

**Eminent Domain:  
CONSOLIDATION OF STATUTES  
REPORT  
(HB 3370)**

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From  
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**Eminent Domain Work Group  
Consolidation of Statutes  
Report**

**I. Statement of the Current Problem in the Law**

The existence of two Eminent Domain Chapters has been misleading and confusing. Practitioners in this field often need to consult ORS Chapter 35 and 281, as well as many other ORS Chapters that grant condemnation authority, in order to find all of the applicable statutes.

**II. History of the Project**

In 2001, the Oregon Law Commission authorized the creation of an Eminent Domain Work Group to address ambiguities in eminent domain statutory provisions and to look at several law reform areas. Chaired by Commissioner Gregory R. Mowe, the Work Group met nine times between October 2001 and August 2002. Meetings were held at Willamette University College of Law and the Oregon State Bar Offices. The Work Group included several attorneys in private practice (representing condemners and/or condemnees), state attorneys, city attorneys, an appraiser, a federal judge, and a representative from the State Court Administrator's office.<sup>1</sup> In addition, David Heynderickx, Senior Deputy Legislative Counsel, provided the Group with drafting services. The Work Group focused its attention both on a technical review and clean-up of the existing eminent domain procedural chapter as well as several substantive reform areas.

**III. The Objectives of the Proposal**

The Work Group concluded that it was good law reform to combine ORS Chapters 35 and 281. This bill consolidates ORS Chapters 35 and 281 to provide one location for most of the eminent domain provisions. (See Section 1 of the bill.) The bill also has technical amendments to statutes from Legislative Counsel that promote consistency and good word usage in the statutes.

**IV. The Proposal: See HB 3370 (2003)<sup>2</sup>**

**V. Conclusion**

This bill is the product of thoughtful deliberation and consideration by representatives of both condemners and condemnees. This bill consolidates ORS Chapters 35 and 281.

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<sup>1</sup> **Members**

Greg Mowe	Stoel Rives LLP
Al Depenbrock	Trial Division of DOJ
Cynthia Fraser	Oregon Department of Transportation
John Junkin	Bullivant Houser Bailey PC
Edward Leavy	US Circuit Court Judge
Henry Lorenzen	Corey Byler Rew Lorenzen
Robert Maloney	Lane Powell Spears Lubersky LLP
Linda Meng	Portland City Attorney's Office
Spencer Powell	MAI
David Ross	Salem City Attorney's Office
Donald Stark	Bullivant Houser Bailey PC
Joe Willis	Schwabe Williamson & Wyatt PC

**Interested Participants**

Susan Grabe	Oregon State Bar
Jill Gelineau	Schwabe Williamson & Wyatt PC
Wendy Johnson	Oregon Law Commission
David Kenagy	Oregon Law Commission
Bridget Musgrave	Willamette University
Bradd Swank	Office of State Court Administrator

<sup>2</sup> The Eminent Domain Work Group's bill was originally HB 2273 (2003) and there was one accompanying explanatory report from the Work Group. During the 2003 Legislative Session, the bill was divided into HB 3370, 3371 and 3372 and three respective accompanying reports.