
ENGROSSED SUBSTITUTE SENATE BILL 6497

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, T. Sheldon, Anderson and Oke)

Read first time 02/06/98.

1 AN ACT Relating to the taking of private property; amending RCW
2 36.70A.370; and creating a new section.

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

4 **Sec. 1.** RCW 36.70A.370 and 1991 sp.s. c 32 s 18 are each amended
5 to read as follows:

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

14 (2) The state attorney general shall establish by October 1, 1991,
15 an orderly, consistent process, including a checklist if appropriate,
16 that better enables state agencies and local governments to evaluate
17 proposed regulatory or administrative actions to assure that such
18 actions do not result in an unconstitutional taking of private
19 property. It is not the purpose of this section to expand or reduce

1 the scope of private property protections provided in the state and
2 federal Constitutions. The attorney general shall review and update
3 the process at least on an annual basis to maintain consistency with
4 changes in case law.

5 ~~((2))~~ (3) For any governmental action by local or state
6 government requiring a public hearing, the local or state government
7 shall address in its public hearing the guidelines of the state
8 attorney general under subsection (2) of this section. The local or
9 state government shall prepare written findings and conclusions
10 available to the public, using the state attorney general's guidelines,
11 on whether the governmental action may result in an unconstitutional
12 taking of private property.

13 (4) Local governments that are required or choose to plan under RCW
14 36.70A.040 and state agencies shall utilize the process established by
15 subsections ~~((1))~~ (2) and (3) of this section to assure that proposed
16 regulatory or administrative actions do not result in an
17 unconstitutional taking of private property.

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

21 ~~(4))~~ (5) The process used by government agencies shall be
22 protected by attorney client privilege. Nothing in this section grants
23 a private party the right to seek judicial relief requiring compliance
24 with the provisions of this section.

25 NEW SECTION. Sec. 2. If this act mandates an increased level of
26 service by local governments, the local government may, under RCW
27 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the
28 legislature. The claims shall be subject to verification by the office
29 of financial management.

--- END ---