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HOUSE BILL 2079

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State of Washington                      59th Legislature                      2005 Regular Session

By Representative Simpson

Read first time 02/16/2005. Referred to Committee on Local Government.

1            AN ACT Relating to establishing compliance tiers for review and  
2 revision requirements mandated by RCW 36.70A.130; amending RCW  
3 36.70A.130; providing an effective date; and declaring an emergency.

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

5            **Sec. 1.** RCW 36.70A.130 and 2002 c 320 s 1 are each amended to read  
6 as follows:

7            (1)(a) Each comprehensive land use plan and development regulations  
8 shall be subject to (~~continuing~~) review and evaluation by the county  
9 or city that adopted them. Except as otherwise provided, a county or  
10 city shall take legislative action to review and, if needed, revise its  
11 comprehensive land use plan and development regulations to ensure the  
12 plan and regulations comply with the requirements of this chapter  
13 according to the time periods specified in subsection (4) of this  
14 section.

15            (b) Except as otherwise provided, a county or city not planning  
16 under RCW 36.70A.040 shall take action to review and, if needed, revise  
17 its policies and development regulations regarding critical areas and  
18 natural resource lands adopted according to this chapter to ensure  
19 these policies and regulations comply with the requirements of this

1 chapter according to the time periods specified in subsection (4) of  
2 this section. Legislative action means the adoption of a resolution or  
3 ordinance following notice and a public hearing indicating at a  
4 minimum, a finding that a review and evaluation has occurred and  
5 identifying the revisions made, or that a revision was not needed and  
6 the reasons therefore. The review and evaluation required by this  
7 subsection may be combined with the review required by subsection (3)  
8 of this section.

9 (c) The review and evaluation required by this subsection shall  
10 include, but is not limited to, consideration of critical area  
11 ordinances and, if planning under RCW 36.70A.040, an analysis of the  
12 population allocated to a city or county from the most recent ten-year  
13 population forecast by the office of financial management.

14 (~~(b)~~) (d) Any amendment of or revision to a comprehensive land  
15 use plan shall conform to this chapter. Any amendment of or revision  
16 to development regulations shall be consistent with and implement the  
17 comprehensive plan.

18 (2)(a) Each county and city shall establish and broadly disseminate  
19 to the public a public participation program consistent with RCW  
20 36.70A.035 and 36.70A.140 that identifies procedures and schedules  
21 whereby updates, proposed amendments, or revisions of the comprehensive  
22 plan are considered by the governing body of the county or city no more  
23 frequently than once every year. "Updates" means to review and revise,  
24 if needed, according to subsection (1) of this section, and the time  
25 periods specified in subsection (4) of this section or in accordance  
26 with the provisions of subsection (5) of this section. Amendments may  
27 be considered more frequently than once per year under the following  
28 circumstances:

29 (i) The initial adoption of a subarea plan that does not modify the  
30 comprehensive plan policies and designations applicable to the subarea;

31 (ii) The adoption or amendment of a shoreline master program under  
32 the procedures set forth in chapter 90.58 RCW; and

33 (iii) The amendment of the capital facilities element of a  
34 comprehensive plan that occurs concurrently with the adoption or  
35 amendment of a county or city budget.

36 (b) Except as otherwise provided in (a) of this subsection, all  
37 proposals shall be considered by the governing body concurrently so the  
38 cumulative effect of the various proposals can be ascertained.

1 However, after appropriate public participation a county or city may  
2 adopt amendments or revisions to its comprehensive plan that conform  
3 with this chapter whenever an emergency exists or to resolve an appeal  
4 of a comprehensive plan filed with a growth management hearings board  
5 or with the court.

6 (3)(a) Each county that designates urban growth areas under RCW  
7 36.70A.110 shall review, at least every ten years, its designated urban  
8 growth area or areas, and the densities permitted within both the  
9 incorporated and unincorporated portions of each urban growth area. In  
10 conjunction with this review by the county, each city located within an  
11 urban growth area shall review the densities permitted within its  
12 boundaries, and the extent to which the urban growth occurring within  
13 the county has located within each city and the unincorporated portions  
14 of the urban growth areas.

