

ESB 6194 - H COMM AMD

By Committee on Appropriations Subcommittee on General Government
& Information Technology

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 36.70A.040 and 2000 c 36 s 1 are each amended to read
4 as follows:

5 (1) Each county that has both a population of fifty thousand or
6 more and, until May 16, 1995, has had its population increase by more
7 than ten percent in the previous ten years or, on or after May 16,
8 1995, has had its population increase by more than seventeen percent in
9 the previous ten years, and the cities located within such county, and
10 any other county regardless of its population that has had its
11 population increase by more than twenty percent in the previous ten
12 years, and the cities located within such county, shall conform with
13 all of the requirements of this chapter. However, the county
14 legislative authority of such a county with a population of less than
15 fifty thousand population may adopt a resolution removing the county,
16 and the cities located within the county, from the requirements of
17 adopting comprehensive land use plans and development regulations under
18 this chapter if this resolution is adopted and filed with the
19 department by December 31, 1990, for counties initially meeting this
20 set of criteria, or within sixty days of the date the office of
21 financial management certifies that a county meets this set of criteria
22 under subsection (5) of this section. For the purposes of this
23 subsection, a county not currently planning under this chapter is not
24 required to include in its population count those persons confined in
25 a correctional facility under the jurisdiction of the department of
26 corrections that is located in the county.

27 Once a county meets either of these sets of criteria, the
28 requirement to conform with all of the requirements of this chapter
29 remains in effect, even if the county no longer meets one of these sets
30 of criteria.

1 (2)(a) The county legislative authority of any county that does not
2 meet either of the sets of criteria established under subsection (1) of
3 this section may adopt a resolution indicating its intention to have
4 subsection (1) of this section apply to the county. Each city, located
5 in a county that chooses to plan under this subsection, shall conform
6 with all of the requirements of this chapter. Once such a resolution
7 has been adopted, the county and the cities located within the county
8 remain subject to all of the requirements of this chapter, unless the
9 county subsequently adopts a withdrawal resolution for partial planning
10 pursuant to (b)(i) of this subsection.

11 (b)(i) Until December 31, 2015, the legislative authority of a
12 county may adopt a resolution removing the county and the cities
13 located within the county from the requirements to plan under this
14 section if:

15 (A) The county has a population, as estimated by the office of
16 financial management, of twenty thousand or fewer inhabitants at any
17 time between April 1, 2010, and April 1, 2015;

18 (B) The county has previously adopted a resolution indicating its
19 intention to have subsection (1) of this section apply to the county;

20 (C) At least sixty days prior to adopting a resolution for partial
21 planning, the county provides written notification to the legislative
22 body of each city within the county of its intent to consider adopting
23 the resolution; and

24 (D) The legislative bodies of at least sixty percent of those
25 cities having an aggregate population of at least seventy-five percent
26 of the incorporated county population have not: Adopted resolutions
27 opposing the action by the county; and provided written notification of
28 the resolutions to the county.

29 (ii) Upon adoption of a resolution for partial planning under
30 (b)(i) of this subsection:

31 (A) The county and the cities within the county are no longer
32 obligated to plan under this section; and

33 (B) The county may not, for a minimum of ten years from the date of
34 adoption of the resolution, adopt another resolution indicating its
35 intention to have subsection (1) of this section apply to the county.

36 (c) The adoption of a resolution for partial planning under (b)(i)
37 of this subsection does not nullify or otherwise modify the

1 requirements for counties and cities established in RCW 36.70A.060,
2 36.70A.170, and 36.70A.172.

