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**HOUSE BILL 2053**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Young, Taylor, Short, Harmsworth, Shea, G. Hunt, McCaslin, Scott, Vick, Pike, Griffey, Hargrove, Buys, and Wilson

AN ACT Relating to compensation for government required actions on private property; amending RCW 36.70B.030; adding a new section to chapter 36.70A RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that property owners are finding increasing restrictions placed on their property in the name of the public good without just compensation. Many government agencies expect the property owner to pay for and accept the burdens placed on them by government statutes, ordinances, regulations, policies, and permitting requirements that provide a benefit to someone other than the property owner at the property owner's expense.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

(1) Government authorities must provide just compensation to property owners whenever land use ordinances, regulations, or policies adopted pursuant to requirements in this chapter or as part of a land use permitting decision require the property owner to:

(a) Place any form of signage on their property related to provisions in this chapter or ordinances adopted to comply with this chapter or associated regulations;

(b) Pay for and place fencing around critical areas, open space, habitat areas, riparian areas, or other property features;

(c) Record restrictive covenants, land use designations, or change any legal lot description on the property;

(d) Restore vegetation in a location where no vegetation existed during the time the property owner owned the property or vegetation degraded through natural causes;

(e) Make expenditures in furtherance of protecting the function and values of wetlands;

(f) Make any expenditure in furtherance of protecting the function and values of riparian areas; or

(g) Grant or set aside easements for public access on the property.

(2) Unless under the authority of a specific statutory requirement, a state agency may not adopt a rule or policy that results in any governmental authority being required to provide just compensation under this section.

**Sec.**  RCW 36.70B.030 and 1995 c 347 s 404 are each amended to read as follows:

(1) Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with applicable development regulations, or in the absence of applicable regulations the adopted comprehensive plan, under RCW 36.70B.040 shall incorporate the determinations under this section.

(2) During project review, a local government or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas; and

(c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW.

(3) During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation. As part of its project review process, a local government shall provide a procedure for obtaining a code interpretation as provided in RCW 36.70B.110.

(4)(a) Pursuant to RCW 43.21C.240, a local government may determine that the requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific adverse environmental impacts to which the requirements apply.

(b) Local governments may not require without just compensation that property owners: (i) Place any form of signage on their property; (ii) pay for and place fencing around critical areas, open space, habitat areas, or other government designated property attributes; (iii) record restrictive covenants, land use designations, or change any legal lot description on the property; (iv) restore vegetation in locations where no vegetation existed during the time the property owner owned the land or the vegetation degraded due to natural causes; (v) make any expenditure in furtherance of protective measures for the function and values of wetlands or riparian areas; or (vi) grant or set aside easements for public access on the property.

(5) Except under subsection (4)(b) of this section, nothing in this section limits the authority of a permitting agency to approve, condition, or deny a project as provided in its development regulations adopted under chapter 36.70A RCW and in its policies adopted under RCW 43.21C.060. Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, transportation demand management, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts, if applicable.

(6) Subsections (1) through (4) of this section apply only to local governments planning under RCW 36.70A.040.

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