
SUBSTITUTE SENATE BILL 5131

State of Washington

62nd Legislature

2011 Regular Session

By Senate Transportation (originally sponsored by Senators Haugen, King, and White)

READ FIRST TIME 02/03/11.

1 AN ACT Relating to expanding certain public facilities eligible to
2 be credited against the imposition of impact fees; amending RCW
3 36.70A.070; and reenacting and amending RCW 82.02.090.

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

5 **Sec. 1.** RCW 82.02.090 and 2010 c 86 s 1 are each reenacted and
6 amended to read as follows:

7 Unless the context clearly requires otherwise, the following
8 definitions shall apply in RCW 82.02.050 through 82.02.090:

9 (1) "Development activity" means any construction or expansion of
10 a building, structure, or use, any change in use of a building or
11 structure, or any changes in the use of land, that creates additional
12 demand and need for public facilities. "Development activity" does not
13 include buildings or structures constructed by a regional transit
14 authority.

15 (2) "Development approval" means any written authorization from a
16 county, city, or town which authorizes the commencement of development
17 activity.

18 (3) "Impact fee" means a payment of money imposed upon development
19 as a condition of development approval to pay for public facilities

1 needed to serve new growth and development, and that is reasonably
2 related to the new development that creates additional demand and need
3 for public facilities, that is a proportionate share of the cost of the
4 public facilities, and that is used for facilities that reasonably
5 benefit the new development. "Impact fee" does not include a
6 reasonable permit or application fee.

7 (4) "Owner" means the owner of record of real property, although
8 when real property is being purchased under a real estate contract, the
9 purchaser shall be considered the owner of the real property if the
10 contract is recorded.

11 (5) "Project improvements" mean site improvements and facilities
12 that are planned and designed to provide service for a particular
13 development project and that are necessary for the use and convenience
14 of the occupants or users of the project, and are not system
15 improvements. No improvement or facility included in a capital
16 facilities plan approved by the governing body of the county, city, or
17 town shall be considered a project improvement.

18 (6) "Proportionate share" means that portion of the cost of public
19 facility improvements that are reasonably related to the service
20 demands and needs of new development.

21 (7) "Public facilities" means the following capital facilities
22 owned or operated by government entities: (a) Public streets (~~and~~),
23 roads, and transit, bicycle, and pedestrian facilities; (b) publicly
24 owned parks, open space, and recreation facilities; (c) school
25 facilities; and (d) fire protection facilities.

26 (8) "Service area" means a geographic area defined by a county,
27 city, town, or intergovernmental agreement in which a defined set of
28 public facilities provide service to development within the area.
29 Service areas shall be designated on the basis of sound planning or
30 engineering principles.

31 (9) "System improvements" mean public facilities that are included
32 in the capital facilities plan and are designed to provide service to
33 service areas within the community at large, in contrast to project
34 improvements.

35 **Sec. 2.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each
36 amended to read as follows:

37 The comprehensive plan of a county or city that is required or

1 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
2 and descriptive text covering objectives, principles, and standards
3 used to develop the comprehensive plan. The plan shall be an
4 internally consistent document and all elements shall be consistent
5 with the future land use map. A comprehensive plan shall be adopted
6 and amended with public participation as provided in RCW 36.70A.140.

7 Each comprehensive plan shall include a plan, scheme, or design for
8 each of the following:

9 (1) A land use element designating the proposed general
10 distribution and general location and extent of the uses of land, where
11 appropriate, for agriculture, timber production, housing, commerce,
12 industry, recreation, open spaces, general aviation airports, public
13 utilities, public facilities, and other land uses. The land use
14 element shall include population densities, building intensities, and
15 estimates of future population growth. The land use element shall
16 provide for protection of the quality and quantity of groundwater used
17 for public water supplies. Wherever possible, the land use element
18 should consider utilizing urban planning approaches that promote
19 physical activity. Where applicable, the land use element shall review
20 drainage, flooding, and storm water run-off in the area and nearby
21 jurisdictions and provide guidance for corrective actions to mitigate
22 or cleanse those discharges that pollute waters of the state, including
23 Puget Sound or waters entering Puget Sound.

