

HOUSE BILL REPORT

HB 1668

*As Reported By House Committee on:
Local Government*

Title: An act relating to growth strategies.

Brief Description: Changing provisions relating to growth strategies.

Sponsor(s): Representatives Haugen, R. Meyers, Jacobsen, Heavey, Roland, Ferguson, Hine, O'Brien, Rust, Paris, Scott, Fraser and Wineberry.

Brief History:

Reported by House Committee on:
Local Government, March 4, 1991, DPS.

**HOUSE COMMITTEE ON
LOCAL GOVERNMENT**

Majority Report: *That Substitute House Bill No. 1668 be substituted therefor, and the substitute bill do pass.*
Signed by 13 members: Representatives Haugen, Chair; Cooper, Vice Chair; Ferguson, Ranking Minority Member; Mitchell, Assistant Ranking Minority Member; Bray; Franklin; Horn; Nelson; Rayburn; Roland; Wood; Wynne; and Zellinsky.

Minority Report: *Do not pass.* Signed by 2 members:
Representatives Edmondson and Nealey.

Staff: Steve Lundin (786-7127).

Background: Legislation was enacted in 1990 relating to a variety of growth management topics.

The 1990 growth management act established a series of goals to guide the planning activities of those counties and cities that plan under the act.

By class designations, certain counties, and the cities located in these counties, were required to adopt various growth management regulations. In addition, any county can choose to place itself, and the cities located in the county, under these requirements. Fifteen counties were subject to these requirements, and eight additional counties have opted to become subject to these requirements. Grants

and technical assistance are provided to counties and cities that plan under the act.

By September 1, 1991, every county and city in the state must **designate natural resource lands and critical areas** within its planning jurisdiction. The natural resource lands include forest lands, agricultural lands, and mineral resource lands that have long-term commercial importance for forestry, agriculture, or mineral extraction. The critical areas include wetlands, areas with critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. In addition, those counties and cities that plan under the act must **protect the designated natural resource lands and critical areas** from incompatible land uses by September 1, 1991.

By July 1, 1993, each county and city that plans under the act must adopt comprehensive plans with various elements, including a land use element, housing element, capital facilities plan element, utilities element and transportation element. Counties must also include a rural element. The transportation element includes requirements for the provision of transportation improvements **concurrently** with development activity. **Urban growth areas** must be designated by each county after consultation with cities located in the county. If agreement is not reached, the county designates the urban growth area but must justify the designations. The designation must provide sufficient land and densities to at least accommodate its 20 year population forecast that is prepared by the Office of Financial Management. Urban growth areas must be reviewed at least every 10 years.

The comprehensive plans must be **internally consistent**. The elements relating to capital facilities, including transportation facilities, must be consistent and coordinated with the land use element. The comprehensive plans of counties and cities that plan under the act must be **coordinated** with the comprehensive plans of those counties and cities that plan under the act with which the county or city has, in part, common borders or related regional issues.

Provisions were made for the development of regional transportation plans.

Within one year of adopting its comprehensive plan, each county or city that plans under the act must adopt **development regulations implementing its comprehensive plan**.

Beginning July 1, 1992, the development regulations of each county and city that does not plan under the act shall not be inconsistent with its comprehensive plan.

Counties and cities that plan under the act may impose limited **impact fees on development activities** to finance: (1) streets and roads; (2) publicly owned parks, open spaces, and recreational facilities; (3) school facilities; and (4) city fire protection facilities. The fees may be imposed if the county or city has adopted a capital facilities element to its comprehensive plan that addresses the types of facilities for which impact fees are imposed.

Counties and cities that are required to plan under the act may impose limited **housing relocation fees** on development activities that remove low income housing to finance a portion of the resulting housing relocation costs of low income persons who are forced to move.

Counties and cities that are required to plan under the act may impose a **real estate transfer tax** of up to .25 percent to finance capital facilities specified in the capital facilities element of their comprehensive plans. Other counties and cities that choose to plan under the act may submit a ballot proposition to their voters to authorize the imposition of this tax.

Certain provisions were made to **encourage economic development statewide**.

The **Growth Strategies Commission** was authorized to study various issues and make recommendations to the Legislature on these matters; including a role for the state in growth management, the vesting of rights, and the resolving of disputes between counties and cities over the designation of urban growth areas.

