
ENGROSSED SUBSTITUTE HOUSE BILL 2830

State of Washington

55th Legislature

1998 Regular Session

By House Committee on House Government Reform & Land Use (originally sponsored by Representatives Reams, Romero and Lantz; by request of Land Use Study Commission)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to recommendations of the land use study
2 commission; amending RCW 35.13.182, 36.70A.020, 36.70A.060, and
3 36.70A.070; amending 1995 c 347 s 433 (uncodified); amending 1995 c 347
4 s 411 (uncodified); amending 1995 c 347 s 412 (uncodified); adding new
5 sections to chapter 35.13 RCW; and adding a new section to chapter
6 36.70A RCW.

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

8 **Sec. 1.** RCW 35.13.182 and 1997 c 429 s 37 are each amended to read
9 as follows:

10 (1) The legislative body of a city or town planning under chapter
11 36.70A RCW as of June 30, 1994, may resolve to annex territory to the
12 city or town if there is, within the city or town, unincorporated
13 territory containing residential property owners within the same county
14 and within the same urban growth area designated under RCW 36.70A.110
15 as the city or town:

16 (a) Containing less than one hundred acres and having at least
17 eighty percent of the boundaries of such area contiguous to the city or
18 town (~~((if such area existed before June 30, 1994))~~); or

1 (b) Of any size and having at least eighty percent of the
2 boundaries of the area contiguous to the city if the area existed
3 before June 30, 1994.

4 (2) The resolution shall describe the boundaries of the area to be
5 annexed, state the number of voters residing in the area as nearly as
6 may be, and set a date for a public hearing on the resolution for
7 annexation. Notice of the hearing shall be given by publication of the
8 resolution at least once a week for two weeks before the date of the
9 hearing in one or more newspapers of general circulation within the
10 city or town and one or more newspapers of general circulation within
11 the area to be annexed.

12 (3) For purposes of subsection (1)(b) of this section, territory
13 bounded by a river, lake, or other body of water is considered
14 contiguous to a city that is also bounded by the same river, lake, or
15 other body of water.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.13 RCW
17 to read as follows:

18 The annexation ordinance provided for in RCW 35.13.182 is subject
19 to referendum for forty-five days after its passage. Upon the filing
20 of a timely and sufficient referendum petition with the legislative
21 body, signed by qualified electors in number equal to not less than ten
22 percent of the votes cast in the last general state election in the
23 area to be annexed, the question of annexation shall be submitted to
24 the voters of the area in a general election if one is to be held
25 within ninety days or at a special election called for that purpose not
26 less than forty-five days nor more than ninety days after the filing of
27 the referendum petition. Notice of the election shall be given as
28 provided in RCW 35.13.080 and the election shall be conducted as
29 provided in the general election law. The annexation shall be deemed
30 approved by the voters unless a majority of the votes cast on the
31 proposition are in opposition thereto.

32 After the expiration of the forty-fifth day from but excluding the
33 date of passage of the annexation ordinance, if no timely and
34 sufficient referendum petition has been filed, the area annexed shall
35 become a part of the city or town upon the date fixed in the ordinance
36 of annexation.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.13 RCW
2 to read as follows:

3 On the date set for hearing as provided in RCW 35.13.182(2),
4 residents or property owners of the area included in the resolution for
5 annexation shall be afforded an opportunity to be heard. The
6 legislative body may provide by ordinance for annexation of the
7 territory described in the resolution, but the effective date of the
8 ordinance shall be not less than forty-five days after the passage
9 thereof. The legislative body shall cause notice of the proposed
10 effective date of the annexation, together with a description of the
11 property to be annexed, to be published at least once each week for two
12 weeks subsequent to passage of the ordinance, in one or more newspapers
13 of general circulation within the city and in one or more newspapers of
14 general circulation within the area to be annexed. If the annexation
15 ordinance provides for assumption of indebtedness or adoption of a
16 proposed zoning regulation, the notice shall include a statement of
17 such requirements.

18 **Sec. 4.** RCW 36.70A.020 and 1990 1st ex.s. c 17 s 2 are each
19 amended to read as follows:

20 The following goals are adopted to guide the development and
21 adoption of comprehensive plans and development regulations of those
22 counties and cities that are required or choose to plan under RCW
23 36.70A.040. The following goals are not listed in order of priority
24 and shall be used exclusively for the purpose of guiding the
25 development of comprehensive plans and development regulations:

26 (1) Urban growth. Encourage development in urban areas where
27 adequate public facilities and services exist or can be provided in an
28 efficient manner. Urban growth areas should have concentrated
29 employment centers, separated by adequate buffers that protect critical
30 areas, and need not be uniformly urban in nature.

