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SENATE BILL 5934

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State of Washington

55th Legislature

1997 Regular Session

By Senators Swecker, Rasmussen, Newhouse, Morton, Fraser, Anderson, Sellar and Goings

Read first time 02/20/97. Referred to Committee on Government Operations.

1 AN ACT Relating to the role of school districts, fire protection  
2 districts, and water-sewer districts in growth management planning; and  
3 amending RCW 36.70A.030, 36.70A.110, 36.70A.150, 36.70A.210, and  
4 36.70A.350.

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

6 **Sec. 1.** RCW 36.70A.030 and 1995 c 382 s 9 are each amended to read  
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10 (1) "Adopt a comprehensive land use plan" means to enact a new  
11 comprehensive land use plan or to update an existing comprehensive land  
12 use plan.

13 (2) "Agricultural land" means land primarily devoted to the  
14 commercial production of horticultural, viticultural, floricultural,  
15 dairy, apiary, vegetable, or animal products or of berries, grain, hay,  
16 straw, turf, seed, Christmas trees not subject to the excise tax  
17 imposed by RCW 84.33.100 through 84.33.140, finfish in upland  
18 hatcheries, or livestock, and that has long-term commercial  
19 significance for agricultural production.

1 (3) "City" means any city or town, including a code city.

2 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"  
3 means a generalized coordinated land use policy statement of the  
4 governing body of a county or city that is adopted pursuant to this  
5 chapter.

6 (5) "Critical areas" include the following areas and ecosystems:  
7 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
8 used for potable water; (c) fish and wildlife habitat conservation  
9 areas; (d) frequently flooded areas; and (e) geologically hazardous  
10 areas.

11 (6) "Department" means the department of community, trade, and  
12 economic development.

13 (7) "Development regulations" means the controls placed on  
14 development or land use activities by a county or city, including, but  
15 not limited to, zoning ordinances, critical areas ordinances, shoreline  
16 master programs, official controls, planned unit development  
17 ordinances, subdivision ordinances, and binding site plan ordinances  
18 together with any amendments thereto. A development regulation does  
19 not include a decision to approve a project permit application, as  
20 defined in RCW 36.70B.020, even though the decision may be expressed in  
21 a resolution or ordinance of the legislative body of the county or  
22 city.

23 (8) "Forest land" means land primarily devoted to growing trees for  
24 long-term commercial timber production on land that can be economically  
25 and practically managed for such production, including Christmas trees  
26 subject to the excise tax imposed under RCW 84.33.100 through  
27 84.33.140, and that has long-term commercial significance. In  
28 determining whether forest land is primarily devoted to growing trees  
29 for long-term commercial timber production on land that can be  
30 economically and practically managed for such production, the following  
31 factors shall be considered: (a) The proximity of the land to urban,  
32 suburban, and rural settlements; (b) surrounding parcel size and the  
33 compatibility and intensity of adjacent and nearby land uses; (c) long-  
34 term local economic conditions that affect the ability to manage for  
35 timber production; and (d) the availability of public facilities and  
36 services conducive to conversion of forest land to other uses.

37 (9) "Geologically hazardous areas" means areas that because of  
38 their susceptibility to erosion, sliding, earthquake, or other  
39 geological events, are not suited to the siting of commercial,

1 residential, or industrial development consistent with public health or  
2 safety concerns.

3 (10) "Long-term commercial significance" includes the growing  
4 capacity, productivity, and soil composition of the land for long-term  
5 commercial production, in consideration with the land's proximity to  
6 population areas, and the possibility of more intense uses of the land.

7 (11) "Minerals" include gravel, sand, and valuable metallic  
8 substances.

9 (12) "Public facilities" include streets, roads, highways,  
10 sidewalks, street and road lighting systems, traffic signals, domestic  
11 water systems, storm and sanitary sewer systems, parks and recreational  
12 facilities, and schools.

13 (13) "Public services" include fire protection and suppression  
14 including water supply, law enforcement, public health, education,  
15 recreation, environmental protection, and other governmental services.

16 (14) "Special district" means school districts, fire protection  
17 districts, and water-sewer districts.

