

HOUSE BILL REPORT

SB 6014

As Passed House:

April 10, 2007

Title: An act relating to industrial development on reclaimed surface coal mine sites.

Brief Description: Authorizing industrial development on reclaimed surface coal mine sites.

Sponsors: By Senators Swecker, Haugen, Keiser, Hatfield, Zarelli, Benton, Hewitt, Stevens, Shin, Marr, Rasmussen, Oemig and Sheldon.

Brief History:

Committee Activity:

Local Government: 3/27/07, 3/29/07 [DP].

Floor Activity:

Passed House: 4/10/07, 98-0.

Brief Summary of Bill

- Authorizes a county planning under the Growth Management Act to permit the development of master planned major industrial development on lands outside an urban growth area that have been formerly used for coal mining.
- Creates substantive and procedural requirements for the industrial use and development of former coal mining lands located outside an urban growth area.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Simpson, Chair; Eddy, Vice Chair; Curtis, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Ross, B. Sullivan and Takko.

Staff: Thamas Osborn (786-7129).

Background:

Growth Management Act Requirements for Comprehensive Land Use Plans

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.

Those jurisdictions planning under the Growth Management Act (GMA) must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Each comprehensive plan must include certain elements, including land use, housing, and transportation elements. A comprehensive plan may be updated or amended only once per year and any such revision must be done in accordance with specified public notice and participation requirements.

As part of its comprehensive land use plan, a county fully planning under the GMA must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. The GMA does, however, permit certain types of development activity outside of UGAs in fully planning counties.

Among the developments permitted outside of UGAs but which have infrastructure/facilities needs and other characteristics which are urban in nature are the following: (1) master planned major industrial developments; (2) industrial land banks; (3) fully contained communities; and (4) master planned resorts. The GMA contains extensive planning requirements governing the creation of these categories of development so as to minimize their impact on the rural environment.

Master Planned "Major Industrial Development"

The GMA planning counties are authorized to establish a process for reviewing and approving proposals for the siting of specific major industrial developments outside UGAs. "Major industrial development" means a master planned location suitable for manufacturing or industrial businesses that:

- requires a parcel of land so large that no suitable parcels are available within a UGA; or
- is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent.

An eligible county may approve a major industrial development outside a UGA provided the following criteria are met:

- new infrastructure is provided for and/or applicable impact fees are paid;
- transit-oriented site planning and traffic demand management programs are implemented;
- buffers are provided between the major industrial development and adjacent non-urban areas;
- environmental protection including air and water quality has been addressed and provided for; and
- provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands.

Industrial Land Banks

In 1996 the Legislature amended the GMA to authorize a pilot project under which "industrial land banks" could be established for the expeditious siting of major industrial development outside UGAs. Among other provisions, the pilot project legislation: (a) allowed only certain counties to participate in the project, such participation being contingent, in part, on meeting

detailed criteria relating to population, geographic location, and unemployment statistics; (b) established criteria for siting these developments within designated banks of land; and (c) provided for amending comprehensive plans adopted under the GMA to implement these provisions.

"Industrial land bank" (land bank) is defined to mean up to two master planned locations, each consisting of a parcel or parcels of contiguous land, sufficiently large so as not to be readily available within the UGA of a city, or otherwise meeting specified criteria. The definition specifies that the land bank must be suitable for manufacturing, industrial, or commercial businesses and is specifically designated for major industrial use within the county's comprehensive plan.

Eligible counties may establish up to two master planned locations for major industrial activity within a land bank located outside UGAs. Among other criteria for establishing major industrial developments within designated land banks, eligible counties must provide for new infrastructure, determine the feasibility of alternate sites, and satisfy specific development regulation requirements. Additionally, when selecting locations for inclusion within a land bank, counties must give priority to locations adjacent to, or in close proximity to, a UGA.

An eligible county must complete a comprehensive planning process before a master planned location for a major industrial development may be included in a land bank. The planning process must ensure that the following criteria are met:

- development regulations are adopted to ensure that urban growth will not occur in adjacent non-urban areas;
- the master plan for the major industrial development is consistent with development regulations adopted for protection of critical areas;
- an inventory of developable land has been conducted;
- provisions are established for determining the availability of qualifying alternate sites; and
- development regulations are adopted to require, in part, that the land bank site is to be used primarily for locating industrial and manufacturing businesses.

