
SENATE BILL 5425

State of Washington

62nd Legislature

2011 Regular Session

By Senators Hobbs, Shin, Harper, and McAuliffe

Read first time 01/25/11. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to the authorization of a sustainable development
2 alternative for managing residential development in rural areas using
3 transferable development rights; amending RCW 36.70A.011, 43.21C.031,
4 36.145.020, and 36.145.100; reenacting and amending RCW 36.70A.030;
5 adding a new section to chapter 36.70A RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that:

8 (1) A multifaceted approach to growth management is required to
9 address the conversion of farms, forests, and rural areas to other
10 uses, and to manage residential development in rural areas;

11 (2) Current provisions of chapter 36.70A RCW provide few
12 alternatives for counties to manage growth in the rural areas outside
13 of limited areas of more intense rural development under RCW
14 36.70A.070(5)(d), and fully contained communities under RCW 36.70A.350,
15 other than traditional large lot subdivisions (e.g. five-lot and ten-
16 lot subdivisions) and "rural cluster" subdivisions;

17 (3) The legislature desires to create a mechanism on a
18 demonstration basis to allow certain counties to authorize a
19 sustainable development alternative for residential development in

1 rural areas as an alternative to limited areas of more intense rural
2 development, fully contained communities and existing, traditional
3 subdivision techniques in order to facilitate management of residential
4 growth in rural areas, to promote preservation of open space, and to
5 minimize and/or reduce the conversion of designated resource lands;

6 (4) The implementation of a local, region-wide and/or statewide
7 transfer of development rights program can play a significant role in
8 developing sustainable development options for residential development
9 in the rural areas. The most important component in building a
10 successful transfer of development rights program is creating adequate
11 receiving area capacity. Increasing receiving area capacity will
12 accommodate dramatic expected population growth while meeting resource
13 conservation goals over the next one hundred years; and

14 (5) The demonstration projects authorized by this act are intended
15 to explore the use of rural receiving areas to support strategies for
16 transfer of development rights and to provide certain counties options
17 for authorizing sustainable residential development in the rural areas.

18 **Sec. 2.** RCW 36.70A.011 and 2002 c 212 s 1 are each amended to read
19 as follows:

20 The legislature finds that this chapter is intended to recognize
21 the importance of rural lands and rural character to Washington's
22 economy, its people, and its environment, while respecting regional
23 differences. Rural lands and rural-based economies enhance the
24 economic desirability of the state, help to preserve traditional
25 economic activities, and contribute to the state's overall quality of
26 life.

27 The legislature finds that to retain and enhance the job base in
28 rural areas, rural counties must have flexibility to create
29 opportunities for business development. Further, the legislature finds
30 that rural counties must have the flexibility to retain existing
31 businesses and allow them to expand. The legislature recognizes that
32 not all business developments in rural counties require an urban level
33 of services; and that many businesses in rural areas fit within the
34 definition of rural character identified by the local planning unit.

35 ((Finally,)) The legislature finds that in defining its rural
36 element under RCW 36.70A.070(5), a county should foster land use
37 patterns and develop a local vision of rural character that will: Help

1 preserve rural-based economies and traditional rural lifestyles;
2 encourage the economic prosperity of rural residents; foster
3 opportunities for small-scale, rural-based employment and
4 self-employment; permit the operation of rural-based agricultural,
5 commercial, recreational, and tourist businesses that are consistent
6 with existing and planned land use patterns; be compatible with the use
7 of the land by wildlife and for fish and wildlife habitat; foster the
8 private stewardship of the land and preservation of open space; and
9 enhance the rural sense of community and quality of life.

10 The legislature further finds that rural conservation development
11 demonstration projects as authorized by section 4 of this act are
12 consistent with the findings of this section and will promote
13 sustainable residential development as a means of managing residential
14 growth in the rural areas and protecting designated resource lands of
15 long-term commercial significance.

16 **Sec. 3.** RCW 36.70A.030 and 2009 c 565 s 22 are each reenacted and
17 amended to read as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

20 (1) "Adopt a comprehensive land use plan" means to enact a new
21 comprehensive land use plan or to update an existing comprehensive land
22 use plan.

23 (2) "Agricultural land" means land primarily devoted to the
24 commercial production of horticultural, viticultural, floricultural,
25 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
26 straw, turf, seed, Christmas trees not subject to the excise tax
27 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
28 hatcheries, or livestock, and that has long-term commercial
29 significance for agricultural production.

