
ENGROSSED HOUSE BILL 2241

State of Washington **59th Legislature** **2005 Regular Session**

By Representatives Dunshee, Lovick and O'Brien

Read first time 02/25/2005. Referred to Committee on Local Government.

1 AN ACT Relating to limited recreational activities, playing fields,
2 and supporting facilities existing before July 1, 2004, on designated
3 recreational lands in jurisdictions planning under RCW 36.70A.040;
4 amending RCW 36.70A.030, 36.70A.060, and 36.70A.130; adding new
5 sections to chapter 36.70A RCW; creating a new section; providing an
6 expiration date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature recognizes the need for
9 playing fields and supporting facilities for sports played on grass as
10 well as the need to preserve agricultural land of long-term commercial
11 significance. With thoughtful and deliberate planning, and adherence
12 to the goals and requirements of the growth management act, both needs
13 can be met.

14 The legislature acknowledges the state's interest in preserving the
15 agricultural industry and family farms, and recognizes that the state's
16 rich and productive lands enable agricultural production. Because of
17 its unique qualities and limited quantities, designated agricultural
18 land of long-term commercial significance is best suited for
19 agricultural and farm uses, not recreational uses.

1 The legislature acknowledges also that certain local governments
2 have either failed or neglected to properly plan for population growth
3 and the sufficient number of playing fields and supporting facilities
4 needed to accommodate this growth. The legislature recognizes that
5 citizens responded to this lack of planning, fields, and supporting
6 facilities by constructing nonconforming fields and facilities on
7 agricultural lands of long-term commercial significance. It is the
8 intent of the legislature to permit the continued existence and use of
9 these fields and facilities in very limited circumstances if specific
10 criteria are satisfied within a limited time frame. It is also the
11 intent of the legislature to grant this authorization without
12 diminishing the designation and preservation requirements of the growth
13 management act pertaining to Washington's invaluable farmland.

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

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

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

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

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

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

33 (5) "Critical areas" include the following areas and ecosystems:

34 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
35 used for potable water; (c) fish and wildlife habitat conservation
36 areas; (d) frequently flooded areas; and (e) geologically hazardous
37 areas.

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

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

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

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

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

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

1 (12) "Public facilities" include streets, roads, highways,
2 sidewalks, street and road lighting systems, traffic signals, domestic
3 water systems, storm and sanitary sewer systems, parks and recreational
4 facilities, and schools.

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

8 (14) "Recreational land" means land so designated under section 4
9 of this act and that, immediately prior to this designation, was
10 designated as agricultural land of long-term commercial significance
11 under RCW 36.70A.170. Recreational land must have playing fields and
12 supporting facilities existing before July 1, 2004, for sports played
13 on grass playing fields.

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

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

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

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

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

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

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

29 (g) That are consistent with the protection of natural surface
30 water flows and ground water and surface water recharge and discharge
31 areas.

32 ((+15+)) (16) "Rural development" refers to development outside the
33 urban growth area and outside agricultural, forest, and mineral
34 resource lands designated pursuant to RCW 36.70A.170. Rural
35 development can consist of a variety of uses and residential densities,
36 including clustered residential development, at levels that are
37 consistent with the preservation of rural character and the

1 requirements of the rural element. Rural development does not refer to
2 agriculture or forestry activities that may be conducted in rural
3 areas.

4 ~~((+16+))~~ (17) "Rural governmental services" or "rural services"
5 include those public services and public facilities historically and
6 typically delivered at an intensity usually found in rural areas, and
7 may include domestic water systems, fire and police protection
8 services, transportation and public transit services, and other public
9 utilities associated with rural development and normally not associated
10 with urban areas. Rural services do not include storm or sanitary
11 sewers, except as otherwise authorized by RCW 36.70A.110(4).

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

24 ~~((+18+))~~ (19) "Urban growth areas" means those areas designated by
25 a county pursuant to RCW 36.70A.110.

26 ~~((+19+))~~ (20) "Urban governmental services" or "urban services"
27 include those public services and public facilities at an intensity
28 historically and typically provided in cities, specifically including
29 storm and sanitary sewer systems, domestic water systems, street
30 cleaning services, fire and police protection services, public transit
31 services, and other public utilities associated with urban areas and
32 normally not associated with rural areas.

