
HOUSE BILL 2267

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Angel, Johnson, Haler, Asay, Wilcox, and Bailey

Read first time 01/10/12. Referred to Committee on Local Government.

1 AN ACT Relating to traditional and alternative sewer systems;
2 amending RCW 36.70A.110; adding a new section to chapter 36.70A RCW;
3 adding a new section to chapter 43.20 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that traditional
6 sanitary sewer systems are effective and advantageous and that the
7 numerous benefits of these systems should not be limited to designated
8 urban growth areas. The legislature also finds that traditional
9 sanitary sewer systems, while desirable when possible, may not always
10 represent the most appropriate option. Examples where traditional
11 sewer systems may not represent the most appropriate option include:
12 Ensuring that sanitary needs are met for isolated pockets of land or
13 areas with terrain that is difficult to serve; allowing properly
14 functioning on-site septic systems to continue operating; and ensuring
15 that sanitary needs are met in areas, urban or otherwise, where
16 providing traditional sewer systems is cost-prohibitive.

17 (2) The legislature, therefore, intends to authorize: (a) Counties
18 to construct or authorize the construction and use of traditional
19 sanitary sewer systems within and outside of urban growth areas; and

1 (b) counties and cities to construct or authorize the construction and
2 use of alternative on or off-site sanitary sewer systems or services
3 within their jurisdictional boundaries. In accordance with these
4 authorizations, the legislature also intends to direct that the state
5 board of health and the department of ecology promote the proper and
6 effective use of nontraditional sewer systems and services.

7 (3) The legislature, furthermore, intends to expressly provide that
8 counties and cities are not obligated under every circumstance to
9 provide or ensure the provision of sanitary sewer systems to the
10 entirety of an urban growth area within twenty-year planning periods
11 mandated by the growth management act.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
13 to read as follows:

14 (1) Counties may construct or authorize the construction and use of
15 sanitary sewer systems in unincorporated areas within and outside of
16 urban growth areas designated under RCW 36.70A.110.

17 (2) In complying with RCW 36.70A.070 and 36.70A.110, counties and
18 cities may also construct or authorize the construction and use of
19 alternative on or off-site sanitary sewer systems or services in areas
20 within their jurisdictional boundaries. For the purposes of this
21 subsection, "alternative on or off-site sanitary sewer systems or
22 services" includes, but is not limited to, sanitary systems or services
23 employing emerging technologies, filtration, common fields, and
24 phytoremediation. Alternative on or off-site sanitary sewer systems or
25 services may only be designed, constructed, installed, operated, and
26 maintained in accordance with an appropriately licensed engineer.

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

29 (1) Each county that is required or chooses to plan under RCW
30 36.70A.040 shall designate an urban growth area or areas within which
31 urban growth shall be encouraged and outside of which growth can occur
32 only if it is not urban in nature. Each city that is located in such
33 a county shall be included within an urban growth area. An urban
34 growth area may include more than a single city. An urban growth area
35 may include territory that is located outside of a city only if such
36 territory already is characterized by urban growth whether or not the

1 urban growth area includes a city, or is adjacent to territory already
2 characterized by urban growth, or is a designated new fully contained
3 community as defined by RCW 36.70A.350.

4 (2) Based upon the growth management population projection made for
5 the county by the office of financial management, the county and each
6 city within the county shall include areas and densities sufficient to
7 permit the urban growth that is projected to occur in the county or
8 city for the succeeding twenty-year period, except for those urban
9 growth areas contained totally within a national historical reserve.
10 As part of this planning process, each city within the county must
11 include areas sufficient to accommodate the broad range of needs and
12 uses that will accompany the projected urban growth including, as
13 appropriate, medical, governmental, institutional, commercial, service,
14 retail, and other nonresidential uses.

15 Each urban growth area shall permit urban densities and shall
16 include greenbelt and open space areas. In the case of urban growth
17 areas contained totally within a national historical reserve, the city
18 may restrict densities, intensities, and forms of urban growth as
19 determined to be necessary and appropriate to protect the physical,
20 cultural, or historic integrity of the reserve. An urban growth area
21 determination may include a reasonable land market supply factor and
22 shall permit a range of urban densities and uses. In determining this
23 market factor, cities and counties may consider local circumstances.
24 Cities and counties have discretion in their comprehensive plans to
25 make many choices about accommodating growth.

