
HOUSE BILL 1395

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By Representatives Eickmeyer, Buck, Sump, Doumit, Kessler, Jackley, Van Luven, Haigh, Dunn, Murray, Edwards, Veloria, Romero, Hatfield, Pennington, Hunt, Ruderman, Linville, O'Brien, Conway and Santos

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1 AN ACT Relating to job retention in rural counties; amending RCW
2 36.70A.030 and 36.70A.070; and adding a new section to chapter 36.70A
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A RCW
6 to read as follows:

7 The legislature finds that this chapter is intended to recognize
8 the importance of rural lands and rural character to Washington's
9 economy, its people, and its environment, while respecting regional
10 differences. Rural lands and rural-based economies enhance the
11 economic desirability of the state, help to preserve traditional
12 economic activities, and contribute to the state's overall quality of
13 life.

14 The legislature finds that to retain and enhance the job base in
15 rural areas, rural counties must have flexibility to create
16 opportunities for business development. Further, the legislature finds
17 that rural counties must have the flexibility to retain existing
18 businesses and allow them to expand. The legislature recognizes that
19 not all business developments in rural counties require an urban level

1 of services; and that many businesses in rural areas fit within the
2 definition of rural character identified by the local planning unit.

3 Finally, the legislature finds that in defining its rural element
4 under RCW 36.70A.070(5), a county should foster land use patterns and
5 develop a local vision of rural character that will: Help preserve
6 rural-based economies and traditional rural lifestyles; encourage the
7 economic prosperity of rural residents; foster opportunities for small-
8 scale, rural-based employment and self-employment; permit the operation
9 of rural-based agricultural, commercial, recreational, and tourist
10 businesses that are consistent with existing and planned land use
11 patterns; be compatible with the use of the land by wildlife and for
12 fish and wildlife habitat; foster the private stewardship of the land
13 and preservation of open space; and enhance the rural sense of
14 community and quality of life.

15 **Sec. 2.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

19 (1) "Adopt a comprehensive land use plan" means to enact a new
20 comprehensive land use plan or to update an existing comprehensive land
21 use plan.

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

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

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

34 (5) "Critical areas" include the following areas and ecosystems:
35 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
36 used for potable water; (c) fish and wildlife habitat conservation
37 areas; (d) frequently flooded areas; and (e) geologically hazardous
38 areas.

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

3 (7) "Development regulations" or "regulation" means the controls
4 placed on development or land use activities by a county or city,
5 including, but not limited to, zoning ordinances, critical areas
6 ordinances, shoreline master programs, official controls, planned unit
7 development ordinances, subdivision ordinances, and binding site plan
8 ordinances together with any amendments thereto. A development
9 regulation does not include a decision to approve a project permit
10 application, as defined in RCW 36.70B.020, even though the decision may
11 be expressed in a resolution or ordinance of the legislative body of
12 the county or city.

13 (8) "Forest land" means land primarily devoted to growing trees for
14 long-term commercial timber production on land that can be economically
15 and practically managed for such production, including Christmas trees
16 subject to the excise tax imposed under RCW 84.33.100 through
17 84.33.140, and that has long-term commercial significance. In
18 determining whether forest land is primarily devoted to growing trees
19 for long-term commercial timber production on land that can be
20 economically and practically managed for such production, the following
21 factors shall be considered: (a) The proximity of the land to urban,
22 suburban, and rural settlements; (b) surrounding parcel size and the
23 compatibility and intensity of adjacent and nearby land uses; (c) long-
24 term local economic conditions that affect the ability to manage for
25 timber production; and (d) the availability of public facilities and
26 services conducive to conversion of forest land to other uses.

27 (9) "Geologically hazardous areas" means areas that because of
28 their susceptibility to erosion, sliding, earthquake, or other
29 geological events, are not suited to the siting of commercial,
30 residential, or industrial development consistent with public health or
31 safety concerns.

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

36 (11) "Minerals" include gravel, sand, and valuable metallic
37 substances.

38 (12) "Public facilities" include streets, roads, highways,
39 sidewalks, street and road lighting systems, traffic signals, domestic

1 water systems, storm and sanitary sewer systems, parks and recreational
2 facilities, and schools.

3 (13) "Public services" include fire protection and suppression, law
4 enforcement, public health, education, recreation, environmental
5 protection, and other governmental services.

6 (14) "Rural character" refers to the patterns of land use and
7 development established by a county in the rural element of its
8 comprehensive plan:

9 (a) In which open space, the natural landscape, and vegetation
10 predominate over the built environment;

11 (b) That foster traditional rural lifestyles, rural-based
12 economies, and opportunities to both live and work in rural areas;

13 (c) That provide visual landscapes that are traditionally found in
14 rural areas and communities;

15 (d) That are compatible with the use of the land by wildlife and
16 for fish and wildlife habitat;

17 (e) That reduce the inappropriate conversion of undeveloped land
18 into sprawling, low-density development;

19 (f) That generally do not require the extension of urban
20 governmental services; and

21 (g) That are consistent with the protection of natural surface
22 water flows and ground water and surface water recharge and discharge
23 areas.

