

2 **ESSB 6497** - H COMM AMD **ADOPTED 3-04-98**

3 By Committee on Government Reform & Land Use

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 36.70A.370 and 1991 sp.s. c 32 s 18 are each amended  
8 to read as follows:

9 (1) It is the public policy of the state of Washington that state  
10 agencies and local governments, in planning and carrying out  
11 governmental actions, anticipate, be sensitive to, and account for the  
12 obligations imposed by the fifth and the fourteenth amendments of the  
13 United States Constitution and Article I, section 16 of the state  
14 Constitution. It is the purpose of this section to reduce the risk of  
15 undue or inadvertent burdens on private property rights resulting from  
16 certain lawful governmental actions.

17 (2) The state attorney general shall establish by October 1, 1991,  
18 an orderly, consistent process, including a checklist if appropriate,  
19 that better enables state agencies and local governments to evaluate  
20 proposed regulatory or administrative actions to assure that such  
21 actions do not result in an unconstitutional taking of private  
22 property. It is not the purpose of this section to expand or reduce  
23 the scope of private property protections provided in the state and  
24 federal Constitutions. The attorney general shall review and update  
25 the process at least on an annual basis to maintain consistency with  
26 changes in case law.

27 ~~((2))~~ (3) For any governmental action concerning the regulation  
28 of private real property by local or state government requiring a  
29 public hearing, the local or state government shall address in its  
30 public hearing the guidelines of the state attorney general under  
31 subsection (2) of this section. The local or state government shall  
32 prepare written findings and conclusions available to the public, using  
33 the state attorney general's guidelines, on whether the governmental  
34 action may result in an unconstitutional taking of private real  
35 property.

1        (4) Local governments that are required or choose to plan under RCW  
2 36.70A.040 and state agencies shall utilize the process established by  
3 subsections ~~((1))~~ (2) and (3) of this section to assure that proposed  
4 regulatory or administrative actions do not result in an  
5 unconstitutional taking of private property.

6        ~~((3) The attorney general, in consultation with the Washington  
7 state bar association, shall develop a continuing education course to  
8 implement this section.~~

9        ~~(4))~~ (5) The process used by government agencies shall be  
10 protected by attorney client privilege. Nothing in this section grants  
11 a private party the right to seek judicial relief requiring compliance  
12 with the provisions of this section."

13        Correct the title.

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