26 Within one year of July 1, 1990, each county that as of June 1,
27 1991, was required or chose to plan under RCW 36.70A.040, shall begin
28 consulting with each city located within its boundaries and each city
29 shall propose the location of an urban growth area. Within sixty days
30 of the date the county legislative authority of a county adopts its
31 resolution of intention or of certification by the office of financial
32 management, all other counties that are required or choose to plan
33 under RCW 36.70A.040 shall begin this consultation with each city
34 located within its boundaries. The county shall attempt to reach
35 agreement with each city on the location of an urban growth area within
36 which the city is located. If such an agreement is not reached with
37 each city located within the urban growth area, the county shall
38 justify in writing why it so designated the area an urban growth area.

1 A city may object formally with the department over the designation of
2 the urban growth area within which it is located. Where appropriate,
3 the department shall attempt to resolve the conflicts, including the
4 use of mediation services.

5 (3) Urban growth should be located first in areas already
6 characterized by urban growth that have adequate existing public
7 facility and service capacities to serve such development, second in
8 areas already characterized by urban growth that will be served
9 adequately by a combination of both existing public facilities and
10 services and any additional needed public facilities and services that
11 are provided by either public or private sources, and third in the
12 remaining portions of the urban growth areas. Urban growth may also be
13 located in designated new fully contained communities as defined by RCW
14 36.70A.350.

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

22 (5) On or before October 1, 1993, each county that was initially
23 required to plan under RCW 36.70A.040(1) shall adopt development
24 regulations designating interim urban growth areas under this chapter.
25 Within three years and three months of the date the county legislative
26 authority of a county adopts its resolution of intention or of
27 certification by the office of financial management, all other counties
28 that are required or choose to plan under RCW 36.70A.040 shall adopt
29 development regulations designating interim urban growth areas under
30 this chapter. Adoption of the interim urban growth areas may only
31 occur after public notice; public hearing; and compliance with the
32 state environmental policy act, chapter 43.21C RCW, and under this
33 section. Such action may be appealed to the growth management hearings
34 board under RCW 36.70A.280. Final urban growth areas shall be adopted
35 at the time of comprehensive plan adoption under this chapter.

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

1 (7) An urban growth area designated in accordance with this section
2 may include within its boundaries urban service areas or potential
3 annexation areas designated for specific cities or towns within the
4 county.

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

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

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

14 (ii) Urban growth areas where expansions are precluded outside
15 floodplains because:

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

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

20 (iii) Urban growth area expansions where:

21 (A) Public facilities already exist within the floodplain and the
22 expansion of an existing public facility is only possible on the land
23 to be included in the urban growth area and located within the
24 floodplain; or

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

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

32 (I) The permissible use of the land is limited to one of the
33 following: Outdoor recreation; environmentally beneficial projects,
34 including but not limited to habitat enhancement or environmental
35 restoration; storm water facilities; flood control facilities; or
36 underground conveyances; and

37 (II) The development and use of such facilities or projects will

1 not decrease flood storage, increase storm water runoff, discharge
2 pollutants to fresh or salt waters during normal operations or floods,
3 or increase hazards to people and property.

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

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

11 NEW SECTION. Sec. 4. A new section is added to chapter 43.20 RCW
12 to read as follows:

13 The state board, in consultation with the department of ecology,
14 must: (1) Promote, through the development of technical and other
15 materials, the design, construction, installation, operation, and
16 maintenance of alternative on or off-site sanitary sewer systems or
17 services; and (2) identify and remove barriers and regulations that
18 prevent or otherwise impede the design, construction, installation,
19 operation, and maintenance of alternative on or off-site sanitary sewer
20 systems or services. For the purposes of this section, "alternative on
21 or off-site sanitary sewer systems or services" includes, but is not
22 limited to, sanitary systems or services employing emerging
23 technologies, filtration, common fields, and phytoremediation.

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