifteen days before the final action. If no address is provided for a
17 property on the tax rolls of the county, the potential condemnor shall
18 conduct a diligent inquiry for the address for each and every property
19 owner of record and send the notice to that address. In case the
20 property sought to be appropriated is school or county land, such
21 notice shall be mailed to the auditor of the county in which the
22 property sought to be acquired and appropriated is situated.

23 (ii) The notice must contain a general description of the property
24 such as an address, lot number, or parcel number and specify that
25 condemnation of the property will be considered during the final
26 action. The notice must also describe the date, time, and location of
27 the final action at which the potential condemnor will decide whether
28 or not to authorize the condemnation of the property.

29 (iii) Mailing of the certified letter to the proper addressee or
30 addressees is deemed to be sufficient notice under this subsection
31 (2)(a).

32 (b)(i) Notice of a planned final action described in subsection (1)
33 of this section shall also be given by publication in the legal
34 newspaper with the largest circulation in the jurisdiction where such
35 property is located once a week for two successive weeks before the
36 final action. A second publication must also be given in the legal
37 newspaper routinely used by the potential condemnor, where such
38 newspaper does not also have the largest circulation in the

1 jurisdiction. Proof of circulation shall be established by publisher's
2 affidavit filed with the potential condemnor. Such publication shall
3 be deemed sufficient notice in lieu of a certified letter for each
4 property owner of record for the property whose address is unknown and
5 cannot be ascertained after a diligent inquiry.

6 (ii) The notice published under this subsection (2)(b) shall
7 contain the same information as is required under (a) of this
8 subsection.

9 (3) In a condemnation action subject to this section in which a
10 condemnee alleges insufficient notice under this section, the court may
11 determine whether the condemnor made a diligent attempt to provide
12 sufficient notice and issue a finding on the sufficiency of the notice.
13 Lack of sufficient notice under this section shall render the
14 subsequent proceedings void as to the person improperly notified, but
15 the subsequent proceedings shall not be void as to all persons or
16 parties having been notified as provided in this section, either by
17 publication or otherwise. A potential condemnor may cure insufficient
18 notice under this section by providing an additional sufficient notice
19 prior to taking a new final action, and filing a new petition if one
20 was previously filed, for condemnation for the property owner of record
21 who received insufficient notice. In such a case, RCW 8.12.530 shall
22 not apply and a subsequent proceeding may be filed sooner than one year
23 after discontinuance.

24 (4)(a) For potential condemnors subject to chapter 42.30 RCW, the
25 open public meetings act, "final action" has the same meaning as that
26 provided in RCW 42.30.020.

27 (b) For state agencies not subject to chapter 42.30 RCW, the office
28 of the attorney general shall publish procedures that define "final
29 action" for state agencies to ensure that property owners of record are
30 provided with notice and opportunity for comment before the agency
31 makes a final decision to authorize the condemnation of specific
32 property.

33 (c) For all other entities subject to this act, "final action"
34 means a public meeting at which the entity informs potentially affected
35 property owners of record about the scope and reasons for a potential
36 condemnation action. A meeting must be held in each county where
37 property being considered for condemnation is located. The meeting

1 must be open to the public and conducted by a duly authorized
2 representative of the entity.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 8.04 RCW
4 to read as follows:

5 Proceedings under this chapter are subject to the notice
6 requirements of section 1 of this act. Compliance with section 1 of
7 this act is required before an action can be filed under this chapter.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 8.08 RCW
9 to read as follows:

10 Proceedings under this chapter are subject to the notice
11 requirements of section 1 of this act. Compliance with section 1 of
12 this act is required before an action can be filed under this chapter.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 8.12 RCW
14 to read as follows:

15 Proceedings under this chapter are subject to the notice
16 requirements of section 1 of this act. Compliance with section 1 of
17 this act is required before an action can be filed under this chapter.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 8.16 RCW
19 to read as follows:

20 Proceedings under this chapter are subject to the notice
21 requirements of section 1 of this act. Compliance with section 1 of
22 this act is required before an action can be filed under this chapter.

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 8.20 RCW
24 to read as follows:

25 Proceedings under this chapter are subject to the notice
26 requirements of section 1 of this act. Compliance with section 1 of
27 this act is required before an action can be filed under this chapter.

28 **Sec. 7.** RCW 8.12.530 and 1988 c 202 s 11 are each amended to read
29 as follows:

30 At any time within six months from the date of rendition of the
31 last judgment awarding compensation for any such improvement in the
32 superior court, or if appellate review is sought, then within two

1 months after the final determination of the proceeding in the supreme
2 court or the court of appeals, any such city may discontinue the
3 proceedings by ordinance passed for that purpose before making payment
4 or proceeding with the improvement by paying or depositing in court all
5 taxable costs incurred by any parties to the proceedings up to the time
6 of such discontinuance. Except as provided in section 1(3) of this
7 act, if any such improvement be discontinued, no new proceedings shall
8 be undertaken therefor until the expiration of one year from the date
9 of such discontinuance.

Passed by the House March 7, 2007.

Passed by the Senate April 3, 2007.

Approved by the Governor April 17, 2007.

Filed in Office of Secretary of State April 17, 2007.