
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 new sections; 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 The legislature recognizes also that many local governments face
15 difficult choices when determining whether to adequately fund needed
16 services or to provide outdoor recreational facilities that enhance the
17 health and quality of life of its citizenry. The legislature,
18 therefore, intends to establish a study committee on outdoor recreation
19 to examine relevant issues and seek long-term solutions for local
20 governments as they respond to growing needs for recreational
21 facilities.

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

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Adopt a comprehensive land use plan" means to enact a new
27 comprehensive land use plan or to update an existing comprehensive land
28 use plan.

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

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

8 (11) "Minerals" include gravel, sand, and valuable metallic
9 substances.

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

14 (13) "Public services" include fire protection and suppression, law
15 enforcement, public health, education, recreation, environmental
16 protection, and other governmental services.

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

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

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

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

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

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

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

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

1 (g) That are consistent with the protection of natural surface
2 water flows and ground water and surface water recharge and discharge
3 areas.

4 (~~(15)~~) (16) "Rural development" refers to development outside the
5 urban growth area and outside agricultural, forest, and mineral
6 resource lands designated pursuant to RCW 36.70A.170. Rural
7 development can consist of a variety of uses and residential densities,
8 including clustered residential development, at levels that are
9 consistent with the preservation of rural character and the
10 requirements of the rural element. Rural development does not refer to
11 agriculture or forestry activities that may be conducted in rural
12 areas.

13 (~~(16)~~) (17) "Rural governmental services" or "rural services"
14 include those public services and public facilities historically and
15 typically delivered at an intensity usually found in rural areas, and
16 may include domestic water systems, fire and police protection
17 services, transportation and public transit services, and other public
18 utilities associated with rural development and normally not associated
19 with urban areas. Rural services do not include storm or sanitary
20 sewers, except as otherwise authorized by RCW 36.70A.110(4).

21 (~~(17)~~) (18) "Urban growth" refers to growth that makes intensive
22 use of land for the location of buildings, structures, and impermeable
23 surfaces to such a degree as to be incompatible with the primary use of
24 land for the production of food, other agricultural products, or fiber,
25 or the extraction of mineral resources, rural uses, rural development,
26 and natural resource lands designated pursuant to RCW 36.70A.170. A
27 pattern of more intensive rural development, as provided in RCW
28 36.70A.070(5)(d), is not urban growth. When allowed to spread over
29 wide areas, urban growth typically requires urban governmental
30 services. "Characterized by urban growth" refers to land having urban
31 growth located on it, or to land located in relationship to an area
32 with urban growth on it as to be appropriate for urban growth.

33 (~~(18)~~) (19) "Urban growth areas" means those areas designated by
34 a county pursuant to RCW 36.70A.110.

35 (~~(19)~~) (20) "Urban governmental services" or "urban services"
36 include those public services and public facilities at an intensity
37 historically and typically provided in cities, specifically including
38 storm and sanitary sewer systems, domestic water systems, street

1 cleaning services, fire and police protection services, public transit
2 services, and other public utilities associated with urban areas and
3 normally not associated with rural areas.

4 ~~((+20+))~~ (21) "Wetland" or "wetlands" means areas that are
5 inundated or saturated by surface water or ground water at a frequency
6 and duration sufficient to support, and that under normal circumstances
7 do support, a prevalence of vegetation typically adapted for life in
8 saturated soil conditions. Wetlands generally include swamps, marshes,
9 bogs, and similar areas. Wetlands do not include those artificial
10 wetlands intentionally created from nonwetland sites, including, but
11 not limited to, irrigation and drainage ditches, grass-lined swales,
12 canals, detention facilities, wastewater treatment facilities, farm
13 ponds, and landscape amenities, or those wetlands created after July 1,
14 1990, that were unintentionally created as a result of the construction
15 of a road, street, or highway. Wetlands may include those artificial
16 wetlands intentionally created from nonwetland areas created to
17 mitigate conversion of wetlands.

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

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

34 (b) Counties and cities shall require that all plats, short plats,
35 development permits, and building permits issued for development
36 activities on, or within five hundred feet of, lands designated as
37 agricultural lands, forest lands, or mineral resource lands, contain a

1 notice that the subject property is within or near designated
2 agricultural lands, forest lands, or mineral resource lands on which a
3 variety of commercial activities may occur that are not compatible with
4 residential development for certain periods of limited duration. The
5 notice for mineral resource lands shall also inform that an application
6 might be made for mining-related activities, including mining,
7 extraction, washing, crushing, stockpiling, blasting, transporting, and
8 recycling of minerals.

9 (2) Each county and city shall adopt development regulations that
10 protect critical areas that are required to be designated under RCW
11 36.70A.170. For counties and cities that are required or choose to
12 plan under RCW 36.70A.040, such development regulations shall be
13 adopted on or before September 1, 1991. For the remainder of the
14 counties and cities, such development regulations shall be adopted on
15 or before March 1, 1992.

16 (3) Such counties and cities shall review these designations and
17 development regulations when adopting their comprehensive plans under
18 RCW 36.70A.040 and implementing development regulations under RCW
19 36.70A.120 and may alter such designations and development regulations
20 to insure consistency.

21 (4) Forest land and agricultural land located within urban growth
22 areas shall not be designated by a county or city as forest land or
23 agricultural land of long-term commercial significance under RCW
24 36.70A.170 unless the city or county has enacted a program authorizing
25 transfer or purchase of development rights.

