
HOUSE BILL 2047

State of Washington

64th Legislature

2015 Regular Session

By Representative Vick

Read first time 02/09/15. Referred to Committee on Judiciary.

1 AN ACT Relating to a cause of action for a property owner to
2 require that an easement interest or right-of-way for an electrical
3 transmission line over and adjacent to the owner's lands be converted
4 into a fee taking; adding a new section to chapter 8.25 RCW; and
5 creating a new section.

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

7 NEW SECTION. **Sec. 1.** In a myriad of laws enacted over the
8 years, the legislature has found that it is in the best interest of
9 the state to maintain, preserve, conserve, and continue in existence
10 adequate agricultural and open space lands for the production of
11 food, fiber, and forest. The legislature has further recognized the
12 importance of individual farms and ranches to the state's economy and
13 the social fabric of rural communities. This legislative focus and
14 prioritization can be seen in the creation of the office of farmland
15 preservation, the valuation and assessment laws with respect to open
16 space, farm energy efficiency improvement statutes, and the heritage
17 barn preservation program, to name just a few of the laws that have
18 been enacted over the years.

19 The legislature further finds that individual farms and ranches
20 require a certain land mass to maintain economic viability. Farmers
21 and ranchers purchase property and continue operations based upon the

1 expectation that their lands will remain intact and, thus,
2 economically viable. This is true with respect to other property as
3 well that is purchased for residential or business
4 purposes. Depending upon individual circumstances, the loss of even a
5 small strip of land can make an important difference, and the absence
6 of that strip may have affected the decision to purchase or maintain
7 operations had it been known beforehand.

8 The legislature intends that: All property owners in the state
9 are entitled to the benefit of the bargains they made with respect to
10 the purchase or maintenance of their properties; these individual
11 owners have the right to determine whether they want to remain on, or
12 continue operations after, the condemnation of a portion of their
13 property for electrical transmission lines; and when any private real
14 property is proposed to be acquired for the construction of a site or
15 route for an electrical transmission line by eminent domain
16 proceedings, the property owner must be afforded the option to
17 require the condemnor, whether that condemnor be a state or federal
18 agency or any other person or entity possessing eminent domain
19 powers, to condemn a fee interest in any amount of contiguous land
20 that the property owner wholly owns in undivided fee and elects in
21 writing to transfer to the condemnor.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 8.25 RCW
23 to read as follows:

24 (1) When private real property is proposed to be acquired for the
25 construction of a site or route for an electrical transmission line
26 by eminent domain proceedings, the property owner may require the
27 condemnor to condemn a fee interest in any amount of contiguous land
28 that the property owner wholly owns in undivided fee and elects in
29 writing to transfer to the condemnor. Such election must be made
30 within sixty days after service of the petition or complaint for
31 condemnation upon the property owner. The property owner has only
32 this one option and may not expand or otherwise modify an election
33 without the consent of the condemnor.

34 (2) The required acquisition of land pursuant to this section is
35 an acquisition for a public use, quasi-public use, or private-public
36 use. However, a condemnor must divest itself completely of all such
37 lands used for farming or capable of being used for farming not later
38 than the time it can receive the market value paid at the time of

1 acquisition of lands less any diminution in value by reason of the
2 presence of the electrical transmission line route or site.

3 (3) Upon the property owner's election made under this section,
4 the easement interest over and adjacent to the lands designated by
5 the property owner to be acquired in fee, sought in the condemnation
6 petition or complaint for a right-of-way for an electrical
7 transmission line, automatically converts into a fee taking. Within
8 one hundred twenty days of the property owner's election under this
9 section to require the condemnor to acquire land, the condemnor must
10 make a written offer to acquire that land and amend its petition or
11 complaint to include the additional land.

12 (4) All rights and protections provided to a property owner under
13 other applicable federal and state eminent domain statutes apply to
14 the acquisition of land or an interest in land under this section.

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