

HOUSE BILL REPORT

HB 2797

As Reported by House Committee On:

Local Government

Appropriations

Title: An act relating to mitigating the impacts of climate change through the growth management act.

Brief Description: Addressing the impacts of climate change through the growth management act.

Sponsors: Representatives Simpson, Eddy, Campbell, Ormsby, Dunshee, Linville, Nelson, Jarrett, Springer, Wallace, Fromhold, Takko, Williams, Dickerson, Flannigan, Morrell, Chase, Lantz, Sells, Hunt, Pedersen, McCoy, Conway, Sullivan, Kenney, Darneille, McIntire, Green, Hudgins, Hasegawa and Ericks.

Brief History:

Committee Activity:

Local Government: 1/25/08, 2/1/08 [DPS];

Appropriations: 2/8/08, 2/11/08 [DP2S(w/o sub LG)].

Brief Summary of Second Substitute Bill

- Establishes a climate change planning goal in the Growth Management Act that takes effect December 31, 2010.
- Requires the Department of Community, Trade, and Economic Development (DCTED) to develop and provide counties and cities with a range of advisory climate change response methodologies.
- Requires the DCTED to provide a climate change report to the Governor and appropriate committees of the House of Representatives and the Senate.
- Establishes a global warming mitigation and adaptation program that must be administered by the DCTED.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Simpson, Chair; Takko, Vice Chair; Eddy and Nelson.

Minority Report: Do not pass. Signed by 3 members: Representatives Warnick, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Schmick.

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act - Introduction

The Growth Management Act (GMA or Act) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the Act (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions. The Department of Community, Trade and Economic Development (DCTED) provides technical and financial assistance to jurisdictions that must implement the GMA.

Comprehensive Land Use Plans

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. Planning jurisdictions must also adopt development regulations that implement and conform with their comprehensive plan.

Planning Goals

The GMA establishes planning goals in a non-prioritized list that must be used exclusively for guiding the development and adoption of comprehensive plans and development regulations. Examples of planning goals include the following:

- urban growth - encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner;
- reduce sprawl - reduce the inappropriate conversion of undeveloped land into sprawling, low-density development; and
- environment - protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

Climate Change and Global Warming

The Department of Ecology (DOE or agency), describes "climate change" as the rapid changing of climates around the world. The agency indicates that climate change is partially attributable to burning fossil fuels and deforestation: actions that create a blanket of greenhouse gases (carbon dioxide, methane, chlorofluorocarbons, et. cetera) in the atmosphere

that prevent the earth's solar-based heat from returning to space. This trapped atmospheric energy causes global temperatures to rise.

"Global warming," according to the DOE, refers to rising global temperatures resulting from an increased quantity of greenhouse gases in the atmosphere that are attributable to human activities. The agency indicates that rising global temperatures are causing the climate to change, and that a warmer earth will lead to different rainfall patterns, rising sea levels, and a wide range of impacts on plants, wildlife, and humans.

Summary of Substitute Bill:

New Planning Goal

A climate change goal is added to the planning goals of the GMA. The two-pronged planning goal calls for reducing climate change impacts by lessening emissions of greenhouse gases, and adapting to the effects of climate change through sustainable energy, transportation planning, and land use management practices. The goal takes effect December 31, 2010.

Advisory Methodologies and Estimates

New climate change responsibilities are specified for the DCTED. The DCTED must develop and provide counties and cities with a range of advisory climate change response methodologies and estimates. The methodologies and estimates must reflect the regional and local variations of planning jurisdictions. The methodologies and estimates also must:

- identify the greenhouse gas emission reductions that various land use and building measures are estimated to produce. The developed methodologies must be capable of considering documented benefits of specified land use planning actions; and
- identify potential policies, regulatory programs, and other measures counties and cities can implement to adapt to the likely adverse effects of global warming and climate change.

The DCTED must complete and release the methodologies and estimates by December 1, 2009. The methodologies and estimates must be updated every seven years according to a specified schedule.

