
Local Government Committee

HB 1478

Brief Description: Delaying or modifying certain regulatory and statutory requirements affecting cities and counties.

Sponsors: Representatives Springer, Asay, Takko, Orcutt, Haler, Rivers, Eddy, Hunt, Klippert, Sullivan, Goodman, Clibborn, Armstrong, Probst, Jacks, Johnson and Kenney.

Brief Summary of Bill

- Modifies publication requirements to allow certain local government entities to post information related to the adoption of ordinances and the scheduling and content of public meetings on the city's web site.
- Extends timeframes within which local government entities are required to act to comply with:
 - countywide planning policy and comprehensive plan review and revision requirements under the Growth Management Act;
 - alternative energy requirements pertaining to publicly-owned fleet vehicles,
 - pavement rating reporting requirements;
 - review and update requirements for comprehensive solid waste management plans;
 - the expending and encumbrance of impact fees;
 - permitting renewal for National Pollutant Discharge Elimination permits; and
 - master plan amendment requirements under the Shoreline Management Act (SMA).
- Modifies the SMA to provide that a master plan, segment of a master plan, or amendment to a master plan becomes effective within 180 days of receipt by the Department of Ecology.

Hearing Date: 2/4/11

Staff: Heather Emery (786-7136).

Background:

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.

Publication Requirements for Cities, Towns, and Code Cities.

Cities, towns, and code cities must comply with statutory publication requirements concerning the adoption of new ordinances. Specifically, once an ordinance is adopted, a summary of its content must be published in the official newspaper of the city. For ordinances authorizing the issuance of bonds, notes, or other evidence of indebtedness, publication of the title of the ordinance satisfies the requirement. Inadvertent errors or omissions in publishing do not affect the validity of the ordinance.

Additionally, cities must establish a procedure for notifying the public of upcoming hearings and agendas for upcoming meetings. Options for notification include written notification in the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or other such processes as the city determines will be effective.

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally-adopted development regulations, both of which are subject to review and revision requirements. According to a schedule set forth in the GMA, fully-planning jurisdictions must review and, if needed, revise their plans and development regulations every seven years.

Additionally, counties west of the Cascades that had a population of greater than 150,000 inhabitants as of 1995, and the cities within those counties, are obligated to adopt countywide planning policies to establish a review and evaluation program designed to determine whether the jurisdiction is achieving urban densities within urban growth areas, and to identify reasonable measures that will be taken to comply with the requirements of the GMA. Evaluations must be completed every five years.

Publicly Owned Vehicles and Fuel Usage.

By June 1, 2015, to the extent determined practical by rules adopted by the Department of Commerce (Commerce), all state agencies and local government subdivisions of the state must satisfy 100 percent of their fuel usage for operating publicly owned vessels, vehicles and construction equipment from electricity or biofuel. Although Commerce was required to adopt rules by June 1, 2010 to define practicability and clarify how state agencies and local governments would be evaluated in determining whether they had met this objective, it has not yet done so.

Preservation Rating Reports.

In 2003 finding that the state's investment in its transportation infrastructure represented public assets worth over \$100 billion but that many of these facilities were in poor condition, the Legislature adopted Senate Bill (SB) 5248, intended to create stronger accountability to ensure that cost-effective maintenance and preservation is provided for transportation facilities. Among other mandates, for the 2003 - 2005 biennium, SB 5248 required cities and towns to provide to the Transportation Commission preservation rating information on at least 70 percent of the total city and town arterial network. After the 2003-2005 biennium, the preservation rating reporting requirement increased at a rate of 5 percent per biennium. According to the Department of Transportation, at this time the requirement is for 85 percent of the total city and town arterial network.

Comprehensive Solid Waste Management Plan.

Each county within the state must prepare a comprehensive solid waste management plan addressing the solid waste and materials reduction, collection, handling, and management services. The objective of local comprehensive plans is to ensure the following required handling methods or services occur:

- source separation of recyclable materials and products, organic materials, and wastes by generators;
- collection of source separated materials;
- handling and proper preparation of materials for reuse or recycling;
- handling and proper preparation of organic materials for composting or anaerobic digestion; and
- handling and proper disposal of nonrecyclable wastes.

In addition, each plan must identify methods used to address:

- construction and demolition waste for recycling or reuse;
- organic material, including yard debris, food waste, and food contaminated paper products, for composting or anaerobic digestion;
- recoverable paper products for recycling;
- container metals, container glass, and plastics for recycling; and
- waste reduction strategies.

Each local comprehensive solid waste management plan must be reviewed and revised within five years of July 1, 2010, and reviewed every five years thereafter.

Impact Fees.

Counties, cities, and towns that fully plan under the GMA may impose impact fees on development activity as part of the financing for public facilities. Impact fees:

- may be imposed only for system improvements that are reasonably related to the new development;
- may not exceed a proportionate share of the system improvements; and
- must be used for system improvements that will reasonably benefit the new development.

Impact fees must be expended or encumbered within six years of receipt, unless there exists an extraordinary and compelling reason for fees to be held for a longer period of time. If, absent

such a reason, the county or city fails to expend or encumber the impact fees within six years, the current owner of property on which an impact fee has been paid may receive a refund.

Reclaimed Water and Greywater.

By December 31, 2010, and in coordination with the Department of Health (DOH) and an advisory committee composed of stakeholders that utilize or are potentially impacted by the use of reclaimed water, The DOE must adopt rules addressing all aspects of reclaimed water use, including the following:

- commercial and industrial uses;
- land applications
- direct groundwater recharge;
- wetland discharge;
- surface percolation;
- constructed wetlands; and
- streamflow or surface water augmentation.

