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HOUSE BILL 1035

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Springer, Shea, Goodman, Upthegrove, Eddy, Walsh, Parker, Warnick, Takko, Bailey, Angel, Dammeier, Condotta, Fagan, Nealey, Hargrove, Kagi, Clibborn, Blake, McCune, Rolfes, Dickerson, Hurst, and Moeller; by request of Attorney General

Prefiled 12/15/10. Read first time 01/10/11. 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 otherwise.

6 (1) "Economic development" means any activity to increase tax  
7 revenue, tax base, employment, or general economic health, when that  
8 activity does not result in:

9 (a) The transfer of property to public possession, occupation, and  
10 enjoyment;

11 (b) The transfer of property to a private entity that is a public  
12 utility or common carrier;

13 (c) The use of eminent domain:

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

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

17 (C) To acquire abandoned property; and

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

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

3 "Economic development" does not include the transfer of property to  
4 a public utility, a publicly owned utility, or a common carrier for the  
5 purpose of constructing, operating, or maintaining generation,  
6 transmission, or distribution facilities. "Economic development" also  
7 does not include port districts' activities under Title 14 or 53 RCW.

8 (2)(a) "Public use" means:

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

11 (ii) The use of property for the creation or functioning of public  
12 utilities, a publicly owned utility, or common carriers; or

13 (iii) Where the use of eminent domain:

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

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

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

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

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

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

27 NEW SECTION. **Sec. 3.** In an action to determine whether a claimed  
28 use by a governmental body is a public use, the court must find that  
29 taking of private property is for economic development if the court  
30 determines that economic development was a substantial factor in the  
31 governmental body's decision to take the property.

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

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