33 ~~((+20+))~~ (21) "Wetland" or "wetlands" means areas that are
34 inundated or saturated by surface water or ground water at a frequency
35 and duration sufficient to support, and that under normal circumstances
36 do support, a prevalence of vegetation typically adapted for life in
37 saturated soil conditions. Wetlands generally include swamps, marshes,
38 bogs, and similar areas. Wetlands do not include those artificial

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

9 **Sec. 3.** RCW 36.70A.060 and 1998 c 286 s 5 are each amended to read
10 as follows:

11 (1)(a) Except as provided in section 4 of this act, each county
12 that is required or chooses to plan under RCW 36.70A.040, and each city
13 within such county, shall adopt development regulations on or before
14 September 1, 1991, to assure the conservation of agricultural, forest,
15 and mineral resource lands designated under RCW 36.70A.170.
16 Regulations adopted under this subsection may not prohibit uses legally
17 existing on any parcel prior to their adoption and shall remain in
18 effect until the county or city adopts development regulations pursuant
19 to RCW 36.70A.040. Such regulations shall assure that the use of lands
20 adjacent to agricultural, forest, or mineral resource lands shall not
21 interfere with the continued use, in the accustomed manner and in
22 accordance with best management practices, of these designated lands
23 for the production of food, agricultural products, or timber, or for
24 the extraction of minerals.

25 (b) Counties and cities shall require that all plats, short plats,
26 development permits, and building permits issued for development
27 activities on, or within five hundred feet of, lands designated as
28 agricultural lands, forest lands, or mineral resource lands, contain a
29 notice that the subject property is within or near designated
30 agricultural lands, forest lands, or mineral resource lands on which a
31 variety of commercial activities may occur that are not compatible with
32 residential development for certain periods of limited duration. The
33 notice for mineral resource lands shall also inform that an application
34 might be made for mining-related activities, including mining,
35 extraction, washing, crushing, stockpiling, blasting, transporting, and
36 recycling of minerals.

1 (2) Each county and city shall adopt development regulations that
2 protect critical areas that are required to be designated under RCW
3 36.70A.170. For counties and cities that are required or choose to
4 plan under RCW 36.70A.040, such development regulations shall be
5 adopted on or before September 1, 1991. For the remainder of the
6 counties and cities, such development regulations shall be adopted on
7 or before March 1, 1992.

8 (3) Such counties and cities shall review these designations and
9 development regulations when adopting their comprehensive plans under
10 RCW 36.70A.040 and implementing development regulations under RCW
11 36.70A.120 and may alter such designations and development regulations
12 to insure consistency.

13 (4) Forest land and agricultural land located within urban growth
14 areas shall not be designated by a county or city as forest land or
15 agricultural land of long-term commercial significance under RCW
16 36.70A.170 unless the city or county has enacted a program authorizing
17 transfer or purchase of development rights.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW
19 to read as follows:

20 (1)(a) The legislative authority of a county subject to the
21 provisions of RCW 36.70A.215 with a population fewer than one million
22 and a total market value of production greater than one hundred twenty-
23 five million dollars as reported by the United States department of
24 agriculture's 2002 census of agriculture county profile may, by
25 resolution, and in accordance with the requirements of RCW 36.70A.035
26 and 36.70A.140, designate agricultural lands designated pursuant to RCW
27 36.70A.170 as recreational lands. Lands eligible for designation as
28 recreational lands must not be in use for the commercial production of
29 food or other agricultural products and must have playing fields and
30 supporting facilities existing before July 1, 2004, for sports played
31 on grass playing fields.

32 (b) Designated recreational lands may be used only for athletic or
33 related activities, playing fields, and supporting facilities for
34 sports played on grass playing fields or for agricultural uses.

35 (c) The recreational lands designation shall supersede previous
36 designations and shall require an amendment to the comprehensive plan
37 prepared pursuant to RCW 36.70A.070.

1 (2) Lands eligible for designation as recreational land must be
2 registered by the property owner or owners with the county within which
3 the land is located no fewer than ninety days before being designated
4 as recreational land.

5 (3) Agricultural lands of long-term commercial significance
6 designated under RCW 36.70A.170: (a) That were purchased in full or in
7 part with public funds; or (b) with property rights or interests that
8 were purchased in full or in part with public funds,
9 may not be designated as recreational land.

10 (4) Playing fields and supporting facilities for sports played on
11 grass playing fields must comply with applicable permitting
12 requirements and development regulations. The size and capacity of the
13 playing fields and supporting facilities, irrespective of parcel size,
14 may not exceed the infrastructure capacity of the county within which
15 the fields and facilities are located.

16 (5) The designation of recreational land shall not affect other
17 lands designated under RCW 36.70A.170(1)(b), and shall not preclude
18 reversion to agricultural uses.

19 (6) This section expires June 30, 2006.