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

28 (1)(a) The legislative authority of a county subject to the
29 provisions of RCW 36.70A.215 with a population fewer than one million
30 and a total market value of production greater than one hundred twenty-
31 five million dollars as reported by the United States department of
32 agriculture's 2002 census of agriculture county profile may, by
33 resolution, and in accordance with the requirements of RCW 36.70A.035
34 and 36.70A.140, designate agricultural lands designated pursuant to RCW
35 36.70A.170 as recreational lands. Lands eligible for designation as
36 recreational lands must not be in use for the commercial production of

1 food or other agricultural products and must have playing fields and
2 supporting facilities existing before July 1, 2004, for sports played
3 on grass playing fields.

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

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

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

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

19 (4) Playing fields and supporting facilities for sports played on
20 grass playing fields must comply with applicable permitting
21 requirements and development regulations. The size and capacity of the
22 playing fields and supporting facilities, irrespective of parcel size,
23 may not exceed the infrastructure capacity of the county within which
24 the fields and facilities are located.

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

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

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

31 In accordance with sections 2 through 4 of this act and RCW
32 36.70A.130, playing fields and supporting facilities existing before
33 July 1, 2004, on designated recreational lands shall be considered in
34 compliance with the requirements of this chapter.

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

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

25 (b) Any amendment of or revision to a comprehensive land use plan
26 shall conform to this chapter. Any amendment of or revision to
27 development regulations shall be consistent with and implement the
28 comprehensive plan.

29 (2)(a) Each county and city shall establish and broadly disseminate
30 to the public a public participation program consistent with RCW
31 36.70A.035 and 36.70A.140 that identifies procedures and schedules
32 whereby updates, proposed amendments, or revisions of the comprehensive
33 plan are considered by the governing body of the county or city no more
34 frequently than once every year. "Updates" means to review and revise,
35 if needed, according to subsection (1) of this section, and the time
36 periods specified in subsection (4) of this section. Amendments may be
37 considered more frequently than once per year under the following
38 circumstances:

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

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

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

8 (iv) Until June 30, 2006, the designation of recreational lands
9 under section 4 of this act. A county amending its comprehensive plan
10 pursuant to this subsection (2)(a)(iv) may not do so more frequently
11 than every eighteen months.

12 (b) Except as otherwise provided in (a) of this subsection, all
13 proposals shall be considered by the governing body concurrently so the
14 cumulative effect of the various proposals can be ascertained.
15 However, after appropriate public participation a county or city may
16 adopt amendments or revisions to its comprehensive plan that conform
17 with this chapter whenever an emergency exists or to resolve an appeal
18 of a comprehensive plan filed with a growth management hearings board
19 or with the court.

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

35 (4) The department shall establish a schedule for counties and
36 cities to take action to review and, if needed, revise their
37 comprehensive plans and development regulations to ensure the plan and

1 regulations comply with the requirements of this chapter. The schedule
2 established by the department shall provide for the reviews and
3 evaluations to be completed as follows:

4 (a) On or before December 1, 2004, and every seven years
5 thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce,
6 Snohomish, Thurston, and Whatcom counties and the cities within those
7 counties;

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

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

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

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

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

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

1 (7) The requirements imposed on counties and cities under this
2 section shall be considered "requirements of this chapter" under the
3 terms of RCW 36.70A.040(1). Only those counties and cities in
4 compliance with the schedules in this section shall have the requisite
5 authority to receive grants, loans, pledges, or financial guarantees
6 from those accounts established in RCW 43.155.050 and 70.146.030. Only
7 those counties and cities in compliance with the schedules in this
8 section shall receive preference for grants or loans subject to the
9 provisions of RCW 43.17.250.

10 NEW SECTION. **Sec. 7.** (1) A study committee on outdoor recreation
11 is established. The study committee shall consist of four members, as
12 follows:

13 (a) One member from each of the two largest caucuses of the house
14 of representatives, appointed by the speaker of the house of
15 representatives; and

16 (b) One member from each of the two largest caucuses of the senate,
17 appointed by the president of the senate.

18 (2) The study committee members shall, by an affirmative vote of at
19 least three members, select a chair from among its membership.

20 (3) The study committee shall consult with individuals from the
21 public and private sectors and other interested parties, as may be
22 appropriate, for technical advice and assistance and may ask such
23 individuals to establish advisory committees or work groups that report
24 to the study committee. Those with whom the study committee must
25 consult include, but are not limited to, the following:

26 (a) Representatives from state agencies;

27 (b) Representatives from local governments;

28 (c) Representatives from recreation organizations;

29 (d) Representatives from agriculture;

30 (e) Representatives from environmental organizations; and

31 (f) Representatives from citizens' organizations.

32 (4) The study committee shall:

33 (a) Review local government responses to accommodating population
34 growth and the resulting recreational facility needs;

35 (b) Study infrastructure funding issues pertaining to recreational
36 facilities and examine methods by which local governments can reduce or
37 eliminate related funding shortfalls;

1 (c) Compile and review information about publicly owned properties
2 that may be suitable for use as recreational facilities; and

3 (d) Make legislative findings and recommendations related to
4 recreational facility and funding needs.

5 (5) The study committee shall use staff from the house of
6 representatives office of program research, senate committee services,
7 and the department of community, trade, and economic development.

8 (6) The study committee shall report its findings and
9 recommendations to the appropriate committees of the house of
10 representatives and the senate by January 1, 2006.

11 (7) The study committee expires January 1, 2006.

12 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and takes effect
15 immediately.

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