3 (3) Any county or city that is initially required to conform with
4 all of the requirements of this chapter under subsection (1) of this
5 section shall take actions under this chapter as follows: (a) The
6 county legislative authority shall adopt a countywide planning policy
7 under RCW 36.70A.210; (b) the county and each city located within the
8 county shall designate critical areas, agricultural lands, forest
9 lands, and mineral resource lands, and adopt development regulations
10 conserving these designated agricultural lands, forest lands, and
11 mineral resource lands and protecting these designated critical areas,
12 under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and
13 take other actions related to urban growth areas under RCW 36.70A.110;
14 (d) if the county has a population of fifty thousand or more, the
15 county and each city located within the county shall adopt a
16 comprehensive plan under this chapter and development regulations that
17 are consistent with and implement the comprehensive plan on or before
18 July 1, 1994, and if the county has a population of less than fifty
19 thousand, the county and each city located within the county shall
20 adopt a comprehensive plan under this chapter and development
21 regulations that are consistent with and implement the comprehensive
22 plan by January 1, 1995, but if the governor makes written findings
23 that a county with a population of less than fifty thousand or a city
24 located within such a county is not making reasonable progress toward
25 adopting a comprehensive plan and development regulations the governor
26 may reduce this deadline for such actions to be taken by no more than
27 one hundred eighty days. Any county or city subject to this subsection
28 may obtain an additional six months before it is required to have
29 adopted its development regulations by submitting a letter notifying
30 the department (~~(of community, trade, and economic development)~~) of its
31 need prior to the deadline for adopting both a comprehensive plan and
32 development regulations.

33 (4) Any county or city that is required to conform with all the
34 requirements of this chapter, as a result of the county legislative
35 authority adopting its resolution of intention under subsection (2) of
36 this section, shall take actions under this chapter as follows: (a)
37 The county legislative authority shall adopt a county-wide planning
38 policy under RCW 36.70A.210; (b) the county and each city that is

1 located within the county shall adopt development regulations
2 conserving agricultural lands, forest lands, and mineral resource lands
3 it designated under RCW 36.70A.060 within one year of the date the
4 county legislative authority adopts its resolution of intention; (c)
5 the county shall designate and take other actions related to urban
6 growth areas under RCW 36.70A.110; and (d) the county and each city
7 that is located within the county shall adopt a comprehensive plan and
8 development regulations that are consistent with and implement the
9 comprehensive plan not later than four years from the date the county
10 legislative authority adopts its resolution of intention, but a county
11 or city may obtain an additional six months before it is required to
12 have adopted its development regulations by submitting a letter
13 notifying the department (~~of community, trade, and economic~~
14 ~~development~~) of its need prior to the deadline for adopting both a
15 comprehensive plan and development regulations.

16 (5) If the office of financial management certifies that the
17 population of a county that previously had not been required to plan
18 under subsection (1) or (2) of this section has changed sufficiently to
19 meet either of the sets of criteria specified under subsection (1) of
20 this section, and where applicable, the county legislative authority
21 has not adopted a resolution removing the county from these
22 requirements as provided in subsection (1) of this section, the county
23 and each city within such county shall take actions under this chapter
24 as follows: (a) The county legislative authority shall adopt a
25 countywide planning policy under RCW 36.70A.210; (b) the county and
26 each city located within the county shall adopt development regulations
27 under RCW 36.70A.060 conserving agricultural lands, forest lands, and
28 mineral resource lands it designated within one year of the
29 certification by the office of financial management; (c) the county
30 shall designate and take other actions related to urban growth areas
31 under RCW 36.70A.110; and (d) the county and each city located within
32 the county shall adopt a comprehensive land use plan and development
33 regulations that are consistent with and implement the comprehensive
34 plan within four years of the certification by the office of financial
35 management, but a county or city may obtain an additional six months
36 before it is required to have adopted its development regulations by
37 submitting a letter notifying the department (~~of community, trade, and~~

1 ~~economic development~~) of its need prior to the deadline for adopting
2 both a comprehensive plan and development regulations.

3 (6) A copy of each document that is required under this section
4 shall be submitted to the department at the time of its adoption.

5 (7) Cities and counties planning under this chapter must amend the
6 transportation element of the comprehensive plan to be in compliance
7 with this chapter and chapter 47.80 RCW no later than December 31,
8 2000.

9 **Sec. 2.** RCW 36.70A.060 and 2005 c 423 s 3 are each amended to read
10 as follows:

11 (1)(a) (~~Except as provided in RCW 36.70A.1701,~~) Each county that
12 is required or chooses to plan under RCW 36.70A.040, and each city
13 within such county, shall adopt development regulations on or before
14 September 1, 1991, to assure the conservation of agricultural, forest,
15 and mineral resource lands designated under RCW 36.70A.170.
16 Regulations adopted under this subsection may not prohibit uses legally
17 existing on any parcel prior to their adoption and shall remain in
18 effect until the county or city adopts development regulations pursuant
19 to RCW 36.70A.040. Such regulations shall assure that the use of lands
20 adjacent to agricultural, forest, or mineral resource lands shall not
21 interfere with the continued use, in the accustomed manner and in
22 accordance with best management practices, of these designated lands
23 for the production of food, agricultural products, or timber, or for
24 the extraction of minerals.