30 (3) "City" means any city or town, including a code city.

31 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
32 means a generalized coordinated land use policy statement of the
33 governing body of a county or city that is adopted pursuant to this
34 chapter.

35 (5) "Critical areas" include the following areas and ecosystems:

36 (a) Wetlands; (b) areas with a critical recharging effect on aquifers

1 used for potable water; (c) fish and wildlife habitat conservation
2 areas; (d) frequently flooded areas; and (e) geologically hazardous
3 areas.

4 (6) "Department" means the department of commerce.

5 (7) "Development regulations" or "regulation" means the controls
6 placed on development or land use activities by a county or city,
7 including, but not limited to, zoning ordinances, critical areas
8 ordinances, shoreline master programs, official controls, planned unit
9 development ordinances, subdivision ordinances, and binding site plan
10 ordinances together with any amendments thereto. A development
11 regulation does not include a decision to approve a project permit
12 application, as defined in RCW 36.70B.020, even though the decision may
13 be expressed in a resolution or ordinance of the legislative body of
14 the county or city.

15 (8) "Forest land" means land primarily devoted to growing trees for
16 long-term commercial timber production on land that can be economically
17 and practically managed for such production, including Christmas trees
18 subject to the excise tax imposed under RCW 84.33.100 through
19 84.33.140, and that has long-term commercial significance. In
20 determining whether forest land is primarily devoted to growing trees
21 for long-term commercial timber production on land that can be
22 economically and practically managed for such production, the following
23 factors shall be considered: (a) The proximity of the land to urban,
24 suburban, and rural settlements; (b) surrounding parcel size and the
25 compatibility and intensity of adjacent and nearby land uses; (c) long-
26 term local economic conditions that affect the ability to manage for
27 timber production; and (d) the availability of public facilities and
28 services conducive to conversion of forest land to other uses.

29 (9) "Geologically hazardous areas" means areas that because of
30 their susceptibility to erosion, sliding, earthquake, or other
31 geological events, are not suited to the siting of commercial,
32 residential, or industrial development consistent with public health or
33 safety concerns.

34 (10) "Long-term commercial significance" includes the growing
35 capacity, productivity, and soil composition of the land for long-term
36 commercial production, in consideration with the land's proximity to
37 population areas, and the possibility of more intense uses of the land.

1 (11) "Minerals" include gravel, sand, and valuable metallic
2 substances.

3 (12) "Public facilities" include streets, roads, highways,
4 sidewalks, street and road lighting systems, traffic signals, domestic
5 water systems, storm and sanitary sewer systems, parks and recreational
6 facilities, and schools.

7 (13) "Public services" include fire protection and suppression, law
8 enforcement, public health, education, recreation, environmental
9 protection, and other governmental services.

10 (14) "Recreational land" means land so designated under RCW
11 36.70A.1701 and that, immediately prior to this designation, was
12 designated as agricultural land of long-term commercial significance
13 under RCW 36.70A.170. Recreational land must have playing fields and
14 supporting facilities existing before July 1, 2004, for sports played
15 on grass playing fields.

16 (15) "Rural character" refers to the patterns of land use and
17 development established by a county in the rural element of its
18 comprehensive plan:

19 (a) In which open space, the natural landscape, and vegetation
20 predominate over the built environment;

21 (b) That foster traditional rural lifestyles, rural-based
22 economies, and opportunities to both live and work in rural areas;

23 (c) That provide visual landscapes that are traditionally found in
24 rural areas and communities;

25 (d) That are compatible with the use of the land by wildlife and
26 for fish and wildlife habitat;

27 (e) That reduce the inappropriate conversion of undeveloped land
28 into sprawling, low-density development;

29 (f) That generally do not require the extension of urban
30 governmental services; and

31 (g) That are consistent with the protection of natural surface
32 water flows and groundwater and surface water recharge and discharge
33 areas.

34 (16) "Rural development" refers to development outside the urban
35 growth area and outside agricultural, forest, and mineral resource
36 lands designated pursuant to RCW 36.70A.170. Rural development can
37 consist of a variety of uses and residential densities, including
38 clustered residential development, at levels that are consistent with

1 the preservation of rural character and the requirements of the rural
2 element. Rural development does not refer to agriculture or forestry
3 activities that may be conducted in rural areas. A rural conservation
4 development demonstration project as provided under section 4 of this
5 act is a permitted form of rural development.

