

SENATE BILL REPORT

SB 5188

As Reported by Senate Committee On:
Law & Justice, February 5, 2015

Title: An act relating to eminent domain.

Brief Description: Limiting the power of eminent domain.

Sponsors: Senators Benton and Angel.

Brief History:

Committee Activity: Law & Justice: 1/26/15, 2/05/15 [DP, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Pedersen, Ranking Minority Member; Darneille and Kohl-Welles.

Staff: Tim Ford (786-7423)

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: 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, utility corridors, water systems, storm and sanitary sewer systems, sewage treatment facilities, landfills, park and recreational facilities, and schools.

Appropriation: None.

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: What the constitution forbids, the courts have allowed. The clear language of this bill is good and limits eminent domain to just the listed public uses. The city of Seattle wants to abuse their eminent domain authority to take a privately owned parking lot in downtown and use it for a Seattle-owned parking lot. The parking lot is already available for the public but Seattle just wants the business. Lovie Nichols had her home taken by the city of Bremerton and the city sold it to a car dealership. Eminent domain abuse happens in Washington and this bill is needed to stop the abuse.

OTHER: Public ports would like to be included as one of the listed public purposes for exercising eminent domain. The Washington State Constitution is clear that public purpose does not include private use so existing protections are in place. The bill's language is not clear when it references private interests.

Persons Testifying: PRO: Cindy Alia, Glen Morgan, citizens.

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