

SENATE BILL REPORT

SB 6838

As of February 6, 2010

Title: An act relating to condemnation and compensation for state-owned lands and other property.

Brief Description: Regarding condemnation and compensation for state-owned trust lands.

Sponsors: Senators McAuliffe, Fraser, Tom and Prentice.

Brief History:

Committee Activity: Ways & Means: 2/05/10.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Steve Jones (786-7440)

Background: Under Washington's laws of eminent domain, the state and its political subdivisions (cities, counties, and many special purpose districts) are authorized to condemn property for public purposes, after payment of fair compensation for the property being condemned. The power of eminent domain includes the power to condemn state-owned lands. Thus, political subdivisions of the state may condemn state property, including state trust lands granted to the state by the federal government and held by the state for the benefit of the common schools, the state colleges and universities, and other state institutions.

Summary of Bill: Political subdivisions of the state and other entities are prohibited from condemning by eminent domain any property held in trust by the state. This prohibition includes the following entities: counties, cities, school districts, public corporations, municipal airport districts, mosquito control districts, metropolitan municipal corporations, joint operating agencies, port districts, public utility districts, water and sewer districts, diking and drainage districts, irrigation districts, flood control districts, reclamation districts, and private entities authorized to exercise eminent domain.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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.

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

Staff Summary of Public Testimony: PRO: The Department of Natural Resources supports this legislation because it protects state trust lands and the broad range of public benefits that flow from state trust lands. Condemnation of state trust lands has broader, adverse impacts on other properties that outweigh the public purpose being served by the condemnation. The department requests that an emergency clause be added to the bill and that the bill be made retroactive.

CON: Local governments use the power of eminent domain to provide vital public services. The court system is the appropriate place to determine the best public purpose and to calculate fair compensation. This bill is an attempt to stop a ten-year process to approve a power transmission line, which has been the subject of several court proceedings. The delays have significantly increased the cost to utility ratepayers. This bill will prevent responsible development, such as a 100-megawatt wind farm currently under development in Pacific County. Eminent domain provides a judicial backstop to political negotiations. Eminent domain is an important tool for port districts in the development of airfields. Judicial review of these actions provides a check on inappropriate use of eminent domain and ensures fair compensation.

Persons Testifying: PRO: Lenny Young, Department of Natural Resources.

CON: Bill Clarke, Washington Public Utility Association; Dave Womack, Okanogan Public Utility District; Bob Guenther, IBEW Local 77; Jim Rowland, Energy NW; Eric Johnson, Washington Public Ports Association.