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HOUSE BILL 2576

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Simpson, Appleton, Hasegawa, Ormsby, Santos, and Chase

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1            AN ACT Relating to promoting the availability of affordable housing  
2 through the comprehensive plan requirements of the growth management  
3 act; amending RCW 36.70A.030 and 36.70A.070; and creating a new  
4 section.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds that housing prices in  
7 metropolitan areas of the state have been increasing faster than  
8 incomes and inflation and that these circumstances have proven  
9 especially difficult for low and moderate-income households. The  
10 legislature finds also that escalating land and construction costs are  
11 contributing factors that can impede the adequate provision of  
12 affordable housing.

13            The legislature further finds that the housing element of the  
14 growth management act is a principal enunciation of Washington's  
15 housing policy and that modifications to the element can promote the  
16 availability of affordable housing. The legislature, therefore,  
17 intends this act to reduce shortages of affordable housing by  
18 establishing new housing element requirements that promote the planning

1 for and development of additional low and moderate-income housing  
2 units.

3 **Sec. 2.** RCW 36.70A.030 and 2005 c 423 s 2 are each amended to read  
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Adopt a comprehensive land use plan" means to enact a new  
8 comprehensive land use plan or to update an existing comprehensive land  
9 use plan.

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

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

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

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

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

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

1 be expressed in a resolution or ordinance of the legislative body of  
2 the county or city.

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

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

22 (10) "Long-term commercial significance" includes the growing  
23 capacity, productivity, and soil composition of the land for long-term  
24 commercial production, in consideration with the land's proximity to  
25 population areas, and the possibility of more intense uses of the land.

26 (11) "Low-income housing" means housing that is affordable  
27 according to standards of the United States department of housing and  
28 urban development for ownership or rental. "Low-income housing" must  
29 be occupied by, reserved for, or marketed for occupancy by households  
30 with a gross household income of eighty percent or less of the county's  
31 median gross household income for identically sized households.

32 (12) "Minerals" include gravel, sand, and valuable metallic  
33 substances.

34 ((+12)) (13) "Moderate-income housing" means housing that is  
35 affordable according to standards of the United States department of  
36 housing and urban development for ownership or rental. "Moderate-  
37 income housing" must be occupied by, reserved for, or marketed for

1 occupancy by households with a gross household income of greater than  
2 eighty percent but less than one hundred twenty percent of the county's  
3 median gross household income for identically sized households.

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

8 ~~((13))~~ (15) "Public services" include fire protection and  
9 suppression, law enforcement, public health, education, recreation,  
10 environmental protection, and other governmental services.

11 ~~((14) "Recreational land" means land so designated under RCW~~  
12 ~~36.70A.1701 and that, immediately prior to this designation, was~~  
13 ~~designated as agricultural land of long term commercial significance~~  
14 ~~under RCW 36.70A.170. Recreational land must have playing fields and~~  
15 ~~supporting facilities existing before July 1, 2004, for sports played~~  
16 ~~on grass playing fields.~~

17 ~~(15))~~ (16) "Rural character" refers to the patterns of land use  
18 and development established by a county in the rural element of its  
19 comprehensive plan:

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

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

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

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

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

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

32 (g) That are consistent with the protection of natural surface  
33 water flows and groundwater and surface water recharge and discharge  
34 areas.

35 ~~((16))~~ (17) "Rural development" refers to development outside the  
36 urban growth area and outside agricultural, forest, and mineral  
37 resource lands designated pursuant to RCW 36.70A.170. Rural  
38 development can consist of a variety of uses and residential densities,

1 including clustered residential development, at levels that are  
2 consistent with the preservation of rural character and the  
3 requirements of the rural element. Rural development does not refer to  
4 agriculture or forestry activities that may be conducted in rural  
5 areas.

6 ~~((+17+))~~ (18) "Rural governmental services" or "rural services"  
7 include those public services and public facilities historically and  
8 typically delivered at an intensity usually found in rural areas, and  
9 may include domestic water systems, fire and police protection  
10 services, transportation and public transit services, and other public  
11 utilities associated with rural development and normally not associated  
12 with urban areas. Rural services do not include storm or sanitary  
13 sewers, except as otherwise authorized by RCW 36.70A.110(4).

