FINAL BILL REPORT
ESHB 1478

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Synopsis as Enacted

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

Sponsors: House Committee on Local Government (originally sponsored by Representatives Springer, Asay, Takko, Orcutt, Haler, Rivers, Eddy, Hunt, Klippert, Sullivan, Goodman, Clibborn, Armstrong, Probst, Jacks, Johnson and Kenney).

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background:

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 Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a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 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. With limited exceptions, fully-planning jurisdictions must review and, if needed, revise their plans and development regulations every seven years according to a schedule set forth in the GMA.

The GMA includes numerous requirements relating to the use or development of land in urban and rural areas. Among other requirements, counties that fully plan under the GMA (planning counties) must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Planning counties and the cities within these counties must include within their UGAs areas and densities that are sufficient to permit the urban growth projected to occur in the county or city for the succeeding 20-year period.

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.

Each county that designates UGAs must review, at least every 10 years, its designated UGAs, and the associated permitted densities in the incorporated and unincorporated portions of each UGA. In conjunction with this county review, each city located within a UGA must review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the UGAs.

The GMA requires six western Washington counties (Clark, King, Kitsap, Pierce, Snohomish, and Thurston counties) and the cities within those counties to establish a review and evaluation "buildable lands" program. The purpose of the program is to determine whether a county and it's cities are achieving urban densities and to identify reasonable measures, subject to statutory provisions, that will be taken to comply with GMA requirements. 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 the 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, the agency has not done so.

Transitional Housing Operating and Rent Program.
The Transitional Housing Operating and Rent Program (THOR Program) assists individuals and families who are homeless or at risk of becoming homeless with rental assistance, housing-related case management services, and other actions. The Commerce is charged with administering the THOR Program and providing grants to organizations, including counties and cities, who serve eligible and participating persons. By law, organizations that receive more than $500,000 from the THOR Program and other specified sources must apply to the Washington State Quality Award Program once every three years for an independent assessment of its quality management, accountability, and performance systems.

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, Senate Bill (SB) 5248 was enacted 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 Washington State 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 Washington State Department of Transportation, the requirement is for 85 percent of the total city and town arterial network.

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.

Provisions for school impact fees generally authorize the funds to be expended or encumbered within 10 years of receipt.

Annexation Sales and Use Tax.
A city in a county with more than 600,000 persons that annexes an area may impose an annexation sales and use tax for qualifying annexations. The tax is credited against the sales tax, so it is not an additional tax to a consumer. All revenue from the tax must be used to provide, maintain, and operate municipal services for the annexation area. The revenues may not exceed the difference between that which the city deems necessary to provide services for the annexation area and the general revenue received from the annexation.

With limited exceptions, the rate of the tax is 0.1 percent for each annexed area with a population greater than 10,000, but less than 20,000, and 0.2 percent for an annexed area over 20,000 persons. Effective July 1, 2011, the maximum rate of tax a city may impose under annexation sales and use tax provisions is 0.85 percent for an annexed area in which the population is greater than 18,000. To qualify for this maximum rate, the annexed area also must have been officially designated as a potential annexation area by more than one city, one of which has a population of at least 400,000 persons.

Reclaimed Water and Greywater.
By December 31, 2010, and in coordination with the Department of Health and an advisory committee composed of stakeholders that utilize or are potentially impacted by the use of reclaimed water, the Department of Ecology (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.

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 United States 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.

The DOE rules limit the terms of the 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.

A master program, or a segment thereof, becomes effective when approved by the DOE. In accordance with a schedule established in the SMA, counties and cities must develop or amend master programs every seven years.

Summary:

Growth Management Act.
The comprehensive plan review and revision schedule of the Growth Management Act is modified to require counties and cities to take such action every eight years, rather than every seven years, and to reallocate review and revision years for some jurisdictions. An additional two years for meeting the review and requirements is granted to smaller and slow growing counties and cities. The date by which the initial review and revision requirements must be completed for the first bloc of counties and cities is June 30, 2015, rather than December 1, 2014. County reviews of designated urban growth areas must also be completed according to this schedule, and evaluation requirements for the buildable lands program must be completed by counties and cities one year before the applicable review and revision deadline.

Publicly Owned Vehicles and Fuel Usage.
The requirement that, to the extent determined practicable by rules adopted by the Department of Commerce (Commerce), all state agencies and local government subdivisions of the state fuel their publicly owned vehicle fleet with electricity or biofuel by June 1, 2015, is modified to grant local government subdivisions three additional years to comply with the requirement. By June 1, 2015, the Commerce must adopt rules to define practicability and clarify how local government subdivisions of the state will be evaluated to determine whether they have met associated goals.

Transitional Housing Operating and Rent Program.
Until 2018 counties and cities that receive more than $500,000 from the Transitional Housing Operating and Rent Program and other specified sources are exempt from requirements otherwise obligating them to apply to the Washington State Quality Award Program once every three years.

Preservation Rating Reports.
The requirement for a city or town to inform the Washington State 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.

Impact Fees.
The requirement for a county or city to expend or encumber impact fees within six years of receipt is modified to require expenditure or encumbrance within 10 years of receipt.

Annexation Sales and Use Tax.
The population threshold for cities to impose the 0.85 percent maximum annexation sales and use tax for qualifying areas is reduced from 18,000 to 16,000. The resident population of the annexed area must be determined in accordance with generally applicable methods for determination populations that are prescribed in annexation statutes.

Reclaimed Water and Greywater.
The requirements for the Department of Ecology (DOE) to adopt rules relating to reclaimed water use by December 31, 2010, are modified to prohibit adoption of such rules prior to June 30, 2013.

By July 31, 2012, the DOE is required to extend for a term of one year and without modification any National Pollutant Discharge Elimination System municipal storm water general permit first issued on January 17, 2007. Additionally, the DOE must issue an updated permit for any such permit, and the update permit must become effective on August 1, 2013.

Shoreline Management Act.
Counties and cities must review and revise their shoreline master programs according to a newly established schedule every eight years, rather than every seven years. The DOE is

required to strive to achieve final action on a submitted master program within 180 days of receipt and to post an annual assessment of its own performance on its website.

Votes on Final Passage:

House	86	11	
Senate	49	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	33	13
House	90	6

Effective: July 22, 2011