6 (17) "Rural governmental services" or "rural services" include
7 those public services and public facilities historically and typically
8 delivered at an intensity usually found in rural areas, and may include
9 domestic water systems, fire and police protection services,
10 transportation and public transit services, and other public utilities
11 associated with rural development and normally not associated with
12 urban areas. Rural services do not include storm or sanitary sewers,
13 except as otherwise authorized by RCW 36.70A.110(4).

14 (18) "Urban governmental services" or "urban services" include
15 those public services and public facilities at an intensity
16 historically and typically provided in cities, specifically including
17 storm and sanitary sewer systems, domestic water systems, street
18 cleaning services, fire and police protection services, public transit
19 services, and other public utilities associated with urban areas and
20 normally not associated with rural areas.

21 (19) "Urban growth" refers to growth that makes intensive use of
22 land for the location of buildings, structures, and impermeable
23 surfaces to such a degree as to be incompatible with the primary use of
24 land for the production of food, other agricultural products, or fiber,
25 or the extraction of mineral resources, rural uses, rural development,
26 and natural resource lands designated pursuant to RCW 36.70A.170. A
27 pattern of more intensive rural development, as provided in RCW
28 36.70A.070(5)(d), is not urban growth. When allowed to spread over
29 wide areas, urban growth typically requires urban governmental
30 services. "Characterized by urban growth" refers to land having urban
31 growth located on it, or to land located in relationship to an area
32 with urban growth on it as to be appropriate for urban growth.

33 (20) "Urban growth areas" means those areas designated by a county
34 pursuant to RCW 36.70A.110.

35 (21) "Wetland" or "wetlands" means areas that are inundated or
36 saturated by surface water or groundwater at a frequency and duration
37 sufficient to support, and that under normal circumstances do support,
38 a prevalence of vegetation typically adapted for life in saturated soil

1 conditions. Wetlands generally include swamps, marshes, bogs, and
2 similar areas. Wetlands do not include those artificial wetlands
3 intentionally created from nonwetland sites, including, but not limited
4 to, irrigation and drainage ditches, grass-lined swales, canals,
5 detention facilities, wastewater treatment facilities, farm ponds, and
6 landscape amenities, or those wetlands created after July 1, 1990, that
7 were unintentionally created as a result of the construction of a road,
8 street, or highway. Wetlands may include those artificial wetlands
9 intentionally created from nonwetland areas created to mitigate
10 conversion of wetlands.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW
12 to read as follows:

13 (1) A county in the Puget Sound basin with a population between
14 five hundred thousand and seven hundred fifty thousand, and which is
15 required or choosing to plan under RCW 36.70A.040, may designate one
16 rural conservation development demonstration project that meets the
17 criteria set forth in this section. For the purposes of this section,
18 "rural conservation development demonstration project" and
19 "demonstration project" mean a compact rural development created using
20 transfer of development rights as identified in this section, and
21 established by the authorizing county's comprehensive plan policies and
22 development regulations.

23 (2) A demonstration project shall be located in the rural area, and
24 be designed as provided in this section to co-exist with traditional
25 rural land uses such as farming and forestry. A demonstration project
26 meeting the criteria of this section shall neither constitute "urban
27 growth," nor lands "characterized by urban growth" for purposes of
28 citing adjacent or nearby lands as new urban growth areas pursuant to
29 RCW 36.70A.110(2), nor do they violate rural character provisions of
30 RCW 36.70A.070(5)(c)(iii). A demonstration project meeting the
31 requirements of this section, and meeting the comprehensive plan
32 policies and development regulation of an authorizing county, shall
33 constitute a permitted form of "rural development" under RCW
34 36.70A.030(16).

35 (a) Location. A county may approve a demonstration project on a
36 site in the rural area, outside of limited areas of more intensive
37 rural development established pursuant to RCW 36.70A.070(5)(d), with a

1 minimum of seven hundred fifty contiguous acres. A portion of the
2 proposed site of a demonstration project site must be located within
3 three miles of a state or federal highway. The county's comprehensive
4 plan policies and/or development regulations for a demonstration
5 project should favor sites that are capable of limiting visual impacts
6 of the development to the general public and adjoining uses, enjoy
7 proximity to existing transportation networks that have capacity or can
8 be made concurrent through the proposal, demonstrate limited need for
9 public service improvements, and are outside areas identified as high
10 priority for protection and restoration by the department of ecology's
11 watershed characterization process. A demonstration project shall not
12 be allowed on lands designated by a county pursuant to chapter 36.70A
13 RCW as either agricultural, forest, or mineral lands of long-term
14 commercial significance. A county may not simultaneously process a
15 request to de-designate designated resource lands of long-term
16 commercial significance and a proposal for those same lands to be
17 considered for a demonstration project.

