
SUBSTITUTE HOUSE BILL 2267

State of Washington 62nd Legislature 2012 Regular Session

By House Local Government (originally sponsored by Representatives Angel, Johnson, Haler, Asay, Wilcox, and Bailey)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to traditional and alternative sewer systems;
2 amending RCW 36.70A.110; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that
5 interpretations of the growth management act have unduly restricted
6 communities and have added unnecessary cost and litigation to their
7 efforts to meet the sewage needs of their residents. The legislature
8 intends to grant local governments the authority to make decisions
9 related to the types and use of sewage systems based on particular
10 circumstances in urban growth areas.

11 (2) The legislature finds that the growth management act does not
12 require a local government to install new sewage systems where there is
13 not sufficient demand or need for such systems. The legislature also
14 finds that the growth management act grants local governments the
15 authority to decide what type of approved system adequately provides
16 sewer services, in accordance with state and federal health standards.

17 (3) Furthermore, the legislature intends to expressly provide that
18 counties and cities are not obligated to build a sewer system for the

1 entirety of an urban growth area within the twenty-year planning
2 periods required by the growth management act.

3 **Sec. 2.** RCW 36.70A.110 and 2010 c 211 s 1 are each amended to read
4 as follows:

5 (1) Each county that is required or chooses to plan under RCW
6 36.70A.040 shall designate an urban growth area or areas within which
7 urban growth shall be encouraged and outside of which growth can occur
8 only if it is not urban in nature. Each city that is located in such
9 a county shall be included within an urban growth area. An urban
10 growth area may include more than a single city. An urban growth area
11 may include territory that is located outside of a city only if such
12 territory already is characterized by urban growth whether or not the
13 urban growth area includes a city, or is adjacent to territory already
14 characterized by urban growth, or is a designated new fully contained
15 community as defined by RCW 36.70A.350.

16 (2) Based upon the growth management population projection made for
17 the county by the office of financial management, the county and each
18 city within the county shall include areas and densities sufficient to
19 permit the urban growth that is projected to occur in the county or
20 city for the succeeding twenty-year period, except for those urban
21 growth areas contained totally within a national historical reserve.
22 As part of this planning process, each city within the county must
23 include areas sufficient to accommodate the broad range of needs and
24 uses that will accompany the projected urban growth including, as
25 appropriate, medical, governmental, institutional, commercial, service,
26 retail, and other nonresidential uses.

27 Each urban growth area shall permit urban densities and shall
28 include greenbelt and open space areas. In the case of urban growth
29 areas contained totally within a national historical reserve, the city
30 may restrict densities, intensities, and forms of urban growth as
31 determined to be necessary and appropriate to protect the physical,
32 cultural, or historic integrity of the reserve. An urban growth area
33 determination may include a reasonable land market supply factor and
34 shall permit a range of urban densities and uses. In determining this
35 market factor, cities and counties may consider local circumstances.
36 Cities and counties have discretion in their comprehensive plans to
37 make many choices about accommodating growth.

1 Within one year of July 1, 1990, each county that as of June 1,
2 1991, was required or chose to plan under RCW 36.70A.040, shall begin
3 consulting with each city located within its boundaries and each city
4 shall propose the location of an urban growth area. Within sixty days
5 of the date the county legislative authority of a county adopts its
6 resolution of intention or of certification by the office of financial
7 management, all other counties that are required or choose to plan
8 under RCW 36.70A.040 shall begin this consultation with each city
9 located within its boundaries. The county shall attempt to reach
10 agreement with each city on the location of an urban growth area within
11 which the city is located. If such an agreement is not reached with
12 each city located within the urban growth area, the county shall
13 justify in writing why it so designated the area an urban growth area.
14 A city may object formally with the department over the designation of
15 the urban growth area within which it is located. Where appropriate,
16 the department shall attempt to resolve the conflicts, including the
17 use of mediation services.

