
SENATE BILL 5312

State of Washington 59th Legislature 2005 Regular Session

By Senators Swecker, Mulliken, Hewitt, Schmidt, Stevens, Benson, Schoesler, Honeyford, Zarelli, Oke, Roach, Carrell and Benton

Read first time 01/20/2005. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to the application of referendum powers to growth
2 management measures; amending RCW 36.70A.030; and adding a new section
3 to chapter 36.70A RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A RCW
6 to read as follows:

7 (1)(a) Within thirty days after a growth management hearings board
8 order remanding or finding a growth management measure, or any portion
9 thereof, enacted by a county legislative authority to be invalid or out
10 of compliance, the legislative authority of that county may, by
11 ordinance, refer that growth management measure to the voters of that
12 county for their affirmation or rejection at a general or special
13 election. The county legislative authority shall by ordinance
14 establish referendum forms and procedures not specifically provided for
15 in this section.

16 (b) A referendum election on one or more sections of any growth
17 management measure shall delay only those sections, and any board
18 decision regarding those sections, from taking effect. If the growth
19 management measure is affirmed by a majority voting on the issue, it

1 becomes effective ten days after the results of the election are
2 certified, unless a later date is specified in the growth management
3 measure. If the growth management measure is rejected by a majority
4 voting on the issue, the board's decision becomes effective ten days
5 after the results of the election are certified. The county
6 legislative authority is not subject to sanction under RCW 36.70A.330
7 pending the outcome of a referendum election and any subsequent appeal.

8 (2)(a) The county auditor shall: (i) Confer with the county
9 legislative authority and review any proposed referendum under this act
10 as to form and style; (ii) give the referendum proposal a number, which
11 thereafter shall be the identifying number for the measure; (iii)
12 transmit a copy of the proposal to the prosecuting attorney; and (iv)
13 submit the referendum proposal to the people at the next general or
14 special election that is not less than ninety days after the adoption
15 of the referendum ordinance by the county legislative authority.

16 (b) The county prosecuting attorney shall within ten working days
17 of receipt of the proposal compose a concise statement, posed as a
18 positive question, not to exceed twenty-five words, which shall express
19 and give a true and impartial statement of the referendum proposal.
20 Such concise statement shall be the ballot title.

21 (3) All requests for judicial review following a referendum
22 election shall be initiated by filing a petition directly with the
23 county superior court. The petition must be filed within thirty days
24 after referendum results are certified and shall include a detailed
25 statement of issues presented for resolution by the court. Consistent
26 with the requirements of the superior court civil rules, the superior
27 court may consolidate a petition subject to direct review under this
28 section with a separate action filed in the superior court.

29 (4)(a) Except as otherwise provided in this section, the provisions
30 of RCW 36.70A.280 through 36.70A.330, which specify the nature and
31 extent of board review, shall apply to the superior court's review
32 under this section. The superior court shall retain full subject
33 matter jurisdiction over matters of substantive law not specifically
34 provided for in this section, as provided under the Washington state
35 Constitution. The superior court civil rules shall govern a request
36 for intervention and all other procedural matters not specifically
37 provided for in this section.

1 (b) An aggrieved party may secure appellate review of a final
2 judgment of the superior court under this section by the supreme court
3 or the court of appeals. The review shall be secured in the manner
4 provided by law for review of superior court decisions in other civil
5 cases.

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

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

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

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

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

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

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

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

32 (7) "Development regulations" or "regulation" means the controls
33 placed on development or land use activities by a county or city,
34 including, but not limited to, zoning ordinances, critical areas
35 ordinances, shoreline master programs, official controls, planned unit
36 development ordinances, subdivision ordinances, and binding site plan
37 ordinances together with any amendments thereto. A development

1 regulation does not include a decision to approve a project permit
2 application, as defined in RCW 36.70B.020, even though the decision may
3 be expressed in a resolution or ordinance of the legislative body of
4 the county or city.

5 (8) "Forest land" means land primarily devoted to growing trees for
6 long-term commercial timber production on land that can be economically
7 and practically managed for such production, including Christmas trees
8 subject to the excise tax imposed under RCW 84.33.100 through
9 84.33.140, and that has long-term commercial significance. In
10 determining whether forest land is primarily devoted to growing trees
11 for long-term commercial timber production on land that can be
12 economically and practically managed for such production, the following
13 factors shall be considered: (a) The proximity of the land to urban,
14 suburban, and rural settlements; (b) surrounding parcel size and the
15 compatibility and intensity of adjacent and nearby land uses; (c) long-
16 term local economic conditions that affect the ability to manage for
17 timber production; and (d) the availability of public facilities and
18 services conducive to conversion of forest land to other uses.

