

SHB 2016 - H AMD 254

By Representative Rodne

FAILED 3/10/2007

1 On page 31, after line 33, insert the following:

2 "NEW SECTION. **Sec. 29.** It is the intent of this act, and the
3 provisions of this act shall be so construed, that the powers of
4 eminent domain shall be exercised solely for a stated public use,
5 except private ways of necessity, and for drains, flumes, or
6 ditches on or across the lands of others for agricultural,
7 domestic, or sanitary purposes consistent with Article I, section
8 16 of the state Constitution. All grants and exercise of the power
9 of eminent domain shall be strictly construed and no greater
10 interest shall be taken than is necessary to accomplish the stated
11 public use. "Public use" means the actual possession, occupation,
12 and use of the property by the general public or by the state; or
13 the use of land for the creation or functioning of public utilities
14 or common carriers such as railroads, utilities, or toll roads.
15 The taking of private property by the state for economic
16 development does not constitute public use. Public use shall not
17 be equated with public purpose, public interest, or public benefit,
18 such as promoting economic development, creating jobs, improving
19 the tax base, or enhancing tax revenues by building, expanding, or
20 upgrading private retail, commercial, industrial, or residential
21 establishments. The legislature intends that economic development
22 as contemplated by the United States supreme court decision in *Kelo*
23 *v. City of New London*, 545 U.S. 469 (2005) is not and shall not be
24 construed as public use."

25 Renumber the remaining section and correct the title.

EFFECT: Expresses legislative intent to prohibit the exercise
of eminent domain except to the extent necessary for a stated
public use. Defines public use to mean actual possession,

occupation and use by the general public or the state, or the use of land by common carriers. Declares that public use may not be equated with economic development, job creation, or tax base improvement or tax revenue enhancement. Expresses the intent that the kind of economic development in the *Kelo* decision is not to be construed as a public use.