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HOUSE BILL 2924

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Chase, Dunn and Schual-Berke

Read first time 01/17/2006. Referred to Committee on Judiciary.

1            AN ACT Relating to prohibiting eminent domain for the primary  
2 purpose of economic development; and amending RCW 8.04.070, 8.08.020,  
3 8.12.030, and 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)(a) Notwithstanding subsection (1) of this section, the state  
2 shall not appropriate or acquire any land, real estate, premises, or  
3 other property for the primary purpose of economic development without  
4 the consent of the property owner.

5       (b) As used in this subsection, "economic development" means any  
6 activity to increase tax revenue, tax base, employment, or economic  
7 health. "Economic development" does not include activities that result  
8 in: (i) The transfer of land to public ownership; (ii) the transfer of  
9 land to a private entity that is a common carrier, such as a utility or  
10 railroad; (iii) the transfer of property to a private entity when  
11 acquisition or appropriation is necessary to remove a threat to public  
12 health or safety; (iv) the transfer of property to a private entity  
13 when acquisition or appropriation is necessary for the removal of  
14 structures that are beyond repair or unfit for human habitation or use;  
15 (v) the transfer of property to a private entity when acquisition or  
16 appropriation is necessary for the acquisition of abandoned property;  
17 or (vi) the lease of property to a private entity that occupies an  
18 incidental area within a public project.

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

21       (1) Any condemnation, appropriation, or disposition intended in RCW  
22 8.08.010 through 8.08.080 shall be deemed and held to be for a county  
23 purpose and public use within the meaning of RCW 8.08.010 through  
24 8.08.080 when it is directly or indirectly, approximately or remotely  
25 for the general benefit or welfare of the county or of the inhabitants  
26 thereof.

27       (2)(a) Notwithstanding subsection (1) of this section, no  
28 condemnation, appropriation, or disposition by the county shall be for  
29 the primary purpose of economic development without the consent of the  
30 property owner.

31       (b) As used in this subsection, "economic development" means any  
32 activity to increase tax revenue, tax base, employment, or economic  
33 health. "Economic development" does not include activities that result  
34 in: (i) The transfer of land to public ownership; (ii) the transfer of  
35 land to a private entity that is a common carrier, such as a utility or  
36 railroad; (iii) the transfer of property to a private entity when  
37 condemnation, appropriation, or disposition is necessary to remove a

1 threat to public health or safety; (iv) the transfer of property to a  
2 private entity when condemnation, appropriation, or disposition is  
3 necessary for the removal of structures that are beyond repair or unfit  
4 for human habitation or use; (v) the transfer of property to a private  
5 entity when condemnation, appropriation, or disposition is necessary  
6 for the acquisition of abandoned property; or (vi) the lease of  
7 property to a private entity that occupies an incidental area within a  
8 public project.

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

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

1       (2)(a) Notwithstanding subsection (1) of this section, no city or  
2 town shall condemn land or property for the primary purpose of economic  
3 development without the consent of the property owner.

4       (b) As used in this subsection, "economic development" means any  
5 activity to increase tax revenue, tax base, employment, or economic  
6 health. "Economic development" does not include activities that result  
7 in: (i) The transfer of land to public ownership; (ii) the transfer of  
8 land to a private entity that is a common carrier, such as a utility or  
9 railroad; (iii) the transfer of property to a private entity when  
10 acquisition or appropriation is necessary to remove a threat to public  
11 health or safety; (iv) the transfer of property to a private entity  
12 when acquisition or appropriation is necessary for the removal of  
13 structures that are beyond repair or unfit for human habitation or use;  
14 (v) the transfer of property to a private entity when acquisition or  
15 appropriation is necessary for the acquisition of abandoned property;  
16 or (vi) the lease of property to a private entity that occupies an  
17 incidental area within a public project.

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

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

1 a jury be waived as in other civil cases in courts of record, in the  
2 manner prescribed by law.

3 (2)(a) Notwithstanding subsection (1) of this section, no  
4 corporation shall appropriate any land, real estate, premises, or other  
5 property for the primary purpose of economic development without the  
6 consent of the property owner.

7 (b) As used in this subsection, "economic development" means any  
8 activity to increase tax revenue, tax base, employment, or economic  
9 health. "Economic development" does not include activities that result  
10 in: (i) The transfer of land to public ownership; (ii) the transfer of  
11 land to a private entity that is a common carrier, such as a utility or  
12 railroad; (iii) the transfer of property to a private entity when  
13 appropriation is necessary to remove a threat to public health or  
14 safety; (iv) the transfer of property to a private entity when  
15 appropriation is necessary for the removal of structures that are  
16 beyond repair or unfit for human habitation or use; (v) the transfer of  
17 property to a private entity when appropriation is necessary for the  
18 acquisition of abandoned property; or (vi) the lease of property to a  
19 private entity that occupies an incidental area within a public  
20 project.

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