
HOUSE BILL 2217

State of Washington 59th Legislature 2005 Regular Session

By Representative Simpson

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.115, 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 in
7 this section apply throughout this chapter.

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

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

18 (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; (c) not constrained by critical areas in a way that limits
8 development potential and makes new construction on a parcel
9 unfeasible; and (d) served by infrastructure currently available and
10 adequate or planned for within the twenty-year planning period.

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (g) That are consistent with the protection of natural surface
12 water flows and ground water and surface water recharge and discharge
13 areas.

14 ~~((15))~~ (18) "Rural counties" has the same meaning as in RCW
15 82.14.370(5).

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

24 ~~((16))~~ (20) "Rural governmental services" or "rural services"
25 include those public services and public facilities historically and
26 typically delivered at an intensity usually found in rural areas, and
27 may include domestic water systems, fire and police protection
28 services, transportation and public transit services, and other public
29 utilities associated with rural development and normally not associated
30 with urban areas. Rural services do not include storm or sanitary
31 sewers, except as otherwise authorized by RCW 36.70A.110(4).

32 ~~((17))~~ (21) "Urban growth" refers to growth that makes intensive
33 use of land for the location of buildings, structures, and impermeable
34 surfaces to such a degree as to be incompatible with the primary use of
35 land for the production of food, other agricultural products, or fiber,
36 or the extraction of mineral resources, rural uses, rural development,
37 and natural resource lands designated pursuant to RCW 36.70A.170. A
38 pattern of more intensive rural development, as provided in RCW

1 36.70A.070(5)(d), is not urban growth. When allowed to spread over
2 wide areas, urban growth typically requires urban governmental
3 services. "Characterized by urban growth" refers to land having urban
4 growth located on it, or to land located in relationship to an area
5 with urban growth on it as to be appropriate for urban growth.

6 ~~((+18+))~~ (22) "Urban growth areas" means those areas designated by
7 a county pursuant to RCW 36.70A.110.

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

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

29 **Sec. 2.** RCW 36.70A.115 and 2003 c 333 s 1 are each amended to read
30 as follows:

31 Counties and cities that are required or choose to plan under RCW
32 36.70A.040 shall ensure that, taken collectively, adoption of and
33 amendments to their comprehensive plans and/or development regulations
34 provide sufficient capacity of land suitable for development within
35 their jurisdictions to accommodate their allocated housing and
36 employment growth, as adopted in the applicable countywide planning
37 policies and consistent with the twenty-year population forecast from

1 the office of financial management. When actions are taken that reduce
2 capacity to accommodate planned growth, the jurisdiction shall adopt
3 reasonable measures to increase the capacity lost by such actions.

4 **Sec. 3.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to read
5 as follows:

6 (1) The legislature recognizes that counties are regional
7 governments within their boundaries, and cities are primary providers
8 of urban governmental services within urban growth areas. For the
9 purposes of this section, a "countywide planning policy" is a written
10 policy statement or statements used solely for establishing a
11 countywide framework from which county and city comprehensive plans are
12 developed and adopted pursuant to this chapter. This framework shall
13 ensure that city and county comprehensive plans are consistent as
14 required in RCW 36.70A.100. Nothing in this section shall be construed
15 to alter the land-use powers of cities.

16 (2) The legislative authority of a county that plans under RCW
17 36.70A.040 shall adopt a countywide planning policy in cooperation with
18 the cities located in whole or in part within the county as follows:

19 (a) No later than sixty calendar days from July 16, 1991, the
20 legislative authority of each county that as of June 1, 1991, was
21 required or chose to plan under RCW 36.70A.040 shall convene a meeting
22 with representatives of each city located within the county for the
23 purpose of establishing a collaborative process that will provide a
24 framework for the adoption of a countywide planning policy. In other
25 counties that are required or choose to plan under RCW 36.70A.040, this
26 meeting shall be convened no later than sixty days after the date the
27 county adopts its resolution of intention or was certified by the
28 office of financial management.

