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HOUSE BILL 1761

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State of Washington

53rd Legislature

1993 Regular Session

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

Read first time 02/08/93. Referred to Committee on Local Government.

1 AN ACT Relating to clarifying and extending dates established under  
2 the growth management act by no more than two years; amending RCW  
3 36.70A.040, 36.70A.045, 36.70A.110, 36.70A.120, 36.70A.210, 36.70A.290,  
4 and 82.02.050; providing an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 36.70A.040 and 1990 1st ex.s. c 17 s 4 are each  
7 amended to read as follows:

8 (1) Each county that has both a population of fifty thousand or  
9 more and has had its population increase by more than ten percent in  
10 the previous ten years, and the cities located within such county, and  
11 any other county regardless of its population that has had its  
12 population increase by more than twenty percent in the previous ten  
13 years, and the cities located within such county, shall ((adopt  
14 ~~comprehensive land use plans and development regulations under~~)  
15 conform with all of the requirements of this chapter. However, the  
16 county legislative authority of such a county with a population of less  
17 than fifty thousand population may adopt a resolution removing the  
18 county, and the cities located within the county, from the requirements  
19 of adopting comprehensive land use plans and development regulations

1 under this chapter if this resolution is adopted and filed with the  
2 department by December 31, 1990, for counties initially meeting this  
3 set of criteria, or within sixty days of the date the office of  
4 financial management certifies that a county meets this set of criteria  
5 under subsection (5) of this section.

6 Once a county meets either of these sets of criteria, the  
7 requirement to conform with ~~((RCW 36.70A.040 through 36.70A.160))~~ all  
8 of the requirements of this chapter remains in effect, even if the  
9 county no longer meets one of these sets of criteria.

10 (2) The county legislative authority of any county that does not  
11 meet ~~((the requirements of))~~ either of the sets of criteria established  
12 under subsection (1) of this section may adopt a resolution indicating  
13 its intention to have subsection (1) of this section apply to the  
14 county. Each city, located in a county that chooses to plan under this  
15 subsection, shall ~~((adopt a comprehensive land use plan in accordance~~  
16 ~~with))~~ conform with all of the requirements of this chapter. Once such  
17 a resolution has been adopted, the county ~~((cannot remove itself from))~~  
18 and the cities located within the county remain subject to all of the  
19 requirements of this chapter.

20 (3) Any county or city that is initially required to ~~((adopt a~~  
21 ~~comprehensive land use plan))~~ conform with all of the requirements of  
22 this chapter under subsection (1) of this section shall take actions  
23 under this chapter as follows: (a) The county legislative authority  
24 shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the  
25 county legislative authority and governing body of each city located  
26 within the county shall designate critical areas, agricultural lands,  
27 forest lands, and mineral resource lands, and adopt development  
28 regulations conserving these designated lands and protecting these  
29 designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the  
30 county legislative authority shall designate and implement urban growth  
31 areas under RCW 36.70A.110; (d) the county legislative authority and  
32 governing body of each city located within the county shall adopt  
33 ~~((the))~~ a comprehensive plan under this chapter on or before a date  
34 from July 1, 1993, through December 31, 1994, as specified by the  
35 department under RCW 36.70A.045; and (e) the county legislative  
36 authority and each city governing body shall adopt development  
37 regulations that are consistent with and implement its comprehensive  
38 plan as provided under RCW 36.70A.045.

1       ~~(4)~~ Any county or city that is required to ~~((adopt a comprehensive~~  
2 ~~land use plan))~~ conform with all the requirements of this chapter, as  
3 a result of the county legislative authority adopting its resolution of  
4 intention under subsection (2) of this section, shall take actions  
5 under this chapter as follows: (a) The county legislative authority  
6 shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the  
7 county legislative authority and governing body of each city that is  
8 located within the county shall adopt development regulations  
9 conserving agricultural lands, forest lands, and mineral resource lands  
10 it designated under RCW 36.70A.060 within one year of the date the  
11 county legislative authority adopts its resolution of intention; (c)  
12 the county legislative authority shall designate urban growth areas  
13 under RCW 36.70A.110; and (d) the county legislative authority and  
14 governing body of each city that is located within the county shall  
15 adopt ((the)) a comprehensive plan and development regulations that are  
16 consistent with and implement its comprehensive plan not later than  
17 ((three)) four and one-half years from the date the county legislative  
18 ((body takes action as required by subsection (2) of this section))  
19 authority adopts its resolution of intention.