31 (2) Reduce sprawl. Reduce the inappropriate conversion of
32 undeveloped land into sprawling, low-density development.

33 (3) Transportation. Encourage efficient multimodal transportation
34 systems that are based on regional priorities and coordinated with
35 county and city comprehensive plans.

36 (4) Housing. Encourage the availability of affordable housing to
37 all economic segments of the population of this state, promote a
38 variety of residential densities and housing types, and encourage

1 preservation of existing housing stock. "Affordable housing" means
2 housing for income groups who typically have difficulty renting or
3 purchasing market-rate housing. In order for housing to be affordable,
4 total monthly housing costs should not exceed thirty percent of the
5 household's gross monthly income.

6 (5) Economic development. Encourage economic development
7 throughout the state that is consistent with adopted comprehensive
8 plans, promote economic opportunity for all citizens of this state,
9 especially for unemployed and for disadvantaged persons, and encourage
10 growth in areas experiencing insufficient economic growth, all within
11 the capacities of the state's natural resources, public services, and
12 public facilities.

13 (6) Property rights. Private property shall not be taken for
14 public use without just compensation having been made. The property
15 rights of landowners shall be protected from arbitrary and
16 discriminatory actions.

17 (7) Permits. Applications for both state and local government
18 permits should be processed in a timely and fair manner to ensure
19 predictability.

20 (8) Natural resource industries. Maintain and enhance natural
21 resource-based industries, including productive timber, agricultural,
22 and fisheries industries. Encourage the conservation of productive
23 forest lands and productive agricultural lands, and discourage
24 incompatible uses.

25 (9) Open space and recreation. Encourage the retention of open
26 space and development of recreational opportunities, conserve fish and
27 wildlife habitat, increase access to natural resource lands and water,
28 and develop parks.

29 (10) Environment. Protect the environment and enhance the state's
30 high quality of life, including air and water quality, and the
31 availability of water.

32 (11) Citizen participation and coordination. Encourage the
33 involvement of citizens in the planning process and ensure coordination
34 between communities and jurisdictions to reconcile conflicts.

35 (12) Public facilities and services. Ensure that those public
36 facilities and services necessary to support development shall be
37 adequate to serve the development at the time the development is
38 available for occupancy and use without decreasing current service
39 levels below locally established minimum standards.

1 (13) Historic preservation. Identify and encourage the
2 preservation of lands, sites, and structures, that have historical or
3 archaeological significance.

4 **Sec. 5.** RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended
5 to read as follows:

6 (1) Each county that is required or chooses to plan under RCW
7 36.70A.040, and each city within such county, shall adopt development
8 regulations on or before September 1, 1991, to assure the conservation
9 of agricultural, forest, and mineral resource lands designated under
10 RCW 36.70A.170. Regulations adopted under this subsection may not
11 prohibit uses legally existing on any parcel prior to their adoption
12 and shall remain in effect until the county or city adopts development
13 regulations pursuant to RCW ((36.70A.120)) 36.70A.040. Such
14 regulations shall assure that the use of lands adjacent to
15 agricultural, forest, or mineral resource lands shall not interfere
16 with the continued use, in the accustomed manner and in accordance with
17 best management practices, of these designated lands for the production
18 of food, agricultural products, or timber, or for the extraction of
19 minerals. Counties and cities shall require that all plats, short
20 plats, development permits, and building permits issued for development
21 activities on, or within ((three)) five hundred feet of, lands
22 designated as agricultural lands, forest lands, or mineral resource
23 lands, contain a notice that the subject property is within or near
24 designated agricultural lands, forest lands, or mineral resource lands
25 on which a variety of commercial activities may occur that are not
26 compatible with residential development for certain periods of limited
27 duration. The notice for mineral resource lands shall also inform that
28 an application might be made for mining-related activities, including
29 mining, extraction, washing, crushing, stockpiling, blasting,
30 transporting, and recycling of minerals.