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

35 (c) If a county fails for any reason to convene a meeting with
36 representatives of cities as required in (a) of this subsection, the

1 governor may immediately impose any appropriate sanction or sanctions
2 on the county from those specified under RCW 36.70A.340.

3 (d) If there is no agreement by October 1, 1991, in a county that
4 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,
5 or if there is no agreement within one hundred twenty days of the date
6 the county adopted its resolution of intention or was certified by the
7 office of financial management in any other county that is required or
8 chooses to plan under RCW 36.70A.040, the governor shall first inquire
9 of the jurisdictions as to the reason or reasons for failure to reach
10 an agreement. If the governor deems it appropriate, the governor may
11 immediately request the assistance of the department of community,
12 trade, and economic development to mediate any disputes that preclude
13 agreement. If mediation is unsuccessful in resolving all disputes that
14 will lead to agreement, the governor may impose appropriate sanctions
15 from those specified under RCW 36.70A.340 on the county, city, or
16 cities for failure to reach an agreement as provided in this section.
17 The governor shall specify the reason or reasons for the imposition of
18 any sanction.

19 (e) No later than July 1, 1992, the legislative authority of each
20 county that was required or chose to plan under RCW 36.70A.040 as of
21 June 1, 1991, or no later than fourteen months after the date the
22 county adopted its resolution of intention or was certified by the
23 office of financial management the county legislative authority of any
24 other county that is required or chooses to plan under RCW 36.70A.040,
25 shall adopt a countywide planning policy according to the process
26 provided under this section and that is consistent with the agreement
27 pursuant to (b) of this subsection, and after holding a public hearing
28 or hearings on the proposed countywide planning policy.

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

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

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

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

37 (d) Policies for countywide transportation facilities and
38 strategies;

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

4 (f) Policies for joint county and city planning within urban growth
5 areas;

6 (g) Policies for countywide economic development and employment;
7 (~~and~~))

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

11 (i) Policies establishing appropriate densities for urban and rural
12 areas;

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

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

18 (l) An analysis of the fiscal impact.

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

23 (5) Failure to adopt a countywide planning policy that meets the
24 requirements of this section may result in the imposition of a sanction
25 or sanctions on a county or city within the county, as specified in RCW
26 36.70A.340. In imposing a sanction or sanctions, the governor shall
27 specify the reasons for failure to adopt a countywide planning policy
28 in order that any imposed sanction or sanctions are fairly and
29 equitably related to the failure to adopt a countywide planning policy.

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

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

1 **Sec. 4.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to
2 read as follows:

3 (1) Subject to the limitations in subsection (~~(7)~~) (8) of this
4 section, a county shall adopt, in consultation with its cities,
5 countywide planning policies to establish a review and evaluation
6 program. This program shall be in addition to the requirements of RCW
7 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing
8 the review and evaluation program required by this section, the county
9 and its cities shall consider information from other appropriate
10 jurisdictions and sources. The purpose of the review and evaluation
11 program shall be to:

12 (a) Determine whether a county and its cities are achieving urban
13 densities within urban growth areas by comparing growth and development
14 assumptions, targets, and objectives contained in the countywide
15 planning policies and the county and city comprehensive plans with
16 actual growth and development that has occurred in the county and its
17 cities; and

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

22 (2) The review and evaluation program shall:

23 (a) Encompass land uses and activities both within and outside of
24 urban growth areas and provide for annual collection and reporting of
25 data to the county on urban and rural land uses, development, critical
26 areas, and capital facilities to the extent necessary to determine the
27 quantity and type of land suitable for development, both for
28 residential and employment-based activities;

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

35 (c) Provide for methods to resolve disputes among jurisdictions
36 relating to the countywide planning policies required by this section
37 and procedures to resolve inconsistencies in collection and analysis of
38 data; and

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

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

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

12 (i) Evaluate whether or not the zoning and development regulations
13 allow development at the densities sufficient to accommodate the
14 adopted population and employment projections;

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

18 (iii) Indicate reasonable and appropriate actions adopted to
19 encourage growth to occur sufficient to accommodate residential and
20 nonresidential needs;

