

SENATE BILL REPORT

SB 6303

AS OF JANUARY 31, 1992

Brief Description: Concerning the designation of private land for public use.

SPONSORS: Senators Anderson, Barr, Amondson, Hayner, Craswell, L. Smith, Patterson, Rasmussen, Conner, Roach, Skratek and McCaslin

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Staff: Rod McAulay (786-7754)

Hearing Dates: February 4, 1992

BACKGROUND:

Federal, state and local laws have provided for the designation of certain real property as wetlands, as open space land, or as other public benefit lands. Buffer zones surrounding these properties may also be designated in certain circumstances. The restrictions upon the use of real property which result from such designations may constitute a taking of private property for public use, triggering the U.S. and state constitutional requirements that just compensation be paid to the owner. The test of whether a "taking" has occurred, however, is complex and compensation will not always automatically be required following such a designation.

SUMMARY:

Whenever private land is designated which prohibits or restricts the use of property by its owner, full compensation to the owner must be paid by the designating agency. Compensation must be paid at the time of enactment of the regulation or restrictions shall not be imposed. Regulations in effect prior to the effective date of this act will remain in effect only if compensation is paid to all property owners affected by July 1, 1992.

Upon designation the jurisdiction must provide, at public expense, access to private land made inaccessible by restrictive designation.

For wetlands, full compensation is the difference in value of the property prior to and after being designated.

Owners who designate their own lands as a wetland, open space, other public benefit property, or as a buffer must be provided immediate compensation by the public jurisdiction.

A mitigation for the use of a wetland by its owner is prohibited.

All studies, mapping, plans, and reports on property being considered for designation as public benefit property, or its buffers, shall be paid for by the governmental entity that is considering or has made the designation.

Appropriation: none

Revenue: none

Fiscal Note: requested January 31, 1992