24 (2) A housing element ensuring the vitality and character of
25 established residential neighborhoods that: (a) Includes an inventory
26 and analysis of existing and projected housing needs that identifies
27 the number of housing units necessary to manage projected growth; (b)
28 includes a statement of goals, policies, objectives, and mandatory
29 provisions for the preservation, improvement, and development of
30 housing, including single-family residences; (c) identifies sufficient
31 land for housing, including, but not limited to, government-assisted
32 housing, housing for low-income families, manufactured housing,
33 multifamily housing, and group homes and foster care facilities; and
34 (d) makes adequate provisions for existing and projected needs of all
35 economic segments of the community.

36 (3) A capital facilities plan element consisting of: (a) An
37 inventory of existing capital facilities owned by public entities,
38 showing the locations and capacities of the capital facilities; (b) a

1 forecast of the future needs for such capital facilities; (c) the
2 proposed locations and capacities of expanded or new capital
3 facilities; (d) at least a six-year plan that will finance such capital
4 facilities within projected funding capacities and clearly identifies
5 sources of public money for such purposes; and (e) a requirement to
6 reassess the land use element if probable funding falls short of
7 meeting existing needs and to ensure that the land use element, capital
8 facilities plan element, and financing plan within the capital
9 facilities plan element are coordinated and consistent. Park and
10 recreation facilities shall be included in the capital facilities plan
11 element. Public streets, roads, and transit, bicycle, and pedestrian
12 facilities shall be included in the capital facilities plan element.

13 (4) A utilities element consisting of the general location,
14 proposed location, and capacity of all existing and proposed utilities,
15 including, but not limited to, electrical lines, telecommunication
16 lines, and natural gas lines.

17 (5) Rural element. Counties shall include a rural element
18 including lands that are not designated for urban growth, agriculture,
19 forest, or mineral resources. The following provisions shall apply to
20 the rural element:

21 (a) Growth management act goals and local circumstances. Because
22 circumstances vary from county to county, in establishing patterns of
23 rural densities and uses, a county may consider local circumstances,
24 but shall develop a written record explaining how the rural element
25 harmonizes the planning goals in RCW 36.70A.020 and meets the
26 requirements of this chapter.

27 (b) Rural development. The rural element shall permit rural
28 development, forestry, and agriculture in rural areas. The rural
29 element shall provide for a variety of rural densities, uses, essential
30 public facilities, and rural governmental services needed to serve the
31 permitted densities and uses. To achieve a variety of rural densities
32 and uses, counties may provide for clustering, density transfer, design
33 guidelines, conservation easements, and other innovative techniques
34 that will accommodate appropriate rural densities and uses that are not
35 characterized by urban growth and that are consistent with rural
36 character.

37 (c) Measures governing rural development. The rural element shall

1 include measures that apply to rural development and protect the rural
2 character of the area, as established by the county, by:

3 (i) Containing or otherwise controlling rural development;

4 (ii) Assuring visual compatibility of rural development with the
5 surrounding rural area;

6 (iii) Reducing the inappropriate conversion of undeveloped land
7 into sprawling, low-density development in the rural area;

8 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
9 surface water and groundwater resources; and

10 (v) Protecting against conflicts with the use of agricultural,
11 forest, and mineral resource lands designated under RCW 36.70A.170.

12 (d) Limited areas of more intensive rural development. Subject to
13 the requirements of this subsection and except as otherwise
14 specifically provided in this subsection (5)(d), the rural element may
15 allow for limited areas of more intensive rural development, including
16 necessary public facilities and public services to serve the limited
17 area as follows:

18 (i) Rural development consisting of the infill, development, or
19 redevelopment of existing commercial, industrial, residential, or
20 mixed-use areas, whether characterized as shoreline development,
21 villages, hamlets, rural activity centers, or crossroads developments.

22 (A) A commercial, industrial, residential, shoreline, or mixed-use
23 area shall be subject to the requirements of (d)(iv) of this
24 subsection, but shall not be subject to the requirements of (c)(ii) and
25 (iii) of this subsection.

26 (B) Any development or redevelopment other than an industrial area
27 or an industrial use within a mixed-use area or an industrial area
28 under this subsection (5)(d)(i) must be principally designed to serve
29 the existing and projected rural population.