31 (2) Each county and city shall adopt development regulations that
32 protect critical areas that are required to be designated under RCW
33 36.70A.170. For counties and cities that are required or choose to
34 plan under RCW 36.70A.040, such development regulations shall be
35 adopted on or before September 1, 1991. For the remainder of the
36 counties and cities, such development regulations shall be adopted on
37 or before March 1, 1992.

1 (3) Such counties and cities shall review these designations and
2 development regulations when adopting their comprehensive plans under
3 RCW 36.70A.040 and implementing development regulations under RCW
4 36.70A.120 and may alter such designations and development regulations
5 to insure consistency.

6 (4) Forest land and agricultural land located within urban growth
7 areas shall not be designated by a county or city as forest land or
8 agricultural land of long-term commercial significance under RCW
9 36.70A.170 unless the city or county has enacted a program authorizing
10 transfer or purchase of development rights.

11 **Sec. 6.** RCW 36.70A.070 and 1997 c 429 s 7 are each amended to read
12 as follows:

13 The comprehensive plan of a county or city that is required or
14 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
15 and descriptive text covering objectives, principles, and standards
16 used to develop the comprehensive plan. The plan shall be an
17 internally consistent document and all elements shall be consistent
18 with the future land use map. A comprehensive plan shall be adopted
19 and amended with public participation as provided in RCW 36.70A.140.

20 Each comprehensive plan shall include a plan, scheme, or design for
21 each of the following:

22 (1) A land use element designating the proposed general
23 distribution and general location and extent of the uses of land, where
24 appropriate, for agriculture, timber production, housing, commerce,
25 industry, recreation, open spaces, general aviation airports, public
26 utilities, public facilities, and other land uses. The land use
27 element shall include population densities, building intensities, and
28 estimates of future population growth. The land use element shall
29 provide for protection of the quality and quantity of ground water used
30 for public water supplies. Where applicable, the land use element
31 shall review drainage, flooding, and storm water run-off in the area
32 and nearby jurisdictions and provide guidance for corrective actions to
33 mitigate or cleanse those discharges that pollute waters of the state,
34 including Puget Sound or waters entering Puget Sound.

35 (2) A housing element ensuring the vitality and character of
36 established residential neighborhoods that: (a) Includes an inventory
37 and analysis of existing and projected housing needs; (b) includes a
38 statement of goals, policies, objectives, and mandatory provisions for

1 the preservation, improvement, and development of housing, including
2 single-family residences; (c) identifies sufficient land for housing,
3 including, but not limited to, government-assisted housing, housing for
4 low-income families, manufactured housing, multifamily housing, and
5 group homes and foster care facilities; and (d) makes adequate
6 provisions for existing and projected needs of all economic segments of
7 the community, including affordable housing and adequate housing
8 located within reasonable commuting distances to employment centers.

9 (3) A capital facilities plan element consisting of: (a) An
10 inventory of existing capital facilities owned by public entities,
11 showing the locations and capacities of the capital facilities; (b) a
12 forecast of the future needs for such capital facilities; (c) the
13 proposed locations and capacities of expanded or new capital
14 facilities; (d) at least a six-year plan that will finance such capital
15 facilities within projected funding capacities and clearly identifies
16 sources of public money for such purposes; and (e) a requirement to
17 reassess the land use element if probable funding falls short of
18 meeting existing needs and to ensure that the land use element, capital
19 facilities plan element, and financing plan within the capital
20 facilities plan element are coordinated and consistent.

21 (4) A utilities element consisting of the general location,
22 proposed location, and capacity of all existing and proposed utilities,
23 including, but not limited to, electrical lines, telecommunication
24 lines, and natural gas lines.

25 (5) Rural element. Counties shall include a rural element
26 including lands that are not designated for urban growth, agriculture,
27 forest, or mineral resources. The following provisions shall apply to
28 the rural element:

29 (a) Growth management act goals and local circumstances. Because
30 circumstances vary from county to county, in establishing patterns of
31 rural densities and uses, a county may consider local circumstances,
32 but shall develop a written record explaining how the rural element
33 harmonizes the planning goals in RCW 36.70A.020 and meets the
34 requirements of this chapter.

35 (b) Rural development. The rural element shall permit rural
36 development, forestry, and agriculture in rural areas. The rural
37 element shall provide for a variety of rural densities, uses, essential
38 public facilities, and rural governmental services needed to serve the
39 permitted densities and uses. In order to achieve a variety of rural

1 densities and uses, counties may provide for clustering, density
2 transfer, design guidelines, conservation easements, and other
3 innovative techniques that will accommodate appropriate rural densities
4 and uses that are not characterized by urban growth and that are
5 consistent with rural character.

