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HOUSE BILL 3163

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Simpson, Schindler, Chase and Upthegrove

Read first time 01/23/2006. Referred to Committee on Local Government.

1            AN ACT Relating to the role of fire protection districts and water-  
2 sewer districts in growth management planning; and amending RCW  
3 36.70A.030, 36.70A.110, 36.70A.150, 36.70A.210, and 36.70A.350.

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

5            **Sec. 1.** RCW 36.70A.030 and 2005 c 423 s 2 are each amended to read  
6 as follows:

7            Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

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

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

4 (10) "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,  
15 water supply, sanitary sewer service, law enforcement, public health,  
16 education, recreation, environmental protection, and other governmental  
17 services.

18 (14) "Special district" means fire protection districts and water-  
19 sewer districts.

20 (15) "Recreational land" means land so designated under RCW  
21 36.70A.1701 and that, immediately prior to this designation, was  
22 designated as agricultural land of long-term commercial significance  
23 under RCW 36.70A.170. Recreational land must have playing fields and  
24 supporting facilities existing before July 1, 2004, for sports played  
25 on grass playing fields.

26 ((+15)) (16) "Rural character" refers to the patterns of land use  
27 and development established by a county in the rural element of its  
28 comprehensive plan:

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

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

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

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

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

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

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

6 (~~(16)~~) (17) "Rural development" refers to development outside the  
7 urban growth area and outside agricultural, forest, and mineral  
8 resource lands designated pursuant to RCW 36.70A.170. Rural  
9 development can consist of a variety of uses and residential densities,  
10 including clustered residential development, at levels that are  
11 consistent with the preservation of rural character and the  
12 requirements of the rural element. Rural development does not refer to  
13 agriculture or forestry activities that may be conducted in rural  
14 areas.

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

23 (~~(18)~~) (19) "Urban growth" refers to growth that makes intensive  
24 use of land for the location of buildings, structures, and impermeable  
25 surfaces to such a degree as to be incompatible with the primary use of  
26 land for the production of food, other agricultural products, or fiber,  
27 or the extraction of mineral resources, rural uses, rural development,  
28 and natural resource lands designated pursuant to RCW 36.70A.170. A  
29 pattern of more intensive rural development, as provided in RCW  
30 36.70A.070(5)(d), is not urban growth. When allowed to spread over  
31 wide areas, urban growth typically requires urban governmental  
32 services. "Characterized by urban growth" refers to land having urban  
33 growth located on it, or to land located in relationship to an area  
34 with urban growth on it as to be appropriate for urban growth.

35 (~~(19)~~) (20) "Urban growth areas" means those areas designated by  
36 a county pursuant to RCW 36.70A.110.

37 (~~(20)~~) (21) "Urban governmental services" or "urban services"  
38 include those public services and public facilities at an intensity

1 historically and typically provided in cities or by special districts,  
2 specifically including storm water systems and sanitary sewer systems,  
3 domestic water systems, street cleaning services, fire and police  
4 protection services, public transit services, and other public  
5 utilities associated with urban areas and normally not associated with  
6 rural areas.

7 ~~((+21+))~~ (22) "Wetland" or "wetlands" means areas that are  
8 inundated or saturated by surface water or ground water at a frequency  
9 and duration sufficient to support, and that under normal circumstances  
10 do support, a prevalence of vegetation typically adapted for life in  
11 saturated soil conditions. Wetlands generally include swamps, marshes,  
12 bogs, and similar areas. Wetlands do not include those artificial  
13 wetlands intentionally created from nonwetland sites, including, but  
14 not limited to, irrigation and drainage ditches, grass-lined swales,  
15 canals, detention facilities, wastewater treatment facilities, farm  
16 ponds, and landscape amenities, or those wetlands created after July 1,  
17 1990, that were unintentionally created as a result of the construction  
18 of a road, street, or highway. Wetlands may include those artificial  
19 wetlands intentionally created from nonwetland areas created to  
20 mitigate conversion of wetlands.

21 **Sec. 2.** RCW 36.70A.110 and 2004 c 206 s 1 are each amended to read  
22 as follows:

23 (1) Each county that is required or chooses to plan under RCW  
24 36.70A.040 shall designate an urban growth area or areas within which  
25 urban growth shall be encouraged and outside of which growth can occur  
26 only if it is not urban in nature. Each city that is located in such  
27 a county shall be included within an urban growth area. An urban  
28 growth area may include more than a single city. An urban growth area  
29 may include territory that is located outside of a city only if such  
30 territory already is characterized by urban growth whether or not the  
31 urban growth area includes a city, or is adjacent to territory already  
32 characterized by urban growth, or is a designated new fully contained  
33 community as defined by RCW 36.70A.350.