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

22 In accordance with sections 2 through 4 of this act and RCW
23 36.70A.130, playing fields and supporting facilities existing before
24 July 1, 2004, on designated recreational lands shall be considered in
25 compliance with the requirements of this chapter.

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

28 (1)(a) Each comprehensive land use plan and development regulations
29 shall be subject to continuing review and evaluation by the county or
30 city that adopted them. A county or city shall take legislative action
31 to review and, if needed, revise its comprehensive land use plan and
32 development regulations to ensure the plan and regulations comply with
33 the requirements of this chapter according to the time periods
34 specified in subsection (4) of this section. A county or city not
35 planning under RCW 36.70A.040 shall take action to review and, if
36 needed, revise its policies and development regulations regarding

1 critical areas and natural resource lands adopted according to this
2 chapter to ensure these policies and regulations comply with the
3 requirements of this chapter according to the time periods specified in
4 subsection (4) of this section. Legislative action means the adoption
5 of a resolution or ordinance following notice and a public hearing
6 indicating at a minimum, a finding that a review and evaluation has
7 occurred and identifying the revisions made, or that a revision was not
8 needed and the reasons therefore. The review and evaluation required
9 by this subsection may be combined with the review required by
10 subsection (3) of this section. The review and evaluation required by
11 this subsection shall include, but is not limited to, consideration of
12 critical area ordinances and, if planning under RCW 36.70A.040, an
13 analysis of the population allocated to a city or county from the most
14 recent ten-year population forecast by the office of financial
15 management.

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

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

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

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

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

37 (iv) Until June 30, 2006, the designation of recreational lands

1 under section 4 of this act. A county amending its comprehensive plan
2 pursuant to this subsection (2)(a)(iv) may not do so more frequently
3 than every eighteen months.

4 (b) Except as otherwise provided in (a) of this subsection, all
5 proposals shall be considered by the governing body concurrently so the
6 cumulative effect of the various proposals can be ascertained.
7 However, after appropriate public participation a county or city may
8 adopt amendments or revisions to its comprehensive plan that conform
9 with this chapter whenever an emergency exists or to resolve an appeal
10 of a comprehensive plan filed with a growth management hearings board
11 or with the court.

12 (3) Each county that designates urban growth areas under RCW
13 36.70A.110 shall review, at least every ten years, its designated urban
14 growth area or areas, and the densities permitted within both the
15 incorporated and unincorporated portions of each urban growth area. In
16 conjunction with this review by the county, each city located within an
17 urban growth area shall review the densities permitted within its
18 boundaries, and the extent to which the urban growth occurring within
19 the county has located within each city and the unincorporated portions
20 of the urban growth areas. The county comprehensive plan designating
21 urban growth areas, and the densities permitted in the urban growth
22 areas by the comprehensive plans of the county and each city located
23 within the urban growth areas, shall be revised to accommodate the
24 urban growth projected to occur in the county for the succeeding
25 twenty-year period. The review required by this subsection may be
26 combined with the review and evaluation required by RCW 36.70A.215.

27 (4) The department shall establish a schedule for counties and
28 cities to take action to review and, if needed, revise their
29 comprehensive plans and development regulations to ensure the plan and
30 regulations comply with the requirements of this chapter. The schedule
31 established by the department shall provide for the reviews and
32 evaluations to be completed as follows:

33 (a) On or before December 1, 2004, and every seven years
34 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,
35 Snohomish, Thurston, and Whatcom counties and the cities within those
36 counties;

37 (b) On or before December 1, 2005, and every seven years

1 thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and
2 Skamania counties and the cities within those counties;

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

6 (d) On or before December 1, 2007, and every seven years
7 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,
8 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,
9 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities
10 within those counties.

11 (5)(a) Nothing in this section precludes a county or city from
12 conducting the review and evaluation required by this section before
13 the time limits established in subsection (4) of this section.
14 Counties and cities may begin this process early and may be eligible
15 for grants from the department, subject to available funding, if they
16 elect to do so.

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

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

31 (7) The requirements imposed on counties and cities under this
32 section shall be considered "requirements of this chapter" under the
33 terms of RCW 36.70A.040(1). Only those counties and cities in
34 compliance with the schedules in this section shall have the requisite
35 authority to receive grants, loans, pledges, or financial guarantees
36 from those accounts established in RCW 43.155.050 and 70.146.030. Only
37 those counties and cities in compliance with the schedules in this

1 section shall receive preference for grants or loans subject to the
2 provisions of RCW 43.17.250.

3 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and takes effect
6 immediately.

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