21 (b) Determine whether there is sufficient land suitable (~~land~~)
22 for development to accommodate the countywide population projection
23 established for the county pursuant to RCW 43.62.035 and the subsequent
24 population allocations within the county and between the county and its
25 cities and the requirements of RCW 36.70A.110;

26 (~~(b)~~) (c) Determine the net number and types of new residential
27 dwelling units; the actual density of housing that has been constructed
28 (~~and~~); the square footage of new nonresidential development
29 permitted; the actual amount of land developed for commercial and
30 industrial uses; the estimated net number of new jobs created
31 countywide; and the amount of known environmentally sensitive land and
32 lands that cannot be built upon within the urban growth area since the
33 adoption of a comprehensive plan under this chapter or since the last
34 periodic evaluation as required by subsection (1) of this section; and

35 (~~(c)~~) (d) Based on the actual density of development as
36 determined under (~~(b)~~) (c) of this subsection, review commercial,
37 industrial, and housing needs by type and density range to determine

1 the amount of land needed for commercial, industrial, and housing for
2 the remaining portion of the twenty-year planning period used in the
3 most recently adopted comprehensive plan.

4 (4) If the evaluation required by subsection (3) of this section
5 demonstrates an inconsistency between what has occurred since the
6 adoption of the countywide planning policies and the county and city
7 comprehensive plans and development regulations and what was envisioned
8 in those policies and plans and the planning goals and the requirements
9 of this chapter, as the inconsistency relates to the evaluation factors
10 specified in subsection (3) of this section(~~(, the county and its~~
11 ~~cities))~~; or demonstrates that the county or any city is not achieving
12 the land use designations and densities planned for the jurisdiction in
13 its comprehensive plan based on the evaluation factors specified in
14 subsection (3) of this section, the county or city shall identify and
15 adopt reasonable measures in order to accommodate the demand for
16 residential units and nonresidential growth during the subsequent five-
17 year period.

18 (a) If actions to achieve consistency are necessary, the county or
19 city shall revise its comprehensive land use plan and development or
20 other regulations, or take other actions necessary to increase
21 consistency, and ensure sufficient land suitable for development with
22 applicable development regulations to accommodate projected residential
23 units necessary for population growth, and achieved densities projected
24 for the jurisdiction in the countywide planning policy and its
25 comprehensive plan. The county or city shall adopt and implement
26 appropriate measures within one year of conducting the evaluation under
27 this section that are reasonably likely to increase consistency during
28 the subsequent five-year period. If necessary, a county, in
29 consultation with its cities as required by RCW 36.70A.210, shall adopt
30 amendments to countywide planning policies to increase consistency.
31 The county and its cities shall annually monitor the measures adopted
32 under this subsection to determine their effect and may revise or
33 rescind them as appropriate.

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

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

3 (i) Incentives to encourage new development consistent with the
4 local plan;

5 (ii) Funding of infrastructure and amenities to attract
6 development;

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

11 (iv) Outreach programs to encourage developers to build the type of
12 development sought in the jurisdiction's plan or development
13 regulations; and

14 (v) Improved procedures to reduce the time it takes the
15 jurisdiction to issue permits.

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

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

25 (b) By December 31, 2007, the department shall submit to the
26 appropriate committees of the legislature a report analyzing the
27 effectiveness of the activities described and measures taken by the
28 counties and cities in this section in achieving the goals envisioned
29 by the countywide planning policies and the comprehensive plans and
30 development regulations of the counties and cities.

31 ~~((+6))~~ (7) From funds appropriated by the legislature for this
32 purpose, the department shall provide grants to counties, cities, and
33 regional planning organizations required under subsection ~~((+7))~~ (8)
34 of this section to conduct the review and perform the evaluation
35 required by this section.

36 ~~((+7))~~ (8) The provisions of this section shall apply to counties,
37 and the cities within those counties, that were greater than one
38 hundred fifty thousand in population in 1995 as determined by office of

1 financial management population estimates and that are located west of
2 the crest of the Cascade mountain range. Any other county planning
3 under RCW 36.70A.040 may carry out the review, evaluation, and
4 amendment programs and procedures as provided in this section.

--- END ---