18 (b) Residential development. A demonstration project may include
19 a combination of two or more of the following types of residential
20 dwelling units: Single-family detached housing; single-family attached
21 housing; multifamily housing; and accessory dwelling units. A
22 demonstration project may include age-restricted residential housing.
23 The average lot size for single-family detached housing units within a
24 demonstration project shall not exceed seven thousand square feet.

25 (c) Nonresidential development. The demonstration project may
26 include nonresidential development that is designed and sized to serve
27 only the projected population of the demonstration project and nearby
28 existing and projected rural residential population.

29 (d) Authorized number of residential development units. A county
30 may authorize a demonstration project containing up to one thousand six
31 hundred residential dwelling units. The total number of authorized
32 residential dwelling units shall include the number of development
33 rights vested by the property owner under the applicable base zoning,
34 approved prior plats, vested subdivision/permit applications, and/or
35 existing legal subdivisions and shall be referred to as the "base
36 number of units." Any additional residential units in a demonstration
37 project above the base number of units and up to the total number of
38 dwelling units approved by the authorizing county, not to exceed the

1 total residential units authorized for a demonstration project under
2 this section, shall be allowed only through the transfer of development
3 rights as provided in this section. At least one-third of the units
4 authorized in a demonstration project must originate from rural-zoned
5 property, which may include the base number of units associated with
6 the demonstration project property.

7 (e) Transfer of development rights. For purposes of this section,
8 the authorizing county's transfer of development rights program must
9 identify rural-zoned lands or lands designated as natural resource
10 lands of long-term commercial significance that are eligible as
11 transfer of development rights sending sites. A demonstration project
12 authorized under this section shall be an authorized receiving area for
13 transfer of development rights from certified sending sites. For
14 purposes of this section, each demonstration project residential unit
15 that exceeds the base number of units as provided under this section
16 shall require the transfer of one development right from a certified
17 sending site.

18 (f) Conservation easements. Development rights transferred from
19 sending sites shall be extinguished by a conservation easement recorded
20 against the sending property. The conservation easement shall be held
21 by either a nonprofit organization, the county authorizing the
22 demonstration project, or jointly by a nonprofit organization and the
23 authorizing county, as may be provided by the enabling county's
24 transfer of development rights program. The conservation easement
25 shall permanently restrict development of the sending property, but
26 must allow for typical rural and resource land uses, including but not
27 limited to agriculture and working forestry. A stewardship fund
28 established by endowment or other mechanism established by the county
29 authorizing a demonstration project shall be created to monitor and
30 enforce the conservation easement or easements for all sending
31 properties to ensure capacity for stewardship of such conservation
32 easement lands.

33 (g) Process. A county authorized to approve a demonstration
34 project shall adopt such comprehensive plan policies and development
35 regulations to supplement the requirements of this act as the county
36 deems necessary and appropriate. Any comprehensive plan policies
37 and/or development regulations adopted by a county pursuant to this
38 section may consider and reflect local circumstances for determining

1 how to implement this section in a manner that preserves existing rural
2 character. A county authorized to approve a demonstration project
3 under this act may designate a demonstration project receiving site
4 either in the rural element of its comprehensive plan, through adoption
5 of a subarea plan for the demonstration project, and/or through a
6 development agreement, and it may enact and rely upon comprehensive
7 plan policies, development regulations, and/or development agreements
8 as provided under chapter 36.70B RCW, expressly for the purpose of
9 approving a demonstration project. The demonstration project must
10 comply with all relevant development regulations, including critical
11 areas regulations and transportation concurrency requirements;
12 provided, however, that the provisions of this section shall control
13 over conflicting provisions of chapter 36.70A RCW, if any; provided,
14 further, that through a development agreement a county may approve
15 development standards particular to the demonstration project, and
16 different from the county's existing development regulations, if the
17 county finds that such regulations will facilitate preservation of
18 rural character and will not adversely impact the public health,
19 safety, and welfare.