20       ~~((+4))~~ (5) If the office of financial management certifies that  
21 the population of a county that previously had not been required to  
22 plan under subsection (1) or (2) of this section has changed  
23 sufficiently to meet either of the ((requirements of)) sets of criteria  
24 specified under subsection (1) of this section, and where applicable,  
25 the county legislative authority has not adopted a resolution removing  
26 the county from these requirements as provided in subsection (1) of  
27 this section, the county and each city within such county shall  
28 ((adopt)) take actions under this chapter as follows: (a) The county  
29 legislative authority shall adopt a county-wide planning policy under  
30 RCW 36.70A.210; (b) the county legislative authority and each city  
31 governing body shall adopt development regulations under RCW 36.70A.060  
32 conserving agricultural lands, forest lands, and mineral resource lands  
33 it designated within one year of the certification by the office of  
34 financial management; ((+b)) (c) the county legislative authority  
35 shall designate urban growth areas under RCW 36.70A.110; and (d) the  
36 county legislative authority and each city governing body shall adopt  
37 a comprehensive land use plan ((under this chapter)) and development  
38 regulations that are consistent with and implement its comprehensive  
39 plan within ((three)) five years of the certification by the office of

1 financial management(~~(; and (c) development regulations pursuant to~~  
2 ~~this chapter within one year of having adopted its comprehensive land~~  
3 ~~use plan))).~~

4 (6) A copy of each document that is required under this section  
5 shall be submitted to the department at the time of its adoption.

6 **Sec. 2.** RCW 36.70A.045 and 1991 sp.s. c 32 s 15 are each amended  
7 to read as follows:

8 The department (~~(may)) shall~~ adopt a schedule (~~(to permit)) phasing~~  
9 (~~(of)) the dates from July 1, 1993, through December 31, 1994, on or~~  
10 ~~before which each county that is initially required to plan under all~~  
11 ~~the requirements of this chapter by RCW 36.70A.040(1), and each city~~  
12 ~~located within the county, must adopt a comprehensive plan ((submittal~~  
13 ~~for counties and cities planning under RCW 36.70A.040. This schedule~~  
14 ~~shall not permit a comprehensive plan to be submitted greater than one~~  
15 ~~hundred eighty days past the date that the plan was required to be~~  
16 ~~submitted and shall be used)) under this chapter, and phasing dates~~

17 from July 1, 1994, through December 31, 1994, on or before which such  
18 a county and each city located within the county must adopt development  
19 regulations that are consistent with and implement its comprehensive  
20 plan.

21 If the schedule requires a county or city to adopt its  
22 comprehensive plan on a date after July 1, 1994, then the development  
23 regulations shall be required to be adopted at the same date by which  
24 the comprehensive plan is required to be adopted. If a county or city  
25 is required to adopt its comprehensive plan on or before July 1, 1994,  
26 then the development regulations shall be required to be adopted by  
27 July 1, 1994.

28 To facilitate expeditious review and interjurisdictional  
29 coordination of comprehensive plans and development regulations, the  
30 date designated on or before which a county must adopt its  
31 comprehensive plan shall be the same date designated on or before which  
32 for each city located within the county must adopt its comprehensive  
33 plan. Where a city is located in more than one of such counties that  
34 have differing designated dates, the department shall designate which  
35 date applies to that city.

36 **Sec. 3.** RCW 36.70A.110 and 1991 sp.s. c 32 s 29 are each amended  
37 to read as follows:

1 (1) Each county that is required or chooses to (~~adopt a~~  
2 ~~comprehensive land use~~) plan under RCW 36.70A.040 shall designate an  
3 urban growth area or areas within which urban growth shall be  
4 encouraged and outside of which growth can occur only if it is not  
5 urban in nature. Each city that is located in such a county shall be  
6 included within an urban growth area. An urban growth area may include  
7 more than a single city. An urban growth area may include territory  
8 that is located outside of a city only if such territory already is  
9 characterized by urban growth or is adjacent to territory already  
10 characterized by urban growth.

