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HOUSE BILL 2500

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State of Washington

53rd Legislature

1994 Regular Session

By Representatives Grant, Tate, Dyer, Basich, Sheldon, Brough, Campbell, Kessler, B. Thomas, Jones, Forner, Rayburn, Fuhrman, Brumsickle, Kremen, Padden, Schoesler, McMorris, Carlson, Van Luven, Chappell, Hansen, Bray, Sheahan, Ballard, Roland, Morris, Talcott, Long, Mielke, Lisk, Chandler, Foreman, Backlund, Cooke, Wood and Mastin

Read first time 01/17/94. Referred to Committee on Judiciary.

1 AN ACT Relating to the regulation of private property; and adding  
2 new sections to chapter 8.28 RCW.

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

4 NEW SECTION. **Sec. 1.** Unless the context clearly requires  
5 otherwise, the definitions in this section apply throughout sections 1  
6 through 5 of this act.

7 (1) "Full compensation" means the difference in value of the  
8 property before and after the property was identified as public use  
9 property, plus attorneys' fees or other costs incurred by the property  
10 owner to collect the amount due.

11 (2) "General public use" means a situation in which no public  
12 nuisance will be created absent the regulation and no reciprocal value  
13 is received by the property owner.

14 (3) "Reciprocal value" means a situation in which all property  
15 owners in an area are burdened equally and the regulation produces a  
16 value for the regulated property owner proportional to the decrease in  
17 value caused by restricting use.

1        NEW SECTION.    **Sec. 2.**    A regulation of private property or a  
2 requirement on or restraint of land use by a governmental entity is  
3 prohibited unless:

4        (1) The specific property or properties to be regulated are  
5 identified by the governmental entity proposing to regulate by both  
6 legal and common property description;

7        (2) The prospective regulated owner of record is notified by the  
8 governmental entity by mail of the proposed regulation.    The  
9 notification must include a copy of the proposed legislation and  
10 information about the environmental and economic impacts the proposed  
11 regulation will have on the property.    The impacts of the proposed  
12 regulation must be described with examples, as necessary, to make clear  
13 the intent and purpose of the regulation and the limitations and  
14 restrictions the regulation will have on the property regulated;

15        (3) The owner is notified when, where, and how the owner may give  
16 testimony or submit written statements to the body proposing the  
17 regulation, at least ten days before an action being taken to enact the  
18 regulation; and

19        (4) A full analysis of total economic impact is completed and  
20 published by the governing body proposing to regulate at least ten days  
21 before adoption.

22        NEW SECTION.    **Sec. 3.**    A regulation of private property and a  
23 requirement or restriction on land use is prohibited unless the  
24 regulation has the least possible impact and is the least burdensome  
25 that could be imposed and still accomplish the necessary public  
26 purpose.

27        NEW SECTION.    **Sec. 4.**    (1) The legislature recognizes that when a  
28 governmental entity designates any part of a private property as a  
29 wetland, open space, wildlife habitat, buffer zone, or other public  
30 benefit property, the designated property has been converted to a  
31 general public use.

32        (2) Whenever private property is converted to general public use,  
33 the designating agency or jurisdiction shall pay full compensation of  
34 reduction in value to the owner, or use of the land by the owner may  
35 not be restricted because of the designation.    This compensation must  
36 be paid at the time of government designation.    The jurisdiction may

1 not require waiving this compensation as a condition of approval of use  
2 or any other permit, nor as a condition for subdivision of land.

3 (3) Compensation must be paid to the owner of a private property  
4 designated within three months of the conversion to general public use,  
5 or the designation is void. Regulations in effect before the effective  
6 date of this act remain in effect only if compensation is paid to all  
7 property owners affected by July 1, 1995.

8 (4) A governmental entity may not deflate the value of property by  
9 suggesting or threatening a designation to avoid full compensation to  
10 the owner.

11 (5) Upon designation the jurisdiction must provide, at public  
12 expense, access to private land made inaccessible by restrictive  
13 designation, or compensation for the loss of access must be paid to the  
14 inaccessible landowner.

15 (6) The assessor shall adjust property valuation for tax purposes  
16 and notify the owner of the new tax valuation which must be reflected  
17 and identified in the next tax assessment notice.

18 (7) Since the public does not own the designated property unless  
19 purchased, mitigation for the use of a public benefit property or its  
20 buffers by its owner is prohibited.

21 (8) The state is responsible for the compensation liability  
22 resulting from county, city, or other political subdivision action that  
23 is mandated by state law and converts private property to general  
24 public use.

25 NEW SECTION. **Sec. 5.** The governmental entity that is considering  
26 designation or that has made the designation shall pay for all studies,  
27 mapping, plans, and reports connected with designation of property as  
28 public benefit property, including buffers.

29 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act are each  
30 added to chapter 8.28 RCW.

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