25 (b) Counties and cities shall require that all plats, short plats,
26 development permits, and building permits issued for development
27 activities on, or within five hundred feet of, lands designated as
28 agricultural lands, forest lands, or mineral resource lands, contain a
29 notice that the subject property is within or near designated
30 agricultural lands, forest lands, or mineral resource lands on which a
31 variety of commercial activities may occur that are not compatible with
32 residential development for certain periods of limited duration. The
33 notice for mineral resource lands shall also inform that an application
34 might be made for mining-related activities, including mining,
35 extraction, washing, crushing, stockpiling, blasting, transporting, and
36 recycling of minerals.

1 (c) Each county that adopts a resolution of partial planning under
2 RCW 36.70A.040(2)(b), and each city within such county, shall adopt
3 development regulations within one year after the adoption of the
4 resolution of partial planning to assure the conservation of
5 agricultural, forest, and mineral resource lands designated under RCW
6 36.70A.170. Regulations adopted under this subsection (1)(c) must
7 comply with the requirements governing regulations adopted under (a) of
8 this subsection.

9 (d)(i) A county that adopts a resolution of partial planning under
10 RCW 36.70A.040(2)(b) and that is not in compliance with the planning
11 requirements of this section, RCW 36.70A.040(4), 36.70A.070(5),
12 36.70A.170, and 36.70A.172 at the time the resolution is adopted must,
13 by January 30, 2017, apply for a determination of compliance from the
14 department finding that the county's development regulations, including
15 development regulations adopted to protect critical areas, and
16 comprehensive plans are in compliance with the requirements of this
17 section, RCW 36.70A.040(4), 36.70A.070(5), 36.70A.170, and 36.70A.172.
18 The department must approve or deny the application for a determination
19 of compliance within one hundred twenty days of its receipt or by June
20 30, 2017, whichever date is earlier.

21 (ii) If the department denies an application under (d)(i) of this
22 subsection, the county and each city within is obligated to comply with
23 all requirements of this chapter and the resolution for partial
24 planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

25 (iii) A petition for review of a determination of compliance under
26 (d)(i) of this subsection may only be appealed to the growth management
27 hearings board within sixty days of the issuance of the decision by the
28 department.

29 (iv) In the event of a filing of a petition in accordance with
30 (d)(iii) of this subsection, the county and the department must equally
31 share the costs incurred by the department for defending an approval of
32 determination of compliance that is before the growth management
33 hearings board.

34 (v) The department may implement this subsection (d) by adopting
35 rules related to determinations of compliance. The rules may address,
36 but are not limited to: The requirements for applications for a
37 determination of compliance; charging of costs under (d)(iv) of this

1 subsection; procedures for processing applications; criteria for the
2 evaluation of applications; issuance and notice of department
3 decisions; and applicable timelines.

4 (2) Each county and city shall adopt development regulations that
5 protect critical areas that are required to be designated under RCW
6 36.70A.170. For counties and cities that are required or choose to
7 plan under RCW 36.70A.040, such development regulations shall be
8 adopted on or before September 1, 1991. For the remainder of the
9 counties and cities, such development regulations shall be adopted on
10 or before March 1, 1992.

11 (3) Such counties and cities shall review these designations and
12 development regulations when adopting their comprehensive plans under
13 RCW 36.70A.040 and implementing development regulations under RCW
14 36.70A.120 and may alter such designations and development regulations
15 to insure consistency.

16 (4) Forest land and agricultural land located within urban growth
17 areas shall not be designated by a county or city as forest land or
18 agricultural land of long-term commercial significance under RCW
19 36.70A.170 unless the city or county has enacted a program authorizing
20 transfer or purchase of development rights.

