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## Local Government Committee

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### HB 2267

**Brief Description:** Concerning traditional and alternative sewer systems.

**Sponsors:** Representatives Angel, Johnson, Haler, Asay, Wilcox and Bailey.

#### Brief Summary of Bill

- Allows counties to construct or authorize the construction and use of sanitary sewer systems in all unincorporated areas.
- Allows counties and cities to construct or authorize the construction and use of alternative on or off-site sanitary sewer systems or services in areas within their jurisdictional boundaries.
- Specifies that urban growth area (UGA) requirements in the Growth Management Act do not obligate counties or cities to provide or ensure the provision of sanitary sewer systems to the entirety of a UGA within a mandatory 20-year planning period.
- Directs the Washington State Board of Health, in consultation with the Department of Ecology, to: promote the design, construction, installation, operation, and maintenance of alternative on or off-site sanitary sewer systems or services; and identify and remove barriers and regulations that prevent or otherwise impede the design, construction, installation, operation, and maintenance of these sanitary sewer systems or services.

**Hearing Date:** 1/17/12

**Staff:** Ethan Moreno (786-7386).

#### **Background:**

##### *Growth Management Act - Introduction and General Requirements.*

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of

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planning duties for the 29 counties and the cities within that are obligated by mandate or choice to satisfy all requirements of the GMA.

The GMA directs planning jurisdictions (i.e., 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.

Among other requirements, counties that fully plan under the GMA must designate urban growth areas (UGAs), areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. Fully planning counties and each city 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. The Growth Management Hearing Board, the quasi-judicial board established in the GMA, has found that counties have an obligation to bring already developed areas within a UGA to urban levels service within this 20-year planning period.

*Limitations Upon the Expansion of Urban Governmental Services.*

The GMA includes general standards that must be met for the limited extension or expansion of urban governmental services in rural areas. More specifically, the GMA states that:

"In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development." See RCW 36.70A.110(4).

The GMA defines "urban governmental services" or "urban services" to include, in part, storm and sanitary sewer systems, domestic water systems, fire and police protection services, and other public utilities associated with urban areas and normally not associated with rural areas.

In 2002 the Washington Supreme Court (Court) affirmed a determination by the Western Washington Growth Management Hearings Board that a county's proposal to extend a sewer line from an urban treatment plant to a designated rural area violated the GMA. In *Thurston County v. Western Washington Growth Management Hearings Board*, 148 Wn.2d 1 (2002), the Court found, in part, that a more restrictive definition of "necessary," as the term is applied in RCW 36.70A.110(4) to the extension or expansion of urban governmental services, is consistent with the Legislature's intent in enacting the GMA to protect the rural character of an area.

**Summary of Bill:**

Counties are expressly permitted to construct or authorize the construction and use of sanitary sewer systems in unincorporated areas within and outside of UGAs. Counties and cities, in complying with comprehensive plan and UGA requirements of the GMA are also expressly permitted to construct or authorize the construction and use of alternative on or off-site sanitary sewer systems or services in areas within their jurisdiction. "Alternative on or off-site sanitary sewer systems or services" are defined to include sanitary systems or services employing

emerging technologies, filtration, common fields, and phytoremediation. Alternative on or off-site sanitary sewer systems or services may only be designed, constructed, installed, operated, and maintained in accordance with an appropriately licensed engineer.

Provisions governing UGAs are amended to specify that counties and cities are not obligated to provide or ensure the provision of sanitary sewer systems to the entirety of a UGA within the 20-year planning period requirements that are applicable to jurisdictions fully planning under the GMA.

The State Board of Health, in consultation with the Department of Ecology, must promote, through the development of technical and other materials, the design, construction, installation, operation, and maintenance of alternative on or off-site sanitary sewer systems or services. These same agencies also must identify and remove barriers and regulations that prevent or otherwise impede the design, construction, installation, operation, and maintenance of alternative on or off-site sanitary sewer systems or services.

**Appropriation:** None.

**Fiscal Note:** Requested on January 11, 2012.

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