24 (15) "Rural counties" has the same meaning as in RCW 82.14.370(5).

25 (16) "Rural development" refers to development outside the urban
26 growth area and outside agricultural, forest, and mineral resource
27 lands designated pursuant to RCW 36.70A.170. Rural development can
28 consist of a variety of uses and residential densities, including
29 clustered residential development, at levels that are consistent with
30 the preservation of rural character and the requirements of the rural
31 element. Rural development does not refer to agriculture or forestry
32 activities that may be conducted in rural areas.

33 (~~(16)~~) (17) "Rural governmental services" or "rural services"
34 include those public services and public facilities historically and
35 typically delivered at an intensity usually found in rural areas, and
36 may include domestic water systems, fire and police protection
37 services, transportation and public transit services, and other public
38 utilities associated with rural development and normally not associated

1 with urban areas. Rural services do not include storm or sanitary
2 sewers, except as otherwise authorized by RCW 36.70A.110(4).

3 ~~((17))~~ (18) "Small-scale business" means any business entity,
4 including a sole proprietorship, corporation, partnership, or other
5 legal entity, that is owned and operated independently from all other
6 businesses, and that is of a size and scale that is: (a) Compatible
7 with adjacent land uses and existing or planned infrastructure; and (b)
8 if in a rural area, consistent with the rural character of the area as
9 defined by the local government according to subsection (14) of this
10 section; or (c) if outside a rural area, consistent with the
11 neighborhood character, as may be established by the local government
12 in which it is located.

13 (19) "Urban growth" refers to growth that makes intensive use of
14 land for the location of buildings, structures, and impermeable
15 surfaces to such a degree as to be incompatible with the primary use of
16 land for the production of food, other agricultural products, or fiber,
17 or the extraction of mineral resources, rural uses, rural development,
18 and natural resource lands designated pursuant to RCW 36.70A.170. A
19 pattern of more intensive rural development, as provided in RCW
20 36.70A.070(5)(d), is not urban growth. When allowed to spread over
21 wide areas, urban growth typically requires urban governmental
22 services. "Characterized by urban growth" refers to land having urban
23 growth located on it, or to land located in relationship to an area
24 with urban growth on it as to be appropriate for urban growth.

25 ~~((18))~~ (20) "Urban growth areas" means those areas designated by
26 a county pursuant to RCW 36.70A.110.

27 ~~((19))~~ (21) "Urban governmental services" or "urban services"
28 include those public services and public facilities at an intensity
29 historically and typically provided in cities, specifically including
30 storm and sanitary sewer systems, domestic water systems, street
31 cleaning services, fire and police protection services, public transit
32 services, and other public utilities associated with urban areas and
33 normally not associated with rural areas.

34 ~~((20))~~ (22) "Wetland" or "wetlands" means areas that are
35 inundated or saturated by surface water or ground water at a frequency
36 and duration sufficient to support, and that under normal circumstances
37 do support, a prevalence of vegetation typically adapted for life in
38 saturated soil conditions. Wetlands generally include swamps, marshes,
39 bogs, and similar areas. Wetlands do not include those artificial

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

9 **Sec. 3.** RCW 36.70A.070 and 1998 c 171 s 2 are each amended to read
10 as follows:

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

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

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

33 (2) A housing element ensuring the vitality and character of
34 established residential neighborhoods that: (a) Includes an inventory
35 and analysis of existing and projected housing needs; (b) includes a
36 statement of goals, policies, objectives, and mandatory provisions for
37 the preservation, improvement, and development of housing, including
38 single-family residences; (c) identifies sufficient land for housing,

1 including, but not limited to, government-assisted housing, housing for
2 low-income families, manufactured housing, multifamily housing, and
3 group homes and foster care facilities; and (d) makes adequate
4 provisions for existing and projected needs of all economic segments of
5 the community.

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

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

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

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

32 (b) Rural development. The rural element shall permit rural
33 development, forestry, and agriculture in rural areas. The rural
34 element shall provide for a variety of rural densities, uses, essential
35 public facilities, and rural governmental services needed to serve the
36 permitted densities and uses. In order to achieve a variety of rural
37 densities and uses, counties may provide for clustering, density
38 transfer, design guidelines, conservation easements, and other
39 innovative techniques that will accommodate appropriate rural densities

1 and uses that are not characterized by urban growth and that are
2 consistent with rural character.

