

SENATE BILL REPORT

SB 5152

As Reported By Senate Committee On:
Land Use & Planning, March 3, 2003

Title: An act relating to the zoning authority of the Columbia River Gorge commission; and adding a new section to chapter 43.97 RCW.

Brief Description: Requiring the Columbia River Gorge commission to compensate property owners for certain zoning changes.

Sponsors: Senators Benton, Honeyford, Mulliken, Stevens and Zarelli.

Brief History:

Committee Activity: Land Use & Planning: 2/13/03, 3/3/03 [DPS, DNP].

SENATE COMMITTEE ON LAND USE & PLANNING

Majority Report: That Substitute Senate Bill No. 5152 be substituted therefor, and the substitute bill do pass.

Signed by Senators Mulliken, Chair; McCaslin, Morton and T. Sheldon.

Minority Report: Do not pass.

Signed by Senator Kline.

Staff: Tim Watterson (786-7441)

Background: The Columbia River Gorge Commission is authorized by Congress and established by interstate compact and statutes in Washington and Oregon. The commission is authorized by statute (1) to zone property for land uses where counties and cities have not zoned consistent with the Gorge management plan, and (2) to review and disapprove of development proposals on property within its jurisdiction. The commission is not authorized to issue building permits.

Summary of Substitute Bill: The commission may not issue a land use decision that prohibits reasonable development of a parcel of land unless the commission compensates the owner for the resulting loss in value to the parcel, as determined by the assessor of the county in which the parcel is located. In addition, the commission may not hear appeals as an adjudicatory body of any land use or building permit decisions made by local governments within its jurisdiction. Such appeals must be filed in the applicable superior court.

Substitute Bill Compared to Original Bill: The substitute bill includes all commission land use decisions that prohibit reasonable development of a parcel, which are not restricted as in the original bill to parcels located within an incorporated city or purchased before January 1, 1987. The substitute bill provides only for the commission to compensate the owner for loss of value due to the decision, and does not provide for the alternative of issuing a building permit. Commission authority to hear appeals was not addressed in the original bill. The

substitute bill does not address enforcement of the bill requirements by withholding the commission biennial appropriation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: If the use of property is prohibited, then the property is taken, subject to compensation. Small and long-time property owners in the Gorge are injured by restrictions and downzoning. The Gorge Commission is stacked with environmental interests that want to block development of property. The commission overturns valid local land use decisions.

Testimony Against: Some use of property is always permitted, even if not for building. Review procedures for commission decisions are available. Bill terms, including "development," are unclear, leading to litigation. Federal law requires protection of the Gorge. Building permit and compensation mandates could require modification of federal law and the interstate compact with Oregon. The bill has potential for substantial cost for the commission.

Testified: Senator Benton, sponsor; Representative Boldt (pro); Merton Cooper (pro); Martha Bennett, Columbia River Gorge Commission (con); Willard Gaul, Columbia Gorge United (pro); Nathan Baker, Friends of the Gorge (con); Hertha Lund, Washington State Farm Bureau (pro); Oren Johnson (pro).