
HOUSE BILL 2216

State of Washington 59th Legislature 2005 Regular Session

By Representatives Tom, B. Sullivan and DeBolt

Read first time 02/24/2005. Referred to Committee on Local Government.

1 AN ACT Relating to growth management planning; and amending RCW
2 36.70A.030, 36.70A.210, and 36.70A.215.

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

4 **Sec. 1.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read
5 as follows:

6 (~~Unless the context clearly requires otherwise,~~) The definitions
7 in this section apply throughout this chapter unless the context
8 clearly requires otherwise.

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

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

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

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

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

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

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

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

36 (9) "Geologically hazardous areas" means areas that because of
37 their susceptibility to erosion, sliding, earthquake, or other

1 geological events, are not suited to the siting of commercial,
2 residential, or industrial development consistent with public health or
3 safety concerns.

4 (10) "Land suitable for development" means all vacant, partially
5 used, and underutilized parcels that are: (a) Designated for
6 commercial, industrial, or residential use; (b) not intended for public
7 use; and (c) not constrained by critical areas in a way that limits
8 development potential and makes new construction on a parcel
9 unfeasible.

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

14 ~~((+11))~~ (12) "Minerals" include gravel, sand, and valuable
15 metallic substances.

16 ~~((+12))~~ (13) "Performance measures" means an indicator providing
17 consistent and reliable information over time to help gauge how a
18 jurisdiction is achieving specified performance results. For purposes
19 of this subsection, "indicator" means a quantifiable measurement or
20 index.

21 (14) "Public facilities" include streets, roads, highways,
22 sidewalks, street and road lighting systems, traffic signals, domestic
23 water systems, storm and sanitary sewer systems, parks and recreational
24 facilities, and schools.

25 ~~((+13))~~ (15) "Public services" include fire protection and
26 suppression, law enforcement, public health, education, recreation,
27 environmental protection, and other governmental services.

28 ~~((+14))~~ (16) "Reasonable measures" means comprehensive planning
29 policies and development regulations that are likely to increase
30 consistency with this chapter and the countywide planning policies and
31 comprehensive plan.

32 (17) "Rural character" refers to the patterns of land use and
33 development established by a county in the rural element of its
34 comprehensive plan:

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

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

- 1 (c) That provide visual landscapes that are traditionally found in
- 2 rural areas and communities;
- 3 (d) That are compatible with the use of the land by wildlife and
- 4 for fish and wildlife habitat;
- 5 (e) That reduce the inappropriate conversion of undeveloped land
- 6 into sprawling, low-density development;
- 7 (f) That generally do not require the extension of urban
- 8 governmental services; and
- 9 (g) That are consistent with the protection of natural surface
- 10 water flows and ground water and surface water recharge and discharge
- 11 areas.

12 ~~((+15+))~~ (18) "Rural counties" has the same meaning as in RCW

13 82.14.370(5).

14 (19) "Rural development" refers to development outside the urban

15 growth area and outside agricultural, forest, and mineral resource

16 lands designated pursuant to RCW 36.70A.170. Rural development can

17 consist of a variety of uses and residential densities, including

18 clustered residential development, at levels that are consistent with

19 the preservation of rural character and the requirements of the rural

20 element. Rural development does not refer to agriculture or forestry

21 activities that may be conducted in rural areas.

22 ~~((+16+))~~ (20) "Rural governmental services" or "rural services"

23 include those public services and public facilities historically and

24 typically delivered at an intensity usually found in rural areas, and

25 may include domestic water systems, fire and police protection

26 services, transportation and public transit services, and other public

27 utilities associated with rural development and normally not associated

28 with urban areas. Rural services do not include storm or sanitary

29 sewers, except as otherwise authorized by RCW 36.70A.110(4).

