
SENATE BILL 5945

State of Washington 59th Legislature 2005 Regular Session

By Senators Kastama, Swecker, Mulliken, Haugen, Honeyford, McCaslin, Rasmussen, Parlette and Roach

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1 AN ACT Relating to agricultural zoning that supports family farm
2 ownership; amending RCW 36.70A.030 and 36.70A.177; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that for many counties
6 the adoption of zoning maps and development regulations that identify
7 and protect agricultural resource lands of commercial significance is
8 problematic. Complexities arise from the growth management act and
9 rulings by the growth management hearings boards that do not allow
10 counties to consider other important factors when designating
11 agricultural resource lands of commercial significance. The
12 legislature intends to give counties flexibility in the establishment
13 of zoning maps and development regulations to assure there is a viable
14 agricultural industry in this state.

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

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

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

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

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

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

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

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

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

33 (8) "Forest land" means land primarily devoted to growing trees for
34 long-term commercial timber production on land that can be economically
35 and practically managed for such production, including Christmas trees
36 subject to the excise tax imposed under RCW 84.33.100 through
37 84.33.140, and that has long-term commercial significance. In
38 determining whether forest land is primarily devoted to growing trees

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

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

14 (10) "Long-term commercial significance" includes consideration of:
15 A reasonable expectation of profitability in producing crops and/or
16 agricultural products that historically have been shown to be
17 commercially viable within the region or which can reasonably be
18 expected to be commercially viable within the region, the current and
19 projected needs of the industry to assure long-term viability, the
20 growing capacity, productivity, and soil composition of the land for
21 long-term commercial production, (~~in~~) consideration (~~with~~) for
22 legal access to sufficient water necessary for commercial viability,
23 the land's proximity to population areas, and the possibility of more
24 intense uses of the land.

25 (11) "Minerals" include gravel, sand, and valuable metallic
26 substances.

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

31 (13) "Public services" include fire protection and suppression, law
32 enforcement, public health, education, recreation, environmental
33 protection, and other governmental services.

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

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

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

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

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

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

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

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

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

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

30 (17) "Urban growth" refers to growth that makes intensive use of
31 land for the location of buildings, structures, and impermeable
32 surfaces to such a degree as to be incompatible with the primary use of
33 land for the production of food, other agricultural products, or fiber,
34 or the extraction of mineral resources, rural uses, rural development,
35 and natural resource lands designated pursuant to RCW 36.70A.170. A
36 pattern of more intensive rural development, as provided in RCW
37 36.70A.070(5)(d), is not urban growth. When allowed to spread over
38 wide areas, urban growth typically requires urban governmental

1 services. "Characterized by urban growth" refers to land having urban
2 growth located on it, or to land located in relationship to an area
3 with urban growth on it as to be appropriate for urban growth.

4 (18) "Urban growth areas" means those areas designated by a county
5 pursuant to RCW 36.70A.110.

6 (19) "Urban governmental services" or "urban services" include
7 those public services and public facilities at an intensity
8 historically and typically provided in cities, specifically including
9 storm and sanitary sewer systems, domestic water systems, street
10 cleaning services, fire and police protection services, public transit
11 services, and other public utilities associated with urban areas and
12 normally not associated with rural areas.

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

27 **Sec. 3.** RCW 36.70A.177 and 2004 c 207 s 1 are each amended to read
28 as follows:

29 (1) A county or a city may use a variety of innovative zoning
30 techniques in areas designated as agricultural lands of long-term
31 commercial significance under RCW 36.70A.170. The innovative zoning
32 techniques should be designed to conserve agricultural lands and
33 encourage the agricultural economy. A county or city should encourage
34 nonagricultural uses to be limited to lands with poor soils or
35 otherwise not suitable for agricultural purposes.

36 (2) Innovative zoning techniques a county or city may consider
37 include, but are not limited to:

1 (a) Agricultural zoning and development regulations, which
2 limit(~~(s)~~) the density of development and (~~(restricts or prohibits~~
3 ~~nonfarm uses of agricultural land and may allow accessory uses that~~
4 ~~support, promote, or sustain)~~) support incidental nonfarm home-based
5 and similar small businesses to supplement on-farm income and sustain
6 family farm ownership, agricultural operations, and production, in
7 addition to those as provided in subsection (3) of this section;

8 (b) Cluster zoning, which allows new development on one portion of
9 the land, leaving the remainder in agricultural or open space uses;

10 (c) Large lot zoning, which establishes as a minimum lot size the
11 amount of land necessary to achieve a successful farming practice;

12 (d) Quarter/quarter zoning, which permits one residential dwelling
13 on a one-acre minimum lot for each one-sixteenth of a section of land;
14 and

15 (e) Sliding scale zoning, which allows the number of lots for
16 single-family residential purposes with a minimum lot size of one acre
17 to increase inversely as the size of the total acreage increases.

18 (3)(a) Accessory uses allowed under subsection (2)(a) of this
19 section shall comply with the following:

20 (i) Accessory uses shall be located, designed, and operated so as
21 not to interfere with natural resource land uses and shall be accessory
22 to the growing of crops or raising of animals;

23 (ii) Accessory commercial or retail uses shall predominately
24 produce, store, or sell regionally produced agricultural products from
25 one or more producers, products derived from regional agricultural
26 production, agriculturally related experiences, or products produced
27 on-site. (~~Accessory commercial and retail uses shall offer for sale~~
28 ~~predominantly products or services produced on-site)~~) Development
29 regulations may also permit home-based or similar small nonfarm
30 businesses that supplement on-farm income to sustain family farm
31 ownership; and

32 (iii) Accessory uses may operate out of existing or new buildings
33 with parking and other supportive uses consistent with the size and
34 scale of existing agricultural buildings on the site but shall not
35 otherwise convert agricultural land to nonagricultural uses.

36 (b) Accessory uses may include compatible commercial or retail uses
37 including, but not limited to:

38 (i) Storage and refrigeration of regional agricultural products;

1 (ii) Production, sales, and marketing of value-added agricultural
2 products derived from regional sources;

3 (iii) Supplemental sources of on-farm income that support and
4 sustain on-farm agricultural operations and production;

5 (iv) Support services that facilitate the production, marketing,
6 and distribution of agricultural products; and

7 (v) Off-farm and on-farm sales and marketing of predominately
8 regional agricultural products and experiences, locally made art and
9 arts and crafts, and ancillary retail sales or service activities.

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