

HOUSE BILL REPORT

ESHB 1761

As Amended by the Senate

Title: An act relating to clarifying and extending dates established under the growth management act by no more than two years.

Brief Description: Clarifying and extending dates established under the growth management act.

Sponsors: By House Committee on Local Government (originally sponsored by Representatives H. Myers, Edmondson, Bray, Pruitt, Appelwick, R. Fisher, Wineberry, Peery, Wood, Eide, Cothorn, Ogden, Jones, Ludwig, Riley, Ballard, Springer, Linville, Rayburn, Kessler, Brown, Long, Chandler, Foreman, Mastin, Johanson, Sehlin, L. Johnson, Morris, Karahalios, Lemmon, Hansen, Cooke and Forner.)

Brief History:

Reported by House Committee on:
Local Government, March 2, 1993, DPS;
Passed House, March 11, 1993, 95-3;
Amended by Senate.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives H. Myers, Chair; Bray, Vice Chair; Edmondson, Ranking Minority Member; Reams, Assistant Ranking Minority Member; Dunshee; R. Fisher; Horn; Rayburn; Romero; Springer; Van Luven; and Zellinsky.

Staff: Steve Lundin (786-7127).

Background: The Growth Management Act was enacted in 1990 and 1991.

1. Who must plan under the act.

A county is required to plan under all the requirements of the Growth Management Act if either: (1) The county has a population of 50,000 or more and the population of the county has increased by 10 percent or more over the last 10 years; or (2) the county that has a population of less than 50,000 and the population of the county has increased by 20 percent or more over the last 10 years.

In addition, the governing body of a county may adopt a resolution requiring the county to plan under all of the requirements of the Growth Management Act.

A city or town is required to plan under all of the requirements of the Growth Management Act if the county in which it is located is subject to those requirements.

Once a county is required to plan under the Growth Management Act, by either meeting one of the two sets of population criteria or by the county legislative authority opting to plan under the Growth Management Act, the county remains subject to the requirement to plan under all of the requirements of the Growth Management Act.

2. Primary requirements under Growth Management Act.

The Growth Management Act includes a number of requirements that every county, city, and town that plans under all of the requirements of the act must take. In addition, the Growth Management Act includes a few requirements for all other counties, cities, and towns in the state.

The basic requirements for counties, cities, and towns that plan under all of the requirements of the Growth Management Act include:

- o Each county, city, and town must identify and protect five separate critical areas, including wetlands.
- o Each county, city, and town must identify and conserve natural resource lands with long term commercial significance for agriculture, forestry, or mineral resource extraction.
- o Each county must adopt a county-wide planning policy using a process agreed to by the county and cities and towns within the county. The county-wide planning policy provides a framework for the comprehensive plans that the county, cities, and towns adopt.
- o Each county must designate urban growth areas within the county inside of which urban growth shall occur and outside of which urban growth shall not occur.
- o Each county, city, and town must adopt a comprehensive plan that includes a variety of elements and designations of critical areas and natural resource lands. The comprehensive plan of a county must include its designations of urban growth areas. A comprehensive plan must be internally consistent. A comprehensive plan must be coordinated with, and consistent with, comprehensive

plans of adjacent jurisdictions and jurisdictions with related regional issues.

- o Each county, city, and town must adopt development regulations implementing its comprehensive plan.

Counties, cities, and towns are given broad discretion under the Growth Management Act to adopt comprehensive plans and development regulations, which are presumed valid upon adoption.

Three separate Growth Planning Hearings Boards are established with authority to hear complaints over actions taken by counties, cities, and towns under the Growth Management Act and determine if the actions are consistent with the requirements of the act. Each of the three separate boards has jurisdiction over actions taken by counties, cities, and towns within separate geographic areas.

Counties, cities, and towns that plan under all of the requirements of the Growth Management Act may impose impact fees on development activities to finance certain public facilities the need for which is directly attributable to the development activity. Impact fees may not be imposed after July 1, 1993, unless the county, city, or town has adopted its comprehensive plan under the Growth Management Act. That is the same date when the counties, cities and towns that are initially required to plan under all the requirements of the Growth Management Act must have adopted their comprehensive plans.

Summary of Bill: The dates by which some of the actions under the Growth Management Act are required to have been taken for the initial group of counties, cities, and towns that plan under all the requirements of the Growth Management Act are clarified and in certain instances extended.