30 ~~((+17+))~~ (21) "Urban growth" refers to growth that makes intensive

31 use of land for the location of buildings, structures, and impermeable

32 surfaces to such a degree as to be incompatible with the primary use of

33 land for the production of food, other agricultural products, or fiber,

34 or the extraction of mineral resources, rural uses, rural development,

35 and natural resource lands designated pursuant to RCW 36.70A.170. A

36 pattern of more intensive rural development, as provided in RCW

37 36.70A.070(5)(d), is not urban growth. When allowed to spread over

38 wide areas, urban growth typically requires urban governmental

1 services. "Characterized by urban growth" refers to land having urban
2 growth located on it, or to land located in relationship to an area
3 with urban growth on it as to be appropriate for urban growth.

4 ~~((18))~~ (22) "Urban growth areas" means those areas designated by
5 a county pursuant to RCW 36.70A.110.

6 ~~((19))~~ (23) "Urban governmental services" or "urban services"
7 include those public services and public facilities at an intensity
8 historically and typically provided in cities, specifically including
9 storm and sanitary sewer systems, domestic water systems, street
10 cleaning services, fire and police protection services, public transit
11 services, and other public utilities associated with urban areas and
12 normally not associated with rural areas.

13 ~~((20))~~ (24) "Wetland" or "wetlands" means areas that are
14 inundated or saturated by surface water or ground water at a frequency
15 and duration sufficient to support, and that under normal circumstances
16 do support, a prevalence of vegetation typically adapted for life in
17 saturated soil conditions. Wetlands generally include swamps, marshes,
18 bogs, and similar areas. Wetlands do not include those artificial
19 wetlands intentionally created from nonwetland sites, including, but
20 not limited to, irrigation and drainage ditches, grass-lined swales,
21 canals, detention facilities, wastewater treatment facilities, farm
22 ponds, and landscape amenities, or those wetlands created after July 1,
23 1990, that were unintentionally created as a result of the construction
24 of a road, street, or highway. Wetlands may include those artificial
25 wetlands intentionally created from nonwetland areas created to
26 mitigate conversion of wetlands.

27 **Sec. 2.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to read
28 as follows:

29 (1) The legislature recognizes that counties are regional
30 governments within their boundaries, and cities are primary providers
31 of urban governmental services within urban growth areas. For the
32 purposes of this section, a "countywide planning policy" is a written
33 policy statement or statements used solely for establishing a
34 countywide framework from which county and city comprehensive plans are
35 developed and adopted pursuant to this chapter. This framework shall
36 ensure that city and county comprehensive plans are consistent as

1 required in RCW 36.70A.100. Nothing in this section shall be construed
2 to alter the land-use powers of cities.

3 (2) The legislative authority of a county that plans under RCW
4 36.70A.040 shall adopt a countywide planning policy in cooperation with
5 the cities located in whole or in part within the county as follows:

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

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

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

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

1 cities for failure to reach an agreement as provided in this section.
2 The governor shall specify the reason or reasons for the imposition of
3 any sanction.

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

14 (3) A countywide planning policy shall at a minimum, address the
15 following:

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

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

19 (c) Policies for siting public capital facilities of a countywide
20 or statewide nature, including transportation facilities of statewide
21 significance as defined in RCW 47.06.140;

22 (d) Policies for countywide transportation facilities and
23 strategies;

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

27 (f) Policies for joint county and city planning within urban growth
28 areas;

29 (g) Policies for countywide economic development and employment;
30 ((and))

31 (h) Policies for the allocation of projected population and
32 employment growth, and the number of residential units necessary to
33 accommodate growth in the urban and rural areas by jurisdiction;

34 (i) Policies establishing appropriate densities for urban and rural
35 areas;

36 (j) Performance measures to annually review progress towards
37 accommodating the twenty-year population and employment growth
38 projections established in the countywide planning policies;

1 (k) Policies that plan for and achieve a supply of housing
2 sufficient to accommodate employment growth; and

3 (l) An analysis of the fiscal impact.

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

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

15 (6) Cities and the governor may appeal an adopted countywide
16 planning policy to the growth management hearings board within sixty
17 days of the adoption of the countywide planning policy.