18 (15) "Urban growth" refers to growth that makes intensive use of  
19 land for the location of buildings, structures, and impermeable  
20 surfaces to such a degree as to be incompatible with the primary use of  
21 such land for the production of food, other agricultural products, or  
22 fiber, or the extraction of mineral resources. When allowed to spread  
23 over wide areas, urban growth typically requires urban governmental  
24 services. "Characterized by urban growth" refers to land having urban  
25 growth located on it, or to land located in relationship to an area  
26 with urban growth on it as to be appropriate for urban growth.

27 (~~(15)~~) (16) "Urban growth areas" means those areas designated by  
28 a county pursuant to RCW 36.70A.110.

29 (~~(16)~~) (17) "Urban governmental services" include those  
30 governmental services historically and typically delivered by cities  
31 and special districts, and include storm water systems and sanitary  
32 sewer systems, domestic water systems, street cleaning services, fire  
33 and police protection services, public transit services, and other  
34 public utilities associated with urban areas and normally not  
35 associated with nonurban areas.

36 (~~(17)~~) (18) "Wetland" or "wetlands" means areas that are  
37 inundated or saturated by surface water or ground water at a frequency  
38 and duration sufficient to support, and that under normal circumstances  
39 do support, a prevalence of vegetation typically adapted for life in

1 saturated soil conditions. Wetlands generally include swamps, marshes,  
2 bogs, and similar areas. Wetlands do not include those artificial  
3 wetlands intentionally created from nonwetland sites, including, but  
4 not limited to, irrigation and drainage ditches, grass-lined swales,  
5 canals, detention facilities, wastewater treatment facilities, farm  
6 ponds, and landscape amenities, or those wetlands created after July 1,  
7 1990, that were unintentionally created as a result of the construction  
8 of a road, street, or highway. Wetlands may include those artificial  
9 wetlands intentionally created from nonwetland areas created to  
10 mitigate conversion of wetlands.

11 **Sec. 2.** RCW 36.70A.110 and 1995 c 400 s 2 are each amended to read  
12 as follows:

13 (1) Each county that is required or chooses to plan under RCW  
14 36.70A.040 shall designate an urban growth area or areas within which  
15 urban growth shall be encouraged and outside of which growth can occur  
16 only if it is not urban in nature. Each city that is located in such  
17 a county shall be included within an urban growth area. An urban  
18 growth area may include more than a single city. An urban growth area  
19 may include territory that is located outside of a city only if such  
20 territory already is characterized by urban growth whether or not the  
21 urban growth area includes a city, or is adjacent to territory already  
22 characterized by urban growth, or is a designated new fully contained  
23 community as defined by RCW 36.70A.350.

24 (2) Based upon the growth management population projection made for  
25 the county by the office of financial management, the urban growth  
26 areas in the county shall include areas and densities sufficient to  
27 permit the urban growth that is projected to occur in the county for  
28 the succeeding twenty-year period. Each urban growth area shall permit  
29 urban densities and shall include greenbelt and open space areas. An  
30 urban growth area determination may include a reasonable land market  
31 supply factor and shall permit a range of urban densities and uses. In  
32 determining this market factor, cities and counties may consider local  
33 circumstances. Cities and counties have discretion in their  
34 comprehensive plans to make many choices about accommodating growth.

35 Within one year of July 1, 1990, each county that as of June 1,  
36 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
37 consulting with each city located within its boundaries and each city  
38 shall propose the location of an urban growth area. Within sixty days

1 of the date the county legislative authority of a county adopts its  
2 resolution of intention or of certification by the office of financial  
3 management, all other counties that are required or choose to plan  
4 under RCW 36.70A.040 shall begin this consultation with each city  
5 located within its boundaries. The county shall attempt to reach  
6 agreement with each city on the location of an urban growth area within  
7 which the city is located. If such an agreement is not reached with  
8 each city located within the urban growth area, the county shall  
9 justify in writing why it so designated the area an urban growth area.  
10 A city may object formally with the department over the designation of  
11 the urban growth area within which it is located. Where appropriate,  
12 the department shall attempt to resolve the conflicts, including the  
13 use of mediation services.