6 (c) Measures governing rural development. The rural element shall
7 include measures that apply to rural development and protect the rural
8 character of the area, as established by the county, by:

9 (i) Containing or otherwise controlling rural development;

10 (ii) Assuring visual compatibility of rural development with the
11 surrounding rural area;

12 (iii) Reducing the inappropriate conversion of undeveloped land
13 into sprawling, low-density development in the rural area;

14 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
15 surface water and ground water resources; and

16 (v) Protecting against conflicts with the use of agricultural,
17 forest, and mineral resource lands designated under RCW 36.70A.170.

18 (d) Limited areas of more intensive rural development. Subject to
19 the requirements of this subsection and except as otherwise
20 specifically provided in this subsection (5)(d), the rural element may
21 allow for limited areas of more intensive rural development, including
22 necessary public facilities and public services to serve the limited
23 area as follows:

24 (i) Rural development consisting of the infill, development, or
25 redevelopment of existing commercial, industrial, residential, or
26 mixed-use areas, whether characterized as shoreline development,
27 villages, hamlets, rural activity centers, or crossroads developments.
28 A commercial, industrial, residential, shoreline, or mixed-use area
29 shall be subject to the requirements of (d)(iv) of this subsection, but
30 shall not be subject to the requirements of (c)(ii) and (iii) of this
31 subsection. An industrial area is not required to be principally
32 designed to serve the existing and projected rural population;

33 (ii) The intensification of development on lots containing, or new
34 development of, small-scale recreational or tourist uses, including
35 commercial facilities to serve those recreational or tourist uses, that
36 rely on a rural location and setting, but that do not include new
37 residential development. A small-scale recreation or tourist use is
38 not required to be principally designed to serve the existing and
39 projected rural population. Public services and public facilities

1 shall be limited to those necessary to serve the recreation or tourist
2 use and shall be provided in a manner that does not permit low-density
3 sprawl;

4 (iii) The intensification of development on lots containing
5 isolated nonresidential uses or new development of isolated cottage
6 industries and isolated small-scale businesses that are not principally
7 designed to serve the existing and projected rural population and
8 nonresidential uses, but do provide job opportunities for rural
9 residents. Public services and public facilities shall be limited to
10 those necessary to serve the isolated nonresidential use and shall be
11 provided in a manner that does not permit low-density sprawl;

12 (iv) A county shall adopt measures to minimize and contain the
13 existing areas or uses of more intensive rural development, as
14 appropriate, authorized under this subsection. Lands included in such
15 existing areas or uses shall not extend beyond the logical outer
16 boundary of the existing area or use, thereby allowing a new pattern of
17 low-density sprawl. Existing areas are those that are clearly
18 identifiable and contained and where there is a logical boundary
19 delineated predominately by the built environment, but that may also
20 include undeveloped lands if limited as provided in this subsection.
21 The county shall establish the logical outer boundary of an area of
22 more intensive rural development. In establishing the logical outer
23 boundary the county shall address (A) the need to preserve the
24 character of existing natural neighborhoods and communities, (B)
25 physical boundaries such as bodies of water, streets and highways, and
26 land forms and contours, (C) the prevention of abnormally irregular
27 boundaries, and (D) the ability to provide public facilities and public
28 services in a manner that does not permit low-density sprawl;

29 (v) For purposes of (d) of this subsection, an existing area or
30 existing use is one that was in existence:

31 (A) On July 1, 1990, in a county that was initially required to
32 plan under all of the provisions of this chapter;

33 (B) On the date the county adopted a resolution under RCW
34 36.70A.040(2), in a county that is planning under all of the provisions
35 of this chapter under RCW 36.70A.040(2); or

36 (C) On the date the office of financial management certifies the
37 county's population as provided in RCW 36.70A.040(5), in a county that
38 is planning under all of the provisions of this chapter pursuant to RCW
39 36.70A.040(5).

1 (e) Exception. This subsection shall not be interpreted to permit
2 in the rural area a major industrial development or a master planned
3 resort unless otherwise specifically permitted under RCW 36.70A.360 and
4 36.70A.365.