20 (h) External boundaries. Clear external boundaries shall be
21 delineated for each demonstration project and shall not be expanded.
22 The demonstration project shall provide a perimeter buffer within the
23 boundaries of the demonstration project for the benefit of surrounding
24 land uses along the external boundary, which buffer may consist of
25 physical features upon or abutting the demonstration project site, such
26 as a river or undeveloped bluff or ravine, or a designated corridor of
27 undeveloped land that must be permanently conserved. The perimeter
28 buffer around the demonstration project must average at least two
29 hundred feet wide, and at no point may be less than one hundred feet
30 wide; provided, however, that the authorizing county may approve a
31 reduction in the minimum average buffer width in response to a buffer
32 enhancement and stewardship plan demonstrating that the reduced buffers
33 provide an equivalent buffer function and value to that of the standard
34 buffer width. Nothing in this section obviates the need to comply with
35 all applicable critical area regulations and preexisting riparian
36 buffer requirements. Perimeter buffers shall be permanently conserved
37 by conservation easement recorded as provided for in the same manner as
38 conservation easements for transferred development rights.

1 (i) Public services and public facilities.

2 (i) Design and size--in general. Public services and public
3 facilities shall be designed and sized for the demonstration project
4 consistent with the definition of "rural governmental services" as
5 provided in RCW 36.70A.030(17).

6 (ii) Provision for required infrastructure. The county's
7 development regulations, or any development agreement authorizing a
8 demonstration project, shall address how new and/or improved
9 infrastructure necessary to serve the demonstration project shall be
10 provided, which may include how such infrastructure is to be provided
11 by either the applicant, the county, or by a public-private
12 partnership.

13 (iii) Transportation. A demonstration project must comply with the
14 county's applicable transportation concurrency requirements to ensure
15 that the demonstration project will not result in roads operating below
16 adopted levels of service. Legal instruments shall be recorded
17 granting to the general public the right to access and utilize the
18 transportation facilities described in (i)(iii) (A) through (C) of this
19 subsection to the extent such facilities are included as part of a
20 demonstration project. A covenant shall be recorded on title to land
21 included within a demonstration project that prohibits an owner or
22 owners from protesting annexation to a transit service district. A
23 county's approval of a demonstration project should call for a
24 transportation management plan to encourage the reduction in potential
25 greenhouse gas emissions that addresses, at a minimum, the following
26 components: (A) A multimodal implementation plan that may include, but
27 is not necessarily limited to, neighborhood circulators; bicycle paths;
28 electric vehicle charging stations; and park and ride, community
29 vanpool, and car-share parking spaces; (B) a pedestrian and
30 nonmotorized transportation network of trails and walkways that shall
31 connect residences to public services and open spaces within and
32 adjacent to the demonstration project. For the purposes of this
33 section, walkways are lanes for pedestrians and nonmotorized vehicles
34 that provide a space to travel within the public right-of-way or within
35 easements/tracts that is separated from roadway vehicles; (C) road
36 capacity that meet the county's applicable growth management act
37 concurrency requirements; and (D) innovative road standards developed

1 by the county for a demonstration project that the county determines
2 are compatible with rural character and minimize impervious surfaces
3 and storm water runoff.

4 (iv) Water supply. A demonstration project must be served by an
5 existing public water purveyor.

6 (v) Wastewater treatment. Counties are encouraged to authorize
7 innovative techniques for wastewater treatment in a demonstration
8 project, including, but not limited to, the use of membrane bioreactor
9 systems. The demonstration project should encourage water conservation
10 and grey water reuse for flushing, irrigation, and/or other appropriate
11 uses.

12 (vi) Storm water management. The authorizing county shall include
13 in its development regulations, or in a development agreement approving
14 a demonstration project, storm water management standards that are
15 consistent with the then most current department of ecology storm water
16 manual or the equivalent standard adopted by the county. The
17 authorizing county shall require "low impact development" techniques as
18 appropriate and feasible for the site, which may include, but are not
19 limited to, bio swales and other natural storm water management systems
20 and alternative uses for storm water that encourage water reuse,
21 groundwater infiltration, or both.

22 (vii) Critical areas regulations. A demonstration project shall be
23 subject to the county's then current, adopted critical areas
24 regulations adopted pursuant to chapter 36.70A RCW.