15 (b) The county comprehensive plan designating urban growth areas,  
16 and the densities permitted in the urban growth areas by the  
17 comprehensive plans of the county and each city located within the  
18 urban growth areas, shall be revised to accommodate the urban growth  
19 projected to occur in the county for the succeeding twenty-year period.

20 (c) The review required by this subsection may be combined with the  
21 review and evaluation required by RCW 36.70A.215.

22 (4) The department shall establish a schedule for counties and  
23 cities to take action to review and, if needed, revise their  
24 comprehensive plans and development regulations to ensure the plan and  
25 regulations comply with the requirements of this chapter. Except as  
26 provided in subsection (5) of this section, the schedule established by  
27 the department shall provide for the reviews and evaluations to be  
28 completed as follows:

29 (a) On or before December 1, 2004, and every ((seven)) ten years  
30 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,  
31 Snohomish, Thurston, and Whatcom counties and the cities within those  
32 counties;

33 (b) On or before December 1, 2005, and every ((seven)) ten years  
34 thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and  
35 Skamania counties and the cities within those counties;

36 (c) On or before December 1, 2006, and every ((seven)) ten years  
37 thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and  
38 Yakima counties and the cities within those counties; and

1 (d) On or before December 1, 2007, and every (~~seven~~) ten years  
2 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,  
3 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,  
4 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities  
5 within those counties.

6 (5)(a) A county or city not planning under RCW 36.70A.040 may defer  
7 its review and revision requirements pursuant to subsection (1) of this  
8 section if the county or city is in compliance with the provisions of  
9 this chapter regarding critical areas and natural resource lands on the  
10 earliest applicable date specified in subsection (4) of this section.

11 (b) A county planning under RCW 36.70A.040 may defer its review and  
12 revision requirements pursuant to subsection (1) of this section if:

13 (i) The county has a population of fewer than seventy-five thousand  
14 two years before the applicable date specified in subsection (4) of  
15 this section;

16 (ii) The population of the county has increased by seventeen  
17 percent or fewer during the ten-year period concluding two years before  
18 the applicable date provided in subsection (4) of this section; and

19 (iii) The county is in compliance with the provisions of this  
20 chapter regarding critical areas and natural resource lands on the  
21 earliest applicable date specified in subsection (4) of this section.

22 (c) A city planning under RCW 36.70A.040 within a county that is  
23 not subject to the provisions of RCW 36.70A.215 may defer its review  
24 and revision requirements pursuant to subsection (1) of this section  
25 if:

26 (i) The city has fewer than five thousand people two years before  
27 the applicable date specified in subsection (4) of this section;

28 (ii) The population of the city has increased by seventeen percent  
29 or fewer during the ten-year period concluding two years before the  
30 applicable date specified in subsection (4) of this section;

31 (iii) The urban growth area established under RCW 36.70A.110 within  
32 which the city is located has not been enlarged since its adoption or  
33 the last update required by this chapter; and

34 (iv) The city is in compliance with the provisions of this chapter  
35 regarding critical areas and natural resource lands on the earliest  
36 applicable date specified in subsection (4) of this section.

37 (d) A city planning under RCW 36.70A.040 within a county that is

1 subject to the provisions of RCW 36.70A.215 may defer its review and  
2 revision requirements pursuant to subsection (1) of this section if:

3 (i) The city has fewer than fifteen hundred people two years before  
4 the applicable date specified in subsection (4) of this section;

5 (ii) The population of the city has increased by seventeen percent  
6 or fewer during the ten-year period concluding two years before the  
7 applicable date specified in subsection (4) of this section;

8 (iii) The urban growth area established under RCW 36.70A.110 within  
9 which the city is located has not been enlarged since its adoption or  
10 the last update required by this chapter; and

11 (iv) The city is in compliance with the provisions of this chapter  
12 regarding critical areas and natural resource lands on the earliest  
13 applicable date specified in subsection (4) of this section.

14 (e)(i) As used in this section, "defer" or "deferral" means the  
15 jurisdiction may satisfy the review and revision requirements pursuant  
16 to subsection (1) of this section twenty years after the applicable  
17 dates specified in subsection (4) of this section. An option to defer  
18 may not be invoked consecutively.