The DCTED must create or contract to update an existing computer program for use by counties and cities to inventory, estimate, and project greenhouse gas emissions and identify greenhouse gas reductions. The computer program must have specified capabilities, including features for:

- estimating 1990 greenhouse gas emissions by sector;
- inventorying and estimating current emissions by sector;
- projecting future emissions by sector; and
- determining measures to reduce greenhouse gas emissions by lessening vehicle travel.

Climate Change Report

The DCTED is charged with, by December 1, 2008, providing a climate change report to the Governor and the appropriate committees of the House of Representatives and the Senate. The report must describe:

- how counties and cities are addressing climate change issues; and
- a range of possible measures that could be adopted as amendments to the GMA or other statutes that would enable counties and cities to effectively avoid, mitigate, and adapt to global warming in the land use and transportation planning process.

The report must address, as appropriate and with information that is readily available, delineated topics, including:

- what counties and cities have voluntarily done to identify the greenhouse gas emissions of their communities;
- the range of strategies chosen by jurisdictions to reduce emissions from their own activities and those of the entire community;
- recommendations for statutory amendments, if any, that are necessary to facilitate emission reductions and adaptation to climate change impacts at the local level through enhanced state and local planning and/or investment strategies; and
- recommendations for funding to assist counties and cities in fulfilling recommendations within the report.

In preparing the report, the DCTED must convene and consult with an advisory team comprised of the following interests:

- one representative each from six or fewer counties and 10 cities. In selecting these representatives, the DCTED must endeavor to have statewide geographical representation;
- one representative each from two regional transportation planning organizations (RTPOs); and
- representatives from other interested public agencies and interest groups. The number of representatives selected from interested public agencies and interest groups may not exceed the sum total of representatives selected from counties, cities, and RTPOs.

The DCTED is also required to periodically consult with the advisory team when developing its advisory climate change response methodologies and estimates.

Global Warming Mitigation and Adaptation Program

A global warming mitigation and adaptation program (program) is established and must be administered by the DCTED. The purpose of the program is to assist counties and cities that are addressing climate change through land use and transportation planning, and those that aspire to do so but lack necessary resources. The program must conclude by June 30, 2010.

The DCTED must, through a competitive process, select at least three counties and six cities for the program. Geographic and other criteria are established for jurisdictions that may be selected for the program, including:

- at least one county and one city must have potential to be adversely impacted by global warming through sea-level increases, storms, flooding, or other adverse effects;
- at least one county and one city must be located east of the crest of the Cascade mountains; and
- at least one county and one city must be located west of the crest of the Cascade mountains and outside the central Puget Sound region.

The DCTED must provide grants and technical assistance to aid the selected counties and cities in their efforts to anticipate, mitigate, and adapt to global warming and its associated problems. Additionally, the DCTED may fund proposals to inventory global warming emissions, mitigate global warming emissions, or adapt to the adverse impacts of global warming using criteria established by the DCTED.

If specific funding for the program is not provided by June 30, 2008, in the omnibus appropriations act, all program requirements are null and void.

ESSB 5248 (2007)

A new expression of legislative intent is added. The act is not intended to affect the provisions of ESSB 5248 (2007), legislation that modified county and city requirements for critical areas, and charged the William D. Ruckelshaus Center with examining conflicts between agricultural activities and regulations adopted under the GMA to protect critical areas.

Substitute Bill Compared to Original Bill:

Numerous changes to the original bill are reflected in the substitute version. The substitute bill:

- deletes a proposed amendment to the natural resources industries goal of the GMA;
- modifies the proposed climate change goal by, in part, deleting references to protecting people, property, the economy, and the environment and inserting provisions indicating that the goal should be implemented through sustainable energy, transportation planning, and land use management practices;
- deletes all amendatory provisions for comprehensive plans, urban growth areas, county-wide planning policies, fully contained communities, and master planned resorts;
- modifies requirements pertaining to climate change methodologies, estimates, and other actions that the DCTED must execute;
- deletes provisions pertaining to required comprehensive plan and development regulation amendments associated with the approval and funding of a high-capacity transportation service;
- deletes the global warming adaptation pilot program and instead establishes a global warming mitigation and adaptation program to be administered by the DCTED that will expire on January 1, 2011;
- includes a null and void clause for the program if funding is not provided in the omnibus appropriations act by June 30, 2008;