14 ~~((+18+))~~ (19) "Urban growth" refers to growth that makes intensive  
15 use of land for the location of buildings, structures, and impermeable  
16 surfaces to such a degree as to be incompatible with the primary use of  
17 land for the production of food, other agricultural products, or fiber,  
18 or the extraction of mineral resources, rural uses, rural development,  
19 and natural resource lands designated pursuant to RCW 36.70A.170. A  
20 pattern of more intensive rural development, as provided in RCW  
21 36.70A.070(5)(d), is not urban growth. When allowed to spread over  
22 wide areas, urban growth typically requires urban governmental  
23 services. "Characterized by urban growth" refers to land having urban  
24 growth located on it, or to land located in relationship to an area  
25 with urban growth on it as to be appropriate for urban growth.

26 ~~((+19+))~~ (20) "Urban growth areas" means those areas designated by  
27 a county pursuant to RCW 36.70A.110.

28 ~~((+20+))~~ (21) "Urban governmental services" or "urban services"  
29 include those public services and public facilities at an intensity  
30 historically and typically provided in cities, specifically including  
31 storm and sanitary sewer systems, domestic water systems, street  
32 cleaning services, fire and police protection services, public transit  
33 services, and other public utilities associated with urban areas and  
34 normally not associated with rural areas.

35 ~~((+21+))~~ (22) "Wetland" or "wetlands" means areas that are  
36 inundated or saturated by surface water or groundwater at a frequency  
37 and duration sufficient to support, and that under normal circumstances  
38 do support, a prevalence of vegetation typically adapted for life in

1 saturated soil conditions. Wetlands generally include swamps, marshes,  
2 bogs, and similar areas. Wetlands do not include those artificial  
3 wetlands intentionally created from nonwetland sites, including, but  
4 not limited to, irrigation and drainage ditches, grass-lined swales,  
5 canals, detention facilities, wastewater treatment facilities, farm  
6 ponds, and landscape amenities, or those wetlands created after July 1,  
7 1990, that were unintentionally created as a result of the construction  
8 of a road, street, or highway. Wetlands may include those artificial  
9 wetlands intentionally created from nonwetland areas created to  
10 mitigate conversion of wetlands.

11 **Sec. 3.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read  
12 as follows:

13 The comprehensive plan of a county or city that is required or  
14 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
15 and descriptive text covering objectives, principles, and standards  
16 used to develop the comprehensive plan. The plan shall be an  
17 internally consistent document and all elements shall be consistent  
18 with the future land use map. A comprehensive plan shall be adopted  
19 and amended with public participation as provided in RCW 36.70A.140.

20 Each comprehensive plan shall include a plan, scheme, or design for  
21 each of the following:

22 (1) A land use element designating the proposed general  
23 distribution and general location and extent of the uses of land, where  
24 appropriate, for agriculture, timber production, housing, commerce,  
25 industry, recreation, open spaces, general aviation airports, public  
26 utilities, public facilities, and other land uses. The land use  
27 element shall include population densities, building intensities, and  
28 estimates of future population growth. The land use element shall  
29 provide for protection of the quality and quantity of groundwater used  
30 for public water supplies. Wherever possible, the land use element  
31 should consider utilizing urban planning approaches that promote  
32 physical activity. Where applicable, the land use element shall review  
33 drainage, flooding, and storm water run-off in the area and nearby  
34 jurisdictions and provide guidance for corrective actions to mitigate  
35 or cleanse those discharges that pollute waters of the state, including  
36 Puget Sound or waters entering Puget Sound.

1 (2) A housing element ensuring the vitality and character of  
2 established residential neighborhoods that: (a) Includes an inventory  
3 and analysis of existing and projected housing needs that identifies  
4 the number of housing units necessary to manage projected growth; (b)  
5 includes a statement of goals, policies, objectives, and mandatory  
6 provisions for the preservation, improvement, and development of  
7 housing, including single-family residences; (c) identifies sufficient  
8 land for housing, including, but not limited to, government-assisted  
9 housing, low-income housing, moderate-income housing (~~for low-income~~  
10 ~~families~~)), manufactured housing, multifamily housing, and group homes  
11 and foster care facilities; and (d) makes adequate provisions for  
12 existing and projected needs of all economic segments of the community.