Our courts have established a rule, and two statutes have been enacted, relating to the **vesting of rights**. Under this rule a right to proceed with a development activity vests, or is established, upon the filing of a complete application for a permit that authorizes the activity. This is a minority rule among the various states. The rule in the vast majority of the states is that both of the following must exist to establish a vested right to proceed: (1) a valid permit authorizing the activity must have been issued; and (2) the applicant must have substantially altered his or her position in detrimental reliance upon the issued permit.

Summary of Substitute Bill: This legislation implements, in part, recommendations of the Growth Strategies Commission.

Additional **findings** are added to the 1990 growth management act, including: (1) plans should provide greater predictability to have earlier resolution of land use disputes; and (2) the state should set requirements for growth management that provide broad flexibility for counties and cities to tailor a custom fit to meet their local circumstances and diversity.

The nature of the **planning goals** in the growth management act of 1990 are altered. The plans, regulations, and actions of state agencies, counties and cities that plan under the act, and special districts located in counties that plan under the act, should conform to and support these goals. Additionally, some of the goals are altered and new goals are added. The public facilities goal is altered to include the fair share siting of public facilities. A new goal is added providing that new growth should be related to water availability. A new goal is added concerning public utilities. A new goal on state trust lands is added.

By class designations, **Spokane County**, and the cities located in that county, would have to plan under the act.

The **mandatory elements** of a comprehensive plan are altered to clarify that natural resource lands and urban growth areas are included in the land use element. Water availability and quality are recognized as key factors in making land use decisions. The housing element should recognize a fair share accommodation of low-income and moderate-income housing, include sufficient land and densities for housing, promote affordable housing, and minimize the displacement of residents from housing. New mandatory elements are added for environmental management, open space and outdoor recreation, fair share for siting state and regional public facilities, and historic preservation.

Examples of **optional elements** in a comprehensive plan are expanded to include human resource development, cultural resources, and economic development, and design.

The requirement that **urban growth areas** in a county be adequate to accommodate the projected growth for the next 20 years, is altered to establish a two-tier requirement where the urban growth area must be adequate to accommodate the projected growth for the next 10 years in the first tier and the projected growth for a 20 year period in a second tier. The 10-year tier must be substantially developed before urban or suburban growth is allowed in the 20-year tier. The urban growth area may not be established in such a manner as to permit a significantly greater extent of urban growth that is projected to occur in the county.

Annexation and incorporation areas must be identified within the urban growth area designation. Open space and lands with significant natural limitations are excluded in computing urban are density.

New fully contained communities may be included in urban growth areas if certain specified criteria are met, including infrastructure requirements, transit-oriented site planning, buffers, a balance between jobs and housing, sufficient affordable housing, and minimizing impacts on natural resource lands and critical areas.

Recreational development, including overnight accommodations but not including the subdivision of land, may be provided outside of urban growth areas if certain conditions are made.

The Department of Community Development may grant **extensions** of up to 180 days for counties and cities to designate natural resource lands and critical areas, or both designate and protect natural resource lands and critical areas.

Secondary land uses are permitted on natural resource lands that support the use of such lands for commercial agricultural, forest, or mineral resource purposes. Other limited secondary land uses may be permitted on natural resource lands, such as radio-towers.

Special districts are required to perform their activities affecting land use in conformity with county or city land use plans and zoning ordinances. Within one and one-half years after the adoption of development regulations by counties and cities planning under the act, a special district that is located in such a county or city must adopt a capital facilities plan for its facilities that is consistent with the applicable comprehensive plans and development regulations, if the special district provides: (1) sanitary sewers; (2) potable water facilities; (3) park and recreation facilities; (4) fire suppression; (5) libraries; (6) schools; (7) hospitals; (8) transportation facilities or services; or (9) emergency medical services.

It is clarified that a county or city that plans under the 1990 growth management act, and uses planning procedures that it acquires under the inherent authority of its charter, may impose impact fees on development activity in the same manner that such a county or city could if it used planning procedures specified in Chapters 35.63, 35A.63. or 36.70 RCW.

No area located outside of an urban growth area may incorporate as a city.