- replaces a requirement obligating the DCTED by December 1, 2012, and every two years thereafter, to provide a report to the Governor and the Legislature on the effects of and recommendations for the legislation, with a requirement obligating the DCTED to, by December 1, 2008, provide the Governor and the Legislature with a climate change/land use planning report meeting specified requirements;
- specifies that the act is not intended to affect the provisions of ESSB 5248 (2007); and
- modifies intent language.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, section 4, relating to the Global Warming Mitigation and Adaptation Program, is null and void if not funded in the budget.

Staff Summary of Public Testimony:

(In support) The bill is being revised and will be limited to establishing a new planning goal and requiring the DCTED to: develop methodologies for measuring emissions; provide compliance advice to local governments; and establish a grant program. This bill is one of the top four legislative priorities of the environmental community. Fossil-fuel based transportation is the primary contributor to global warming, and the GMA is the appropriate vehicle for addressing climate change. The Governor's Climate Advisory Team is planning to use the GMA to address global warming through land use provisions.

"Global warming" refers to trends in the global average temperature. The problem of rising temperatures is very much a state and local issue. Imported oil and natural gas dependancies are costly and affect national security. National and international solutions are needed, but local action is critical. The Legislature has been looking into cleaner cars and fuels, but an increase in the number of vehicle miles traveled will offset those gains. Internationally, 780 cities have adopted the Kyoto Protocols, including 29 Washington cities. These Washington cities have the will to address climate change, but they lack the tools to do so.

Local jurisdictions comprising 70 percent of the state's population have already committed to carbon reductions. This bill is the statewide plan that is needed for reductions. Stakeholders are working on an amended bill that will have fewer requirements. This bill does not amend provisions that apply to agricultural activities on critical areas.

The Christian community believes in hope, but the community fears that climate change discussions will not result in productive actions. The Christian community is looking for action.

Jurisdictions are required to consider the planning goals of the GMA: they are not mandates. Existing goals share common principles with the proposed goal: the new language is an updated version of concepts that are inherent in the GMA. Support exists for agency actions

mandated in a substitute version of the bill. Support exists for refining the emissions measurement tools of the bill and for developing tools that will allow jurisdictions to respond to global warming. If the proposed amendment is adopted, it would be a modest first step.

The City of Tacoma has signed a climate protection agreement. Tough climate change decisions lie ahead, but the bill is a necessary and incremental effort. Risks are associated with city actions, but the bill's provisions will benefit Tacoma.

The transit provisions in the bill should be strengthened. The proposed amendment will reduce the number of vehicle miles traveled, will provide local governments with needed planning tools, and will enable local governments to follow the Governor's call to have counties and cities become leaders in responding to climate change.

The way to reduce emissions is through smart, planned growth. The next cycle of updates for comprehensive plans and development regulations will begin in 2011. Unless this bill is adopted with requirements directing the DCTED to update its guidelines, the agency's guidelines will not be updated in time to affect the local government updates. Jurisdictions and the DCTED need a new goal in the GMA to properly implement agency guidelines. The proposed goal is very important for emissions reductions. Newly established objectives need to have the full force of law.

Skagit County needs tools and guidance to prepare for global warming. The county is concerned about the effects of rising sea levels on its islands and shorelines. Skagit County needs state support, as planning for global warming is beyond its capacity.

This bill is not about smokestacks, but is about the communities that surround them. This is a planning bill that will make a profound difference in reducing greenhouse gas emissions.

This bill enables the state to be a national leader at a time when it is clear that global warming and climate change are here.

(With concerns) The Washington State Association of Counties is developing a framework to respond to climate change legislation. Some Washington counties are national leaders in climate change issues and are already integrating related provisions into their GMA planning processes, but the state's counties are very diverse. Counties are not prepared to accept a new planning goal, but they are supportive of new tools and a climate change pilot program. Counties are financially stressed and the Legislature has not improved their fiscal health. Opposition exists for adding explicit planning requirements to the GMA.

