

SENATE BILL REPORT

ESHB 1094

As of March 17, 2011

Title: An act relating to providing a process for county legislative authorities to withdraw from voluntary planning under the growth management act.

Brief Description: Providing a process for county legislative authorities to withdraw from voluntary planning under the growth management act.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Kretz, Blake, Taylor, Shea, Short, Haler and McCune).

Brief History: Passed House: 3/04/11, 69-28.

Committee Activity: Government Operations, Tribal Relations & Elections: 3/15/11.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Staff: Karen Epps (786-7424)

Background: The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under GMA and a reduced number of directives for all other counties and cities.

A county obligated by mandate to fully plan under GMA is one that either:

- has a population of 50,000 or more and has experienced a population increase of more than 17 percent in the previous ten years; or
- has experienced a population increase of more than 20 percent over the previous ten years, regardless of population.

A county obligated by choice to fully plan under GMA is one that, not meeting the population requirements described above, has adopted a resolution subjecting itself, and cities located in the county, to the full requirements of GMA (resolution of intention). Once a resolution of intention is adopted, the county and its cities remain subject to all GMA planning requirements. The following counties have adopted resolutions of intention: Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Kittitas, Pacific, Pend Oreille, Stevens, and Walla Walla.

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.

In addition to complying with the more broadly applicable requirements of GMA, a county obligated by choice to fully plan under GMA must:

- adopt a countywide planning policy;
- adopt development regulations to conserve designated agricultural lands, forest lands, and mineral resource lands within one year of adopting a resolution of intention;
- designate and take other actions related to urban growth areas; and
- adopt a comprehensive plan and development regulations to implement that plan within four years of adopting a resolution of intention.

Summary of Bill: A county that is obligated by choice to fully plan under GMA is eligible to remove itself from full planning obligations if:

- the county has a population of 20,000 or fewer inhabitants at sometime between January 1, 2010, and December 31, 2013;
- the county has previously adopted a resolution indicating its intention to fully plan under GMA;
- the county provides written notification to each city within the county of its intent to adopt a removal resolution; and
- sixty percent of its cities meeting specific population requirements adopt resolutions supporting the county's decision to adopt a removal resolution.

Upon adoption of a removal resolution, the county and the cities within the county are no longer obligated to plan under GMA. The county may not, for at least ten years from the date of adoption of the removal resolution, adopt another resolution indicating its intention to plan under GMA. The option for an eligible county to adopt a removal resolution is only available until December 31, 2013.

A county that adopts a removal resolution, and the cities located within that county, must adopt development regulations within one year after adoption of the removal resolution to assure the conservation of designated agricultural, forest, and mineral resource lands. These regulations may not prohibit uses legally existing on any parcel prior to their adoption. Additionally, these regulations must assure that the use of lands adjacent to the designated agricultural, forest, and mineral resource lands does not interfere with the continued use of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: GMA has been pretty effective and pretty appropriate in some parts of the state. It is rigid and does not make sense in other parts of the state. This bill would allow four counties, Ferry, Pend Oreille, Garfield, and Columbia, that voluntarily opted into GMA to decide whether they would like to opt-out. Three of these

counties are growing really slowly and the other has actually lost population. GMA is well intended to be a bottom-up planning tool, but, in Ferry County, it has turned into appeals and litigation. Ferry County will still be under a number of planning statutes, but this bill would give them more flexibility. Land use decisions should be at the local level. This is not anti-GMA. GMA has provided very valuable aspects for the state. Counties have expended considerable resources coming into compliance with GMA and are very invested in GMA. Some counties do not plan under GMA, but are still required to have a comprehensive plan and have critical areas ordinances. Counties that opt-out under this bill would still have to do those things. GMA places a financial burden on small counties.

CON: GMA is one of the most effective and comprehensive environmental laws the state has ever passed. It asks our communities to think about the long term and not just think about the short term. HB 1094 allows four counties to opt-out of the GMA, but according to the Department of Commerce, Ferry and Pend Oreille Counties have already triggered the mandatory planning requirements otherwise set forth in GMA. Ferry County has a long and ornery history with GMA. Letting counties opt-out of GMA as a direct outcome of their willful noncompliance sets a bad precedence. If the concern is litigation costs, it might make sense to consider ways to increase compliance to reduce litigation. Just because a county is growing slowly, that does not mean the community is not changing. GMA is the only law that requires state lands adhere to the local comprehensive plans. GMA requires local participation, which works for local planning. Allowing counties to opt-out would set up very negative on-the-ground consequences. These counties collect less in taxes than they receive from the state. Planning is very important in terms of long-term budgets. Some elected officials in cities and counties have hoped that the Legislature would rescue them from GMA's requirements and the tough decisions that it required them to make. When that did not happen, they or their successors went on to adopt plans, regulations, and critical areas and agricultural conservation ordinances, many of them exemplary. It would set a very bad precedent for the Legislature after more than 20 years of successful GMA planning to allow certain counties to opt-out now. The GMA is good policy no matter how quickly a community is growing or whether it is urban or rural.

Persons Testifying: PRO: Representative Kretz, prime sponsor; Josh Weiss, Washington State Association of Counties; Brian Dansel, Ferry County Commissioner.

CON: April Putney, Futurewise; Peter Thein, Sierra Club, Cascade Chapter; Bob Aegertor, citizen.

Signed In, Unable to Testify & Submitted Written Testimony: CON: Holly Gadbow, citizen.