Final approval of inclusion of a master planned location in a land bank is an amendment to the applicable comprehensive plan, but the inclusion or exclusion of master planned locations may be considered at any time. After a master planned location has been included in a land bank, manufacturing and industrial businesses that qualify as major industrial development may be located there.

Land Use Petition Act (Chapter 36.70C RCW)

The Land Use Petition Act (LUPA) is uniform appeal process for land use decisions issued by local jurisdictions. The LUPA provides an expedited process for the direct appeal to superior court of final decisions made by local jurisdictions regarding permit applications pertaining to the use, development, modification, sale, or transfer of real property. The LUPA does not apply to local land use decisions that must be reviewed by a quasi-judicial body under state law.

Summary of Bill:

A GMA planning county meeting specified eligibility criteria is authorized to permit master planned major industrial development on lands outside an urban growth area that have been formerly used for coal mining. Prior to undertaking the planning for such development, a county must consult with the cities within the county in order to develop a process for designating the master planned locations where the industrial activity may take place.

In order to be eligible to engage in the industrial activity authorized under the act, a county must: (1) have had a surface coal mining operation in excess of 3,000 acres that ceased operation after July 1, 2006, and (2) that is located within 15 miles of the Interstate 5 corridor.

The siting of the planned industrial development is limited to lands that:

- were formerly used or designated for surface coal mining and supporting uses;
- encompass at least 1,000 acres in the aggregate, but which may be composed of several parcels that are not contiguous; and
- are suitable for manufacturing, industrial, or commercial uses.

The comprehensive plan for the industrial development must ensure that:

- the location of the development is consistent with the specified siting requirements;
- provisions are made for the development of any new infrastructure that may be necessary; and
- environmental review takes place in accordance with specified requirements.

Once a county amends its comprehensive plan to designate a master planned location for the industrial development, the county may approve a specific industrial activity without any further amendment of its comprehensive plan. However, criteria for the approval of a specific industrial activity must be specified in development regulations that include the following requirements:

- the site must consist of at least 100 acres of land formerly used or designated for surface coal mining and supporting uses;
- the site has been or will be reclaimed as land suitable for industrial development;
- urban growth will not occur in adjacent nonurban areas;
- environmental review must be conducted in accordance with the State Environmental Policy Act;
- commercial development must be directly related to manufacturing or industrial uses; and
- commercial uses shall not exceed 10 percent of the total gross floor area of buildings or facilities in the development.

Although the designation of a master planned location for major industrial activity under this act must be implemented through an amendment to a county's comprehensive plan, such amendment is exempt from the GMA requirement limiting a county to one amendment of the comprehensive plan per year. Accordingly, a county's comprehensive plan may be amended without limitation for the purposes of the planning authorized under this act.

The GMA requirements for the implementation of master planned major industrial development (see RCW 36.70A.365) and industrial land banks (see RCW 36.70A.367) are not applicable to the master planned industrial activity authorized under this act. Accordingly, the provisions of this act create a third, independent basis for the authorization of major industrial activity outside of a UGA.

A comprehensive plan amendment designating a master planned location under this act may be subject to appeal. In addition, a county's subsequent approval of a specific major industrial activity at the planned location is subject to appeal under the Land Use Petition Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The passage of this bill would greatly help Lewis County recover from the closure of its open pit coal mine last year. The mine was the county's largest employer and its closure has had disastrous consequences for the county economy. The county unemployment rate is among the highest in the state and the redevelopment of the coal mining lands as authorized under the bill offers the best opportunity for the creation of new jobs and overall economic recovery. Without the passage of this bill, Lewis County will have a very difficult time creating the industrial development it needs in order to recover from the mine closure.

The mining company has offered to donate its land to the county and this land is a perfect place to conduct industrial activity. The bill allows redevelopment of only that land that has already been subject to coal mining and is applicable to only one site in the county. Accordingly, allowing the industrial redevelopment of this land would have little or no environmental impact on the surrounding area.

(Opposed) None.

Persons Testifying: Bob Gunther, International Brotherhood of Electrical Workers; Bill Lotto, Lewis County Economic Development Council; Bob Johnson, Lewis County Community Development; and John Hempelman, Carncross and Hempelman.

Persons Signed In To Testify But Not Testifying: None.