
SUBSTITUTE SENATE BILL 6167

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Natural Resources (originally sponsored by Senators Snyder, Anderson, Hargrove, Amondson, M. Rasmussen, Bauer, Oke, Erwin, L. Smith, Owen, Vognild, Prince, Bluechel, Loveland, Roach, Nelson, Morton, Ludwig, Hochstatter, Williams, Sheldon, Moyer, A. Smith, Newhouse, McAuliffe, Wojahn, West, McDonald, Moore, Sellar, Quigley and Schow)

Read first time 02/04/94.

1 AN ACT Relating to the regulation of private property; and adding
2 new sections to chapter 8.28 RCW.

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

4 NEW SECTION. **Sec. 1.** Unless the context clearly requires
5 otherwise, the definitions in this section apply throughout sections 1
6 through 5 of this act.

7 (1) "Full compensation" means the difference in value of the
8 property before and after the property was identified as public use
9 property, plus attorneys' fees or other costs incurred by the property
10 owner to collect the amount due.

11 (2) "General public use" means a use designated by government in a
12 situation in which no public nuisance will be created absent the
13 regulation and no reciprocal value is received by the property owner.

14 (3) "Reciprocal value" means a situation in which all property
15 owners in an area are burdened equally and the regulation produces a
16 value for the regulated property owner proportional to the decrease in
17 value caused by restricting use.

1 NEW SECTION. **Sec. 2.** A regulation of private property or a
2 requirement on or restraint of land use by a governmental entity is
3 prohibited unless:

4 (1) The specific property or properties to be regulated are
5 identified by the governmental entity proposing to regulate by both
6 legal and common property description;

7 (2) The prospective regulated owner of record is notified by the
8 governmental entity by mail of the proposed regulation. The
9 notification must include a copy of the proposed regulation and
10 information about the environmental and economic impacts the proposed
11 regulation will have on the property. The impacts of the proposed
12 regulation must be described with examples, as necessary, to make clear
13 the intent and purpose of the regulation and the limitations and
14 restrictions the regulation will have on the property regulated;

15 (3) The owner is notified when, where, and how the owner may give
16 testimony or submit written statements to the body proposing the
17 regulation, at least ten days before an action being taken to enact the
18 regulation; and

19 (4) A full analysis of total economic impact is completed and
20 published by the governing body proposing to regulate at least ten days
21 before the proposed adoption.

22 NEW SECTION. **Sec. 3.** A regulation of private property and a
23 requirement or restriction on land use is prohibited unless the
24 regulation has the least possible impact and is the least burdensome
25 that could be imposed and still accomplish the necessary public
26 purpose.

27 NEW SECTION. **Sec. 4.** (1) The legislature recognizes that when a
28 governmental entity designates any part of a private property as a
29 wetland, open space, wildlife habitat, buffer zone, or other public
30 benefit property, the designated property has been converted to a
31 general public use.

32 (2) Whenever private property is converted to general public use,
33 the designating agency or jurisdiction shall pay full compensation of
34 reduction in value to the owner, or use of the land by the owner may
35 not be restricted because of the designation. This compensation must
36 be paid at the time of government designation. The jurisdiction may

1 not require waiving this compensation as a condition of approval of use
2 or any other permit, nor as a condition for subdivision of land.

3 (3) Compensation must be paid to the owner of a private property
4 designated within three months of the conversion to general public use,
5 or the designation is void. Regulations in effect before the effective
6 date of this act remain in effect only if compensation is paid to all
7 property owners affected by July 1, 1995.

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

11 (5) Upon designation the jurisdiction must provide, at public
12 expense, access to private land made inaccessible by restrictive
13 designation, or compensation for the loss of access must be paid to the
14 inaccessible landowner.

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

18 (7) Since the public does not own the designated property unless
19 purchased, mitigation for the use of a public benefit property or its
20 buffers by its owner is prohibited.

21 (8) The state is responsible for the compensation liability
22 resulting from county, city, or other political subdivision action that
23 is mandated by state law and converts private property to general
24 public use.

25 NEW SECTION. **Sec. 5.** The governmental entity that is considering
26 designation or that has made the designation shall pay for all studies,
27 mapping, plans, and reports connected with designation of property as
28 public benefit property, including buffers.

29 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act are each
30 added to chapter 8.28 RCW.

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