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HOUSE BILL 2427

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State of Washington

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By Representatives Dunshee, Kessler, Morrell, Appleton, Hasegawa, Rodne, Santos, P. Sullivan, Tom, Grant, Dickerson, Hunter, Green, Takko and Schual-Berke

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1 AN ACT Relating to restrictions on the exercise of the power of  
2 eminent domain; and amending RCW 8.04.070, 8.08.020, 8.12.030, and  
3 8.20.070.

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

5 **Sec. 1.** RCW 8.04.070 and 1988 c 202 s 6 are each amended to read  
6 as follows:

7 (1) At the time and place appointed for hearing the petition, or to  
8 which the hearing may have been adjourned, if the court has  
9 satisfactory proof that all parties interested in the lands, real  
10 estate, premises, or other property described in the petition have been  
11 duly served with the notice, and is further satisfied by competent  
12 proof that the contemplated use for which the lands, real estate,  
13 premises, or other property are sought to be appropriated is really  
14 necessary for the public use of the state, it shall make and enter an  
15 order, to be recorded in the minutes of the court, and which order  
16 shall be final unless appellate review thereof is sought within five  
17 days after entry thereof, adjudicating that the contemplated use for  
18 which the lands, real estate, premises or other property are sought to  
19 be appropriated is really a public use of the state.

1       (2) Private property shall only be taken by the state for a public  
2 use. The term "public use" shall only mean the possession, occupation,  
3 or enjoyment of the property by the general public or by the state, or  
4 a county, city, town, or other municipality; or the use of land for the  
5 creation or functioning of public utilities or common carriers such as  
6 railroads, utilities, or toll roads; or the acquisition of property to  
7 cure a concrete harmful effect of the current use of the land,  
8 including the removal of public nuisances or structures that are beyond  
9 repair or unfit for human habitation or use; or the acquisition of  
10 abandoned property; or the redevelopment or rehabilitation of blighted  
11 areas.

12       (3) The taking of private property by the state for economic  
13 development does not constitute a public use where the primary purpose  
14 of such development is for an increase in tax base, tax revenues,  
15 employment, or general economic health.

16       **Sec. 2.** RCW 8.08.020 and 1949 c 79 s 2 are each amended to read as  
17 follows:

18       ~~((Any condemnation, appropriation or disposition intended in RCW~~  
19 ~~8.08.010 through 8.08.080 shall be deemed and held to be for a county~~  
20 ~~purpose and public use within the meaning of RCW 8.08.010 through~~  
21 ~~8.08.080 when it is directly or indirectly, approximately or remotely~~  
22 ~~for the general benefit or welfare of the county or of the inhabitants~~  
23 ~~thereof.))~~

24       (1) The condemnation of private property by a county through  
25 eminent domain proceedings under this chapter is authorized only where  
26 such condemnation is for a public use.

27       (2) The term "public use" shall only mean the possession,  
28 occupation, or enjoyment of the property by the general public or by  
29 the state, or a county, city, town, or other municipality; or the use  
30 of land for the creation or functioning of public utilities or common  
31 carriers such as railroads, utilities, or toll roads; or the  
32 acquisition of property to cure a concrete harmful effect of the  
33 current use of the land, including the removal of public nuisances or  
34 structures that are beyond repair or unfit for human habitation or use;  
35 or the acquisition of abandoned property; or the redevelopment or  
36 rehabilitation of blighted areas.

1       (3) The taking of private property by a county for economic  
2 development does not constitute a public use where the primary purpose  
3 of such development is for an increase in the tax base, tax revenues,  
4 employment, or general economic health.