Questions exist about who will be responsible for emissions and related authorizations. The DCTED does not have a climate change/land use planning staff. Concerns exist about the timing and responsibilities that are proposed for the DCTED: perhaps some responsibilities should be directed to other agencies.

(Opposed) A diverse group of stakeholders is working on an amendment to the bill. The City of Kennewick is still learning about climate change and needs additional time to develop

expertise. Local citizens should be engaged in developing responses to climate change. The addition of a new GMA goal is concerning, as are the implementation costs.

Growth Management Hearings Boards elevate certain goals over others. This bill will create a new cause of action and the proposed planning goal will create a new source of litigation. Agency guidance documents have become defacto rules. Emission issues are already being litigated under the State Environmental Policy Act.

The legislation has no eastern Washington sponsors. Proposed and enacted legislation continues to reduce the land use authority of local governments. The GMA is intended to provide structure, but state interference has prevented it from realizing its potential. This bill will reach into the private lives of citizens and might frustrate the good intentions of local governments. The requirements of the bill should be changed to guidelines and incentives that could be applied to all jurisdictions.

The Governor established climate change-related goals that were codified in 2007. The Governor's actions also led to the establishment of the Climate Advisory Team, a joint effort that the business community is participating in. The legislative approach contained within the bill is premature: the Climate Advisory Team has not made legislative recommendations for local government responses to climate change. The business community was not consulted in the drafting of the original bill, and is concerned about adding a new goal in the GMA. The business community is willing to look at climate change issues at the local level, but this bill is not the best approach to doing so.

Persons Testifying: (In support) Representative Simpson, prime sponsor; Cliff Traisman, Washington Conservation Voters/Washington Environmental Council; K.C. Golden, Climate Solutions; April Putney, and Dave Bricklin, Futurewise; Brian Naasz, Earth Ministry; Joe Tovar, Washington Chapter of American Planning Association; Paul Roberts, City of Everett; Jake Fey, City of Tacoma; Melanie Smith, Sound Transit; Genesee Adkins, Transportation Choices Coalition; Ryan Walters, Skagit County; Bill LaBorde, Environment Washington; and Jeff Kingsbury, City of Olympia.

(With concerns) Eric Johnson, Washington State Association of Counties; Bill Clarke, Washington Realtors; and Leonard Bauer, Department of Community, Trade and Economic Development.

(Opposed) Bob Hammond, City of Kennewick; Andrew Cook, Building Industry Association of Washington; Linda Schantz; and Chris McCabe, Association of Washington Businesses.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 20 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway,

Darneille, Ericks, Fromhold, Green, Haigh, Hunt, Kagi, Kenney, Kessler, Linville, McIntire, Morrell, Pettigrew, Schual-Berke, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 12 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Grant, Hinkle, Kretz, Priest, Ross, Schmick and Walsh.

Staff: Kirk Schmidt (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Local Government:

The second substitute bill restricts the goal of climate change to pertain only to counties that fully plan under the Growth Management Act (GMA) with a population exceeding 100,000 and cities that fully plan under the GMA with a population exceeding 30,000.

A null and void clause was added, making the bill null and void unless funded in the budget.
Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) Substitute House Bill 2797 makes the reduction of greenhouse emissions a goal, not a requirement. Many municipalities are taking steps towards the reduction of emissions; the bill will provide a tool to help them.

The Growth Management Act requires local plans to be updated every seven years. Many cities are already looking to address climate change, but they need funding help from the state. In the 2011-2013 biennium local jurisdictions will have liabilities from funding the climate change goal.

(Opposed) The bill will cause jurisdictions to be sued for not meeting the goal or emission reductions. Having the Growth Management Act goal will cause an increase in appeals and litigation.

Persons Testifying: (In support) April Putney, Futurewise; Mike Moran, Samish, Hoh and Umatilla Tribes; Miquel Perez-Gibson, Colville Tribes; and Clifford Traisman, Washington Environmental Voters and Washington Environmental Council.

(Opposed) Andrew Cook, Building Industry Association of Washington; and Chris McCabe, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.