14 (3) Urban growth should be located first in areas already  
15 characterized by urban growth that have adequate existing public  
16 facility and service capacities to serve such development, second in  
17 areas already characterized by urban growth that will be served  
18 adequately by a combination of both existing public facilities and  
19 services and any additional needed public facilities and services that  
20 are provided by either public or private sources, and third in the  
21 remaining portions of the urban growth areas. Urban growth may also be  
22 located in designated new fully contained communities as defined by RCW  
23 36.70A.350.

24 (4) In general, cities and special districts are the units of local  
25 government most appropriate to provide urban governmental services. In  
26 general, it is not appropriate that urban governmental services be  
27 extended to or expanded in rural areas except in those limited  
28 circumstances shown to be necessary to protect basic public health and  
29 safety and the environment and when such services are financially  
30 supportable at rural densities and do not permit urban development.

31 (5) On or before October 1, 1993, each county that was initially  
32 required to plan under RCW 36.70A.040(1) shall adopt development  
33 regulations designating interim urban growth areas under this chapter.  
34 Within three years and three months of the date the county legislative  
35 authority of a county adopts its resolution of intention or of  
36 certification by the office of financial management, all other counties  
37 that are required or choose to plan under RCW 36.70A.040 shall adopt  
38 development regulations designating interim urban growth areas under  
39 this chapter. Adoption of the interim urban growth areas may only

1 occur after public notice; public hearing; and compliance with the  
2 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.  
3 Such action may be appealed to the appropriate growth management  
4 hearings board under RCW 36.70A.280. Final urban growth areas shall be  
5 adopted at the time of comprehensive plan adoption under this chapter.

6 (6) Each county shall include designations of urban growth areas in  
7 its comprehensive plan.

8 **Sec. 3.** RCW 36.70A.150 and 1991 c 322 s 23 are each amended to  
9 read as follows:

10 Each county and city that is required or chooses to prepare a  
11 comprehensive land use plan under RCW 36.70A.040 shall identify lands  
12 useful for public purposes such as utility corridors, transportation  
13 corridors, landfills, sewage treatment facilities, storm water  
14 management facilities, recreation, schools, and other public uses. The  
15 county shall work with the state (~~and the~~), cities, and special  
16 districts within its borders to identify areas of shared need for  
17 public facilities. The jurisdictions within the county shall prepare  
18 a prioritized list of lands necessary for the identified public uses  
19 including an estimated date by which the acquisition will be needed.

20 The respective capital acquisition budgets for each jurisdiction  
21 shall reflect the jointly agreed upon priorities and time schedule.

22 **Sec. 4.** RCW 36.70A.210 and 1994 c 249 s 28 are each amended to  
23 read as follows:

24 (1) The legislature recognizes that counties are regional  
25 governments within their boundaries, and cities and special districts  
26 are primary providers of urban governmental services within urban  
27 growth areas. For the purposes of this section, a "county-wide  
28 planning policy" is a written policy statement or statements used  
29 solely for establishing a county-wide framework from which county and  
30 city comprehensive plans are developed and adopted pursuant to this  
31 chapter. This framework shall ensure that city (~~and~~), county, and  
32 special district comprehensive plans are consistent as required in RCW  
33 36.70A.100. Nothing in this section shall be construed to alter the  
34 land-use powers of cities.

35 (2) The legislative authority of a county that plans under RCW  
36 36.70A.040 shall adopt a county-wide planning policy in cooperation

1 with the cities and special districts located in whole or in part  
2 within the county as follows:

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

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

19 (c) If a county fails for any reason to convene a meeting with  
20 representatives of cities and special districts as required in (a) of  
21 this subsection, the governor may immediately impose any appropriate  
22 sanction or sanctions on the county from those specified under RCW  
23 36.70A.340.

