

SENATE BILL REPORT

SB 5136

AS OF FEBRUARY 11, 1993

Brief Description: Changing Washington's vesting of rights doctrine for improvements of land.

SPONSORS: Senators Skratek and Haugen

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Staff: Rod McAulay (786-7754)

Hearing Dates: February 18, 1993

BACKGROUND:

The process of applying for a building permit or subdivision approval can sometimes take an extended period of time during which zoning and other land use regulations may change. In Washington, the Supreme Court has ruled that a building permit application shall be approved or rejected on the basis of zoning and land use regulations in effect at the time the application is submitted. The rights of the applicant are said to have "vested" at that time, and the application cannot be denied on the basis of subsequent changes in zoning or other land use regulations.

Washington is the only state which fixes the time of vesting of building permit applications at such an early stage in the process. It is believed that in the case of large scale projects this early vesting is detrimental to efficient growth management and frustrates the ability of local government to assure compatible and efficient land development.

SUMMARY:

The common law vesting of rights doctrine followed by the State Supreme Court is expressly reversed and vesting of the rights of an applicant for a building permit shall occur when the building permit is issued.

The right to proceed with a commercial or multifamily development of land does not accrue to an applicant for such development at the time of application. This limitation does not apply to modifications to a principal place of residence; modifications of an existing structure housing any commercial, agricultural or industrial enterprise; or where approval of an application was delayed because of bad faith, negligence or an unreasonable failure to act.

Local governments shall establish, by ordinance, the requirements for determining what constitutes a fully completed application for a development of land or a fully

completed permit. Any county or city with a population over 15,000 may establish, by ordinance, a different time of vesting, but any such ordinance must permit vesting when the applicant has experienced a substantial change of circumstances. The term "substantial change of circumstances" is defined.

Any rights concerning an application established prior to the effective date of this act are not modified or terminated as a result of enactment.

Appropriation: none

Revenue: none

Fiscal Note: none requested