30 (C) Any development or redevelopment in terms of building size,
31 scale, use, or intensity shall be consistent with the character of the
32 existing areas. Development and redevelopment may include changes in
33 use from vacant land or a previously existing use so long as the new
34 use conforms to the requirements of this subsection (5);

35 (ii) The intensification of development on lots containing, or new
36 development of, small-scale recreational or tourist uses, including
37 commercial facilities to serve those recreational or tourist uses, that
38 rely on a rural location and setting, but that do not include new

1 residential development. A small-scale recreation or tourist use is
2 not required to be principally designed to serve the existing and
3 projected rural population. Public services and public facilities
4 shall be limited to those necessary to serve the recreation or tourist
5 use and shall be provided in a manner that does not permit low-density
6 sprawl;

7 (iii) The intensification of development on lots containing
8 isolated nonresidential uses or new development of isolated cottage
9 industries and isolated small-scale businesses that are not principally
10 designed to serve the existing and projected rural population and
11 nonresidential uses, but do provide job opportunities for rural
12 residents. Rural counties may allow the expansion of small-scale
13 businesses as long as those small-scale businesses conform with the
14 rural character of the area as defined by the local government
15 according to RCW 36.70A.030(15). Rural counties may also allow new
16 small-scale businesses to utilize a site previously occupied by an
17 existing business as long as the new small-scale business conforms to
18 the rural character of the area as defined by the local government
19 according to RCW 36.70A.030(15). Public services and public facilities
20 shall be limited to those necessary to serve the isolated
21 nonresidential use and shall be provided in a manner that does not
22 permit low-density sprawl;

23 (iv) A county shall adopt measures to minimize and contain the
24 existing areas or uses of more intensive rural development, as
25 appropriate, authorized under this subsection. Lands included in such
26 existing areas or uses shall not extend beyond the logical outer
27 boundary of the existing area or use, thereby allowing a new pattern of
28 low-density sprawl. Existing areas are those that are clearly
29 identifiable and contained and where there is a logical boundary
30 delineated predominately by the built environment, but that may also
31 include undeveloped lands if limited as provided in this subsection.
32 The county shall establish the logical outer boundary of an area of
33 more intensive rural development. In establishing the logical outer
34 boundary, the county shall address (A) the need to preserve the
35 character of existing natural neighborhoods and communities, (B)
36 physical boundaries, such as bodies of water, streets and highways, and
37 land forms and contours, (C) the prevention of abnormally irregular

1 boundaries, and (D) the ability to provide public facilities and public
2 services in a manner that does not permit low-density sprawl;

3 (v) For purposes of (d) of this subsection, an existing area or
4 existing use is one that was in existence:

5 (A) On July 1, 1990, in a county that was initially required to
6 plan under all of the provisions of this chapter;

7 (B) On the date the county adopted a resolution under RCW
8 36.70A.040(2), in a county that is planning under all of the provisions
9 of this chapter under RCW 36.70A.040(2); or

10 (C) On the date the office of financial management certifies the
11 county's population as provided in RCW 36.70A.040(5), in a county that
12 is planning under all of the provisions of this chapter pursuant to RCW
13 36.70A.040(5).

14 (e) Exception. This subsection shall not be interpreted to permit
15 in the rural area a major industrial development or a master planned
16 resort unless otherwise specifically permitted under RCW 36.70A.360 and
17 36.70A.365.

18 (6) A transportation element that implements, and is consistent
19 with, the land use element.

20 (a) The transportation element shall include the following
21 subelements:

22 (i) Land use assumptions used in estimating travel;

23 (ii) Estimated traffic impacts to state-owned transportation
24 facilities resulting from land use assumptions to assist the department
25 of transportation in monitoring the performance of state facilities, to
26 plan improvements for the facilities, and to assess the impact of land-
27 use decisions on state-owned transportation facilities;

28 (iii) Facilities and services needs, including:

29 (A) An inventory of air, water, and ground transportation
30 facilities and services, including transit alignments and general
31 aviation airport facilities, to define existing capital facilities and
32 travel levels as a basis for future planning. This inventory must
33 include state-owned transportation facilities within the city or
34 county's jurisdictional boundaries;

35 (B) Level of service standards for all locally owned arterials and
36 transit routes to serve as a gauge to judge performance of the system.
37 These standards should be regionally coordinated;

1 (C) For state-owned transportation facilities, level of service
2 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
3 to gauge the performance of the system. The purposes of reflecting
4 level of service standards for state highways in the local
5 comprehensive plan are to monitor the performance of the system, to
6 evaluate improvement strategies, and to facilitate coordination between
7 the county's or city's six-year street, road, or transit program and
8 the office of financial management's ten-year investment program. The
9 concurrency requirements of (b) of this subsection do not apply to
10 transportation facilities and services of statewide significance except
11 for counties consisting of islands whose only connection to the
12 mainland are state highways or ferry routes. In these island counties,
13 state highways and ferry route capacity must be a factor in meeting the
14 concurrency requirements in (b) of this subsection;