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

24 **Sec. 3.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to
25 read as follows:

26 (1) Subject to the limitations in subsection (~~(7)~~) (8) of this
27 section, a county shall adopt, in consultation with its cities,
28 countywide planning policies to establish a review and evaluation
29 program. This program shall be in addition to the requirements of RCW
30 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing
31 the review and evaluation program required by this section, the county
32 and its cities shall consider information from other appropriate
33 jurisdictions and sources. The purpose of the review and evaluation
34 program shall be to:

35 (a) Determine whether a county and its cities are achieving urban
36 densities within urban growth areas by comparing growth and development
37 assumptions, targets, and objectives contained in the countywide

1 planning policies and the county and city comprehensive plans with
2 actual growth and development that has occurred in the county and its
3 cities; and

4 (b) Identify and adopt reasonable measures, other than adjusting
5 urban growth areas, that will be taken to comply with the requirements
6 of this chapter, which are sufficient to accommodate residential and
7 nonresidential growth.

8 (2) The review and evaluation program shall:

9 (a) Encompass land uses and activities both within and outside of
10 urban growth areas and provide for annual collection and reporting of
11 data to the county on urban and rural land uses, development, critical
12 areas, and capital facilities to the extent necessary to determine the
13 quantity and type of land suitable for development, both for
14 residential and employment-based activities;

15 (b) Provide for evaluation of the data collected under (a) of this
16 subsection every five years as provided in subsection (3) of this
17 section. The first evaluation shall be completed not later than
18 September 1, 2002. The county and its cities may establish in the
19 countywide planning policies indicators, benchmarks, and other similar
20 criteria to use in conducting the evaluation;

21 (c) Provide for methods to resolve disputes among jurisdictions
22 relating to the countywide planning policies required by this section
23 and procedures to resolve inconsistencies in collection and analysis of
24 data; and

25 (d) Provide for the amendment of the countywide policies and county
26 and city comprehensive plans and development regulations as needed to
27 remedy an inconsistency identified through the evaluation required by
28 this section, or to bring these policies into compliance with the
29 requirements of this chapter.

30 (3) At a minimum, the evaluation component of the program required
31 by subsection (1) of this section shall:

32 (a) Require a joint report from each county and its cities
33 regarding regional growth patterns and trends, comparing employment,
34 housing growth, and market conditions; and compiling data on new
35 development. The report shall:

36 (i) Evaluate whether or not the zoning and development regulations
37 allow development at the densities sufficient to accommodate the
38 adopted population and employment projections;

1 (ii) Highlight the reasons for the difference between the planned
2 outcomes and actual performance, such as market and other factors
3 affecting the achievement of planned outcomes; and

4 (iii) Indicate reasonable and appropriate actions adopted to
5 encourage growth to occur sufficient to accommodate residential and
6 nonresidential needs;

7 (b) Determine whether there is sufficient land suitable ((land))
8 for development to accommodate the countywide population projection
9 established for the county pursuant to RCW 43.62.035 and the subsequent
10 population allocations within the county and between the county and its
11 cities and the requirements of RCW 36.70A.110;

12 ~~((b))~~ (c) Determine the net number and types of new residential
13 dwelling units; the actual density of housing that has been constructed
14 ((and)); the square footage of new nonresidential development
15 permitted; the actual amount of land developed for commercial and
16 industrial uses; the estimated net number of new jobs created
17 countywide; and the amount of known environmentally sensitive land and
18 lands that cannot be built upon within the urban growth area since the
19 adoption of a comprehensive plan under this chapter or since the last
20 periodic evaluation as required by subsection (1) of this section; and

21 ~~((e))~~ (d) Based on the actual density of development as
22 determined under ~~((b))~~ (c) of this subsection, review commercial,
23 industrial, and housing needs by type and density range to determine
24 the amount of land needed for commercial, industrial, and housing for
25 the remaining portion of the twenty-year planning period used in the
26 most recently adopted comprehensive plan.

