
HOUSE BILL 2038

State of Washington

64th Legislature

2015 Regular Session

By Representatives Holy, Manweller, Rodne, Shea, Hargrove, Blake, McCaslin, Taylor, G. Hunt, Haler, Wilcox, Ormsby, DeBolt, Harris, Hayes, Parker, Takko, Klippert, MacEwen, Fagan, Riccelli, Magendanz, Walsh, Griffey, Scott, Van Werven, Buys, Condotta, Wilson, and Short

Read first time 02/09/15. Referred to Committee on Judiciary.

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

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

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

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

9 (2)(a) "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 (i) The transfer of property to public possession, occupation,
13 and enjoyment;

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

16 (iii) The use of eminent domain:

17 (A)(I) To remove a public nuisance as defined in RCW 7.48.130;

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

20 (III) To acquire abandoned property; and

1 (B) To eliminate a direct, clear, and present threat to public
2 health and safety that is specifically caused by the property in its
3 current condition and no other reasonable method of abating the
4 threat exists; or

5 (iv) The transfer of property to private entities that occupy an
6 incidental area within a publicly owned and occupied project.

7 (b) "Economic development" does not include:

8 (i) The transfer of property to a public service company, a
9 consumer-owned utility, or a common carrier for the purpose of
10 constructing, operating, or maintaining generation, transmission, or
11 distribution facilities;

12 (ii) Port district activities under Title 14 or 53 RCW; or

13 (iii) Highway projects.

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

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

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

19 (ii) The use of property for the creation or functioning of a
20 public service company, consumer-owned utility, or common carrier; or

21 (iii) When the use of eminent domain:

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

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

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

26 (B) Eliminates a direct, clear, and present threat to public
27 health and safety that is specifically caused by the property in its
28 current condition and no other reasonable method of abating the
29 threat exists.

30 (b) The public benefits of economic development, including an
31 increase in tax base, tax revenues, employment, and general economic
32 health, does not constitute a public use.

33 NEW SECTION. **Sec. 2.** Private property may be taken only for
34 public use, and the taking of private property by any public entity
35 for economic development does not constitute a public use. A public
36 entity may not take private property for the purpose of economic
37 development.

1 NEW SECTION. **Sec. 3.** In an action to establish or challenge the
2 asserted public use of a taking of private property, the taking of
3 private property is deemed for economic development, and not a proper
4 basis for eminent domain, if the court determines that (1) the taking
5 of the private property does not result in any of the exceptions to
6 economic development set forth in section 1(2) of this act and (2)
7 economic development was a substantial factor in the public entity's
8 decision to take the property.

9 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act
10 constitute a new chapter in Title 8 RCW.

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