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HOUSE BILL 2391

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State of Washington

55th Legislature

1998 Regular Session

By Representatives DeBolt, Johnson, Thompson, Mulliken, D. Sommers, Benson, Buck, Backlund, Sheahan, Pennington, Lambert and McCune

Read first time 01/13/98. Referred to Committee on Government Reform & Land Use.

1 AN ACT Relating to wetlands delineations and mitigation plans; and  
2 adding a new section to chapter 36.70A RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A RCW  
5 to read as follows:

6 (1) A county or city has the burden of proving, at no cost to the  
7 property owner, by clear and convincing evidence that an area is not  
8 suited for development because it is a wetland.

9 (2) A county or city shall bear the cost of any study of a wetland  
10 required for the development of the wetland, including any delineation  
11 and mitigation plan.

12 (3) A county or city proposing a wetland shall give timely notice  
13 of the proceedings to each affected property owner with a separate  
14 quasi-judicial hearing in accordance with local procedure.  
15 Commencement of a wetland delineation or mitigation plan proceeding  
16 against a property owner must be by written petition, setting forth in  
17 full detail the facts, circumstances, and theories upon which the  
18 county or city's claim is based. The county or city shall not prove

1 any ground for the wetland delineation or mitigation plan not  
2 specifically pled.

3 (4) A proceeding for a wetland delineation or mitigation plan shall  
4 not be commenced within five years of the determination of another  
5 wetland delineation or mitigation plan relating to the same property.

6 (5) A property owner who prevails in an appeal of a decision made  
7 under this section shall recover reasonable attorneys' fees, expert  
8 witness fees, and costs.

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