
ENGROSSED SUBSTITUTE HOUSE BILL 2212

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Blake, B. Sullivan and Newhouse)

READ FIRST TIME 2/28/07.

1 AN ACT Relating to addressing the application of the growth
2 management act to certain agricultural activities occurring on
3 agricultural lands; adding new sections to chapter 36.70A RCW; creating
4 new sections; providing an expiration date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the goal of
7 preserving Washington's agricultural lands is shared by citizens
8 throughout the state. The legislature recognizes that efforts to
9 achieve a balance between the productive use of these resource lands
10 and associated regulatory requirements have proven difficult, but that
11 good faith efforts to seek solutions have yielded successes. The
12 legislature believes that this willingness to find and pursue common
13 ground will enable Washingtonians to enjoy the benefits of a successful
14 agricultural economy and a healthy environment, while also preventing
15 the unnecessary conversion of valuable agricultural lands.

16 (2) The legislature, therefore, intends this act, the temporary
17 delays it establishes for amending or adopting provisions of certain
18 critical area ordinances and implementing regulations, and the duties
19 and requirements it prescribes for the William D. Ruckelshaus Center,

1 to be expressions of progress in resolving, harmonizing, and advancing
2 commonly held environmental protection and agricultural viability
3 goals.

4 (3) The legislature fully expects the duties and requirements it is
5 prescribing for the Ruckelshaus Center to be successful. If, however,
6 the efforts of the center do not result in a consensus of how to best
7 address the conflicts between agricultural activities and certain
8 regulatory requirements as they apply to agricultural activities, the
9 legislature intends, upon the expiration of the delay, to require
10 jurisdictions that have delayed amending or adopting certain regulatory
11 measures to promptly complete all regulatory amendments or adoptions
12 necessary to comply with the growth management act.

13 (4) The legislature does not intend this act to reduce or otherwise
14 diminish existing critical area ordinances and implementing regulations
15 that protect critical areas that apply to agricultural activities
16 during the deferral period established in section 2 of this act.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
18 to read as follows:

19 (1) Until July 1, 2009, counties and cities must defer amending or
20 adopting critical area ordinances and implementing regulations under
21 RCW 36.70A.060(2) as they specifically apply to agricultural
22 activities. Nothing in this section:

23 (a) Nullifies critical area ordinances and implementing regulations
24 adopted by a county or city prior to January 1, 2007, to comply with
25 RCW 36.70A.060(2);

26 (b) Limits or otherwise modifies the obligations of a county or
27 city to comply with the requirements of this chapter pertaining to
28 critical areas not associated with agricultural activities; or

29 (c) Limits the ability of a county or city to employ voluntary
30 measures or programs to protect or enhance critical areas associated
31 with agricultural activities.

32 (2) Counties and cities that defer amending or adopting critical
33 area ordinances and implementing regulations under subsection (1) of
34 this section must review and revise these ordinances and regulations as
35 they specifically apply to agricultural activities to comply with the
36 requirements of this chapter by July 1, 2010.

1 (3) For purposes of this section and sections 3, 4, and 6 of this
2 act, "agricultural activities" means agricultural uses and practices
3 currently existing or legally allowed including, but not limited to:
4 Producing, breeding, or increasing agricultural products; rotating and
5 changing agricultural crops; allowing land used for agricultural
6 activities to lie fallow in which it is plowed and tilled but left
7 unseeded; allowing land used for agricultural activities to lie dormant
8 as a result of adverse agricultural market conditions; allowing land
9 used for agricultural activities to lie dormant because the land is
10 enrolled in a local, state, or federal conservation program, or the
11 land is subject to a conservation easement; conducting agricultural
12 operations; maintaining, repairing, and replacing agricultural
13 equipment; maintaining, repairing, and replacing agricultural
14 facilities, when the replacement facility is no closer to a critical
15 area than the original facility; and maintaining agricultural lands
16 under production or cultivation.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW
18 to read as follows:

19 Nothing in this act limits or otherwise modifies the authority of
20 a county or city to:

21 (1) Comply with an order from a growth management hearings board or
22 a court;

23 (2) Implement a settlement in compliance with the requirements of
24 this chapter; or

25 (3) Attempt to settle issues raised in litigation challenging
26 critical area ordinances and implementing regulations under RCW
27 36.70A.060(2) as they specifically apply to agricultural activities.

28 NEW SECTION. **Sec. 4.** (1) Subject to the availability of amounts
29 appropriated for this specific purpose, the William D. Ruckelshaus
30 Center must conduct an examination of the conflicts between
31 agricultural activities and critical area ordinances and implementing
32 regulations adopted under chapter 36.70A RCW to protect critical areas.
33 The examination required by this section must commence by July 1, 2007.

34 (2) In fulfilling the requirements of this section, the center
35 must: (a) Work and consult with willing participants including, but

1 not limited to, agricultural, environmental, tribal, and local
2 government interests; and (b) involve and apprise legislators and
3 legislative staff of its efforts.

4 (3) The examination conducted by the center must be completed in
5 two distinct phases in accordance with the following:

6 (a) In the first phase, the center must conduct fact-finding and
7 stakeholder discussions with stakeholders identified in subsection (2)
8 of this section. These discussions must identify stakeholder concerns,
9 desired outcomes, opportunities, and barriers. The fact-finding must
10 identify existing regulatory, management, and scientific information
11 related to agricultural activities and critical areas including, but
12 not limited to: (i) Critical area ordinances and implementing
13 regulations adopted under chapter 36.70A RCW to protect critical areas;
14 (ii) acreage enrolled in the conservation reserve enhancement program;
15 (iii) acreage protected by conservation easements; (iv) buffer widths;
16 (v) requirements of federally approved salmon recovery plans; (vi) the
17 impacts of agricultural activities on Puget Sound recovery efforts; and
18 (vii) compliance with water quality requirements. The center must
19 issue a report of its fact-finding efforts and stakeholder discussions
20 to the governor and the appropriate committees of the house of
21 representatives and the senate by December 1, 2007; and

22 (b) In the second phase, the center must facilitate discussions
23 between the stakeholders identified in subsection (2) of this section
24 to identify policy and financial options or opportunities to address
25 the issues identified by stakeholders in the first phase of the
26 center's examination efforts. In particular, the center must examine
27 innovative solutions including, but not limited to, outcome-based
28 approaches that incorporate, to the maximum extent practicable,
29 voluntary programs or approaches. The center must work to achieve
30 consensus among participating stakeholders on identified issues and to
31 develop a coalition of diverse stakeholders that can be used to support
32 agreed upon changes or new approaches to protecting critical areas
33 during the 2009 legislative session.

34 (4) The center must issue a final report of findings and
35 legislative recommendations to the governor and the appropriate
36 committees of the house of representatives and the senate by September
37 1, 2008.

1 NEW SECTION. **Sec. 5.** If specific funding for the purposes of
2 section 4 of this act, referencing this act and section 4 of this act
3 by bill or chapter number and section number, is not provided by June
4 30, 2007, in the omnibus appropriations act, this act is null and void.

5 NEW SECTION. **Sec. 6.** This act applies retroactively to any
6 critical area ordinance and implementing regulation under RCW
7 36.70A.060(2) as they specifically apply to agricultural activities
8 amended or adopted by a county or city on or after January 1, 2007.

9 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and takes effect
12 immediately.

13 NEW SECTION. **Sec. 8.** This act expires July 1, 2010.

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