

SENATE BILL REPORT

SB 5011

As of February 20, 2013

Title: An act relating to prohibiting the state of Washington and its political subdivisions from adopting and developing environmental and developmental policies that infringe or restrict private property rights without due process.

Brief Description: Prohibiting the state of Washington and its political subdivisions from adopting and developing environmental and developmental policies that infringe or restrict private property rights without due process.

Sponsors: Senators Benton, Delvin, Padden, Sheldon and Smith.

Brief History:

Committee Activity: Law & Justice: 2/20/13.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Jessica Stevenson (786-7465)

Background: The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. A county, and the cities within that county, must comply with GMA if certain population requirements are met or the county or city chooses to comply. GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized land use policy statements of the governing body. GMA includes requirements relating to the use or development of land in urban and rural areas.

GMA goals are sprawl reduction, concentrated urban growth, affordable housing, economic development, open space and recreation, regional transportation, environmental protection, protection of private property rights, natural resource industries, historic preservation, permit processing, public facilities and services, and early and continuous public participation. Specifically, the protections for property rights include that private property must not be taken for a public use without just compensation and actions taken must not be arbitrary or discriminatory.

Summary of Bill: The bill as referred to committee not considered.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Proposed Substitute): Under GMA, Washington State and all political subdivisions may not adopt or implement policy recommendations, required by international law or an ancillary plan promulgated by an international institution, that deliberately or inadvertently infringe or restrict private property rights without due process in violation of the constitutions of the United States or Washington State.

Political subdivision is defined as the state, any county, city, public local entity, public-private partnership, and any other public entity of the state, a county, or city.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: There is currently an abuse of property rights in violation of the Constitution. The bill should be passed to ensure property rights are protected constitutionally and statutorily. It is important to reiterate to citizens that property rights are paramount to democracy.

CON: GMA is the only tool that many property owners have to protect private property in rural areas. Rural areas that contain residences have been threatened numerous times by attempts to change the rural area to urban. The bill is unnecessary since GMA, which already utilizes due process, gives all people an opportunity to be heard and protect their land. The bill will limit the functionality of GMA. The bill will preclude Thurston County from protecting forest, prairies, water supplies, and agriculture. Private property rights are already constitutionally protected at both the federal and state levels. Voters have voted down some initiatives for takings. There is no relation between GMA and international law.

Persons Testifying: PRO: Senator Benton, prime sponsor.

CON: Robert Braeutigam, citizen; Sandra Romero, Board of Thurston County Commissioners; April Putney, Futurewise.