34 (2) Based upon the growth management population projection made for  
35 the county by the office of financial management, the county and each  
36 city within the county shall include areas and densities sufficient to

1 permit the urban growth that is projected to occur in the county or  
2 city for the succeeding twenty-year period, except for those urban  
3 growth areas contained totally within a national historical reserve.

4 Each urban growth area shall permit urban densities and shall  
5 include greenbelt and open space areas. In the case of urban growth  
6 areas contained totally within a national historical reserve, the city  
7 may restrict densities, intensities, and forms of urban growth as  
8 determined to be necessary and appropriate to protect the physical,  
9 cultural, or historic integrity of the reserve. An urban growth area  
10 determination may include a reasonable land market supply factor and  
11 shall permit a range of urban densities and uses. In determining this  
12 market factor, cities and counties may consider local circumstances.  
13 Cities and counties have discretion in their comprehensive plans to  
14 make many choices about accommodating growth.

15 Within one year of July 1, 1990, each county that as of June 1,  
16 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
17 consulting with each city located within its boundaries and each city  
18 shall propose the location of an urban growth area. Within sixty days  
19 of the date the county legislative authority of a county adopts its  
20 resolution of intention or of certification by the office of financial  
21 management, all other counties that are required or choose to plan  
22 under RCW 36.70A.040 shall begin this consultation with each city  
23 located within its boundaries. The county shall attempt to reach  
24 agreement with each city on the location of an urban growth area within  
25 which the city is located. If such an agreement is not reached with  
26 each city located within the urban growth area, the county shall  
27 justify in writing why it so designated the area an urban growth area.  
28 A city may object formally with the department over the designation of  
29 the urban growth area within which it is located. Where appropriate,  
30 the department shall attempt to resolve the conflicts, including the  
31 use of mediation services.

32 (3) Urban growth should be located first in areas already  
33 characterized by urban growth that have adequate existing public  
34 facility and service capacities to serve such development, second in  
35 areas already characterized by urban growth that will be served  
36 adequately by a combination of both existing public facilities and  
37 services and any additional needed public facilities and services that  
38 are provided by either public or private sources, and third in the

1 remaining portions of the urban growth areas. Urban growth may also be  
2 located in designated new fully contained communities as defined by RCW  
3 36.70A.350.

4 (4) In general, cities and special districts are the units of local  
5 government most appropriate to provide urban governmental services. In  
6 general, it is not appropriate that urban governmental services be  
7 extended to or expanded in rural areas except in those limited  
8 circumstances shown to be necessary to protect basic public health and  
9 safety and the environment and when such services are financially  
10 supportable at rural densities and do not permit urban development.

11 (5) On or before October 1, 1993, each county that was initially  
12 required to plan under RCW 36.70A.040(1) shall adopt development  
13 regulations designating interim urban growth areas under this chapter.  
14 Within three years and three months of the date the county legislative  
15 authority of a county adopts its resolution of intention or of  
16 certification by the office of financial management, all other counties  
17 that are required or choose to plan under RCW 36.70A.040 shall adopt  
18 development regulations designating interim urban growth areas under  
19 this chapter. Adoption of the interim urban growth areas may only  
20 occur after public notice; public hearing; and compliance with the  
21 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.  
22 Such action may be appealed to the appropriate growth management  
23 hearings board under RCW 36.70A.280. Final urban growth areas shall be  
24 adopted at the time of comprehensive plan adoption under this chapter.

25 (6) Each county shall include designations of urban growth areas in  
26 its comprehensive plan.

27 (7) An urban growth area designated in accordance with this section  
28 may include within its boundaries urban service areas or potential  
29 annexation areas designated for specific cities or towns within the  
30 county.

31 **Sec. 3.** RCW 36.70A.150 and 1991 c 322 s 23 are each amended to  
32 read as follows:

33 Each county and city that is required or chooses to prepare a  
34 comprehensive land use plan under RCW 36.70A.040 shall identify lands  
35 useful for public purposes such as utility corridors, transportation  
36 corridors, landfills, sewage treatment facilities, storm water  
37 management facilities, recreation, schools, and other public uses. The

1 county shall work with the state (~~and the~~), cities, and special  
2 districts within its borders to identify areas of shared need for  
3 public facilities. The jurisdictions within the county shall prepare  
4 a prioritized list of lands necessary for the identified public uses  
5 including an estimated date by which the acquisition will be needed.

6 The respective capital acquisition budgets for each jurisdiction  
7 shall reflect the jointly agreed upon priorities and time schedule.