13 (3) A capital facilities plan element consisting of: (a) An  
14 inventory of existing capital facilities owned by public entities,  
15 showing the locations and capacities of the capital facilities; (b) a  
16 forecast of the future needs for such capital facilities; (c) the  
17 proposed locations and capacities of expanded or new capital  
18 facilities; (d) at least a six-year plan that will finance such capital  
19 facilities within projected funding capacities and clearly identifies  
20 sources of public money for such purposes; and (e) a requirement to  
21 reassess the land use element if probable funding falls short of  
22 meeting existing needs and to ensure that the land use element, capital  
23 facilities plan element, and financing plan within the capital  
24 facilities plan element are coordinated and consistent. Park and  
25 recreation facilities shall be included in the capital facilities plan  
26 element.

27 (4) A utilities element consisting of the general location,  
28 proposed location, and capacity of all existing and proposed utilities,  
29 including, but not limited to, electrical lines, telecommunication  
30 lines, and natural gas lines.

31 (5) Rural element. Counties shall include a rural element  
32 including lands that are not designated for urban growth, agriculture,  
33 forest, or mineral resources. The following provisions shall apply to  
34 the rural element:

35 (a) Growth management act goals and local circumstances. Because  
36 circumstances vary from county to county, in establishing patterns of  
37 rural densities and uses, a county may consider local circumstances,

1 but shall develop a written record explaining how the rural element  
2 harmonizes the planning goals in RCW 36.70A.020 and meets the  
3 requirements of this chapter.

4 (b) Rural development. The rural element shall permit rural  
5 development, forestry, and agriculture in rural areas. The rural  
6 element shall provide for a variety of rural densities, uses, essential  
7 public facilities, and rural governmental services needed to serve the  
8 permitted densities and uses. To achieve a variety of rural densities  
9 and uses, counties may provide for clustering, density transfer, design  
10 guidelines, conservation easements, and other innovative techniques  
11 that will accommodate appropriate rural densities and uses that are not  
12 characterized by urban growth and that are consistent with rural  
13 character.

14 (c) Measures governing rural development. The rural element shall  
15 include measures that apply to rural development and protect the rural  
16 character of the area, as established by the county, by:

- 17 (i) Containing or otherwise controlling rural development;
- 18 (ii) Assuring visual compatibility of rural development with the  
19 surrounding rural area;
- 20 (iii) Reducing the inappropriate conversion of undeveloped land  
21 into sprawling, low-density development in the rural area;
- 22 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and  
23 surface water and groundwater resources; and
- 24 (v) Protecting against conflicts with the use of agricultural,  
25 forest, and mineral resource lands designated under RCW 36.70A.170.

26 (d) Limited areas of more intensive rural development. Subject to  
27 the requirements of this subsection and except as otherwise  
28 specifically provided in this subsection (5)(d), the rural element may  
29 allow for limited areas of more intensive rural development, including  
30 necessary public facilities and public services to serve the limited  
31 area as follows:

- 32 (i) Rural development consisting of the infill, development, or  
33 redevelopment of existing commercial, industrial, residential, or  
34 mixed-use areas, whether characterized as shoreline development,  
35 villages, hamlets, rural activity centers, or crossroads developments.  
36 (A) A commercial, industrial, residential, shoreline, or mixed-use  
37 area shall be subject to the requirements of (d)(iv) of this



1 subsection, but shall not be subject to the requirements of (c)(ii) and  
2 (iii) of this subsection.

3 (B) Any development or redevelopment other than an industrial area  
4 or an industrial use within a mixed-use area or an industrial area  
5 under this subsection (5)(d)(i) must be principally designed to serve  
6 the existing and projected rural population.

7 (C) Any development or redevelopment in terms of building size,  
8 scale, use, or intensity shall be consistent with the character of the  
9 existing areas. Development and redevelopment may include changes in  
10 use from vacant land or a previously existing use so long as the new  
11 use conforms to the requirements of this subsection (5);

12 (ii) The intensification of development on lots containing, or new  
13 development of, small-scale recreational or tourist uses, including  
14 commercial facilities to serve those recreational or tourist uses, that  
15 rely on a rural location and setting, but that do not include new  
16 residential development. A small-scale recreation or tourist use is  
17 not required to be principally designed to serve the existing and  
18 projected rural population. Public services and public facilities  
19 shall be limited to those necessary to serve the recreation or tourist  
20 use and shall be provided in a manner that does not permit low-density  
21 sprawl;

