
HOUSE BILL 2053

State of Washington

64th Legislature

2015 Regular Session

By Representatives Young, Taylor, Short, Harmsworth, Shea, G. Hunt, McCaslin, Scott, Vick, Pike, Griffey, Hargrove, Buys, and Wilson

Read first time 02/09/15. Referred to Committee on Judiciary.

1 AN ACT Relating to compensation for government required actions
2 on private property; amending RCW 36.70B.030; adding a new section to
3 chapter 36.70A RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that property owners
6 are finding increasing restrictions placed on their property in the
7 name of the public good without just compensation. Many government
8 agencies expect the property owner to pay for and accept the burdens
9 placed on them by government statutes, ordinances, regulations,
10 policies, and permitting requirements that provide a benefit to
11 someone other than the property owner at the property owner's
12 expense.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A
14 RCW to read as follows:

15 (1) Government authorities must provide just compensation to
16 property owners whenever land use ordinances, regulations, or
17 policies adopted pursuant to requirements in this chapter or as part
18 of a land use permitting decision require the property owner to:

1 (a) Place any form of signage on their property related to
2 provisions in this chapter or ordinances adopted to comply with this
3 chapter or associated regulations;

4 (b) Pay for and place fencing around critical areas, open space,
5 habitat areas, riparian areas, or other property features;

6 (c) Record restrictive covenants, land use designations, or
7 change any legal lot description on the property;

8 (d) Restore vegetation in a location where no vegetation existed
9 during the time the property owner owned the property or vegetation
10 degraded through natural causes;

11 (e) Make expenditures in furtherance of protecting the function
12 and values of wetlands;

13 (f) Make any expenditure in furtherance of protecting the
14 function and values of riparian areas; or

15 (g) Grant or set aside easements for public access on the
16 property.

17 (2) Unless under the authority of a specific statutory
18 requirement, a state agency may not adopt a rule or policy that
19 results in any governmental authority being required to provide just
20 compensation under this section.

21 **Sec. 3.** RCW 36.70B.030 and 1995 c 347 s 404 are each amended to
22 read as follows:

23 (1) Fundamental land use planning choices made in adopted
24 comprehensive plans and development regulations shall serve as the
25 foundation for project review. The review of a proposed project's
26 consistency with applicable development regulations, or in the
27 absence of applicable regulations the adopted comprehensive plan,
28 under RCW 36.70B.040 shall incorporate the determinations under this
29 section.

30 (2) During project review, a local government or any subsequent
31 reviewing body shall determine whether the items listed in this
32 subsection are defined in the development regulations applicable to
33 the proposed project or, in the absence of applicable regulations the
34 adopted comprehensive plan. At a minimum, such applicable regulations
35 or plans shall be determinative of the:

36 (a) Type of land use permitted at the site, including uses that
37 may be allowed under certain circumstances, such as planned unit
38 developments and conditional and special uses, if the criteria for
39 their approval have been satisfied;

1 (b) Density of residential development in urban growth areas; and
2 (c) Availability and adequacy of public facilities identified in
3 the comprehensive plan, if the plan or development regulations
4 provide for funding of these facilities as required by chapter 36.70A
5 RCW.

6 (3) During project review, the local government or any subsequent
7 reviewing body shall not reexamine alternatives to or hear appeals on
8 the items identified in subsection (2) of this section, except for
9 issues of code interpretation. As part of its project review process,
10 a local government shall provide a procedure for obtaining a code
11 interpretation as provided in RCW 36.70B.110.

12 (4)(a) Pursuant to RCW 43.21C.240, a local government may
13 determine that the requirements for environmental analysis and
14 mitigation measures in development regulations and other applicable
15 laws provide adequate mitigation for some or all of the project's
16 specific adverse environmental impacts to which the requirements
17 apply.

18 (b) Local governments may not require without just compensation that
19 property owners: (i) Place any form of signage on their property;
20 (ii) pay for and place fencing around critical areas, open space,
21 habitat areas, or other government designated property attributes;
22 (iii) record restrictive covenants, land use designations, or change
23 any legal lot description on the property; (iv) restore vegetation in
24 locations where no vegetation existed during the time the property
25 owner owned the land or the vegetation degraded due to natural
26 causes; (v) make any expenditure in furtherance of protective
27 measures for the function and values of wetlands or riparian areas;
28 or (vi) grant or set aside easements for public access on the
29 property.

30 (5) Except under subsection (4)(b) of this section, nothing in
31 this section limits the authority of a permitting agency to approve,
32 condition, or deny a project as provided in its development
33 regulations adopted under chapter 36.70A RCW and in its policies
34 adopted under RCW 43.21C.060. Project review shall be used to
35 identify specific project design and conditions relating to the
36 character of development, such as the details of site plans, curb
37 cuts, drainage swales, transportation demand management, the payment
38 of impact fees, or other measures to mitigate a proposal's probable
39 adverse environmental impacts, if applicable.

1 (6) Subsections (1) through (4) of this section apply only to
2 local governments planning under RCW 36.70A.040.

--- END ---