25 (j) Open space. The demonstration project shall contain community
26 open space for public use, which may include community gathering space,
27 village green, parks, trails, a community farm, a community forest,
28 and/or a farmers' market space. A minimum of seventy percent of the
29 gross site area of a demonstration project shall be set aside as
30 designated open space. Instruments shall be recorded against the
31 property as necessary to ensure that open space is retained in
32 perpetuity, and must be open and accessible to the public. A
33 stewardship fund established by endowment, homeowners' association
34 fees, perpetual resale fees, or other mechanism as may be authorized by
35 a county approving a demonstration project, shall be created to monitor
36 and ensure capacity for stewardship of such publicly open and
37 accessible open space within a demonstration project.

1 (k) Green building and energy. A county authorizing a
2 demonstration project should encourage the incorporation of "green"
3 building standards, such as the national association of home builders'
4 gold-level green building guidelines or substantial equivalent. To the
5 maximum extent practicable, a demonstration project shall use building
6 materials sourced from Washington state. A county authorizing a
7 demonstration project should also encourage the utilization of
8 renewable on-site energy generation, renewable energy credits, and/or
9 other means to reduce green house gas emissions, when compared to
10 typical rural cluster developments.

11 (l) Native vegetation. The authorizing county shall include in its
12 development regulations or in a development agreement authorizing a
13 demonstration project, provisions to minimize and mitigate for the
14 clearing of native vegetation within a demonstration project. Native
15 plant species for landscaping of nonlawn areas of private residences
16 shall be used. Public rights-of-way, street planting strips, and
17 common areas shall be replanted with a regionally appropriate native
18 plant community and structure, except in situations where native
19 species conflict with power lines and other utilities, in which case
20 noninvasive nonnative species shall be used as a substitute.

21 (m) Design standards. The authorizing county shall include in its
22 development regulations or in a development agreement authorizing a
23 demonstration project design standards to protect the rural character
24 of the area and design standards to foster interaction among residents
25 and a sense of place. At a minimum, design standards to protect rural
26 character should address how to minimize and mitigate impacts from the
27 following: (i) Utilities; (ii) roadways and transportation; (iii)
28 visual impacts to sensitive viewsheds, such as roadways, ridgelines,
29 hillsides, etc.; and (iv) lighting and the preservation of dark skies.
30 Design standards to foster interaction and a sense of place may include
31 elements to encourage multimodal transportation options, public
32 gathering spaces, views of the surrounding landscape, use of local
33 materials, and attention to historic features.

34 (n) Notice on title. A county designating a demonstration project
35 shall require that all plats, short plats, site plans, development
36 permits, building permits, and/or other permits/approvals issued or
37 granted for development activities within a demonstration project
38 contain a notice that the subject property is located in a rural area

1 where a variety of traditional rural activities may occur that may
2 generate sights, sounds, and smells associated with farming, forestry,
3 and other traditional rural uses. In addition, the notice for lands
4 within a demonstration project shall advise that services in rural
5 areas are often limited and consist of rural governmental services
6 rather than urban governmental services. The notice shall run with the
7 land.

8 (o) Environmental review. A county's review and approval of a
9 demonstration project shall address and provide for environmental
10 protection consistent with the provisions of the state environmental
11 policy act, chapter 43.21C RCW. A county may process a demonstration
12 project as a "planned action" under chapter 43.21C RCW as authorized by
13 this section.

14 **Sec. 5.** RCW 43.21C.031 and 1995 c 347 s 203 are each amended to
15 read as follows:

16 (1) An environmental impact statement (the detailed statement
17 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for
18 legislation and other major actions having a probable significant,
19 adverse environmental impact. The environmental impact statement may
20 be combined with the recommendation or report on the proposal or issued
21 as a separate document. The substantive decisions or recommendations
22 shall be clearly identifiable in the combined document. Actions
23 categorically exempt under RCW 43.21C.110(1)(a) do not require
24 environmental review or the preparation of an environmental impact
25 statement under this chapter. In a county, city, or town planning
26 under RCW 36.70A.040, a planned action, as provided for in subsection
27 (2) of this section, does not require a threshold determination or the
28 preparation of an environmental impact statement under this chapter,
29 but is subject to environmental review and mitigation as provided in
30 this chapter.

31 An environmental impact statement is required to analyze only those
32 probable adverse environmental impacts which are significant.
33 Beneficial environmental impacts may be discussed. The responsible
34 official shall consult with agencies and the public to identify such
35 impacts and limit the scope of an environmental impact statement. The
36 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate
37 sections of an environmental impact statement. Discussions of

1 significant short-term and long-term environmental impacts, significant
2 irrevocable commitments of natural resources, significant alternatives
3 including mitigation measures, and significant environmental impacts
4 which cannot be mitigated should be consolidated or included, as
5 applicable, in those sections of an environmental impact statement
6 where the responsible official decides they logically belong.