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

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

20 (2) The legislative authority of a county that plans under RCW  
21 36.70A.040 shall adopt a county-wide planning policy in cooperation  
22 with the cities and consultation with special districts located in  
23 whole or in part within the county as follows:

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

34 (b) The process and framework for adoption of a county-wide  
35 planning policy specified in (a) of this subsection shall determine the  
36 manner in which the county and the cities agree to all procedures and

1 provisions including but not limited to desired planning policies,  
2 deadlines, ratification of final agreements and demonstration thereof,  
3 and financing, if any, of all activities associated therewith.

4 (c) If a county fails for any reason to convene a meeting with  
5 representatives of cities and special districts as required in (a) of  
6 this subsection, the governor may immediately impose any appropriate  
7 sanction or sanctions on the county from those specified under RCW  
8 36.70A.340.

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

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

35 (f) In a county adopting or having a county-wide planning policy,  
36 the county shall include special districts in the collaborative process  
37 required by this subsection in each scheduled comprehensive revision of  
38 its policy.

1       (g) All comprehensive revisions of a county-wide planning policy  
2 under this section shall include representatives of each special  
3 district located within the county.

4       (3) A county-wide planning policy shall at a minimum, address the  
5 following:

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

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

9       (c) Policies for siting public capital facilities of a county-wide  
10 or statewide nature, including transportation facilities of statewide  
11 significance as defined in RCW 47.06.140;

12       (d) Policies for county-wide transportation facilities and  
13 strategies;

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

17       (f) Policies for joint county and city planning within urban growth  
18 areas;

19       (g) Policies for county-wide economic development and employment;  
20 and

21       (h) An analysis of the fiscal impact.

22       (4) Federal agencies and Indian tribes may participate in and  
23 cooperate with the county-wide planning policy adoption process.  
24 Adopted county-wide planning policies shall be adhered to by state  
25 agencies.

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

34       (6) Cities, special districts, and the governor may appeal an  
35 adopted county-wide planning policy to the growth management hearings  
36 board within sixty days of the adoption of the county-wide planning  
37 policy.

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

7 **Sec. 5.** RCW 36.70A.350 and 1991 sp.s. c 32 s 16 are each amended  
8 to read as follows:

9 A county required or choosing to plan under RCW 36.70A.040 may  
10 establish a process as part of its urban growth areas, that are  
11 designated under RCW 36.70A.110, for reviewing proposals to authorize  
12 new fully contained communities located outside of the initially  
13 designated urban growth areas.

14 (1) A new fully contained community may be approved in a county  
15 planning under this chapter if criteria including but not limited to  
16 the following are met:

17 (a) New infrastructure, including water systems, storm water  
18 systems, and sanitary sewer systems, is provided for and impact fees  
19 are established consistent with the requirements of RCW 82.02.050;

20 (b) Transit-oriented site planning and traffic demand management  
21 programs are implemented;

22 (c) Buffers are provided between the new fully contained  
23 communities and adjacent urban development;

24 (d) A mix of uses is provided to offer jobs, housing, and services  
25 to the residents of the new community;

26 (e) Affordable housing is provided within the new community for a  
27 broad range of income levels;

28 (f) Environmental protection has been addressed and provided for;

29 (g) Development regulations are established to ensure urban growth  
30 will not occur in adjacent nonurban areas;

31 (h) Provision is made to mitigate impacts on designated  
32 agricultural lands, forest lands, and mineral resource lands;

33 (i) The plan for the new fully contained community is consistent  
34 with the development regulations established for the protection of  
35 critical areas by the county pursuant to RCW 36.70A.170.

36 (2) New fully contained communities may be approved outside  
37 established urban growth areas only if a county reserves a portion of

1 the twenty-year population projection and offsets the urban growth area  
2 accordingly for allocation to new fully contained communities that meet  
3 the requirements of this chapter. Any county electing to establish a  
4 new community reserve shall do so no more often than once every five  
5 years as a part of the designation or review of urban growth areas  
6 required by this chapter. The new community reserve shall be allocated  
7 on a project-by-project basis, only after specific project approval  
8 procedures have been adopted pursuant to this chapter as a development  
9 regulation. When a new community reserve is established, urban growth  
10 areas designated pursuant to this chapter shall accommodate the  
11 unreserved portion of the twenty-year population projection.

12 Final approval of an application for a new fully contained  
13 community shall be considered an adopted amendment to the comprehensive  
14 plan prepared pursuant to RCW 36.70A.070 designating the new fully  
15 contained community as an urban growth area.

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