

# HOUSE BILL REPORT

## HB 2267

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**As Reported by House Committee On:**  
Local Government

**Title:** An act relating to traditional and alternative sewer systems.

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

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

**Brief History:**

**Committee Activity:**

Local Government: 1/17/12, 1/31/12 [DPS].

**Brief Summary of Substitute Bill**

- Specifies that urban growth area 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 an urban growth area within a mandatory 20-year planning period.
- Authorizes counties and cities, in providing urban governmental services, to choose or otherwise authorize any approved traditional and alternative sewer systems they deem appropriate for use in urban growth areas within their jurisdiction.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Takko, Chair; Angel, Ranking Minority Member; Asay, Assistant Ranking Minority Member; Rodne, Smith, Springer and Tharinger.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Fitzgibbon, Vice Chair; Upthegrove.

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

**Background:**

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*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.*

### Growth Management Act – Introduction and General Requirements for Urban Growth Areas.

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

Among other requirements, counties that fully plan under the GMA must designate urban growth areas, 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 urban growth areas, 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 an urban growth area to urban levels of 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.

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### **Summary of Substitute Bill:**

Provisions governing urban growth areas 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 an urban growth area within the 20-year planning period requirements that apply to jurisdictions fully planning under the GMA. Urban growth area provisions are further amended to specify that counties and cities, in providing urban governmental services, may choose or otherwise authorize any approved traditional and alternative sewer systems they deem appropriate for use in urban growth areas within their jurisdiction.

### **Substitute Bill Compared to Original Bill:**

The amended bill makes the following changes to the original bill:

- removes provisions expressly authorizing counties to construct or authorize the construction and use of sanitary sewer systems in unincorporated areas within and outside of urban growth areas;
  - removes provisions expressly authorizing 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 jurisdiction;
  - inserts a provision specifying that, in providing urban governmental services, counties and cities may choose or otherwise authorize any approved traditional and alternative sewer systems they deem appropriate for use in urban growth areas within their jurisdiction;
  - removes provisions requiring the 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;
  - removes provisions requiring these same agencies also to 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; and
  - modifies intent language.
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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill does two things: it gives local jurisdictions, on a case-by-case basis, the authority to site sewer systems and extend sewer lines beyond an urban growth area boundary. The bill also specifies that cities and counties are not obligated to provide urban services throughout the entirety of an urban growth area within the 20-year planning period. Counties and cities are planning for the future, but the 20-year planning period requirements are unreasonable and too expensive to implement.

The concepts of this bill are important. The GMA has an I-5 bias, assuming that all jurisdictions are equal. This bill provides local governments with needed flexibility and relief from the very high costs of extending sewer systems. Water-sewer district provisions are not amended in the bill. The Local Government Committee may want to consider an amendment to authorize satellite management of the small, alternative sewer systems permitted in the bill.

Kitsap County supports the urban aspects of the bill. The Growth Management Hearings Board and appellants are advancing the argument that the county must show public financing for sewer systems for the entirety of its urban growth area. Many septic systems are working and the installation of sewer systems is very expensive. The idea of a 20-year planning

horizon is grossly problematic. Allowing local governments to authorize existing and interim septic systems will add predictability. Without a change in law, counties may choose to exclude areas from urban growth areas.

(With concerns) The bill needs technical amendments to reflect current regulatory authority pertaining to sewer systems, including regulatory authority of the Department of Health (DOH). Regardless of where a facility is located it should comply with applicable siting and permitting requirements, and pertinent state and federal requirements. Provisions requiring the DOH to promote alternative on or off-site alternative sewer systems or services should be removed.

The costs of re-opening sewage rules would be expensive. Local government flexibility is good and a process for approving alternative systems has existed for 10-15 years. Concerns exist about the failure of non-approved sewer technologies. The DOH actions called for in the bill are not in the Governor's budget. The bill should be modified to include references to standards and a clarification of the promotion actions that the DOH would be required to complete. The language of the bill is broad and may allow unexpected expansions of urban governmental services. Existing administrative rules of the Department of Commerce currently provide guidance on the use of sewer systems.

(Opposed) The bill allows sewer systems to be extended outside of an urban growth area in any circumstances approved by a city or county. These extensions will create urban sprawl and will be cost prohibitive without sufficient population density. Modifying the 20-year planning requirements may lessen the ability of cities to provide urban levels of service in urban growth areas. Support exists for adopting the applicable rules into law.

**Persons Testifying:** (In support) Representative Angel, prime sponsor; Art Castle, Building Industry Association of Washington; Joe Daniels, Washington Association of Sewer and Water Districts; and Eric Baker, Kitsap County.

(With concerns) Don Seeberger, Department of Ecology; Michelle Davis, Washington State Board of Health, Jerrod Davis, Department of Health; and Leonard Bauer, Department of Commerce.

(Opposed) April Putney, Futurewise.

**Persons Signed In To Testify But Not Testifying:** None.