

Chapter 8.08 RCW
EMINENT DOMAIN BY COUNTIES

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RCW 8.08.005 Condemnation final actions—Notice requirements.

Proceedings under this chapter are subject to the notice requirements of RCW 8.25.290. Compliance with RCW 8.25.290 is required before an action can be filed under this chapter. [2007 c 68 § 3.]

RCW 8.08.010 Condemnation authorized for general county purposes

—**Petition.** Every county is hereby authorized and empowered to condemn land and property within the county for public use; whenever the board of county commissioners deems it necessary for county purposes to acquire such land, real estate, premises or other property, and is unable to agree with the owner or owners thereof for its purchase, it shall be the duty of the prosecuting attorney to present to the superior court of the county in which said land, real estate, premises, or other property so sought to be acquired or appropriated shall be situated, a petition in which the land, real estate, premises, or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, encumbrancer, or other person or party interested in the same, or any part thereof, so far as the same can be ascertained from the public records, the object for which the land is sought to be appropriated, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money to such owner or owners respectively, and to all tenants, encumbrancers, or others interested, for taking such lands, real estate, premises, or other property, or in case a jury be waived, as in other civil cases in courts of record, in the manner prescribed by law, then that the compensation to be made as aforesaid be ascertained or determined by the court or the judge thereof. [1949 c 79 § 1; Rem. Supp. 1949 § 3991-6.]

RCW 8.08.020 Public use declared.

Any condemnation, appropriation or disposition intended in RCW 8.08.010 through 8.08.080 shall be deemed and held to be for a county purpose and public use within the meaning of RCW 8.08.010 through 8.08.080 when it is directly or indirectly, approximately or remotely for the general benefit or welfare of the county or of the inhabitants thereof. [1949 c 79 § 2; Rem. Supp. 1949 § 3991-7.]

RCW 8.08.030 Notice of presentation of petition.

A notice, stating the time and place when and where such petition shall be presented to the court or the judge thereof, together with a copy of such petition, shall be served on each and every person named therein as owner or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such notice shall be signed by the prosecuting attorney of the county wherein the real estate or property sought to be taken is situated, and may be served in the same manner as a summons in a civil action in such superior court is authorized by law to be served. [1949 c 79 § 3; Rem. Supp. 1949 § 3991-8.]

RCW 8.08.040 Hearing—Order adjudicating public use. At the time and place appointed for hearing said petition, or to which the same may have been adjourned, if the court or judge thereof shall have satisfactory proof that all parties interested in the land, real estate, premises or other property described in said petition have been duly served with said notice as prescribed herein, and shall be further satisfied by competent proof that the contemplated use for which the lands, real estate, premises, or other property sought to be appropriated is a public use of the county, the court or judge thereof may make and enter an order adjudicating that the contemplated use is really a public use of the county, and which order shall be final unless review thereof to the supreme court or the court of appeals be taken within five days after entry of such order, adjudicating that the contemplated use for which the lands, real estate, premises or other property sought to be appropriated is really a public use of the county, and directing that determination be had of the compensation and damages to be paid all parties interested in the land, real estate, premises, or other property sought to be appropriated for the taking and appropriation thereof, together with the injury, if any, caused by such taking or appropriation to the remainder of the lands, real estate, premises, or other property from which the same is to be taken and appropriated, after offsetting against any and all such compensation and damages, special benefits, if any, accruing to such remainder by reason of such appropriation and use by the county of such lands, real estate, premises, and other property described in the petition; such determination to be made by a jury, unless waived, in which event the compensation or damages shall be determined by the court without a jury. Proceedings under this chapter shall have precedence over all cases in court except criminal cases. [2000 c 68 § 1; 1971 c 81 § 37; 1949 c 79 § 4; Rem. Supp. 1949 § 3991-9.]

RCW 8.08.050 Trial—Damages to be found. The jury selected to hear the evidence and determine the compensation to be paid to the owner or owners of such real estate or property to be appropriated for public use, shall be selected, impaneled and sworn in the same manner that juries in other civil actions are selected, impaneled and sworn, and in case a jury is waived, such compensation or damages shall be ascertained and determined by the court or judge thereof and the proceedings shall be the same as in trial of an issue of fact by the court. Upon the close of the evidence, the court shall instruct the jury as to the matters submitted to them and the law pertaining thereto. Whereupon the jury shall retire and deliberate and determine upon the amount of the compensation of damages and money that shall be paid to the owner or owners of the real estate or property sought to be appropriated, which shall be the amount found by the jury to be the fair and full value of such premises, and when the jury shall have determined upon their verdict, they shall return the same to the court as in other civil actions. [1949 c 79 § 5; Rem. Supp. 1949 § 3991-10.]

Rules of court: CR 47, 48.

Juries, civil actions, selection, impaneling and swearing of: Chapters 2.36, 4.44 RCW.

Verdicts, civil actions: Chapter 4.44 RCW.

RCW 8.08.060 Judgment—Decree of appropriation. Upon the verdict of the jury or upon the determination of the court of the compensation or damages to be paid for the real estate or property appropriated, judgment shall be entered against such county in favor of the owner or owners of the real estate or property so appropriated for the amount found as just compensation therefor, and upon the payment of such amount by such county to the clerk of such court for the use of the owner or owners or the persons interested in the premises sought to be taken, the court shall enter a decree of appropriation of the real estate or property sought to be taken, thereby vesting the title to the same in such county; and a certified copy of such decree of appropriation may be filed in the office of the county auditor of the county wherein the real estate taken is situated and shall be recorded by such auditor like a deed of real estate and with like effect. The money so paid to the clerk of the court shall be by him or her paid to the person or persons entitled thereto upon the order of the court. [2011 c 336 § 258; 1949 c 79 § 6; Rem. Supp. 1949 § 3991-11.]

