
HOUSE BILL 1869

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By Representatives Mulliken, Mielke, DeBolt, Sump, Doumit, Alexander, Kessler, Boldt, Hatfield and Dunn

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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 rural prosperity; foster opportunities for
7 small-scale, rural-based employment and self-employment; permit the
8 operation of rural-based businesses that are consistent with existing
9 and planned land use patterns; foster the private stewardship of the
10 land; and enhance the rural sense of community and quality of life.

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

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

15 (1) "Adopt a comprehensive land use plan" means to enact a new
16 comprehensive land use plan or to update an existing comprehensive land
17 use plan.

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

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

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

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

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

37 (7) "Development regulations" or "regulation" means the controls
38 placed on development or land use activities by a county or city,

1 including, but not limited to, zoning ordinances, critical areas
2 ordinances, shoreline master programs, official controls, planned unit
3 development ordinances, subdivision ordinances, and binding site plan
4 ordinances together with any amendments thereto. A development
5 regulation does not include a decision to approve a project permit
6 application, as defined in RCW 36.70B.020, even though the decision may
7 be expressed in a resolution or ordinance of the legislative body of
8 the county or city.

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

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

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

32 (11) "Minerals" include gravel, sand, and valuable metallic
33 substances.

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

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

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

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

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

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

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

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

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

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

22 (15) "Rural county" means a county with a population density fewer
23 than one hundred persons per square mile as determined by the office of
24 financial management and published each year by the department for the
25 period from July 1st to June 30th.

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

34 ((+16+)) (17) "Rural governmental services" or "rural services"
35 include those public services and public facilities historically and
36 typically delivered at an intensity usually found in rural areas, and
37 may include domestic water systems, fire and police protection
38 services, transportation and public transit services, and other public
39 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 meets a definition of a "small-scale business" as
6 set forth in an ordinance adopted by the legislative authority of a
7 rural county.

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

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

22 ~~((19))~~ (21) "Urban governmental services" or "urban services"
23 include those public services and public facilities at an intensity
24 historically and typically provided in cities, specifically including
25 storm and sanitary sewer systems, domestic water systems, street
26 cleaning services, fire and police protection services, public transit
27 services, and other public utilities associated with urban areas and
28 normally not associated with rural areas.

29 ~~((20))~~ (22) "Wetland" or "wetlands" means areas that are
30 inundated or saturated by surface water or ground water at a frequency
31 and duration sufficient to support, and that under normal circumstances
32 do support, a prevalence of vegetation typically adapted for life in
33 saturated soil conditions. Wetlands generally include swamps, marshes,
34 bogs, and similar areas. Wetlands do not include those artificial
35 wetlands intentionally created from nonwetland sites, including, but
36 not limited to, irrigation and drainage ditches, grass-lined swales,
37 canals, detention facilities, wastewater treatment facilities, farm
38 ponds, and landscape amenities, or those wetlands created after July 1,
39 1990, that were unintentionally created as a result of the construction

1 of a road, street, or highway. Wetlands may include those artificial
2 wetlands intentionally created from nonwetland areas created to
3 mitigate conversion of wetlands.

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

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

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

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

28 (2) A housing element ensuring the vitality and character of
29 established residential neighborhoods that: (a) Includes an inventory
30 and analysis of existing and projected housing needs; (b) includes a
31 statement of goals, policies, objectives, and mandatory provisions for
32 the preservation, improvement, and development of housing, including
33 single-family residences; (c) identifies sufficient land for housing,
34 including, but not limited to, government-assisted housing, housing for
35 low-income families, manufactured housing, multifamily housing, and
36 group homes and foster care facilities; and (d) makes adequate
37 provisions for existing and projected needs of all economic segments of
38 the community.

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

13 (4) A utilities element consisting of the general location,
14 proposed location, and capacity of all existing and proposed utilities,
15 including, but not limited to, electrical lines, telecommunication
16 lines, and natural gas lines.

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

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

27 (b) Rural development. The rural element shall permit rural
28 development, forestry, and agriculture in rural areas. The rural
29 element shall provide for a variety of rural densities, uses, essential
30 public facilities, and rural governmental services needed to serve the
31 permitted densities and uses. In order to achieve a variety of rural
32 densities and uses, counties may provide for clustering, density
33 transfer, design guidelines, conservation easements, and other
34 innovative techniques that will accommodate appropriate rural densities
35 and uses that are not characterized by urban growth and that are
36 consistent with rural character.

