SENATE BILL REPORT
ESHB 1265

As of March 15, 2011

Title: An act relating to land use planning in qualifying unincorporated portions of urban growth areas.

Brief Description: Addressing land use planning in qualifying unincorporated portions of urban growth areas.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Kagi, Ryu, Rodne, Liias, Takko, Roberts, Smith and Upthegrove).

Brief History: Passed House: 3/03/11, 63-35.
Committee Activity: Government Operations, Tribal Relations & Elections: 3/14/11.

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, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA (planning jurisdictions), and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

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 can 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.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify possible environmental impacts that may result from governmental decisions. Any governmental action, including actions related to specific development proposals and planning and policy actions that are not associated with a specific development

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proposal, may be conditioned or denied pursuant to the SEPA if the conditions or denials are based upon policies identified by the appropriate governmental authority and incorporated into formally designated regulations, plans, or codes.

Provisions in the SEPA generally require a project applicant to complete an environmental checklist that includes questions about the potential environmental impacts of the proposed action. This checklist is then reviewed by the lead agency (one agency identified as such and responsible for compliance with the procedural requirements of the act) to determine, via a threshold determination, whether the proposed action is likely to have a significant adverse environmental impact.

The state or local government that receives the first application for a proposal is responsible for determining who the lead agency is and for notifying that entity of the proposal. Administrative rules adopted by the Department of Ecology (Ecology) for the implementation of the SEPA allow Ecology to determine lead agency status if it is petitioned to do so by a qualifying agency.

Summary of Bill: If a proposed project action significantly impacts two or more agencies, a term defined to mean counties; cities; or towns, the agencies must jointly divide all lead agency duties required under the SEPA. A county, city, or town that would be significantly impacted by a proposed project action may elect to forgo or transfer lead agency responsibilities if certain requirements are met.

If the county, city, or town is unable to agree on the division of lead agency responsibilities, the Director of Ecology (Director) must designate the division of lead agency responsibilities within 15 days of receiving a request to do so by a county, city, or town. Determinations made by the Director must identify the lead agency for each segment of the proposed project action based on a determination of which agencys' facilities and residents will receive the majority of the applicable impacts.

The lead agency division requirements and provisions apply only to proposed project actions in or affecting unincorporated portions of UGAs that border Puget Sound, are surrounded on the landward side entirely by one or more cities, are one or more miles from any other portion of a UGA that is in unincorporated territory, and are at least 50 acres in size.

Appropriation: None.

Fiscal Note: Not requested.

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: This bill deals with a situation in the 32nd District. Point Wells is in Snohomish County, but the entire impact of the proposed development will be to the City of Shoreline and the Town of Woodway. There is a lack of a solution in the GMA when the major impacts are on a jurisdiction that is not in the county, so county-wide planning policies cannot be used to resolve the dispute. Shoreline and

Woodway are not looking for veto power, but rather a way to assure that the cities impacted by this development will have a real say in how it moves forward. This development will add up to 3000 dwelling units. There is a gap in GMA that will allow Shoreline to receive all of the impacts of a development with no ability to influence the scope and scale of land use at Point Wells. Shoreline has legitimate concerns that are not being addressed, including that it will put too much traffic on the city's road network. It will completely overwhelm Richmond Beach Road. Shoreline does not oppose a reasonable level of development at the Point Wells property. Shoreline has been told repeatedly that their issues will be addressed at the next step. On March 4, Snohomish County accepted the application for 3100 residential units and 100,000 square feet of commercial floor area at Point Wells. There are gaps in GMA relating to donut holes that exist on borders of counties. It is fair and reasonable that the surrounding communities that will bear all of the impacts be given a role in helping to analyze, quantify, and identify appropriate mitigations through the SEPA process. Once there is co-lead status, this approach will engender cooperation and coordination rather than conflict.

CON: The Point Wells project will take a site that has been contaminated by 100 years of petroleum operations and develop it to a mixed use residential community. It will include several types of housing, neighborhood retail, restored, and enhanced habitat, 20 acres of public open space, and access to two-thirds miles of beach. The owners have committed to building a multi modal transit facility, including a station for the Sounder Commuter train. Both Shoreline and Woodway have included the Point Wells area for development under the Comprehensive Plans. Both Woodway and Shoreline have been in court for their right to claim this land for their own UGAs. The developers have spent over $2.5 million during the process of rezoning the property and preparing the application that was submitted and accepted by Snohomish County on March 4. Point Wells presents a unique opportunity to convert a brownfield on the shores of Puget Sound into a clean and green urban center. The GMA and the SEPA regulations help us all manage the development necessary to provide the new homes needed for the growth we will see over the next several decades. Traffic is the main concern from Shoreline and Woodway. Point Wells is only 3 miles from Highway 99. Of that 3 miles, seven-tenths of a mile is a two lane road and the rest is a four lane arterial that has a good deal of excess capacity. Studies by the developers have identified approximately $15 million of traffic mitigation that will be required within Shoreline. Safe and essential traffic solutions are necessary for the community and for a successful development. All major projects impact neighboring communities. Our laws and processes protect the public. There needs to be a message sent that Washington wants the jobs and millions of dollars of sales tax and property tax revenue that this project will generate. There is no need for a redundant layer of regulation. The County Code requires that the county consult with the cities and enter into an interlocal agreement as to how the impacts will be handled in Shoreline and how Shoreline's determination of appropriate mitigation gets carried forward as a permit condition of the county. This bill establishes a dangerous and unnecessary step. Shoreline and Woodway have already sued the developers twice. To put a project opponent in charge of the SEPA review makes no sense and sets up a direct and unavoidable conflict.

Persons Testifying: PRO: Representative Kagi, prime sponsor; Representative Ryu; sponsor; Shari Winsted, Councilmember, Joe Tovar, Planning Director, Kathleen Collins, City of Shoreline.

CON: Ron Main, Steve Ohlenkamp, Gary Huff, Point Wells.

Signed in, Unable to Testify & Submitted Written Testimony: CON: Brianna Taylor, Clay White, Snohomish County.