5 (6) A transportation element that implements, and is consistent
6 with, the land use element. The transportation element shall include
7 the following subelements:

8 (a) Land use assumptions used in estimating travel;

9 (b) Facilities and services needs, including:

10 (i) An inventory of air, water, and ground transportation
11 facilities and services, including railways, transit alignments, and
12 general aviation airport facilities, to define existing capital
13 facilities and travel levels as a basis for future planning. This
14 inventory must include state-owned transportation facilities, including
15 interstate highway exits and ferry terminals, within the city or
16 county's jurisdictional boundaries;

17 (ii) Level of service standards for all arterials and transit
18 routes to serve as a gauge to judge performance of the system. These
19 standards should be regionally coordinated;

20 (iii) Specific actions and requirements for bringing into
21 compliance any facilities or services that are below an established
22 level of service standard;

23 (iv) Forecasts of traffic for at least ten years based on the
24 adopted land use plan to provide information on the location, timing,
25 and capacity needs of future growth;

26 (v) Identification of system expansion needs and transportation
27 system management needs to meet current and future demands;

28 (c) Finance, including:

29 (i) An analysis of funding capability to judge needs against
30 probable funding resources;

31 (ii) A multiyear financing plan based on the needs identified in
32 the comprehensive plan, the appropriate parts of which shall serve as
33 the basis for the six-year street, road, or transit program required by
34 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
35 35.58.2795 for public transportation systems;

36 (iii) If probable funding falls short of meeting identified needs,
37 a discussion of how additional funding will be raised, or how land use
38 assumptions will be reassessed to ensure that level of service
39 standards will be met;

1 (d) Intergovernmental coordination efforts, including an assessment
2 of the impacts of the transportation plan and land use assumptions on
3 the transportation systems of adjacent jurisdictions;

4 (e) Demand-management strategies.

5 After adoption of the comprehensive plan by jurisdictions required
6 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
7 must adopt and enforce ordinances which prohibit development approval
8 if the development causes the level of service on a transportation
9 facility to decline below the standards adopted in the transportation
10 element of the comprehensive plan, unless transportation improvements
11 or strategies to accommodate the impacts of development are made
12 concurrent with the development. These strategies may include
13 increased public transportation service, ride sharing programs, demand
14 management, and other transportation systems management strategies.
15 For the purposes of this subsection (6) "concurrent with the
16 development" shall mean that improvements or strategies are in place at
17 the time of development, or that a financial commitment is in place to
18 complete the improvements or strategies within six years.

19 The transportation element described in this subsection, and the
20 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
21 counties, and RCW 35.58.2795 for public transportation systems, must be
22 consistent.

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A RCW
24 to read as follows:

25 As part of the review required by RCW 36.70A.130(1), a county or
26 city shall review its mineral resource lands designations adopted
27 pursuant to RCW 36.70A.170 and mineral resource lands development
28 regulations adopted pursuant to RCW 36.70A.040 and 36.70A.060. In its
29 review, the county or city shall take into consideration:

30 (1) New information made available since the adoption or last
31 review of its designations or development regulations, including data
32 available from the department of natural resources relating to mineral
33 resource deposits; and

34 (2) New or modified model development regulations for mineral
35 resource lands prepared by the department of natural resources, the
36 department of community, trade, and economic development, or the
37 Washington state association of counties.

1 **Sec. 8.** 1995 c 347 s 433 (uncodified) is amended to read as
2 follows:

3 (~~Sections 413 and 421 of this act~~) RCW 36.70B.090 and 64.40.050
4 shall expire June 30, (~~1998~~) 2000. The provisions of (~~sections 413~~
5 ~~and 421 of this act~~) RCW 36.70B.090 and 64.40.050 shall apply to
6 project permit applications determined to be complete pursuant to RCW
7 36.70B.070 on or before June 30, (~~1998~~) 2000.

8 **Sec. 9.** 1995 c 347 s 411 (uncodified) is amended to read as
9 follows:

10 The amendments to RCW (~~36.70A.065~~) 36.70B.080 contained in
11 section 409 (~~of this act~~), chapter 347, Laws of 1995 shall expire
12 July 1, (~~1998~~) 2000.

13 **Sec. 10.** 1995 c 347 s 412 (uncodified) is amended to read as
14 follows:

15 Section 410 (~~of this act~~), chapter 347, Laws of 1995 shall take
16 effect July 1, (~~1998~~) 2000.

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