11 (2) Based upon the population growth management planning population  
12 projection made for the county by the office of financial management,  
13 the urban growth areas in the county shall include areas and densities  
14 sufficient to permit the urban growth that is projected to occur in the  
15 county for the succeeding twenty-year period. Each urban growth area  
16 shall permit urban densities and shall include greenbelt and open space  
17 areas. Within one year of July 1, 1990, each county (~~required to~~  
18 ~~designate urban growth areas~~) that as of June 1, 1991, was required or  
19 chose to plan under RCW 36.70A.040, shall begin consulting with each  
20 city located within its boundaries and each city shall propose the  
21 location of an urban growth area. Within sixty days of the date the  
22 county legislative authority of a county adopts its resolution of  
23 intention or of certification by the office of financial management,  
24 all other counties that are required or choose to plan under RCW  
25 36.70A.040 shall begin this consultation with each city located within  
26 its boundaries. The county shall attempt to reach agreement with each  
27 city on the location of an urban growth area within which the city is  
28 located. If such an agreement is not reached with each city located  
29 within the urban growth area, the county shall justify in writing why  
30 it so designated the area an urban growth area. A city may object  
31 formally with the department over the designation of the urban growth  
32 area within which it is located. Where appropriate, the department  
33 shall attempt to resolve the conflicts, including the use of mediation  
34 services.

35 (3) Urban growth should be located first in areas already  
36 characterized by urban growth that have existing public facility and  
37 service capacities to serve such development, and second in areas  
38 already characterized by urban growth that will be served by a  
39 combination of both existing public facilities and services and any

1 additional needed public facilities and services that are provided by  
2 either public or private sources. Further, it is appropriate that  
3 urban government services be provided by cities, and urban government  
4 services should not be provided in rural areas.

5 (4) On or before October 1, 1993, each county that was initially  
6 required to plan under RCW 36.70A.040(1) shall designate urban growth  
7 areas under this chapter and adopt development regulations implementing  
8 the designated urban growth areas. Within three years and three months  
9 of the date the county legislative authority of a county adopts its  
10 resolution of intention or of certification by the office of financial  
11 management, all other counties that are required or choose to plan  
12 under RCW 36.70A.040 shall designate urban growth areas under this  
13 chapter and adopt development regulations implementing the designated  
14 urban growth areas.

15 (5) Each county shall include designations of urban growth areas in  
16 its comprehensive plan.

17 **Sec. 4.** RCW 36.70A.120 and 1990 1st ex.s. c 17 s 12 are each  
18 amended to read as follows:

19 ~~((Within one year of the adoption of its comprehensive plan, each~~  
20 ~~county and city that is required or chooses to plan under RCW~~  
21 ~~36.70A.040 shall enact development regulations that are consistent with~~  
22 ~~and implement the comprehensive plan. These counties and cities)) Each~~

23 county and city that is required or chooses to plan under RCW  
24 36.70A.040 shall perform ((their)) its activities and make capital  
25 budget decisions in conformity with ((their)) its comprehensive  
26 plan((s)).

27 **Sec. 5.** RCW 36.70A.210 and 1991 sp.s. c 32 s 2 are each amended to  
28 read as follows:

29 (1) The legislature recognizes that counties are regional  
30 governments within their boundaries, and cities are primary providers  
31 of urban governmental services within urban growth areas. For the  
32 purposes of this section, a "county-wide planning policy" is a written  
33 policy statement or statements used solely for establishing a county-  
34 wide framework from which county and city comprehensive plans are  
35 developed and adopted pursuant to this chapter. This framework shall  
36 ensure that city and county comprehensive plans are consistent as

1 required in RCW 36.70A.100. Nothing in this section shall be construed  
2 to alter the land-use powers of cities.

3 (2) The legislative authority of a county that plans under RCW  
4 36.70A.040 shall adopt a county-wide planning policy in cooperation  
5 with the cities located in whole or in part within the county as  
6 follows:

7 (a) No later than sixty calendar days from July 16, 1991, the  
8 legislative authority of ~~((the))~~ each county that as of June 1, 1991,  
9 was required or chose to plan under RCW 36.70A.040 shall convene a  
10 meeting with representatives of each city located within the county for  
11 the purpose of establishing a collaborative process that will provide  
12 a framework for the adoption of a county-wide planning policy~~((+))~~. In  
13 other counties that are required or choose to plan under RCW  
14 36.70A.040, this meeting shall be convened no later than sixty days  
15 after the date the county adopts its resolution of intention or was  
16 certified by the office of financial management.

17 (b) The process and framework for adoption of a county-wide  
18 planning policy specified in (a) of this subsection shall determine the  
19 manner in which the county and the cities agree to all procedures and  
20 provisions including but not limited to desired planning policies,  
21 deadlines, ratification of final agreements and demonstration thereof,  
22 and financing, if any, of all activities associated therewith~~((+))~~.