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

- 1 (i) Containing or otherwise controlling rural development;
- 2 (ii) Assuring visual compatibility of rural development with the
3 surrounding rural area;
- 4 (iii) Reducing the inappropriate conversion of undeveloped land
5 into sprawling, low-density development in the rural area;
- 6 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
7 surface water and ground water resources; and
- 8 (v) Protecting against conflicts with the use of agricultural,
9 forest, and mineral resource lands designated under RCW 36.70A.170.
- 10 (d) Limited areas of more intensive rural development. Subject to
11 the requirements of this subsection and except as otherwise
12 specifically provided in this subsection (5)(d), the rural element may
13 allow for limited areas of more intensive rural development, including
14 necessary public facilities and public services to serve the limited
15 area as follows:
- 16 (i) Rural development consisting of the infill, development, or
17 redevelopment of existing commercial, industrial, residential, or
18 mixed-use areas, whether characterized as shoreline development,
19 villages, hamlets, rural activity centers, or crossroads developments.
20 A commercial, industrial, residential, shoreline, or mixed-use area
21 shall be subject to the requirements of (d)(iv) of this subsection, but
22 shall not be subject to the requirements of (c)(ii) and (iii) of this
23 subsection. An industrial area is not required to be principally
24 designed to serve the existing and projected rural population;
- 25 (ii) The intensification of development on lots containing, or new
26 development of, small-scale recreational or tourist uses, including
27 commercial facilities to serve those recreational or tourist uses, that
28 rely on a rural location and setting, but that do not include new
29 residential development. A small-scale recreation or tourist use is
30 not required to be principally designed to serve the existing and
31 projected rural population. Public services and public facilities
32 shall be limited to those necessary to serve the recreation or tourist
33 use and shall be provided in a manner that does not permit low-density
34 sprawl;
- 35 (iii) The intensification of development on lots containing
36 isolated nonresidential uses or new development of isolated cottage
37 industries and isolated small-scale businesses that are not principally
38 designed to serve the existing and projected rural population and
39 nonresidential uses, but do provide job opportunities for rural

1 residents. Rural counties may allow the expansion of small-scale
2 businesses and may allow new businesses to utilize sites previously
3 occupied by an existing business. Public services and public
4 facilities shall be limited to those necessary to serve the isolated
5 nonresidential use and shall be provided in a manner that does not
6 permit low-density sprawl;

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

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

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

28 (B) On the date the county adopted a resolution under RCW
29 36.70A.040(2), in a county that is planning under all of the provisions
30 of this chapter under RCW 36.70A.040(2); or

31 (C) On the date the office of financial management certifies the
32 county's population as provided in RCW 36.70A.040(5), in a county that
33 is planning under all of the provisions of this chapter pursuant to RCW
34 36.70A.040(5).

35 (e) Exception. This subsection shall not be interpreted to permit
36 in the rural area a major industrial development or a master planned
37 resort unless otherwise specifically permitted under RCW 36.70A.360 and
38 36.70A.365.

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

3 (a) The transportation element shall include the following
4 subelements:

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

6 (ii) Estimated traffic impacts to state-owned transportation
7 facilities resulting from land use assumptions to assist the department
8 of transportation in monitoring the performance of state facilities, to
9 plan improvements for the facilities, and to assess the impact of land-
10 use decisions on state-owned transportation facilities;

11 (iii) Facilities and services needs, including:

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

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

21 (C) For state-owned transportation facilities, level of service
22 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
23 to gauge the performance of the system. The purposes of reflecting
24 level of service standards for state highways in the local
25 comprehensive plan are to monitor the performance of the system, to
26 evaluate improvement strategies, and to facilitate coordination between
27 the county's or city's six-year street, road, or transit program and
28 the department of transportation's six-year investment program. The
29 concurrency requirements of (b) of this subsection do not apply to
30 transportation facilities and services of statewide significance except
31 for counties consisting of islands whose only connection to the
32 mainland are state highways or ferry routes. In these island counties,
33 state highways and ferry route capacity must be a factor in meeting the
34 concurrency requirements in (b) of this subsection;

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

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

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

8 (iv) Finance, including:

9 (A) An analysis of funding capability to judge needs against
10 probable funding resources;

11 (B) A multiyear financing plan based on the needs identified in the
12 comprehensive plan, the appropriate parts of which shall serve as the
13 basis for the six-year street, road, or transit program required by RCW
14 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
15 for public transportation systems. The multiyear financing plan should
16 be coordinated with the six-year improvement program developed by the
17 department of transportation as required by RCW 47.05.030;

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

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

25 (vi) Demand-management strategies.

26 (b) After adoption of the comprehensive plan by jurisdictions
27 required to plan or who choose to plan under RCW 36.70A.040, local
28 jurisdictions must adopt and enforce ordinances which prohibit
29 development approval if the development causes the level of service on
30 a locally owned transportation facility to decline below the standards
31 adopted in the transportation element of the comprehensive plan, unless
32 transportation improvements or strategies to accommodate the impacts of
33 development are made concurrent with the development. These strategies
34 may include increased public transportation service, ride sharing
35 programs, demand management, and other transportation systems
36 management strategies. For the purposes of this subsection (6)
37 "concurrent with the development" shall mean that improvements or
38 strategies are in place at the time of development, or that a financial

1 commitment is in place to complete the improvements or strategies
2 within six years.

3 (c) The transportation element described in this subsection (6),
4 and the six-year plans required by RCW 35.77.010 for cities, RCW
5 36.81.121 for counties, RCW 35.58.2795 for public transportation
6 systems, and RCW 47.05.030 for the state, must be consistent.

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