Also by December 31, 2010 and in coordination with the DOE, the DOH must adopt rules relating to greywater use. Greywater includes domestic flows from bathtubs, showers, bathroom sinks, washing machines, dishwashers, and kitchen or utility sinks.

National Pollutant Discharge Elimination System Permits.

The federal Clean Water Act (CWA) sets effluent limitations for discharges of pollutants. "Pollutant" is defined in the CWA to include a variety of materials that may be discharged into water through human activities, construction or industrial processes, or other methods.

The DOE is the delegated federal CWA authority by the U.S. Environmental Protection Agency (EPA). The DOE also is the agency authorized by state law to implement state water quality programs.

The CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. "Point sources" are defined generally as discernable, discrete, and confined conveyances from which pollutant discharges can or do occur. The NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters. The NPDES permits also are required for storm water discharges from certain industries, construction sites of specified sizes, and municipalities operating municipal separate storm sewer systems that meet specified criteria.

The federal CWA and implementing EPA storm water regulations established two phases for the NPDES permits to control storm water discharges from certain industries and construction sites, and from municipalities operating municipal separate storm sewer systems.

Current DOE rules limit the terms of NPDES permits to five years. A permit holder must apply for a replacement permit at least 180 days prior to the expiration of its existing permit.

Shoreline Management Program.

The Shoreline Management Act (SMA) involves a cooperative regulatory approach between local governments and the state. The DOE and local governments are authorized to adopt necessary and appropriate rules for implementing the provisions of the SMA. At the local level, SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt master programs that regulate land use activities in shoreline areas of the state. Counties and cities are also required to enforce their master programs within their jurisdictions. All 39 counties and more than 200 cities have enacted shoreline master programs.

Master programs have certain mandatory elements as appropriate, and local governments may include other elements necessary to implement SMA requirements. Mandatory elements include:

- an *economic development* element for locating and designing water-dependent industrial projects and other commercial activities;
- a *public access* element to provide for public access to public areas;
- a *recreational* element to preserve and enhance shoreline recreational opportunities;
- a *circulation* element to locate transportation and other public facilities for shoreline use;
- a *use* element addressing the location and extent of shoreline use for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public facilities, and other uses;
- a *conservation* element to preserve natural resources in shoreline areas;
- a *historic, cultural, scientific, and educational* element to protect buildings, sites, and areas with such values; and
- an element considering statewide interests in preventing and minimizing *flood damage*.

A master program, or a segment thereof, becomes effective when approved by the DOE. Local governments are required to complete master plan amendments every seven years.

Summary of Bill:

Publication Requirements for Cities, Towns, and Code Cities.

Upon adoption of a new ordinance, the adopting city, town, or code city may either publish a summary of its content in the official newspaper of the city, or it may post the summary on the city's website and make it available in hard copy at a designated location. Publication or posting of the title of the ordinance meets the requirement to publish or post a summary. Failure to publish would not render the ordinance invalid. Cities, towns, and code cities also have the option of notifying the public of upcoming hearings and agendas by posting on the city's website.

Growth Management Act.

The comprehensive plan review and revision schedule set forth in the GMA is modified to require counties to take such action every 10 years, rather than every seven years, and to re-allocate reporting years for some counties. Additionally, the requirement for certain counties to adopt countywide planning policies is made subject to the amounts of public funds appropriated, or private funds received by the Department of Commerce, (Commerce) for that purpose.

Publicly Owned Vehicles and Fuel Usage.

The requirement that, to the extent determined practicable by rules adopted by the Commerce, all state agencies and all local government subdivisions of the state fuel their publicly-owned fleet with electricity or biofuel by June 1, 2015, is modified to allow counties and cities until June 1, 2018, to comply with the requirement. By June 1, 2015, the Commerce must adopt rules to define practicability and clarify how the cities and counties will be evaluated to determine whether they have met the goal.

Preservation Rating Reports.

The requirement for a city or town to inform the Transportation Commission of the preservation rating of at least 70 percent of its arterial network is reset to the 2013 -2015 biennium. After the close of that biennium, the preservation rating reporting requirement increases in 5 percent increments in subsequent biennia, but it is capped at 80 percent.

Comprehensive Solid Waste Management Plan.

The requirement for a county to review and revise its comprehensive solid waste management plan every five years is modified to require review and revision every 10 years.

Impact Fees.

The requirement for a county or city to expend or encumber impact fees within six years of receipt is modified to allow the jurisdiction 10 years to take such action.

Reclaimed Water and Greywater.

The requirements for the DOE to adopt rules relating to reclaimed water use and for the DOH to adopt rules regarding greywater use by December 31, 2010, are modified to prohibit adoption of such rules prior to June 30, 2013.

National Pollutant Discharge Elimination System Permits.

The DOE is required to extend, without modification, any NPDES municipal storm water general permit first issued on January 17, 2007, until after June 30, 2013.

Shoreline Management Program.

A master plan, segment of a master plan, or amendment to a master plan becomes effective when approved by the DOE, or within 180 days of receipt by the DOE. This timeframe may be extended by 30 days, at the request of the local government or the DOE. The requirement for local governments to complete master plan updates every seven years is modified to require such action every 10 years.

Appropriation: None.

Fiscal Note: Available.

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