23 (c) If a county fails for any reason to convene a meeting with  
24 representatives of cities as required in (a) of this subsection, the  
25 governor may immediately impose any appropriate sanction or sanctions  
26 on the county from those specified under RCW 36.70A.340~~((+))~~.

27 (d) If there is no agreement by October 1, 1991, in a county that  
28 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,  
29 or if there is no agreement within one hundred twenty days of the date  
30 the county adopted its resolution of intention or was certified by the  
31 office of financial management in any other county that is required or  
32 chooses to plan under RCW 36.70A.040, the governor shall first inquire  
33 of the jurisdictions as to the reason or reasons for failure to reach  
34 an agreement. If the governor deems it appropriate, the governor may  
35 immediately request the assistance of the department of community  
36 development to mediate any disputes that preclude agreement. If  
37 mediation is unsuccessful in resolving all disputes that will lead to  
38 agreement, the governor may impose appropriate sanctions from those  
39 specified under RCW 36.70A.340 on the county, city, or cities for

1 failure to reach an agreement as provided in this section. The  
2 governor shall specify the reason or reasons for the imposition of any  
3 sanction(~~(+and)~~).

4 (e) No later than July 1, 1992, the legislative authority of  
5 (~~the~~) each county that was required or chose to plan under RCW  
6 36.70A.040 as of June 1, 1991, or no later than fourteen months after  
7 the date the county adopted its resolution of intention or was  
8 certified by the office of financial management the county legislative  
9 authority of any other county that is required or chooses to plan under  
10 RCW 36.70A.040, shall adopt a county-wide planning policy according to  
11 the process provided under this section and that is consistent with the  
12 agreement pursuant to (b) of this subsection, and after holding a  
13 public hearing or hearings on the proposed county-wide planning policy.

14 (3) A county-wide planning policy shall at a minimum, address the  
15 following:

16 (a) Policies to implement RCW 36.70A.110;

17 (b) Policies for promotion of contiguous and orderly development  
18 and provision of urban services to such development;

19 (c) Policies for siting public capital facilities of a county-wide  
20 or state-wide nature;

21 (d) Policies for county-wide transportation facilities and  
22 strategies;

23 (e) Policies that consider the need for affordable housing, such as  
24 housing for all economic segments of the population and parameters for  
25 its distribution;

26 (f) Policies for joint county and city planning within urban growth  
27 areas;

28 (g) Policies for county-wide economic development and employment;  
29 and

30 (h) An analysis of the fiscal impact.

31 (4) Federal agencies and Indian tribes may participate in and  
32 cooperate with the county-wide planning policy adoption process.  
33 Adopted county-wide planning policies shall be adhered to by state  
34 agencies.

35 (5) Failure to adopt a county-wide planning policy that meets the  
36 requirements of this section may result in the imposition of a sanction  
37 or sanctions on a county or city within the county, as specified in RCW  
38 36.70A.340. In imposing a sanction or sanctions, the governor shall  
39 specify the reasons for failure to adopt a county-wide planning policy



1 in order that any imposed sanction or sanctions are fairly and  
2 equitably related to the failure to adopt a county-wide planning  
3 policy.

4 (6) Cities and the governor may appeal an adopted county-wide  
5 planning policy to the growth planning hearings board within sixty days  
6 of the adoption of the county-wide planning policy.

7 (7) Multicounty planning policies shall be adopted by two or more  
8 counties, each with a population of four hundred fifty thousand or  
9 more, with contiguous urban areas and may be adopted by other counties,  
10 according to the process established under this section or other  
11 processes agreed to among the counties and cities within the affected  
12 counties throughout the multicounty region.

13 **Sec. 6.** RCW 36.70A.290 and 1991 sp.s. c 32 s 10 are each amended  
14 to read as follows:

15 (1) All requests for review to a growth planning hearings board  
16 shall be initiated by filing a petition that includes a detailed  
17 statement of issues presented for resolution by the board.

18 (2) Except as provided under subsection (3) of this section, all  
19 petitions relating to whether or not an adopted comprehensive plan,  
20 development regulation, or permanent amendment thereto, is in  
21 compliance with the goals and requirements of this chapter must be  
22 filed within sixty days after publication by the legislative bodies of  
23 the county or city. The date of publication for a city shall be the  
24 date the city publishes the ordinance, or summary of the ordinance,  
25 adopting the comprehensive plan or development regulations, or  
26 amendment thereto, as is required to be published. Promptly after  
27 adoption, a county shall publish a notice that it has adopted the  
28 comprehensive plan or development regulations, or amendment thereto.  
29 The date of publication for a county shall be the date the county  
30 publishes the notice that it has adopted the comprehensive plan or  
31 development regulations, or amendment thereto.

