

# SENATE BILL REPORT

## SB 5014

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As Reported by Senate Committee On:  
Law & Justice, February 18, 2013

**Title:** An act relating to eminent domain.

**Brief Description:** Limiting the power of eminent domain.

**Sponsors:** Senators Benton, Becker and Holmquist Newbry.

**Brief History:**

**Committee Activity:** Law & Justice: 1/23/13, 2/04/13, 2/18/13 [DPA, DNP].

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass as amended.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Pearson and Roach.

**Minority Report:** Do not pass.

Signed by Senators Darneille, Kline, Ranking Member; Kohl-Welles.

**Staff:** Jessica Stevenson (786-7465)

**Background:** Eminent domain is the government's power to acquire private property for public use by paying the property owner just compensation. A United States Supreme Court case, *Kelo v. City of New London*, held that economic development constitutes a valid public purpose for eminent domain. The Washington State Constitution forbids the government from using eminent domain to take private property for private use except for a few expressly stated exceptions. These exceptions include private ways of necessity, and drains, flumes, or ditches on or across the lands of others for agricultural, domestic, or sanitary purposes.

**Summary of Bill (Recommended Amendments):** No government can take or damage private land or any interest in real property for any purpose other than the construction of a public use facility or the provision of a public service necessary to protect public health and safety. Permissible purposes for eminent domain include streets, roads, highways, street and road lighting systems, traffic signals, transportation corridors and rights of way, utility corridors and rights of ways, water systems, storm and sanitary sewer systems, sewage treatment facilities, landfills, park and recreational facilities, and schools.

**Appropriation:** None.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Studies have shown that eminent domain has been used for tax revenues. Enacting a statute will make it more clear that eminent domain can only be used for public facilities and services. Some municipalities have come close to violating the Constitution. The definitions of public use and economic development are too broad. Governments have condemned property that was not necessary for the purpose of exercising eminent domain power. Eminent domain impacts many people who do not have the resources to defend against eminent domain. Eminent domain strips people of not only land they have owned for years, but also of businesses on the land.

OTHER: Public ports would like to be named as an entity that can exercise eminent domain. The Washington State Constitution is clear that public purpose does not include private use, so enacting a statute will create more ambiguities about eminent domain.

**Persons Testifying:** PRO: Senator Benton, prime sponsor; Holli Johnson, WA State Grange; William Maurer, Institute for Justice; Rick Forschler, Citizens' Alliance for Property Rights; Doris Cassan, citizen; Glen Morgan, Freedom Foundation.

OTHER: Eric Johnson, WA Public Ports Assn; Carl Schroeder, Assn of WA Cities.