19 (ii) Counties and cities that are not in compliance with the  
20 provisions of this chapter or chapter 90.58 or 43.21C RCW as provided  
21 by RCW 36.70A.300(3)(b) or 36.70A.330 are not eligible for a deferral  
22 under this subsection (5).

23 (iii) Counties and cities eligible for a deferral as provided by  
24 this subsection (5), unless providing written notice of the contrary to  
25 the department, are presumed to be invoking the option to defer. These  
26 counties and cities, however, must notify the department of their  
27 deferral intentions on or before the earliest applicable date specified  
28 in subsection (4) of this section.

29 (iv) The department shall keep and maintain a file of jurisdictions  
30 meeting the deferral criteria provided in this subsection (5).

31 (f) Population determinations under this subsection (5) shall be  
32 made using population determinations produced by the office of  
33 financial management as required by chapter 43.62 RCW.

34 (6)(a) Nothing in this section precludes a county or city from  
35 conducting the review and evaluation required by this section before  
36 the time limits established in subsection (4) of this section.  
37 Counties and cities may begin this process early and may be eligible

1 for grants from the department, subject to available funding, if they  
2 elect to do so.

3 (b) State agencies are encouraged to provide technical assistance  
4 to the counties and cities in the review of critical area ordinances,  
5 comprehensive plans, and development regulations.

6 ~~((+6))~~ (c)(i) The department shall, in coordination with the  
7 department of ecology and the department of fish and wildlife, compile  
8 sample policies and regulations that provide guidance to cities  
9 invoking the option to defer under subsection (5) of this section. The  
10 policies and regulations shall provide guidance to these cities  
11 pertaining to compliance with the provisions of this chapter regarding  
12 critical areas and natural resource lands.

13 (ii) The policies and regulations shall be distributed by the  
14 department to requesting cities by September 1, 2005, and, as  
15 appropriate, each subsequent year.

16 (iii) Cities adhering to the provisions of these policies and  
17 regulations may request defense assistance from the applicable  
18 department or departments when a substantive challenge to a  
19 comprehensive plan or development regulation adopted in accordance with  
20 the provisions of these policies and regulations is filed pursuant to  
21 RCW 36.70A.280. The applicable department or departments shall honor  
22 these defense assistance requests.

23 (7) A county or city subject to the time periods in subsection  
24 (4)(a) of this section that, pursuant to an ordinance adopted by the  
25 county or city establishing a schedule for periodic review of its  
26 comprehensive plan and development regulations, has conducted a review  
27 and evaluation of its comprehensive plan and development regulations  
28 and, on or after January 1, 2001, has taken action in response to that  
29 review and evaluation shall be deemed to have conducted the first  
30 review required by subsection (4)(a) of this section. Subsequent  
31 review and evaluation by the county or city of its comprehensive plan  
32 and development regulations shall be conducted in accordance with the  
33 time periods established under subsection (4)(a) of this section.

34 ~~((+7))~~ (8)(a) The requirements imposed on counties and cities  
35 under this section shall be considered "requirements of this chapter"  
36 under the terms of RCW 36.70A.040(1).

37 (b) Only those counties and cities in compliance with the schedules

1 in this section shall have the requisite authority to receive grants,  
2 loans, pledges, or financial guarantees from those accounts established  
3 in RCW 43.155.050 and 70.146.030.

4 (c) Counties and cities that received grants, loans, pledges, or  
5 financial guarantees from the department to complete the requirements  
6 imposed under this section and that invoke the option to defer under  
7 subsection (5) of this section must refund grants, loans, pledges, or  
8 financial guarantees to the department provided for responsibilities  
9 that are being deferred. All refunds from a deferring county or city  
10 must be returned to the department before the earliest applicable date  
11 specified in subsection (4) of this section.

12 (d) Only those counties and cities in compliance with the schedules  
13 in this section shall receive preference for grants or loans subject to  
14 the provisions of RCW 43.17.250.

15 NEW SECTION. Sec. 2. This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of the  
17 state government and its existing public institutions, and takes effect  
18 July 1, 2005.

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