
SENATE BILL 5444

State of Washington 60th Legislature 2007 Regular Session

By Senators Carrell, Kline, Holmquist, Swecker, Morton, Hewitt, McAuliffe, Tom, Sheldon, Honeyford, Clements, Schoesler, Brandland, Benton, Roach, Zarelli, Spanel, Marr, Kohl-Welles, Eide, Oemig, McCaslin, Shin, Pflug, Delvin, Rasmussen, Fairley, Weinstein, Kastama, Parlette, Stevens, Kilmer, Hatfield, Jacobsen, Haugen, Rockefeller and Keiser; by request of Governor Gregoire and Attorney General

Read first time 01/19/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to adequate notice to property owners regarding
2 acquisition of property for public purposes through the exercise of
3 eminent domain; amending RCW 8.12.530; adding a new section to chapter
4 8.25 RCW; ; adding a new section to chapter 8.04 RCW; adding a new
5 section to chapter 8.08 RCW; adding a new section to chapter 8.12 RCW;
6 adding a new section to chapter 8.16 RCW; and adding a new section to
7 chapter 8.20 RCW.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 8.25 RCW
10 to read as follows:

11 (1) The condemnor must provide notice as required by this section
12 prior to a final action or public meeting at which:

13 (a) A state agency or other entity subject to chapter 8.04 RCW
14 takes a final action to authorize the condemnation of a specific
15 parcel;

16 (b) A county or other entity subject to chapter 8.08 RCW takes a
17 final action deeming a specific parcel or other property to be "for
18 county purposes" as provided in RCW 8.08.010;

1 (c) A city or town or other entity subject to chapter 8.12 RCW
2 takes a final action authorizing condemnation as provided in RCW
3 8.12.040;

4 (d) A school district or other entity subject to chapter 8.16 RCW
5 takes a final action selecting property for condemnation as provided in
6 RCW 8.16.010;

7 (e) Any other corporation authorized to condemn property takes a
8 final action to authorize condemnation as provided in RCW 8.20.010; or

9 (f) Any other entity subject to chapter 8.04, 8.08, 8.12, 8.16, or
10 8.20 RCW takes any final action to authorize the condemnation of a
11 specific parcel of property.

12 (2)(a)(i) Notice of the final action or public meeting shall be
13 mailed by certified mail to each and every property owner of record as
14 indicated on the tax rolls of the county to the address provided on
15 such tax rolls, for each parcel subject to the declaration of
16 necessity, at least fifteen days before the public meeting. If no
17 address is provided for a parcel on the tax rolls of the county, the
18 condemnor shall conduct a diligent inquiry for the address for each and
19 every parcel owner of record and send the notice to that address. In
20 case the property sought to be appropriated is school or county land,
21 such notice shall be mailed to the auditor of the county in which the
22 property sought to be acquired and appropriated is situated.

23 (ii) The notice must contain a general description of the property
24 such as an address, lot number, or parcel number and specify that
25 condemnation of the property will be considered during the final action
26 or at the public meeting. The notice must also describe the date,
27 time, and location of the final action or public meeting at which the
28 condemnor will decide whether or not to authorize the condemnation of
29 the property.

30 (iii) Mailing of the certified letter to the proper addressee or
31 addressees is deemed to be sufficient notice under this subsection
32 (2)(a).

33 (b)(i) Notice of a public meeting or final action described in
34 subsection (1) of this section shall also be given by publication in
35 the legal newspaper with the largest circulation in the jurisdiction
36 where such lands are situated once a week for two successive weeks
37 before the public meeting. Proof of circulation shall be established
38 by publisher's affidavit filed with the governing body of the

1 condemnor. Such publication shall be deemed sufficient notice in lieu
2 of a certified letter for each owner of record for the property whose
3 residence is unknown or cannot be ascertained after a diligent inquiry.

4 (ii) The notice published under this subsection (2)(b) shall
5 contain the same information as is required under (a) of this
6 subsection.

7 (3) Lack of sufficient notice under this section shall render the
8 subsequent proceedings void as to the person not served, but the
9 subsequent proceedings shall not be void as to all persons or parties
10 having been served with notice as provided in this section, either by
11 publication or otherwise. A condemnor may cure insufficient notice
12 under this section by providing an additional sufficient notice. In
13 such a case, RCW 8.12.530 shall not apply and a subsequent proceeding
14 may be filed sooner than one year after discontinuance. In a
15 subsequent condemnation action subject to this section in which a
16 condemnee alleges insufficient notice under this section, the court may
17 determine whether the condemnor made a diligent attempt to provide
18 sufficient notice and issue a finding on the sufficiency of the notice.

19 (4) For units of local government, "final action" has the same
20 meaning as that provided in RCW 42.30.020. For state agencies, the
21 office of the attorney general shall publish procedures that define
22 "final action" for state agencies to ensure that property owners are
23 provided with notice and opportunity for review and comment before the
24 agency makes a final decision to authorize the condemnation of specific
25 parcels of property. For all other entities subject to this act,
26 "final action" means a public meeting at which the entity decides
27 whether to authorize the condemnation of specific parcels of property.

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 8.04 RCW
29 to read as follows:

30 Proceedings under this chapter are subject to the notice
31 requirements of section 1 of this act. Compliance with section 1 of
32 this act is required before an action can be filed under this chapter.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 8.08 RCW
34 to read as follows:

35 Proceedings under this chapter are subject to the notice

1 requirements of section 1 of this act. Compliance with section 1 of
2 this act is required before an action can be filed under this chapter.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 8.12 RCW
4 to read as follows:

5 Proceedings under this chapter are subject to the notice
6 requirements of section 1 of this act. Compliance with section 1 of
7 this act is required before an action can be filed under this chapter.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 8.16 RCW
9 to read as follows:

10 Proceedings under this chapter are subject to the notice
11 requirements of section 1 of this act. Compliance with section 1 of
12 this act is required before an action can be filed under this chapter.

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 8.20 RCW
14 to read as follows:

15 Proceedings under this chapter are subject to the notice
16 requirements of section 1 of this act. Compliance with section 1 of
17 this act is required before an action can be filed under this chapter.

18 **Sec. 7.** RCW 8.12.530 and 1988 c 202 s 11 are each amended to read
19 as follows:

20 At any time within six months from the date of rendition of the
21 last judgment awarding compensation for any such improvement in the
22 superior court, or if appellate review is sought, then within two
23 months after the final determination of the proceeding in the supreme
24 court or the court of appeals, any such city may discontinue the
25 proceedings by ordinance passed for that purpose before making payment
26 or proceeding with the improvement by paying or depositing in court all
27 taxable costs incurred by any parties to the proceedings up to the time
28 of such discontinuance. Except as provided in section 1(3) of this
29 act, if any such improvement be discontinued, no new proceedings shall
30 be undertaken therefor until the expiration of one year from the date
31 of such discontinuance.

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