Regional plans and agreements are encouraged to be adopted. A regional plan is established if agreed to by: (1) a county and a substantial number of cities in the county; (2) a county and the cities with a substantial portion of the city population within the county; or (3) two or more counties and such cities. The Growth Management Board shall afford substantial weight to the content of regional plans and agreements when reviewing the extent to which comprehensive plans are coordinated. Additional incentives are provided to adopt regional plans by having state agencies accord such plans consideration when they make grants and loans to local governments for public improvements. It is recognized that counties are regional governments within their boundaries and cities are the primary providers of urban services within urban growth areas.

The **vesting of rights** doctrine is altered temporarily in counties and cities that plan under the act, until the effective date of the final ordinance containing development regulations implementing the required comprehensive plan, so that a right shall vest upon the issuance of a valid permit or preliminary plat approval. The five year grandfathering of land uses after a subdivision approval is somewhat altered to not extend to conditions on the particular land use, such as setback requirements.

The Department of Community Development is required to develop **advisory guidelines, advisory model elements, and benchmarks**.

The final draft of each comprehensive plan and development regulation that is proposed to be adopted under the act must be submitted before adoption to the Department of Community Development and to each adjacent jurisdiction. The department reviews and provides comments on the proposed plans and regulations within 60 days of submittal.

Adopted comprehensive plans or development regulations, or amendments, must be submitted to the Department of Community Development within 30 days of adoption. The department reviews the plans, regulations, or amendments for compliance with the goals and requirements of the planning act.

It is **presumed** that comprehensive plans and development regulations are **valid** when they are adopted by a county or city. Any party requesting review before the Growth Management Board shall bear the burden of demonstrating that the comprehensive plan or development regulation is not consistent with the goals or requirements of the act.

Appeals by the state to the Growth Management Board are limited so that only the governor, or the commissioner of

Public Lands with regard to state trust lands, may make an appeal. The grounds of the appeal by the state are limited to: (1) failing to adopt plans and regulations by the required dates; (2) the plans or regulations do not meet some of the requirements in the act; or (3) a substantial pattern of abuse in a county or city issuing permits that do not conform with its plans or regulations.

Grants made by the Department of Community Development may be given to counties and cities that do not plan under the act for purposes of identifying natural resource lands and critical areas.

The Department of Community Development shall establish a system to monitor efforts under the 1990 growth management act.

A joint select **legislative committee** on growth management is established to monitor county and city planning efforts.

The objectives of **boundary review boards** are expanded to include evaluation of whether an annexation or incorporation is consistent with urban area designations and plan elements on annexation and incorporation. The legislative authority of a county may disband its boundary review board when the county has adopted a comprehensive plan and development regulations under the act.

Any isolated area of unincorporated territory that is totally surrounded by a single city is annexed into that city. Future annexations by cities are restricted to preclude the creation of such totally surrounded areas of unincorporated territory.

Substitute Bill Compared to Original Bill: (1) Urban growth areas may not be established in such a manner as to permit a significantly greater extent of urban growth than is projected to occur in the county. The 10-year tier must be substantially developed before the 20-year tier is developed; (2) Regional plans are encouraged through incentives; (3) The ability of the state to appeal county or city plans or regulations is restricted; (4) A legislative oversight committee is established; (5) The Department of Community Development (DCD) adopts advisory model elements and benchmarks, in addition to advisory guidelines. DCD may not adopt minimum standards; (6) An unincorporated area that is totally surrounded by a single city is annexed into the city; and (7) Secondary land uses on natural resource lands are permitted.

Fiscal Note: Requested March 5, 1991.

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

Testimony For: This implements the Growth Strategies Commission recommendations. This bill has the right mix of state requirements with broad flexibility to craft local responses to the requirements. This bill builds on the positive steps that have begun.

Testimony Against: The bill needs more work.

Witnesses: (Testified in favor of portions of bill): Chuck Clarke, Director, Department of Community Development; Karen Vialle, Mayor of Tacoma; Robert Lewadowski, Planning Director, City of Redmond; Tom Bjorgen, Thurston County Prosecuting Attorneys Office; Tom Casey, Washington State Grange; Joe Daniels, Washington State Association of Water/Wastewater Districts; Ralph Munro, Secretary of State; Paul Parker, Washington State Association of Counties; Chris Leman, Coalition of Washington for Communities; Joe Tovar, Washington City Planning Directors Association; Enid Layes, Association of Washington Business; Mike Tracy, Puget Power; and David Williams, Association of Washington Cities.