
SENATE BILL 5445

State of Washington 65th Legislature 2017 Regular Session

By Senators Padden, O'Ban, Sheldon, Chase, and Fortunato

Read first time 01/25/17. Referred to Committee on Law & Justice.

1 AN ACT Relating to prohibiting the use of eminent domain for
2 economic development; amending RCW 35.81.080; and adding a new
3 chapter to Title 8 RCW.

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

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

8 (1) "Consumer-owned utility" has the same meaning as in RCW
9 19.27A.140.

10 (2) "Economic development" means any activity to increase tax
11 revenue, tax base, employment, or general economic health, when that
12 activity does not result in:

13 (a) The transfer of property to public possession, occupation,
14 and enjoyment;

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

17 (c) The use of eminent domain:

18 (i)(A) To remove a public nuisance;

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

21 (C) To acquire abandoned property; and

1 (ii) To eliminate a direct threat to public health and safety
2 caused by the property in its current condition; or

3 (d) The transfer of property to private entities that occupy an
4 incidental area within a publicly owned and occupied project.

5 "Economic development" does not include the transfer of property
6 to a public service company, a consumer-owned utility, or a common
7 carrier for the purpose of constructing, operating, or maintaining
8 generation, transmission, or distribution facilities. "Economic
9 development" also does not include port districts' activities under
10 Title 14 or 53 RCW. "Economic development" also does not include
11 highway projects.

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

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

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

17 (ii) The use of property for the creation or functioning of
18 public service companies, a consumer-owned utility, or common
19 carriers; or

20 (iii) Where the use of eminent domain:

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

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

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

25 (B) Eliminates a direct threat to public health and safety caused
26 by the property in its current condition.

27 (b) The public benefits of economic development, including an
28 increase in tax base, tax revenues, employment, and general economic
29 health, may not constitute a public use.

30 NEW SECTION. **Sec. 2.** Private property may be taken only for
31 public use and the taking of private property by any public entity
32 for economic development does not constitute a public use. No public
33 entity may take property for the purpose of economic development.

34 NEW SECTION. **Sec. 3.** In an action to establish or challenge the
35 asserted public use of a taking of private property, the taking of
36 private property shall be deemed for economic development, and not a
37 proper basis for eminent domain, if the court determines that the
38 taking of the private property does not result in any of the

1 exceptions to economic development set forth in section 1(2) of this
2 act, and economic development was a substantial factor in the
3 governmental body's decision to take the property.

4 **Sec. 4.** RCW 35.81.080 and 2002 c 218 s 8 are each amended to
5 read as follows:

6 A municipality shall have the right to acquire by condemnation,
7 in accordance with the procedure provided for condemnation by such
8 municipality for other purposes, any interest in real property, which
9 it may deem necessary for a community renewal project under this
10 chapter after the adoption by the local governing body of a
11 resolution declaring that the acquisition of the real property
12 described therein is necessary for such purpose. Condemnation for
13 community renewal of blighted areas is declared to be a public use,
14 and property already devoted to any other public use or acquired by
15 the owner or a predecessor in interest by eminent domain may be
16 condemned for the purposes of this chapter. Condemnation of property
17 in blighted areas for economic development, as defined in section 1
18 of this act, is not a public use.

19 The award of compensation for real property taken for such a
20 project shall not be increased by reason of any increase in the value
21 of the real property caused by the assembly, clearance, or
22 reconstruction, or proposed assembly, clearance, or reconstruction in
23 the project area. No allowance shall be made for the improvements
24 begun on real property after notice to the owner of such property of
25 the institution of proceedings to condemn such property. Evidence
26 shall be admissible bearing upon the insanitary, unsafe, or
27 substandard condition of the premises, or the unlawful use thereof.

28 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act
29 constitute a new chapter in Title 8 RCW.

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