

CHAPTER 177.

[S. B. 232.]

EMINENT DOMAIN—STATE'S POWER.

AN ACT relating to the power of eminent domain when exercised by the state; amending sections 8.04.090 and 8.04.130, R.C.W., and amending chapter 8.04, R.C.W., by adding new sections thereto.

Be it enacted by the Legislature of the State Washington:

SECTION 1. Section 8.04.090, R.C.W., as derived from section 1, chapter 98, Laws of 1925, Extraordinary Session, is amended to read as follows:

In case the state shall require immediate possession and use of the property sought to be condemned, and an order of necessity shall have been granted, and no review has been taken therefrom, the attorney general shall, before an order of immediate possession and use shall be made, file with the clerk of the court wherein the action is pending, a certificate of the state's requirement of immediate possession and use of the land, which shall state the amount of money offered to the respondents and shall further state that such offer constitutes a continuing tender of such amount. The attorney general shall file a copy of the certificate with the state auditor, who forthwith shall issue and deliver to him a warrant payable to the order of the clerk of the court wherein the action is pending in a sum sufficient to pay the amount offered, which shall forthwith be paid into the registry of the court. The court without further notice to respondent shall enter an order granting to the state the immediate possession and use of the property described in the order of necessity, which order shall bind the petitioner to pay the full amount of any final judgment of compensation and damages which may thereafter be awarded for the taking and appropriation of the lands, real estate, premises, or other property described in the

Amendment.

Eminent domain by state; procedure for obtaining order of immediate possession and use.

Certificate of state's requirement.

Warrant; paid into court.

Order of immediate possession and use; effect.

petition and for the injury, if any, to the remainder of the lands, real estate, premises, or other property from which they are to be taken by reason of such taking and appropriation, after offsetting against any and all such compensation and damages the special benefits, if any, accruing to such remainder by reason of the appropriation and use by the state of the lands, real estate, premises, or other property described in the petition. The moneys paid into court may at any time after entry of the order of immediate possession, be withdrawn by respondents, by order of the court, as their interests shall appear.

Withdrawal of moneys paid into court.

[Am. R.R.S. § 894 part (first proviso, page 80, vol. 3. Remainder of R.R.S. § 894 is codified as R.C.W. 8.04.070, 8.04.080, and 8.04.100).]

SEC. 2. A new section is added to chapter 8.04, R.C.W., to read as follows:

New section.

The amount paid into court shall constitute just compensation paid for the taking of such property: *Provided*, That respondents may, in the same action, request a trial by jury or by the court for the purpose of assessing the amount of compensation to be made and the amount of damages arising from the taking. In the event that, pursuant to such hearing, the verdict of the jury, or decision of the court, shall award respondents an amount in excess of the tender, the court shall order such excess paid to respondents with interest thereon from the time of the entry of the order of immediate possession, and shall charge the costs of the action to the state. In the event that, pursuant to such trial, the verdict of the jury or decision of the court shall award respondents an amount equal to the tender, the costs of the action shall be charged to the state, and if such verdict or decision shall award an amount less than the amount of the tender, the state shall be taxed for costs and the state, if respondents have accepted the tender and withdrawn the amount paid into court, shall be

Jury trial may be requested to determine compensation.

Verdict or decision in excess of tender.

Verdict or decision equal to tender.

Verdict or decision less than tender.

entitled to a judgment for the difference; otherwise, the excess on deposit shall be returned to the state.

[Chapter 8.04 R.C.W. is derived from R.R.S. §§ 891 to 900 incl., and R.R.S. §§ 900-1 and 900-2.]

SEC. 3. A new section is added to chapter 8.04, R.C.W., to read as follows: New section.

If any respondent shall elect to demand a trial for the purpose of assessing just compensation and damages arising from the taking, he shall so move within sixty days from the date of entry of the order of immediate possession and use, and the issues shall be brought to trial within one year from the date of such order unless good and sufficient proof shall be offered and it shall appear therefrom to the court that the hearing could not have been held within said year. In the event that no such demand be timely made or having been timely made, shall not be brought to trial within the limiting period, the court, upon application of the state, shall enter a decree of appropriation for the amount paid into court under the provisions of section 8.04.090, R.C.W., as the total sum to which respondents are entitled, and such decree shall be final and non-appealable. Limiting periods for request for trial and prosecution thereof.

[See note to sec. 2.]

[R.C.W. 8.04.090 appeared as sec. 1, *supra*, this chapter.] Decree of appropriation.

SEC. 4. Section 8.04.130, R.C.W., as derived from section 3, chapter 98, Laws of 1925, Extraordinary Session, is amended to read as follows: Non-appealable.

Upon the entry of judgment upon the verdict of the jury or the decision of the court awarding damages, the state may make payment of the damages and the costs of the proceedings by depositing them with the clerk of the court, to be paid out under the direction of the court or judge thereof; and upon making such payment into court of the damages assessed and allowed for any land, real estate, premises, or other property mentioned in the petition, and of the costs, the state shall be released and discharged from any and all further liability therefor, Amendment.

Payment into court upon entry of judgment.

unless upon appeal the owner or party interested recovers a greater amount of damages; and in that case the state shall be liable only for the amount in excess of the sum paid into court and the costs of appeal.

On appeal to
supreme
court status
quo pre-
served.

In the event of an appeal to the supreme court of the state by any party to the proceedings, the moneys paid into the superior court by the state pursuant to this section shall remain in the custody of the court until the final determination of the proceedings by the supreme court.

[Am. R.R.S. § 897.]

Passed the Senate March 8, 1951.

Passed the House March 5, 1951.

Approved by the Governor March 16, 1951.

CHAPTER 178.

[S. B. 244.]

WASHINGTON CIVIL DEFENSE ACT OF 1951.

AN ACT relating to and providing for the establishment of a state civil defense agency and other organizations for civil defense within this state; granting certain executive powers with respect thereto and for related purposes; repealing chapter 177, Laws of 1941, chapters 6 and 24, Laws of 1943, and chapter 88, Laws of 1949; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Short title.

SECTION 1. This act may be cited as the Washington Civil Defense Act of 1951.

Declaration
of purpose.

SEC. 2. (1) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, or from fire, flood, storm, earthquake, or other natural causes, and in order to insure that preparations of this state will be adequate to deal with such disas-