RCW 8.08.070 Costs. All the costs of such proceedings in the superior court shall be paid by the county initiating such proceedings. [1949 c 79 § 7; Rem. Supp. 1949 § 3991-12.]

RCW 8.08.080 Appellate review. Either party may seek appellate review of the judgment for compensation of the damages awarded in the superior court within thirty days after the entry of judgment as aforesaid, and such review shall bring before the supreme court or the court of appeals the propriety and justice of the amount of damage in respect to the parties to the review: PROVIDED, That upon such review no bonds shall be required: AND PROVIDED FURTHER, That if the owner of land, real estate, or premises accepts the sum awarded by the jury or the court, he or she shall be deemed thereby to have waived conclusively appellate review, and final judgment by default may be rendered in the superior court as in other cases. [2011 c 336 § 259; 1988 c 202 § 9; 1971 c 81 § 38; 1949 c 79 § 8; Rem. Supp. 1949 § 3991-13.]

Severability—1988 c 202: See note following RCW 2.24.050.

RCW 8.08.090 Appropriation authorized in aid of federal or state improvement. Every county in this state is hereby, for the purposes of RCW 8.08.090 through 8.08.130, declared to be a body corporate and is authorized and empowered by and through its board of county commissioners whenever said board shall judge it to be clearly for the general welfare and benefit of the people of the county, and so far as shall be in harmony with the Constitution of this state and the provisions of RCW 8.08.090 through 8.08.130, to condemn and

appropriate as hereinafter in RCW 8.08.090 through 8.08.130 provided and to dispose of for public use such lands, properties, rights and interests as are hereinafter in RCW 8.08.090 through 8.08.130 mentioned, whenever the government of the United States or of this state is intending or proposing the construction, operation or maintenance of any public work situated or to be situated wholly or partly within such county, or the expenditure of money or labor for the construction, operation or maintenance of any such work, and such condemnation or appropriation will enable the county to aid, promote, facilitate or prepare for any such construction, operation, maintenance or expenditure by either or both such governments, or to fulfill or dispose of any condition upon which such construction, operation, maintenance or expenditure is by law or from any cause contingent, and no property shall be exempt from such condemnation, appropriation or disposition by reason of the same having been or being dedicated, appropriated or otherwise reduced or held to public use. [1895 c 2 § 1; RRS § 901.]

RCW 8.08.100 Mode of appropriation. The right of eminent domain for the purposes intended in RCW 8.08.090 through 8.08.130 is hereby extended to all counties in this state and every such county for any purpose of condemnation, appropriation or disposition such as is mentioned in RCW 8.08.090 is hereby authorized and empowered to condemn and appropriate all necessary lands and all rights, properties and interests in or appurtenant to land under the same procedure as is or shall be provided by the laws of this state for the case of any similar condemnation or appropriation by other corporations. [1895 c 2 § 3; RRS § 903.]

RCW 8.08.110 Tax levy to pay costs. The board of county commissioners is hereby authorized and empowered in aid of the powers granted or prescribed in RCW 8.08.090 to levy, annually, a tax as large as may be necessary, but not exceeding the rate of one mill on the dollar, upon all the taxable property in the county, such tax to be assessed, levied and collected at the same time and in the same manner as taxes for general county purposes, but the proceeds of said taxes, when collected, shall constitute and be a special fund, applicable solely to the cost of such condemnation, appropriation or disposition, as is mentioned in RCW 8.08.090, and the expenses incident thereto. [1895 c 2 § 2; RRS § 902.]

RCW 8.08.120 Indebtedness is for general county purposes. Any county purpose mentioned in RCW 8.08.090 through 8.08.130 shall be deemed and held to be a general county purpose and any indebtedness contracted or to be contracted therefor shall be deemed and held to be an indebtedness for general county purposes, and all the provisions of law of this state relative to indebtedness for general county purposes or the contracting of such indebtedness or the bonds for funding the same shall be deemed applicable to any indebtedness contracted or to be contracted or any bonds issued by any county under RCW 8.08.090 through 8.08.130, but the accounts of the county with respect to the receipts and disbursements of all moneys received or disbursed by the county under the provisions of RCW 8.08.090 through 8.08.130 shall, for each condemnation, appropriation and disposition, be so kept as to

clearly and fully exhibit such accounts separate and apart from the other accounts of the county. [1895 c 2 § 4; RRS § 904.]

Public contracts and indebtedness: Title 39 RCW.

RCW 8.08.130 Limitation. Any condemnation, appropriation or disposition intended in RCW 8.08.090 through 8.08.130 shall be deemed and held to be for a county purpose and public use within the meaning of RCW 8.08.090 through 8.08.130 when it is directly or indirectly, approximately or remotely for the general benefit or welfare of the county or of the inhabitants thereof, or when it is otherwise within the meaning of the phrase "for a county purpose" as occurring in the Constitution of this state. [1895 c 2 § 5; RRS § 905.]