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**HOUSE BILL 2047**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representative Vick

AN ACT Relating to a cause of action for a property owner to require that an easement interest or right-of-way for an electrical transmission line over and adjacent to the owner's lands be converted into a fee taking; adding a new section to chapter 8.25 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  In a myriad of laws enacted over the years, the legislature has found that it is in the best interest of the state to maintain, preserve, conserve, and continue in existence adequate agricultural and open space lands for the production of food, fiber, and forest. The legislature has further recognized the importance of individual farms and ranches to the state's economy and the social fabric of rural communities. This legislative focus and prioritization can be seen in the creation of the office of farmland preservation, the valuation and assessment laws with respect to open space, farm energy efficiency improvement statutes, and the heritage barn preservation program, to name just a few of the laws that have been enacted over the years.

The legislature further finds that individual farms and ranches require a certain land mass to maintain economic viability. Farmers and ranchers purchase property and continue operations based upon the expectation that their lands will remain intact and, thus, economically viable. This is true with respect to other property as well that is purchased for residential or business purposes. Depending upon individual circumstances, the loss of even a small strip of land can make an important difference, and the absence of that strip may have affected the decision to purchase or maintain operations had it been known beforehand.

The legislature intends that: All property owners in the state are entitled to the benefit of the bargains they made with respect to the purchase or maintenance of their properties; these individual owners have the right to determine whether they want to remain on, or continue operations after, the condemnation of a portion of their property for electrical transmission lines; and when any private real property is proposed to be acquired for the construction of a site or route for an electrical transmission line by eminent domain proceedings, the property owner must be afforded the option to require the condemnor, whether that condemnor be a state or federal agency or any other person or entity possessing eminent domain powers, to condemn a fee interest in any amount of contiguous land that the property owner wholly owns in undivided fee and elects in writing to transfer to the condemnor.

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

(1) When private real property is proposed to be acquired for the construction of a site or route for an electrical transmission line by eminent domain proceedings, the property owner may require the condemnor to condemn a fee interest in any amount of contiguous land that the property owner wholly owns in undivided fee and elects in writing to transfer to the condemnor. Such election must be made within sixty days after service of the petition or complaint for condemnation upon the property owner. The property owner has only this one option and may not expand or otherwise modify an election without the consent of the condemnor.

(2) The required acquisition of land pursuant to this section is an acquisition for a public use, quasi-public use, or private-public use. However, a condemnor must divest itself completely of all such lands used for farming or capable of being used for farming not later than the time it can receive the market value paid at the time of acquisition of lands less any diminution in value by reason of the presence of the electrical transmission line route or site.

(3) Upon the property owner's election made under this section, the easement interest over and adjacent to the lands designated by the property owner to be acquired in fee, sought in the condemnation petition or complaint for a right-of-way for an electrical transmission line, automatically converts into a fee taking. Within one hundred twenty days of the property owner's election under this section to require the condemnor to acquire land, the condemnor must make a written offer to acquire that land and amend its petition or complaint to include the additional land.

(4) All rights and protections provided to a property owner under other applicable federal and state eminent domain statutes apply to the acquisition of land or an interest in land under this section.

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