7 (2)(a) For purposes of this section, a planned action means one or
8 more types of project action that:

9 (i) Are designated planned actions by an ordinance or resolution
10 adopted by a county, city, or town planning under RCW 36.70A.040;

11 (ii) Have had the significant impacts adequately addressed in an
12 environmental impact statement prepared in conjunction with (A) a
13 comprehensive plan or subarea plan adopted under chapter 36.70A RCW,
14 ~~((or))~~ (B) a fully contained community, a master planned resort, a
15 master planned development, or a phased project, or (C) a rural
16 conservation development demonstration project as authorized under
17 section 4 of this act;

18 (iii) Are subsequent or implementing projects for the proposals
19 listed in (a)(ii) of this subsection;

20 (iv) Are located within an urban growth area, as defined in RCW
21 36.70A.030 except in the case of a rural conservation development
22 demonstration project as authorized under section 4 of this act;

23 (v) Are not essential public facilities, as defined in RCW
24 36.70A.200; and

25 (vi) Are consistent with a comprehensive plan adopted under chapter
26 36.70A RCW.

27 (b) A county, city, or town shall limit planned actions to certain
28 types of development or to specific geographical areas that are less
29 extensive than the jurisdictional boundaries of the county, city, or
30 town and may limit a planned action to a time period identified in the
31 environmental impact statement or the ordinance or resolution adopted
32 under this subsection.

33 **Sec. 6.** RCW 36.145.020 and 2010 c 7 s 201 are each amended to read
34 as follows:

35 (1) Community facilities districts are authorized to be formed for
36 the purposes authorized under this chapter. Community facilities
37 districts may ~~((only))~~ include either (a) land within urban growth

1 areas designated under the state growth management act, located in
2 portions of one or more cities, towns, or counties when created in
3 accordance with this chapter. A district may include one or more
4 noncontiguous tracts, lots, parcels, or other properties meeting the
5 requirements of this chapter, or (b) land within counties that is
6 outside of designated urban growth areas but which has been included
7 within the boundaries of a rural conservation development demonstration
8 project approved by a county pursuant to section 4 of this act when the
9 district is created in accordance with this chapter.

10 ((+1)) (2) To form a community facilities district, a petition
11 must be presented to the applicable legislative authorities. The
12 petition must:

13 (a) Designate and describe the boundaries of the district by metes
14 and bounds or reference to United States townships, ranges, and legal
15 subdivisions;

16 (b) Be executed by one hundred percent of all owners of private
17 property located within the boundaries of the proposed district. The
18 property owners must include a request to subject their property to the
19 assessments, up to the amount included in the petition and authorized
20 under this chapter;

21 (c) Include a certification by the petitioners that they want to
22 voluntarily submit their property to the authority of the district
23 under this chapter to approve the petitioner's request to submit their
24 property to the assessments, up to the amount included in the petition
25 and authorized under this chapter;

26 (d) Include a general explanation of the objective and plan of the
27 district and describe the specific facilities that the district
28 anticipates financing;

29 (e) Declare the district will be conducive to public health,
30 safety, and welfare;

31 (f) Assert that the purpose for forming the district will be a
32 benefit to the land located in the district;

33 (g) Be accompanied by an "obligation" signed by at least two
34 petitioners who agree to pay the costs of the formation process;

35 (h) Include a list of petitioners or representatives thereof who
36 are willing and able to serve on the board of supervisors. All
37 petitioners within a proposed district who are natural persons, or
38 natural persons who are designated representatives of petitioners, are

1 eligible to include their name on the list of eligible supervisors.
2 The petitioners may nominate qualified professions to serve on the
3 board of supervisors in lieu of the petitioners or representatives of
4 the petitioners;

5 (i) If it proposes a special assessment, include: (i) A diagram
6 showing each separate lot, tract, parcel of land, or other property in
7 the district; (ii) the acreage of the property; (iii) the name and
8 address of the owner or reputed owner of each lot, tract, parcel of
9 land, or other property as shown on the tax rolls of the county
10 assessor; (iv) a preliminary assessment roll showing the special
11 assessment proposed to be imposed on each lot, tract, parcel of land,
12 or other property; and (v) a proposed method or combination of methods
13 for computing special assessments, determining the benefit to assessed
14 property or use from facilities or improvements funded directly or
15 indirectly by special assessments under this chapter; and

16 (j) Include an explanation of what security will be provided to
17 ensure the timely payment of assessments and the timely payment of
18 bonds issued by the district.