19 (9) "Geologically hazardous areas" means areas that because of
20 their susceptibility to erosion, sliding, earthquake, or other
21 geological events, are not suited to the siting of commercial,
22 residential, or industrial development consistent with public health or
23 safety concerns.

24 (10) "Growth management measures" include the decision to be
25 subject to or excluded from the growth management act; the adoption of
26 county-wide planning policies; the designation of critical areas,
27 agricultural lands, forest lands, and mineral resource lands; the
28 adoption of development regulations conserving these designated
29 agricultural lands, forest lands, and mineral resource lands and
30 protecting these designated critical areas; the designation of and
31 other actions related to urban growth areas; the adoption of a
32 comprehensive plan under this chapter; and the adoption of development
33 regulations relating to the comprehensive plan under this chapter; and
34 amendments to these measures.

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

1 (~~(11)~~) (12) "Minerals" include gravel, sand, and valuable
2 metallic substances.

3 (~~(12)~~) (13) "Public facilities" include streets, roads, highways,
4 sidewalks, street and road lighting systems, traffic signals, domestic
5 water systems, storm and sanitary sewer systems, parks and recreational
6 facilities, and schools.

7 (~~(13)~~) (14) "Public services" include fire protection and
8 suppression, law enforcement, public health, education, recreation,
9 environmental protection, and other governmental services.

10 (~~(14)~~) (15) "Rural character" refers to the patterns of land use
11 and development established by a county in the rural element of its
12 comprehensive plan:

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

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

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

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

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

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

25 (g) That are consistent with the protection of natural surface
26 water flows and ground water and surface water recharge and discharge
27 areas.

28 (~~(15)~~) (16) "Rural development" refers to development outside the
29 urban growth area and outside agricultural, forest, and mineral
30 resource lands designated pursuant to RCW 36.70A.170. Rural
31 development can consist of a variety of uses and residential densities,
32 including clustered residential development, at levels that are
33 consistent with the preservation of rural character and the
34 requirements of the rural element. Rural development does not refer to
35 agriculture or forestry activities that may be conducted in rural
36 areas.

37 (~~(16)~~) (17) "Rural governmental services" or "rural services"
38 include those public services and public facilities historically and

1 typically delivered at an intensity usually found in rural areas, and
2 may include domestic water systems, fire and police protection
3 services, transportation and public transit services, and other public
4 utilities associated with rural development and normally not associated
5 with urban areas. Rural services do not include storm or sanitary
6 sewers, except as otherwise authorized by RCW 36.70A.110(4).

7 ~~((+17))~~ (18) "Urban growth" refers to growth that makes intensive
8 use of land for the location of buildings, structures, and impermeable
9 surfaces to such a degree as to be incompatible with the primary use of
10 land for the production of food, other agricultural products, or fiber,
11 or the extraction of mineral resources, rural uses, rural development,
12 and natural resource lands designated pursuant to RCW 36.70A.170. A
13 pattern of more intensive rural development, as provided in RCW
14 36.70A.070(5)(d), is not urban growth. When allowed to spread over
15 wide areas, urban growth typically requires urban governmental
16 services. "Characterized by urban growth" refers to land having urban
17 growth located on it, or to land located in relationship to an area
18 with urban growth on it as to be appropriate for urban growth.

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

21 ~~((+19))~~ (20) "Urban governmental services" or "urban services"
22 include those public services and public facilities at an intensity
23 historically and typically provided in cities, specifically including
24 storm and sanitary sewer systems, domestic water systems, street
25 cleaning services, fire and police protection services, public transit
26 services, and other public utilities associated with urban areas and
27 normally not associated with rural areas.

28 ~~((+20))~~ (21) "Wetland" or "wetlands" means areas that are
29 inundated or saturated by surface water or ground water at a frequency
30 and duration sufficient to support, and that under normal circumstances
31 do support, a prevalence of vegetation typically adapted for life in
32 saturated soil conditions. Wetlands generally include swamps, marshes,
33 bogs, and similar areas. Wetlands do not include those artificial
34 wetlands intentionally created from nonwetland sites, including, but
35 not limited to, irrigation and drainage ditches, grass-lined swales,
36 canals, detention facilities, wastewater treatment facilities, farm
37 ponds, and landscape amenities, or those wetlands created after July 1,
38 1990, that were unintentionally created as a result of the construction

1 of a road, street, or highway. Wetlands may include those artificial
2 wetlands intentionally created from nonwetland areas created to
3 mitigate conversion of wetlands.

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