
HOUSE BILL 2920

State of Washington 60th Legislature 2008 Regular Session

By Representatives Kessler, Rodne, Springer, Upthegrove, Morrell, and VanDeWege; by request of Attorney General

Read first time 01/17/08. Referred to Committee on Judiciary.

1 AN ACT Relating to an eminent domain information pamphlet; amending
2 RCW 8.25.290; and adding a new section to chapter 8.25 RCW.

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

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

6 (1) The attorney general's office, by December 1, 2009, shall
7 publish, and update when appropriate, a pamphlet, written in plain
8 language, explaining eminent domain and its purposes and scope, the
9 authority of agencies and entities exercising eminent domain, the
10 rights of persons subject to eminent domain proceedings, and any other
11 issues pertaining to eminent domain as determined by the attorney
12 general. The attorney general, in his or her discretion, may revise
13 the pamphlet as required.

14 (2) A copy of the pamphlet must be mailed with each notice of
15 planned final action as described under RCW 8.25.290(2).

16 **Sec. 2.** RCW 8.25.290 and 2007 c 68 s 1 are each amended to read as
17 follows:

1 (1) The condemnor must provide notice as required by this section
2 before:

3 (a) A state agency or other entity subject to chapter 8.04 RCW
4 takes a final action to authorize the condemnation of a specific
5 property;

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

9 (c) A city or town or other entity subject to chapter 8.12 RCW
10 takes a final action authorizing condemnation as provided in RCW
11 8.12.040;

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

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

17 (f) Any other entity subject to chapter 8.04, 8.08, 8.12, 8.16, or
18 8.20 RCW takes any final action to authorize the condemnation of a
19 specific property.

20 (2)(a)(i) Notice of the planned final action, and a copy of the
21 eminent domain information pamphlet described under section 1 of this
22 act, shall be mailed by certified mail to each and every property owner
23 of record as indicated on the tax rolls of the county to the address
24 provided on such tax rolls, for each property potentially subject to
25 condemnation, at least fifteen days before the final action. If no
26 address is provided for a property on the tax rolls of the county, the
27 potential condemnor shall conduct a diligent inquiry for the address
28 for each and every property owner of record and send the notice to that
29 address. In case the property sought to be appropriated is school or
30 county land, such notice shall be mailed to the auditor of the county
31 in which the property sought to be acquired and appropriated is
32 situated.

33 (ii) The notice must contain a general description of the property
34 such as an address, lot number, or parcel number and specify that
35 condemnation of the property will be considered during the final
36 action. The notice must also describe the date, time, and location of
37 the final action at which the potential condemnor will decide whether
38 or not to authorize the condemnation of the property.

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

4 (b)(i) Notice of a planned final action described in subsection (1)
5 of this section shall also be given by publication in the legal
6 newspaper with the largest circulation in the jurisdiction where such
7 property is located once a week for two successive weeks before the
8 final action. A second publication must also be given in the legal
9 newspaper routinely used by the potential condemnor, where such
10 newspaper does not also have the largest circulation in the
11 jurisdiction. Proof of circulation shall be established by publisher's
12 affidavit filed with the potential condemnor. Such publication shall
13 be deemed sufficient notice in lieu of a certified letter for each
14 property owner of record for the property whose address is unknown and
15 cannot be ascertained after a diligent inquiry.

16 (ii) The notice published under this subsection (2)(b) shall
17 contain the same information as is required under (a) of this
18 subsection.

19 (3) In a condemnation action subject to this section in which a
20 condemnee alleges insufficient notice under this section, the court may
21 determine whether the condemnor made a diligent attempt to provide
22 sufficient notice and issue a finding on the sufficiency of the notice.
23 Lack of sufficient notice under this section shall render the
24 subsequent proceedings void as to the person improperly notified, but
25 the subsequent proceedings shall not be void as to all persons or
26 parties having been notified as provided in this section, either by
27 publication or otherwise. A potential condemnor may cure insufficient
28 notice under this section by providing an additional sufficient notice
29 prior to taking a new final action, and filing a new petition if one
30 was previously filed, for condemnation for the property owner of record
31 who received insufficient notice. In such a case, RCW 8.12.530 shall
32 not apply and a subsequent proceeding may be filed sooner than one year
33 after discontinuance.

34 (4)(a) For potential condemnors subject to chapter 42.30 RCW, the
35 open public meetings act, "final action" has the same meaning as that
36 provided in RCW 42.30.020.

37 (b) For state agencies not subject to chapter 42.30 RCW, the office
38 of the attorney general shall publish procedures that define "final

1 action" for state agencies to ensure that property owners of record are
2 provided with notice and opportunity for comment before the agency
3 makes a final decision to authorize the condemnation of specific
4 property.

5 (c) For all other entities subject to chapter 68, Laws of 2007,
6 "final action" means a public meeting at which the entity informs
7 potentially affected property owners of record about the scope and
8 reasons for a potential condemnation action. A meeting must be held in
9 each county where property being considered for condemnation is
10 located. The meeting must be open to the public and conducted by a
11 duly authorized representative of the entity.

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