32 (3) Where a county or city adopts and publishes its initial  
33 comprehensive plan prior to the date by which it is required to have  
34 adopted this initial comprehensive plan, the sixty-day period to appeal  
35 the comprehensive plan shall be delayed and commence at the date by  
36 which the county or city is required to have adopted its initial  
37 comprehensive plan. In all other instances, the sixty-day period to  
38 appeal an initial comprehensive plan shall commence upon publication.

1 The purpose of this delayed time period to file an appeal is to  
2 facilitate interjurisdictional coordination and permit a growth  
3 planning hearings board to consider appeals over the initial  
4 comprehensive plans of a county and the cities located within the  
5 county at the same time.

6 (4) Unless the board dismisses the petition as frivolous or finds  
7 that the person filing the petition lacks standing, the board shall,  
8 within ten days of receipt of the petition, set a time for hearing the  
9 matter.

10 ((+4)) (5) The board shall base its decision on the record  
11 developed by the city, county, or the state and supplemented with  
12 additional evidence if the board determines that such additional  
13 evidence would be necessary or of substantial assistance to the board  
14 in reaching its decision.

15 ((+5)) (6) The board, shall consolidate, when appropriate, all  
16 petitions involving the review of the same comprehensive plan or the  
17 same development regulation or regulations.

18 **Sec. 7.** RCW 82.02.050 and 1990 1st ex.s. c 17 s 43 are each  
19 amended to read as follows:

20 (1) It is the intent of the legislature:

21 (a) To ensure that adequate facilities are available to serve new  
22 growth and development;

23 (b) To promote orderly growth and development by establishing  
24 standards by which counties, cities, and towns may require, by  
25 ordinance, that new growth and development pay a proportionate share of  
26 the cost of new facilities needed to serve new growth and development;  
27 and

28 (c) To ensure that impact fees are imposed through established  
29 procedures and criteria so that specific developments do not pay  
30 arbitrary fees or duplicative fees for the same impact.

31 (2) Counties, cities, and towns that are required or choose to plan  
32 under RCW 36.70A.040 are authorized to impose impact fees on  
33 development activity as part of the financing for public facilities,  
34 provided that the financing for system improvements to serve new  
35 development must provide for a balance between impact fees and other  
36 sources of public funds and cannot rely solely on impact fees.

37 (3) The impact fees:

1 (a) Shall only be imposed for system improvements that are  
2 reasonably related to the new development;

3 (b) Shall not exceed a proportionate share of the costs of system  
4 improvements that are reasonably related to the new development; and

5 (c) Shall be used for system improvements that will reasonably  
6 benefit the new development.

7 (4) Impact fees may be collected and spent only for the public  
8 facilities defined in RCW 82.02.090 which are addressed by a capital  
9 facilities plan element of a comprehensive land use plan adopted  
10 pursuant to the provisions of RCW 36.70A.070 or the provisions for  
11 comprehensive plan adoption contained in chapter 36.70, 35.63, or  
12 35A.63 RCW. After ~~((July 1, 1993))~~ the date a county, city, or town is  
13 required to adopt its comprehensive plan under chapter 36.70A RCW,  
14 continued authorization to collect and expend impact fees shall be  
15 contingent on the county, city, or town adopting or revising a  
16 comprehensive plan in compliance with RCW 36.70A.070, and on the  
17 capital facilities plan identifying:

18 (a) Deficiencies in public facilities serving existing development  
19 and the means by which existing deficiencies will be eliminated within  
20 a reasonable period of time;

21 (b) Additional demands placed on existing public facilities by new  
22 development; and

23 (c) Additional public facility improvements required to serve new  
24 development.

25 If the capital facilities plan of the county, city, or town is  
26 complete other than for the inclusion of those elements which are the  
27 responsibility of a special district, the county, city, or town may  
28 impose impact fees to address those public facility needs for which the  
29 county, city, or town is responsible.

30 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
31 preservation of the public peace, health, or safety, or support of the  
32 state government and its existing public institutions, and shall take  
33 effect June 1, 1993.

--- END ---