The deadline by which the counties, cities, and towns must adopt their comprehensive plans is extended by up to one year one month. The Department of Community Development adopts a schedule by June 1, 1993, establishing a date from January 1, 1994 through July 31, 1994, by which the counties that were initially required to plan under all the requirements of the Growth Management Act are required to have adopted their comprehensive plans. A city or town has the same deadline as the county in which it is located. Each other county, city, and town that plans under the Growth Management Act must adopt a comprehensive plan within four years one month of the date it becomes subject to these requirements.

Development regulations implementing the comprehensive plan must be adopted at the same time comprehensive plans are adopted, but a jurisdiction may obtain an additional six months extension by sending a letter to the Department of Community Development indicating its need for the time extension. The extension for a county, city, or town that was initially required to plan under the Growth Management Act is the earlier of six months or December 31, 1994.

The deadline by which urban growth areas must be designated is separated from the requirement for adopting the full comprehensive plan and extended by three months. Counties that were initially required to plan under Growth Management Act must designate urban growth areas by October 1, 1993. Each other county must designate and implement urban growth areas within three years and three months of the date it became subject to all the requirements of the Growth Management Act. Once an urban growth area is designated counties and cities may only issue permits that are consistent with the urban growth areas.

A county that begins planning under all the requirements of the Growth Management Act after June 1, 1991, must adopt a county-wide planning policy within 14 months of when the county came under the full Growth Management Act planning requirements.

The governor may impose sanctions on counties and cities for failing to take required actions under the Growth Management Act by withholding certain moneys that the state distributes to counties, cities, and towns. Prior to imposing sanctions, the governor must make a written finding that the county, city or town has not proceeded in good faith or has unreasonably delayed taking the required action.

The restriction on a county, city, or town not imposing impact fees after July 1, 1993, if the county, city, or town had not adopted its comprehensive plan under the Growth Management Act is deleted and replaced with the restriction that a county, city, or town can not impose impact fees after the date it is required to have adopted its comprehensive plan unless it has actually adopted its comprehensive plan.

EFFECT OF SENATE AMENDMENT(S):

(1) The extension in the deadline for a county or city that was initially required to plan under the Growth Management Act to complete its comprehensive plan is altered. Such a county or city would have to adopt its comprehensive plan by July 1, 1994, in lieu of having the Department of Community Development establish a schedule with dates from January 1,

1994 through July 31, 1994, by which such a county or city would have to adopt its comprehensive plan.

(2) The governor could only impose a sanction for failing to meet the requirements of the Growth Management Act on a county or city that plans under all the requirements of the Growth Management Act instead of any county or city.

(3) The findings that the governor must make before imposing a sanction on a county or city are altered. Instead of finding that the county or city has not proceeded in good faith or has unreasonably delayed taking the required action, the governor must find that the county or city is not proceeding in good faith and that adequate state funding has been provided to the county or city to accomplish the goals of the act.

(4) A statement is inserted in the section concerning sanctions that a delay caused by an initiative or referendum on subjects in this act is not an unreasonable delay.

(5) A statement is inserted in the section concerning countywide planning policies that the exercise of the right of the people to petition for referendum is protected by statutes permitting persons who provide information to the government, but who are sued based upon this communication, to recover costs and reasonable attorneys' fees if they prevail in the lawsuit brought against them by the government.

Fiscal Note: Not requested.

Effective Date: The bill takes effect immediately.

Testimony For: Time extensions are needed. The sanctions are necessary to encourage completion of the work. We want the plans completed to get predictability.

Testimony Against: None.

Witnesses: (pro with amendments): Eleanor Baxendale, 1,000 Friends of Washington; Bruce Wishart, Sierra Club; Jeff Parsons, National Audubon Society; Doug Baker, city of Tumwater; Dave Williams, Association of Washington Cities; Roberta Lewandowski, city of Redmond; Paul Parker, Washington State Association of Counties; Commissioner Busse Nutley, Clark County; Enid Layes, Association of Washington Businesses; Duke Schaub, Associated General Contractors; Dick Ducharme, Building Industry Association of Washington; Bob Mach, city of Tacoma; and Glen Hudson, Washington Association of Realtors.

VOTE ON FINAL PASSAGE:

Yeas 95; Nays 3

Nays: Representatives Cole G, Dunshee, Flemming