27 (4) If the evaluation required by subsection (3) of this section
28 demonstrates an inconsistency between what has occurred since the
29 adoption of the countywide planning policies and the county and city
30 comprehensive plans and development regulations and what was envisioned
31 in those policies and plans and the planning goals and the requirements
32 of this chapter, as the inconsistency relates to the evaluation factors
33 specified in subsection (3) of this section, ~~((the county and its~~
34 ~~cities)) or demonstrates that the county or any city is not achieving~~
35 the land use designations and densities planned for the jurisdiction in
36 its comprehensive plan based on the evaluation factors specified in
37 subsection (3) of this section, the county or city shall identify and

1 adopt reasonable measures in order to accommodate the demand for
2 residential units and nonresidential growth during the subsequent
3 five-year period.

4 (a) If actions to achieve consistency are necessary, the county or
5 city shall revise its comprehensive land use plan and development or
6 other regulations, or take other actions necessary to increase
7 consistency, and ensure sufficient land suitable for development with
8 applicable development regulations to accommodate projected residential
9 units necessary for population growth, and achieved densities projected
10 for the jurisdiction in the countywide planning policy and its
11 comprehensive plan. The county or city shall adopt and implement
12 appropriate measures within one year of conducting the evaluation under
13 this section that are reasonably likely to increase consistency during
14 the subsequent five-year period. If necessary, a county, in
15 consultation with its cities as required by RCW 36.70A.210, shall adopt
16 amendments to countywide planning policies to increase consistency.
17 The county and its cities shall annually monitor the measures adopted
18 under this subsection to determine their effect and may revise or
19 rescind them as appropriate.

20 (b) A county or city adopting actions shall, at a minimum,
21 demonstrate that it has considered whether the urban land designated
22 for residential and nonresidential uses is zoned at density ranges with
23 applicable development regulations that are reasonably likely to be
24 achieved by the market.

25 (c) Actions to increase consistency in planned and achieved growth
26 may include, but are not limited to, the following:

27 (i) Incentives to encourage new development consistent with the
28 local plan;

29 (ii) Funding of infrastructure and amenities to attract
30 development;

31 (iii) Changes in land use regulations and zoning designations for
32 land within the boundaries of the jurisdiction in a manner that
33 encourages development to occur at densities sufficient to accommodate
34 projected residential and nonresidential growth;

35 (iv) Outreach programs to encourage developers to build the type of
36 development sought in the jurisdiction's plan or development
37 regulations; and

1 (v) Improved procedures to reduce the time it takes the
2 jurisdiction to issue permits.

3 (5) Countywide planning policies may include additional incentive
4 provisions and enforcement measures to accommodate growth and achieve
5 goals.

6 (6)(a) Not later than July 1, 1998, the department shall prepare a
7 list of methods used by counties and cities in carrying out the types
8 of activities required by this section. The department shall provide
9 this information and appropriate technical assistance to counties and
10 cities required to or choosing to comply with the provisions of this
11 section.

12 (b) By December 31, 2007, the department shall submit to the
13 appropriate committees of the legislature a report analyzing the
14 effectiveness of the activities described and measures taken by the
15 counties and cities in this section in achieving the goals envisioned
16 by the countywide planning policies and the comprehensive plans and
17 development regulations of the counties and cities.

18 ~~((+6))~~ (7) From funds appropriated by the legislature for this
19 purpose, the department shall provide grants to counties, cities, and
20 regional planning organizations required under subsection ~~((+7))~~ (8)
21 of this section to conduct the review and perform the evaluation
22 required by this section.

23 ~~((+7))~~ (8) The provisions of this section shall apply to counties,
24 and the cities within those counties, that were greater than one
25 hundred fifty thousand in population in 1995 as determined by office of
26 financial management population estimates and that are located west of
27 the crest of the Cascade mountain range. Any other county planning
28 under RCW 36.70A.040 may carry out the review, evaluation, and
29 amendment programs and procedures as provided in this section.

--- END ---