19 ((+2)) (3) The petition must be filed with the auditor of each
20 county in which property included within the proposed district is
21 located. The auditor for the county in which the largest geographic
22 portion of the proposed district is located must be the lead auditor
23 for the purposes of this section. Within thirty days of the lead
24 auditor's receipt of the petition, the lead auditor must confirm that
25 the petition has been validly executed by one hundred percent of all
26 owners of the property located within the proposed district, including
27 confirmation by the auditors of all other counties with whom the
28 petition was filed. Within ten days of the lead auditor's finding that
29 the petition either does or does not contain the required signatures,
30 the lead auditor must either (a) transmit the petition, together with
31 a certificate of sufficiency attached thereto, to each legislative
32 authority petitioned for formation of the district; or (b) return the
33 petition to the petitioners with a list of property owners who must
34 sign the petition in order to comply with this section. There are no
35 restrictions on the number of petitions that may be submitted by one or
36 more property owners.

37 ((+3)) (4) A petition may be amended for any reason if the

1 amendment is signed by one hundred percent of the owners of property
2 located within the district proposed in the amended petition.

3 **Sec. 7.** RCW 36.145.100 and 2010 c 7 s 501 are each amended to read
4 as follows:

5 (1) Through the use of district revenue derived through special
6 assessments and bonds authorized under this chapter, and((7))
7 consistent with the terms and conditions of a petition approved in
8 accordance with this chapter, a community facilities district may
9 finance all or a portion of the following costs, expenses, and
10 facilities whether located inside or outside the boundaries of an
11 approved district:

12 (a) The cost, or any portion thereof, of the purchase, finance,
13 lease, sublease, construction, expansion, improvement, or
14 rehabilitation of any facility with an estimated life of five years or
15 longer;

16 (b) The planning and design work that is directly related to the
17 purchase, construction, expansion, improvement, or rehabilitation of a
18 facility, including engineering, architectural, planning, and
19 inspection costs;

20 (c) Facilities listed in RCW 35.43.040 to the extent not specified
21 in this section;

22 (d) Sanitary sewage systems, including collection, transport,
23 storage, treatment, dispersal, effluent use, and discharge;

24 (e) Drainage and flood control systems, including collection,
25 transport, diversion, storage, detention, retention, dispersal, use,
26 and discharge;

27 (f) Water systems for domestic, industrial, irrigation, municipal,
28 or community facilities purposes, including production, collection,
29 storage, treatment, transport, delivery, connection, and dispersal;

30 (g) Highways, streets, roadways, and parking facilities, including
31 all areas for vehicular use for travel, ingress, egress, and parking;

32 (h) Areas for pedestrian, equestrian, bicycle, or other nonmotor
33 vehicle use for travel, ingress, egress, and parking;

34 (i) Pedestrian malls, parks, recreational facilities, and open-
35 space facilities for the use of members of the public for
36 entertainment, assembly, and recreation;

- 1 (j) Landscaping, including earthworks, structures, lakes, and other
- 2 water features, plants, trees, and related water delivery systems;
- 3 (k) Public buildings, public safety facilities, and community
- 4 facilities;
- 5 (l) Publicly owned natural gas transmission and distribution
- 6 facilities, facilities for the transmission or distribution of
- 7 electrical energy, and limited communications facilities, specifically
- 8 poles, trenches, and conduits, for use of any communications provider;
- 9 (m) Street lighting;
- 10 (n) Traffic control systems and devices, including signals,
- 11 controls, markings, and signage;
- 12 (o) Systems of surface, underground, or overhead railways,
- 13 tramways, buses, or any other means of mass transportation facilities,
- 14 including passenger, terminal, station parking, and related facilities
- 15 and areas for passenger and vehicular use for travel, ingress, egress,
- 16 and parking;
- 17 (p) Library, educational, and cultural facilities; (~~and~~)
- 18 (q) Facilities similar to those listed in this section; and
- 19 (r) Transferable development rights.
- 20 (2) The district may not finance public or private residential
- 21 dwellings, nonprofit facilities as defined in RCW 43.180.300, health
- 22 care facilities as defined in RCW 70.37.020, higher education
- 23 institutions as defined in RCW 28B.07.020, or economic development
- 24 activities as defined in RCW 43.163.010.

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