15 (D) Specific actions and requirements for bringing into compliance
16 locally owned transportation facilities or services that are below an
17 established level of service standard;

18 (E) Forecasts of traffic for at least ten years based on the
19 adopted land use plan to provide information on the location, timing,
20 and capacity needs of future growth;

21 (F) Identification of state and local system needs to meet current
22 and future demands. Identified needs on state-owned transportation
23 facilities must be consistent with the statewide multimodal
24 transportation plan required under chapter 47.06 RCW;

25 (iv) Finance, including:

26 (A) An analysis of funding capability to judge needs against
27 probable funding resources;

28 (B) A multiyear financing plan based on the needs identified in the
29 comprehensive plan, the appropriate parts of which shall serve as the
30 basis for the six-year street, road, or transit program required by RCW
31 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
32 for public transportation systems. The multiyear financing plan should
33 be coordinated with the ten-year investment program developed by the
34 office of financial management as required by RCW 47.05.030;

35 (C) If probable funding falls short of meeting identified needs, a
36 discussion of how additional funding will be raised, or how land use
37 assumptions will be reassessed to ensure that level of service
38 standards will be met;

1 (v) Intergovernmental coordination efforts, including an assessment
2 of the impacts of the transportation plan and land use assumptions on
3 the transportation systems of adjacent jurisdictions;

4 (vi) Demand-management strategies;

5 (vii) Pedestrian and bicycle component to include collaborative
6 efforts to identify and designate planned improvements for pedestrian
7 and bicycle facilities and corridors that address and encourage
8 enhanced community access and promote healthy lifestyles.

9 (b) After adoption of the comprehensive plan by jurisdictions
10 required to plan or who choose to plan under RCW 36.70A.040, local
11 jurisdictions must adopt and enforce ordinances which prohibit
12 development approval if the development causes the level of service on
13 a locally owned transportation facility to decline below the standards
14 adopted in the transportation element of the comprehensive plan, unless
15 transportation improvements or strategies to accommodate the impacts of
16 development are made concurrent with the development. These strategies
17 may include increased public transportation service, ride sharing
18 programs, demand management, and other transportation systems
19 management strategies. For the purposes of this subsection (6),
20 "concurrent with the development" means that improvements or strategies
21 are in place at the time of development, or that a financial commitment
22 is in place to complete the improvements or strategies within six
23 years.

24 (c) The transportation element described in this subsection (6),
25 the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121
26 for counties, and RCW 35.58.2795 for public transportation systems, and
27 the ten-year investment program required by RCW 47.05.030 for the
28 state, must be consistent.

29 (7) An economic development element establishing local goals,
30 policies, objectives, and provisions for economic growth and vitality
31 and a high quality of life. The element shall include: (a) A summary
32 of the local economy such as population, employment, payroll, sectors,
33 businesses, sales, and other information as appropriate; (b) a summary
34 of the strengths and weaknesses of the local economy defined as the
35 commercial and industrial sectors and supporting factors such as land
36 use, transportation, utilities, education, workforce, housing, and
37 natural/cultural resources; and (c) an identification of policies,
38 programs, and projects to foster economic growth and development and to

1 address future needs. A city that has chosen to be a residential
2 community is exempt from the economic development element requirement
3 of this subsection.

4 (8) A park and recreation element that implements, and is
5 consistent with, the capital facilities plan element as it relates to
6 park and recreation facilities. The element shall include: (a)
7 Estimates of park and recreation demand for at least a ten-year period;
8 (b) an evaluation of facilities and service needs; and (c) an
9 evaluation of intergovernmental coordination opportunities to provide
10 regional approaches for meeting park and recreational demand.

11 (9) It is the intent that new or amended elements required after
12 January 1, 2002, be adopted concurrent with the scheduled update
13 provided in RCW 36.70A.130. Requirements to incorporate any such new
14 or amended elements shall be null and void until funds sufficient to
15 cover applicable local government costs are appropriated and
16 distributed by the state at least two years before local government
17 must update comprehensive plans as required in RCW 36.70A.130.

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