5       **Sec. 3.** RCW 8.12.030 and 1915 c 154 s 1 are each amended to read  
6 as follows:

7       (1) Every city and town and each unclassified city and town within  
8 the state of Washington, is hereby authorized and empowered to condemn  
9 land and property, including state, county and school lands and  
10 property for streets, avenues, alleys, highways, bridges, approaches,  
11 culverts, drains, ditches, public squares, public markets, city and  
12 town halls, jails and other public buildings, and for the opening and  
13 widening, widening and extending, altering and straightening of any  
14 street, avenue, alley or highway, and to damage any land or other  
15 property for any such purpose or for the purpose of making changes in  
16 the grade of any street, avenue, alley or highway, or for the  
17 construction of slopes or retaining walls for cuts and fills upon real  
18 property abutting on any street, avenue, alley or highway now ordered  
19 to be, or such as shall hereafter be ordered to be opened, extended,  
20 altered, straightened or graded, or for the purpose of draining swamps,  
21 marshes, tidelands, tide flats or ponds, or filling the same, within  
22 the limits of such city, and to condemn land or property, or to damage  
23 the same, either within or without the limits of such city for public  
24 parks, drives and boulevards, hospitals, pesthouses, drains and sewers,  
25 garbage crematories and destructors and dumping grounds for the  
26 destruction, deposit or burial of dead animals, manure, dung, rubbish,  
27 and other offal, and for aqueducts, reservoirs, pumping stations and  
28 other structures for conveying into and through such city a supply of  
29 fresh water, and for the purpose of protecting such supply of fresh  
30 water from pollution, and to condemn land and other property and damage  
31 the same for such and for any other public use after just compensation  
32 having been first made or paid into court for the owner in the manner  
33 prescribed by this chapter.

34       (2) Private property shall only be taken by a city or town for a  
35 public use. In addition to the uses listed in subsection (1) of this  
36 section, the term "public use" shall only mean the possession,  
37 occupation, or enjoyment of the property by the general public or by

1 the city, town, or other municipality; or the use of land for the  
2 creation or functioning of public utilities or common carriers such as  
3 railroads, utilities, or toll roads; or the acquisition of property to  
4 cure a concrete harmful effect of the current use of the land,  
5 including the removal of public nuisances or structures that are beyond  
6 repair or unfit for human habitation or use; or the acquisition of  
7 abandoned property; or the redevelopment or rehabilitation of blighted  
8 areas.

9 (3) The taking of private property by a city or town for economic  
10 development does not constitute a public use where the primary purpose  
11 of such development is for an increase in the tax base, tax revenues,  
12 employment, or general economic health.

13 **Sec. 4.** RCW 8.20.070 and 1927 c 88 s 1 are each amended to read as  
14 follows:

15 (1) At the time and place appointed for hearing said petition, or  
16 to which the same may have been adjourned, if the court or judge  
17 thereof shall have satisfactory proof that all parties interested in  
18 the land, real estate, premises, or other property described in said  
19 petition, have been duly served with said notice as above prescribed,  
20 and shall be further satisfied by competent proof that the contemplated  
21 use for which the land, real estate, premises or other property sought  
22 to be appropriated is really a public use, or is for a private use for  
23 a private way of necessity, and that the public interest requires the  
24 prosecution of such enterprise, or the private use is for a private way  
25 of necessity, and that the land, real estate, premises, or other  
26 property sought to be appropriated are required and necessary for the  
27 purposes of such enterprise, the court or judge thereof may make an  
28 order, to be recorded in the minutes of said court, directing that a  
29 jury be summoned, or called, in the manner provided by law, to  
30 ascertain the compensation which shall be made for the land, real  
31 estate, premises, or other property sought to be appropriated, unless  
32 a jury be waived as in other civil cases in courts of record, in the  
33 manner prescribed by law.

34 (2) Private property shall only be taken by a corporate or  
35 governmental entity for a public use. The term "public use" shall only  
36 mean the possession, occupation, or enjoyment of the property by the  
37 general public or by the state, or a county, city, town, or other

1 municipality; or the use of land for the creation or functioning of  
2 public utilities or common carriers such as railroads, utilities, or  
3 toll roads; or the acquisition of property to cure a concrete harmful  
4 effect of the current use of the land, including the removal of public  
5 nuisances or structures that are beyond repair or unfit for human  
6 habitation or use; or the acquisition of abandoned property; or the  
7 redevelopment or rehabilitation of blighted areas.

8 (3) The taking of private property by a corporate or governmental  
9 entity for economic development does not constitute a public use where  
10 the primary purpose of such development is for an increase in the tax  
11 base, tax revenues, employment, or general economic health.

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