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

6 (i) Containing or otherwise controlling rural development;

7 (ii) Assuring visual compatibility of rural development with the
8 surrounding rural area;

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

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

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

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

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

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

1 (iii) The intensification of development on lots containing
2 isolated nonresidential uses or new development of isolated cottage
3 industries and isolated small-scale businesses that are not principally
4 designed to serve the existing and projected rural population and
5 nonresidential uses, but do provide job opportunities for rural
6 residents. Rural counties may allow the expansion of small-scale
7 businesses as long as those small-scale businesses conform with the
8 rural character of the area as defined by the local government
9 according to RCW 36.70A.030(14). Rural counties may also allow new
10 small-scale businesses to utilize a site previously occupied by an
11 existing business as long as the new small-scale business conforms to
12 the rural character of the area as defined by the local government
13 according to RCW 36.70A.030(14). Public services and public facilities
14 shall be limited to those necessary to serve the isolated
15 nonresidential use and shall be provided in a manner that does not
16 permit low-density sprawl;

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

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

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

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

4 (C) On the date the office of financial management certifies the
5 county's population as provided in RCW 36.70A.040(5), in a county that
6 is planning under all of the provisions of this chapter pursuant to RCW
7 36.70A.040(5).

8 (e) Exception. This subsection shall not be interpreted to permit
9 in the rural area a major industrial development or a master planned
10 resort unless otherwise specifically permitted under RCW 36.70A.360 and
11 36.70A.365.

12 (6) A transportation element that implements, and is consistent
13 with, the land use element.

14 (a) The transportation element shall include the following
15 subelements:

16 (i) Land use assumptions used in estimating travel;

17 (ii) Estimated traffic impacts to state-owned transportation
18 facilities resulting from land use assumptions to assist the department
19 of transportation in monitoring the performance of state facilities, to
20 plan improvements for the facilities, and to assess the impact of land-
21 use decisions on state-owned transportation facilities;

22 (iii) Facilities and services needs, including:

23 (A) An inventory of air, water, and ground transportation
24 facilities and services, including transit alignments and general
25 aviation airport facilities, to define existing capital facilities and
26 travel levels as a basis for future planning. This inventory must
27 include state-owned transportation facilities within the city or
28 county's jurisdiction boundaries;

29 (B) Level of service standards for all locally owned arterials and
30 transit routes to serve as a gauge to judge performance of the system.
31 These standards should be regionally coordinated;

32 (C) For state-owned transportation facilities, level of service
33 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
34 to gauge the performance of the system. The purposes of reflecting
35 level of service standards for state highways in the local
36 comprehensive plan are to monitor the performance of the system, to
37 evaluate improvement strategies, and to facilitate coordination between
38 the county's or city's six-year street, road, or transit program and
39 the department of transportation's six-year investment program. The

1 concurrency requirements of (b) of this subsection do not apply to
2 transportation facilities and services of statewide significance except
3 for counties consisting of islands whose only connection to the
4 mainland are state highways or ferry routes. In these island counties,
5 state highways and ferry route capacity must be a factor in meeting the
6 concurrency requirements in (b) of this subsection;

7 (D) Specific actions and requirements for bringing into compliance
8 locally owned transportation facilities or services that are below an
9 established level of service standard;

10 (E) Forecasts of traffic for at least ten years based on the
11 adopted land use plan to provide information on the location, timing,
12 and capacity needs of future growth;

13 (F) Identification of state and local system needs to meet current
14 and future demands. Identified needs on state-owned transportation
15 facilities must be consistent with the statewide multimodal
16 transportation plan required under chapter 47.06 RCW;

17 (iv) Finance, including:

18 (A) An analysis of funding capability to judge needs against
19 probable funding resources;

20 (B) A multiyear financing plan based on the needs identified in the
21 comprehensive plan, the appropriate parts of which shall serve as the
22 basis for the six-year street, road, or transit program required by RCW
23 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
24 for public transportation systems. The multiyear financing plan should
25 be coordinated with the six-year improvement program developed by the
26 department of transportation as required by RCW 47.05.030;

27 (C) If probable funding falls short of meeting identified needs, a
28 discussion of how additional funding will be raised, or how land use
29 assumptions will be reassessed to ensure that level of service
30 standards will be met;

31 (v) Intergovernmental coordination efforts, including an assessment
32 of the impacts of the transportation plan and land use assumptions on
33 the transportation systems of adjacent jurisdictions;

34 (vi) Demand-management strategies.

35 (b) After adoption of the comprehensive plan by jurisdictions
36 required to plan or who choose to plan under RCW 36.70A.040, local
37 jurisdictions must adopt and enforce ordinances which prohibit
38 development approval if the development causes the level of service on
39 a locally owned transportation facility to decline below the standards

1 adopted in the transportation element of the comprehensive plan, unless
2 transportation improvements or strategies to accommodate the impacts of
3 development are made concurrent with the development. These strategies
4 may include increased public transportation service, ride sharing
5 programs, demand management, and other transportation systems
6 management strategies. For the purposes of this subsection (6)
7 "concurrent with the development" shall mean that improvements or
8 strategies are in place at the time of development, or that a financial
9 commitment is in place to complete the improvements or strategies
10 within six years.

11 (c) The transportation element described in this subsection (6),
12 and the six-year plans required by RCW 35.77.010 for cities, RCW
13 36.81.121 for counties, RCW 35.58.2795 for public transportation
14 systems, and RCW 47.05.030 for the state, must be consistent.

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