18 (3) Urban growth should be located first in areas already
19 characterized by urban growth that have adequate existing public
20 facility and service capacities to serve such development, second in
21 areas already characterized by urban growth that will be served
22 adequately by a combination of both existing public facilities and
23 services and any additional needed public facilities and services that
24 are provided by either public or private sources, and third in the
25 remaining portions of the urban growth areas. Urban growth may also be
26 located in designated new fully contained communities as defined by RCW
27 36.70A.350.

28 (4) In general, cities are the units of local government most
29 appropriate to provide urban governmental services. However, in
30 providing urban governmental services, counties and cities may choose
31 or otherwise authorize any approved traditional and alternative sewer
32 systems they deem appropriate for use in urban growth areas within
33 their jurisdiction. In general, it is not appropriate that urban
34 governmental services be extended to or expanded in rural areas except
35 in those limited circumstances shown to be necessary to protect basic
36 public health and safety and the environment and when such services are
37 financially supportable at rural densities and do not permit urban
38 development.

1 (5) On or before October 1, 1993, each county that was initially
2 required to plan under RCW 36.70A.040(1) shall adopt development
3 regulations designating interim urban growth areas under this chapter.
4 Within three years and three months of the date the county legislative
5 authority of a county adopts its resolution of intention or of
6 certification by the office of financial management, all other counties
7 that are required or choose to plan under RCW 36.70A.040 shall adopt
8 development regulations designating interim urban growth areas under
9 this chapter. Adoption of the interim urban growth areas may only
10 occur after public notice; public hearing; and compliance with the
11 state environmental policy act, chapter 43.21C RCW, and under this
12 section. Such action may be appealed to the growth management hearings
13 board under RCW 36.70A.280. Final urban growth areas shall be adopted
14 at the time of comprehensive plan adoption under this chapter.

15 (6) Each county shall include designations of urban growth areas in
16 its comprehensive plan.

17 (7) An urban growth area designated in accordance with this section
18 may include within its boundaries urban service areas or potential
19 annexation areas designated for specific cities or towns within the
20 county.

21 (8)(a) Except as provided in (b) of this subsection, the expansion
22 of an urban growth area is prohibited into the one hundred year
23 floodplain of any river or river segment that: (i) Is located west of
24 the crest of the Cascade mountains; and (ii) has a mean annual flow of
25 one thousand or more cubic feet per second as determined by the
26 department of ecology.

27 (b) Subsection (8)(a) of this section does not apply to:

28 (i) Urban growth areas that are fully contained within a floodplain
29 and lack adjacent buildable areas outside the floodplain;

30 (ii) Urban growth areas where expansions are precluded outside
31 floodplains because:

32 (A) Urban governmental services cannot be physically provided to
33 serve areas outside the floodplain; or

34 (B) Expansions outside the floodplain would require a river or
35 estuary crossing to access the expansion; or

36 (iii) Urban growth area expansions where:

37 (A) Public facilities already exist within the floodplain and the

1 expansion of an existing public facility is only possible on the land
2 to be included in the urban growth area and located within the
3 floodplain; or

4 (B) Urban development already exists within a floodplain as of July
5 26, 2009, and is adjacent to, but outside of, the urban growth area,
6 and the expansion of the urban growth area is necessary to include such
7 urban development within the urban growth area; or

8 (C) The land is owned by a jurisdiction planning under this chapter
9 or the rights to the development of the land have been permanently
10 extinguished, and the following criteria are met:

11 (I) The permissible use of the land is limited to one of the
12 following: Outdoor recreation; environmentally beneficial projects,
13 including but not limited to habitat enhancement or environmental
14 restoration; storm water facilities; flood control facilities; or
15 underground conveyances; and

16 (II) The development and use of such facilities or projects will
17 not decrease flood storage, increase storm water runoff, discharge
18 pollutants to fresh or salt waters during normal operations or floods,
19 or increase hazards to people and property.

20 (c) For the purposes of this subsection (8), "one hundred year
21 floodplain" means the same as "special flood hazard area" as set forth
22 in WAC 173-158-040 as it exists on July 26, 2009.

23 (9) Nothing in this section obligates counties or cities to provide
24 or ensure the provision of sanitary sewer systems to the entirety of an
25 urban growth area within the twenty-year planning period required under
26 subsection (2) of this section.

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