22 (iii) The intensification of development on lots containing  
23 isolated nonresidential uses or new development of isolated cottage  
24 industries and isolated small-scale businesses that are not principally  
25 designed to serve the existing and projected rural population and  
26 nonresidential uses, but do provide job opportunities for rural  
27 residents. Rural counties may allow the expansion of small-scale  
28 businesses as long as those small-scale businesses conform with the  
29 rural character of the area as defined by the local government  
30 according to RCW 36.70A.030(~~((+14))~~) (16). Rural counties may also  
31 allow new small-scale businesses to utilize a site previously occupied  
32 by an existing business as long as the new small-scale business  
33 conforms to the rural character of the area as defined by the local  
34 government according to RCW 36.70A.030(~~((+14))~~) (16). Public services  
35 and public facilities shall be limited to those necessary to serve the  
36 isolated nonresidential use and shall be provided in a manner that does  
37 not permit low-density sprawl;

1 (iv) A county shall adopt measures to minimize and contain the  
2 existing areas or uses of more intensive rural development, as  
3 appropriate, authorized under this subsection. Lands included in such  
4 existing areas or uses shall not extend beyond the logical outer  
5 boundary of the existing area or use, thereby allowing a new pattern of  
6 low-density sprawl. Existing areas are those that are clearly  
7 identifiable and contained and where there is a logical boundary  
8 delineated predominately by the built environment, but that may also  
9 include undeveloped lands if limited as provided in this subsection.  
10 The county shall establish the logical outer boundary of an area of  
11 more intensive rural development. In establishing the logical outer  
12 boundary the county shall address (A) the need to preserve the  
13 character of existing natural neighborhoods and communities, (B)  
14 physical boundaries such as bodies of water, streets and highways, and  
15 land forms and contours, (C) the prevention of abnormally irregular  
16 boundaries, and (D) the ability to provide public facilities and public  
17 services in a manner that does not permit low-density sprawl;

18 (v) For purposes of (d) of this subsection, an existing area or  
19 existing use is one that was in existence:

20 (A) On July 1, 1990, in a county that was initially required to  
21 plan under all of the provisions of this chapter;

22 (B) On the date the county adopted a resolution under RCW  
23 36.70A.040(2), in a county that is planning under all of the provisions  
24 of this chapter under RCW 36.70A.040(2); or

25 (C) On the date the office of financial management certifies the  
26 county's population as provided in RCW 36.70A.040(5), in a county that  
27 is planning under all of the provisions of this chapter pursuant to RCW  
28 36.70A.040(5).

29 (e) Exception. This subsection shall not be interpreted to permit  
30 in the rural area a major industrial development or a master planned  
31 resort unless otherwise specifically permitted under RCW 36.70A.360 and  
32 36.70A.365.

33 (6) A transportation element that implements, and is consistent  
34 with, the land use element.

35 (a) The transportation element shall include the following  
36 subelements:

37 (i) Land use assumptions used in estimating travel;

1 (ii) Estimated traffic impacts to state-owned transportation  
2 facilities resulting from land use assumptions to assist the department  
3 of transportation in monitoring the performance of state facilities, to  
4 plan improvements for the facilities, and to assess the impact of land-  
5 use decisions on state-owned transportation facilities;

6 (iii) Facilities and services needs, including:

7 (A) An inventory of air, water, and ground transportation  
8 facilities and services, including transit alignments and general  
9 aviation airport facilities, to define existing capital facilities and  
10 travel levels as a basis for future planning. This inventory must  
11 include state-owned transportation facilities within the city or  
12 county's jurisdictional boundaries;

13 (B) Level of service standards for all locally owned arterials and  
14 transit routes to serve as a gauge to judge performance of the system.  
15 These standards should be regionally coordinated;

16 (C) For state-owned transportation facilities, level of service  
17 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,  
18 to gauge the performance of the system. The purposes of reflecting  
19 level of service standards for state highways in the local  
20 comprehensive plan are to monitor the performance of the system, to  
21 evaluate improvement strategies, and to facilitate coordination between  
22 the county's or city's six-year street, road, or transit program and  
23 the department of transportation's six-year investment program. The  
24 concurrency requirements of (b) of this subsection do not apply to  
25 transportation facilities and services of statewide significance except  
26 for counties consisting of islands whose only connection to the  
27 mainland are state highways or ferry routes. In these island counties,  
28 state highways and ferry route capacity must be a factor in meeting the  
29 concurrency requirements in (b) of this subsection;