21 **Sec. 3.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
22 read as follows:

23 (1) The growth management hearings board shall hear and determine
24 only those petitions alleging either:

25 (a) That, except as provided otherwise by this subsection, a state
26 agency, county, or city planning under this chapter is not in
27 compliance with the requirements of this chapter, chapter 90.58 RCW as
28 it relates to the adoption of shoreline master programs or amendments
29 thereto, or chapter 43.21C RCW as it relates to plans, development
30 regulations, or amendments, adopted under RCW 36.70A.040 or chapter
31 90.58 RCW. Nothing in this subsection authorizes the board to hear
32 petitions alleging noncompliance with RCW 36.70A.5801;

33 (b) That the twenty-year growth management planning population
34 projections adopted by the office of financial management pursuant to
35 RCW 43.62.035 should be adjusted;

36 (c) That the approval of a work plan adopted under RCW

1 36.70A.735(1)(a) is not in compliance with the requirements of the
2 program established under RCW 36.70A.710;

3 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
4 regionally applicable and cannot be adopted, wholly or partially, by
5 another jurisdiction; (~~(e)~~)

6 (e) That a department certification under RCW 36.70A.735(1)(c) is
7 erroneous; or

8 (f) That a department determination under RCW 36.70A.060(1)(d) is
9 erroneous.

10 (2) A petition may be filed only by: (a) The state, or a county or
11 city that plans under this chapter; (b) a person who has participated
12 orally or in writing before the county or city regarding the matter on
13 which a review is being requested; (c) a person who is certified by the
14 governor within sixty days of filing the request with the board; or (d)
15 a person qualified pursuant to RCW 34.05.530.

16 (3) For purposes of this section "person" means any individual,
17 partnership, corporation, association, state agency, governmental
18 subdivision or unit thereof, or public or private organization or
19 entity of any character.

20 (4) To establish participation standing under subsection (2)(b) of
21 this section, a person must show that his or her participation before
22 the county or city was reasonably related to the person's issue as
23 presented to the board.

24 (5) When considering a possible adjustment to a growth management
25 planning population projection prepared by the office of financial
26 management, the board shall consider the implications of any such
27 adjustment to the population forecast for the entire state.

28 The rationale for any adjustment that is adopted by the board must
29 be documented and filed with the office of financial management within
30 ten working days after adoption.

31 If adjusted by the board, a county growth management planning
32 population projection shall only be used for the planning purposes set
33 forth in this chapter and shall be known as the "board adjusted
34 population projection." None of these changes shall affect the
35 official state and county population forecasts prepared by the office
36 of financial management, which shall continue to be used for state
37 budget and planning purposes.

1 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this
2 act, referencing this act by bill or chapter number, is not provided by
3 June 30, 2014, in the omnibus appropriations act, this act is null and
4 void.

5 NEW SECTION. **Sec. 5.** Section 3 of this act expires December 31,
6 2020."

7 Correct the title.

EFFECT: (1) Makes technical modifications to provisions governing development regulations to assure the conservation of natural resource lands that a county and the cities within must adopt after a withdrawal resolution for partial planning (resolution) is adopted.

(2) Specifies that the adoption of a resolution does not nullify or otherwise modify the requirements for counties and cities relating to the designation and conservation of natural resource lands, the designation and protection of critical areas, and the use of the best available science in designating and protecting critical areas.

(3) Specifies that a county that adopts a resolution and that is not in compliance with specified requirements of the Growth Management Act (GMA) must, by January 30, 2017, apply for a determination of compliance from the Department of Commerce (Commerce) for the county's development regulations, including development regulations adopted to protect critical areas, and comprehensive plans.

(4) Specifies that Commerce must approve or deny the application for a determination of compliance within 120 days of its receipt or by June 30, 2017, whichever date is earlier.

(5) Specifies that if Commerce denies an application for a determination of compliance, the county and each city within is obligated to comply with all requirements of the GMA, and that the adopted resolution is no longer in effect.

(6) Establishes that determinations of Commerce may only be appealed to the Growth Management Hearings Board (Board) within 60 days of the issuance of the decision by Commerce.

(7) Specifies that, in the event of a filing of a petition with the Board regarding the defense of an approval of a determination of compliance, the county and Commerce must equally share the appeal defense costs of Commerce.

(8) Authorizes Commerce to adopt rules related to determinations of compliance.

(9) Authorizes the Board to hear petitions alleging that Commerce's determination was erroneous.

(10) Expires the Board's authority to hear petitions alleging that Commerce's determination was erroneous on December 31, 2020.

(11) Makes numerous technical changes, including deleting references to "removal resolution" and inserting the term "resolution of partial planning."

(12) Makes the bill null and void unless funding specifically for it is included in the omnibus appropriations act by June 30, 2014.

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