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HOUSE BILL 2883

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Blake, Chandler, Newhouse, Fromhold, Haigh,  
Morrell, Linville and Springer

Read first time 01/16/2006. Referred to Committee on Local Government.

1            AN ACT Relating to maintaining and enhancing the viability of  
2 agriculture; amending RCW 36.70A.030, 36.70A.175, and 90.48.020; and  
3 creating a new section.

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

5            NEW SECTION.    **Sec. 1.** The legislature finds that a strong state  
6 economy is critical to ensuring that the public welfare is maintained  
7 in its highest state. The legislature further finds that agriculture  
8 is a critical segment of a strong economy.

9            Therefore, the legislature declares that all necessary actions  
10 should be taken to ensure that the state provides an economic climate  
11 that fosters a strong, viable agricultural industry and promotes  
12 consistency in administration of state and federal wetlands programs in  
13 order to minimize the impacts on agricultural landowners to the fullest  
14 possible extent consistent with the important goal of protecting  
15 wetlands.

16            **Sec. 2.** RCW 36.70A.030 and 2005 c 423 s 2 are each amended to read  
17 as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

3 (1) "Adopt a comprehensive land use plan" means to enact a new  
4 comprehensive land use plan or to update an existing comprehensive land  
5 use plan.

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

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

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

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

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

25 (7) "Development regulations" or "regulation" means the controls  
26 placed on development or land use activities by a county or city,  
27 including, but not limited to, zoning ordinances, critical areas  
28 ordinances, shoreline master programs, official controls, planned unit  
29 development ordinances, subdivision ordinances, and binding site plan  
30 ordinances together with any amendments thereto. A development  
31 regulation does not include a decision to approve a project permit  
32 application, as defined in RCW 36.70B.020, even though the decision may  
33 be expressed in a resolution or ordinance of the legislative body of  
34 the county or city.

35 (8) "Forest land" means land primarily devoted to growing trees for  
36 long-term commercial timber production on land that can be economically  
37 and practically managed for such production, including Christmas trees  
38 subject to the excise tax imposed under RCW 84.33.100 through

1 84.33.140, and that has long-term commercial significance. In  
2 determining whether forest land is primarily devoted to growing trees  
3 for long-term commercial timber production on land that can be  
4 economically and practically managed for such production, the following  
5 factors shall be considered: (a) The proximity of the land to urban,  
6 suburban, and rural settlements; (b) surrounding parcel size and the  
7 compatibility and intensity of adjacent and nearby land uses; (c) long-  
8 term local economic conditions that affect the ability to manage for  
9 timber production; and (d) the availability of public facilities and  
10 services conducive to conversion of forest land to other uses.

11 (9) "Geologically hazardous areas" means areas that because of  
12 their susceptibility to erosion, sliding, earthquake, or other  
13 geological events, are not suited to the siting of commercial,  
14 residential, or industrial development consistent with public health or  
15 safety concerns.

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

20 (11) "Minerals" include gravel, sand, and valuable metallic  
21 substances.

22 (12) "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) "Public services" include fire protection and suppression, law  
27 enforcement, public health, education, recreation, environmental  
28 protection, and other governmental services.

29 (14) "Recreational land" means land so designated under RCW  
30 36.70A.1701 and that, immediately prior to this designation, was  
31 designated as agricultural land of long-term commercial significance  
32 under RCW 36.70A.170. Recreational land must have playing fields and  
33 supporting facilities existing before July 1, 2004, for sports played  
34 on grass playing fields.

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

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

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

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

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

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

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

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

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

32 (18) "Urban growth" refers to growth that makes intensive use of  
33 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 (19) "Urban growth areas" means those areas designated by a county  
7 pursuant to RCW 36.70A.110.

8 (20) "Urban governmental services" or "urban services" include  
9 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 (21) "Wetland" or "wetlands" means areas that are inundated or  
16 saturated by surface water or ground water at a frequency and duration  
17 sufficient to support, and that under normal circumstances do support,  
18 a prevalence of vegetation typically adapted for life in saturated soil  
19 conditions. Wetlands generally include swamps, marshes, bogs, and  
20 similar areas. Wetlands do not include those artificial wetlands  
21 intentionally created from nonwetland sites, including, but not limited  
22 to, irrigation and drainage ditches, grass-lined swales, canals,  
23 detention facilities, wastewater treatment facilities, farm ponds,  
24 wetlands converted to agricultural use prior to December 23, 1985, in  
25 accordance with the federal food security act of 1985 (99 Stat. 1354),  
26 and landscape amenities, or those wetlands created after July 1, 1990,  
27 that were unintentionally created as a result of the construction of a  
28 road, street, or highway. Wetlands may include those artificial  
29 wetlands intentionally created from nonwetland areas created to  
30 mitigate conversion of wetlands.

31 **Sec. 3.** RCW 36.70A.175 and 1995 c 382 s 12 are each amended to  
32 read as follows:

33 Wetlands regulated under development regulations adopted pursuant  
34 to this chapter shall be delineated in accordance with the manual  
35 adopted by the department pursuant to RCW 90.58.380 and do not include  
36 wetlands converted to agricultural use prior to December 23, 1985, in  
37 accordance with the federal food security act of 1985 (99 Stat. 1354).

1       **Sec. 4.** RCW 90.48.020 and 2002 c 161 s 4 are each amended to read  
2 as follows:

3       Whenever the word "person" is used in this chapter, it shall be  
4 construed to include any political subdivision, government agency,  
5 municipality, industry, public or private corporation, copartnership,  
6 association, firm, individual or any other entity whatsoever.

7       Wherever the words "waters of the state" shall be used in this  
8 chapter, they shall be construed to include lakes, rivers, ponds,  
9 streams, inland waters, underground waters, salt waters and all other  
10 surface waters and watercourses within the jurisdiction of the state of  
11 Washington, but shall not be construed to include wetlands converted to  
12 agricultural use prior to December 23, 1985, in accordance with the  
13 federal food security act of 1985 (99 Stat. 1354).

14       Whenever the word "pollution" is used in this chapter, it shall be  
15 construed to mean such contamination, or other alteration of the  
16 physical, chemical or biological properties, of any waters of the  
17 state, including change in temperature, taste, color, turbidity, or  
18 odor of the waters, or such discharge of any liquid, gaseous, solid,  
19 radioactive, or other substance into any waters of the state as will or  
20 is likely to create a nuisance or render such waters harmful,  
21 detrimental or injurious to the public health, safety or welfare, or to  
22 domestic, commercial, industrial, agricultural, recreational, or other  
23 legitimate beneficial uses, or to livestock, wild animals, birds, fish  
24 or other aquatic life.

25       Wherever the word "department" is used in this chapter it shall  
26 mean the department of ecology.

27       Whenever the word "director" is used in this chapter it shall mean  
28 the director of ecology.

29       Whenever the words "aquatic noxious weed" are used in this chapter,  
30 they have the meaning prescribed under RCW 17.26.020.

31       Whenever the words "general sewer plan" are used in this chapter  
32 they shall be construed to include all sewerage general plans, sewer  
33 general comprehensive plans, plans for a system of sewerage, and other  
34 plans for sewer systems adopted by a local government entity including  
35 but not limited to cities, towns, public utility districts, and water-  
36 sewer districts.

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