30 (D) Specific actions and requirements for bringing into compliance  
31 locally owned transportation facilities or services that are below an  
32 established level of service standard;

33 (E) Forecasts of traffic for at least ten years based on the  
34 adopted land use plan to provide information on the location, timing,  
35 and capacity needs of future growth;

36 (F) Identification of state and local system needs to meet current  
37 and future demands. Identified needs on state-owned transportation

1 facilities must be consistent with the statewide multimodal  
2 transportation plan required under chapter 47.06 RCW;

3 (iv) Finance, including:

4 (A) An analysis of funding capability to judge needs against  
5 probable funding resources;

6 (B) A multiyear financing plan based on the needs identified in the  
7 comprehensive plan, the appropriate parts of which shall serve as the  
8 basis for the six-year street, road, or transit program required by RCW  
9 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795  
10 for public transportation systems. The multiyear financing plan should  
11 be coordinated with the (~~six~~) ten-year improvement program developed  
12 by the department of transportation as required by RCW 47.05.030;

13 (C) If probable funding falls short of meeting identified needs, a  
14 discussion of how additional funding will be raised, or how land use  
15 assumptions will be reassessed to ensure that level of service  
16 standards will be met;

17 (v) Intergovernmental coordination efforts, including an assessment  
18 of the impacts of the transportation plan and land use assumptions on  
19 the transportation systems of adjacent jurisdictions;

20 (vi) Demand-management strategies;

21 (vii) Pedestrian and bicycle component to include collaborative  
22 efforts to identify and designate planned improvements for pedestrian  
23 and bicycle facilities and corridors that address and encourage  
24 enhanced community access and promote healthy lifestyles.

25 (b) After adoption of the comprehensive plan by jurisdictions  
26 required to plan or who choose to plan under RCW 36.70A.040, local  
27 jurisdictions must adopt and enforce ordinances which prohibit  
28 development approval if the development causes the level of service on  
29 a locally owned transportation facility to decline below the standards  
30 adopted in the transportation element of the comprehensive plan, unless  
31 transportation improvements or strategies to accommodate the impacts of  
32 development are made concurrent with the development. These strategies  
33 may include increased public transportation service, ride sharing  
34 programs, demand management, and other transportation systems  
35 management strategies. For the purposes of this subsection (6)  
36 "concurrent with the development" shall mean that improvements or  
37 strategies are in place at the time of development, or that a financial

1 commitment is in place to complete the improvements or strategies  
2 within six years.

3 (c) The transportation element described in this subsection (6),  
4 and the six-year plans required by RCW 35.77.010 for cities, RCW  
5 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
6 systems, and the ten-year plan required by RCW 47.05.030 for the state,  
7 must be consistent.

8 (7) An economic development element establishing local goals,  
9 policies, objectives, and provisions for economic growth and vitality  
10 and a high quality of life. The element shall include: (a) A summary  
11 of the local economy such as population, employment, payroll, sectors,  
12 businesses, sales, and other information as appropriate; (b) a summary  
13 of the strengths and weaknesses of the local economy defined as the  
14 commercial and industrial sectors and supporting factors such as land  
15 use, transportation, utilities, education, workforce, housing, and  
16 natural/cultural resources; and (c) an identification of policies,  
17 programs, and projects to foster economic growth and development and to  
18 address future needs. A city that has chosen to be a residential  
19 community is exempt from the economic development element requirement  
20 of this subsection.

21 (8) A park and recreation element that implements, and is  
22 consistent with, the capital facilities plan element as it relates to  
23 park and recreation facilities. The element shall include: (a)  
24 Estimates of park and recreation demand for at least a ten-year period;  
25 (b) an evaluation of facilities and service needs; and (c) an  
26 evaluation of intergovernmental coordination opportunities to provide  
27 regional approaches for meeting park and recreational demand.

28 (9) It is the intent that new or amended elements required after  
29 January 1, 2002, be adopted concurrent with the scheduled update  
30 provided in RCW 36.70A.130. Requirements to incorporate any such new  
31 or amended elements shall be null and void until funds sufficient to  
32 cover applicable local government costs are appropriated and  
33 distributed by the state at least two years before local government  
34 must update comprehensive plans as required in RCW 36.70A.130.

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