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

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

11 (f) A county that is required or chooses to plan under RCW  
12 36.70A.040 on or after July 1, 1997, shall adopt a county-wide planning  
13 policy pursuant to the procedures of this subsection, and shall include  
14 representatives of each special district located within the county in  
15 the collaborative process required under this subsection. In a county  
16 with an adopted county-wide planning policy adopted before July 1,  
17 1997, the county shall include special districts in the collaborative  
18 process required by this subsection in the next scheduled comprehensive  
19 revision of its policy, if scheduled for revision adoption no later  
20 than July 1, 2001. If not scheduled for comprehensive revision  
21 adoption by July 1, 2001, the county shall schedule a revision of its  
22 county-wide planning policy for adoption by July 1, 2001, that includes  
23 representatives of special districts.

24 (g) All comprehensive revisions of a county-wide planning policy  
25 under this section shall include representatives of each special  
26 district located within the county.

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

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

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

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

34 (d) Policies for county-wide transportation facilities and  
35 strategies;

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



1 (f) Policies for joint county and city planning within urban growth  
2 areas;

3 (g) Policies for county-wide economic development and employment;  
4 and

5 (h) An analysis of the fiscal impact.

6 (4) Federal agencies and Indian tribes may participate in and  
7 cooperate with the county-wide planning policy adoption process.  
8 Adopted county-wide planning policies shall be adhered to by state  
9 agencies.

10 (5) Failure to adopt a county-wide planning policy that meets the  
11 requirements of this section may result in the imposition of a sanction  
12 or sanctions on a county or city within the county, as specified in RCW  
13 36.70A.340. In imposing a sanction or sanctions, the governor shall  
14 specify the reasons for failure to adopt a county-wide planning policy  
15 in order that any imposed sanction or sanctions are fairly and  
16 equitably related to the failure to adopt a county-wide planning  
17 policy.

18 (6) Cities, special districts, and the governor may appeal an  
19 adopted county-wide planning policy to the growth management hearings  
20 board within sixty days of the adoption of the county-wide planning  
21 policy.

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

28 **Sec. 5.** RCW 36.70A.350 and 1991 sp.s. c 32 s 16 are each amended  
29 to read as follows:

30 A county required or choosing to plan under RCW 36.70A.040 may  
31 establish a process as part of its urban growth areas, that are  
32 designated under RCW 36.70A.110, for reviewing proposals to authorize  
33 new fully contained communities located outside of the initially  
34 designated urban growth areas.

35 (1) A new fully contained community may be approved in a county  
36 planning under this chapter if criteria including but not limited to  
37 the following are met:

1 (a) New infrastructure, including water systems, storm water  
2 systems, and sanitary sewer systems, is provided for and impact fees  
3 are established consistent with the requirements of RCW 82.02.050;

4 (b) Transit-oriented site planning and traffic demand management  
5 programs are implemented;

6 (c) Buffers are provided between the new fully contained  
7 communities and adjacent urban development;

8 (d) A mix of uses is provided to offer jobs, housing, and services  
9 to the residents of the new community;

10 (e) Affordable housing is provided within the new community for a  
11 broad range of income levels;

12 (f) Environmental protection has been addressed and provided for;

13 (g) Development regulations are established to ensure urban growth  
14 will not occur in adjacent nonurban areas;

15 (h) Provision is made to mitigate impacts on designated  
16 agricultural lands, forest lands, and mineral resource lands;

17 (i) The plan for the new fully contained community is consistent  
18 with the development regulations established for the protection of  
19 critical areas by the county pursuant to RCW 36.70A.170.

20 (2) New fully contained communities may be approved outside  
21 established urban growth areas only if a county reserves a portion of  
22 the twenty-year population projection and offsets the urban growth area  
23 accordingly for allocation to new fully contained communities that meet  
24 the requirements of this chapter. Any county electing to establish a  
25 new community reserve shall do so no more often than once every five  
26 years as a part of the designation or review of urban growth areas  
27 required by this chapter. The new community reserve shall be allocated  
28 on a project-by-project basis, only after specific project approval  
29 procedures have been adopted pursuant to this chapter as a development  
30 regulation. When a new community reserve is established, urban growth  
31 areas designated pursuant to this chapter shall accommodate the  
32 unreserved portion of the twenty-year population projection.

33 Final approval of an application for a new fully contained  
34 community shall be considered an adopted amendment to the comprehensive  
35 plan prepared pursuant to RCW 36.70A.070 designating the new fully  
36 contained community as an urban growth area.

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