
HOUSE BILL 1026

State of Washington

54th Legislature

1995 Regular Session

By Representatives Reams, Padden, Sherstad, Benton, Dyer, Skinner, Hargrove, Horn, Delvin, Schoesler, Buck, Johnson, Thompson, Beeksma, Goldsmith, Radcliff, Hickel, Backlund, Crouse, Cairnes, Elliot, Mastin, K. Schmidt, Chappell, Grant, Robertson, Van Luven, D. Schmidt, Mulliken, Boldt, McMorris, Clements, Fuhrman, Campbell, L. Thomas, Huff, Talcott, Morris, Hymes and Casada

Prefiled 12/30/94. Read first time 01/09/95. Referred to Committee on Government Operations.

1 AN ACT Relating to regulation of private property; adding a new
2 chapter to Title 64 RCW.

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

4 NEW SECTION. **Sec. 1.** This act is intended to provide remedies to
5 property owners in addition to any constitutional rights under the
6 state and/or federal constitutions and is not intended to restrict or
7 replace any constitutional rights.

8 NEW SECTION. **Sec. 2.** This act shall be known as the private
9 property regulatory fairness act.

10 NEW SECTION. **Sec. 3.** A regulation of private property or
11 restraint of land use by a governmental entity is prohibited unless a
12 statement containing a full analysis of the total economic impact in
13 private property of such regulation or restraint is prepared by the
14 entity and made available to the public at least thirty days prior to
15 adoption of the regulation or imposition of the restraint. Such
16 statement shall identify the manner in which the proposed action will
17 substantially advance the purpose of protecting public health and

1 safety against identified public health or safety risks created by the
2 use of private property, and analyze the economic impact of all
3 reasonable alternatives to the regulation or restraint. Should the
4 governmental entity choose to adopt a proposed regulation or restraint
5 on the use private property, the governmental entity shall adopt the
6 regulation or restraint that has the least possible impact on private
7 property and still accomplishes the necessary public purpose.

8 NEW SECTION. **Sec. 4.** (1) A portion or parcel of private property
9 shall be considered to have been taken for general public use when:

10 (a) a governmental entity regulates or imposes a restraint of land
11 use on such portion or parcel of property for public benefit including
12 wetlands, fish or wildlife habitat, buffer zone, or other public
13 benefit designations; and

14 (b) no public nuisance will be created absent the regulation; and

15 (2) When private property is taken for general public use, the
16 regulating agency or jurisdiction shall pay full compensation of
17 reduction in value to the owner, or the use of the land by the owner
18 may not be restricted because of the regulation or restraint. The
19 jurisdiction may not require waiving this compensation as a condition
20 of approval of use or another permit, nor as a condition for
21 subdivision of land.

22 (3) Compensation must be paid to the owner of a private property
23 within three months of the adoption of a regulation or restraint which
24 results in a taking for general public use.

25 (4) A governmental entity may not deflate the value of property by
26 suggesting or threatening a designation to avoid full compensation to
27 the owner.

28 (5) A governmental entity that places restrictions on the use of
29 public or private property which deprive a landowner of access to his
30 or her property must also provide alternative access to the property at
31 the governmental entity's expense, or purchase the inaccessible
32 property.

33 (6) The assessor shall adjust property valuation for tax purposes
34 and notify the owner of the new tax valuation, which must be reflected
35 and identified in the next tax assessment notice.

36 (7) The state is responsible for the compensation liability of
37 other governmental entities for any action which restricts the use of
38 property when such action is mandated by state law or any state agency.

1 (8) Claims for compensation as a result of a taking of private
2 property under this act must be brought within the time period
3 specified in RCW 4.16.020.

4 NEW SECTION. **Sec. 6.** No governmental entity may require any
5 private property owner to provide or pay for any studies, maps, plans,
6 or reports used in decisions to consider restricting the use of private
7 property for public use.

8 NEW SECTION. **Sec. 7.** Unless the context clearly requires
9 otherwise, the definitions in this section apply throughout this
10 chapter.

11 (1) "Full compensation" means the reduction in the fair market
12 value of the portion or parcel of property taken for general public use
13 which is attributable to the regulation or restraint. Such reduction
14 shall be measured as of the date of adoption of the regulation or
15 imposition of restraint on the use of private property.

16 (2) "Governmental entity" means Washington state, state agencies,
17 agencies and commissions funded fully or partially by the state,
18 counties, cities, and other political subdivisions.

19 (3) "Private property" means -

20 (a) land;

21 (b) any interest in land or improvements thereon;

22 (c) any proprietary water right;

23 (d) Any crops, forest products, or resources capable of being
24 harvested or extracted that is owned by a non-governmental entity and
25 is protected by either the Fifth or Fourteenth Amendments to the U.S.
26 Constitution or the Washington State Constitution.

27 (4) "Restraint of land use" means any action, requirement, or
28 restriction by a governmental entity, other than actions to prevent or
29 abate public nuisances, that limits the use or development or private
30 property.

31 NEW SECTION. **Sec. 8.** This act may be enforced in Superior Court
32 against any governmental entity which fails to comply with the
33 provisions of this act by any owner of property subject to the
34 jurisdiction of such entity. Any prevailing plaintiff is entitled to
35 recover the costs of litigation, including reasonable attorney's fees.

1 NEW SECTION. **Sec. 9.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 10.** Sections 1 through 8 of this act shall
6 constitute a new chapter in Title 64 RCW.

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