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SENATE BILL NO. 336

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact §§ 15.2-1900 and 15.2-1901 of the Code of Virginia, relating to local condemnation authority; definition of public use.

Patron—Obenshain

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1900 and 15.2-1901 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1900. Definition of public uses.

The term "public uses" mentioned in Article I, Section 11 of the Constitution of Virginia is hereby defined to embrace all uses ~~which~~ *that* are necessary for public purposes. *Further, and notwithstanding any applicable charter provision or other provision of law, public use shall not include any condemnation of property by a locality that (i) is made with the intent of making the property available for ownership or use by a private entity unless any benefits that will accrue to the private entity as a result of its ownership or use of the property are merely incidental when compared to the benefits that will accrue to the public or (ii) is otherwise predominantly for a private purpose.*

§ 15.2-1901. Condemnation authority.

A. In addition to the authority granted to localities pursuant to any applicable charter provision or other provision of law, whenever a locality is authorized to acquire real or personal property or property interests for a public use *as defined in § 15.2-1900*, it may do so by exercise of the power of eminent domain, except as provided in subsection B.

B. A locality may acquire property or property interests outside its boundaries by exercise of the power of eminent domain only if such authority is expressly conferred by general law or special act. However, cities and towns shall have the right to acquire property outside their boundaries for the purposes set forth in § 15.2-2109 by exercise of the power of eminent domain. The exercise of such condemnation authority by a city or town shall not be construed to exempt the municipality from the provisions of subsection F of § 56-580.

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