
Local Government Committee

HB 2186

Brief Description: Concerning local government selection of the appropriate sewer systems as part of growth management.

Sponsors: Representatives Takko, Orcutt, Reykdal, Fey, Hunt, Wilcox, Green, Haler, Buys, Blake and Van De Wege.

Brief Summary of Bill

- Authorizes counties and cities to allow approved on-site sewage systems for sites located in existing developments in urban growth areas if connecting to a sanitary sewer system is cost prohibitive to a property owner.
- Defines related terms, including "cost prohibitive."

Hearing Date: 1/15/14

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act - Introduction.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated by mandate or choice to satisfy all requirements of the GMA.

Urban Growth Areas - General Requirements, Planning and Service Considerations.

Among other requirements, counties that fully plan under the GMA must designate urban growth areas (UGAs), areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. Fully planning counties and each city within these counties must include within their UGAs, areas and densities that are sufficient to permit the urban growth projected to occur in the county or city for the succeeding 20-year period. This

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

20-year planning period has planning and service implications. For example, the Growth Management Hearing Board, the quasi-judicial board established in the GMA, has found that counties have an obligation to bring already developed areas within a UGA to an urban level of service within the 20-year planning period.

With respect to urban service provisions in UGAs, the Department of Commerce, the agency charged with providing technical and financial assistance to jurisdictions that must implement the GMA, indicates in its agency rules that the use of on-site sewer systems within UGAs may be appropriate in limited circumstances where there is no negative effect on basic public health, safety and the environment, and where the use of on-site sewer systems does not preclude development at urban densities.

UGA-Related Limitations Upon the Expansion of Urban Governmental Services.

The GMA includes general standards that must be met for the limited extension or expansion of urban governmental services, a term defined to include storm and sanitary sewer systems, in rural areas. More specifically, the GMA states that:

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

This provision was interpreted by the Washington Supreme Court (Court) to require a general prohibition of the extension of sewer lines beyond UGA boundaries, as in *Thurston County v. Western Washington Growth Management Hearings Board*, 148 Wn.2d 1 (2002), the Court found, in part, that a more restrictive definition of "necessary," as the statutory term is applied to the extension or expansion of urban governmental services, is consistent with the Legislature's intent in enacting the GMA to protect the rural character of an area.

Summary of Bill:

As an alternative to mandatory sanitary sewer connections, counties and cities may allow approved on-site sewage systems for sites located in existing developments in urban growth areas if the cost to a property owner to connect to a sanitary sewer system is cost prohibitive.

The following terms are defined:

- "Cost prohibitive" means that the cost to a property owner to connect to a sanitary sewer system exceeds the total installed cost of an approved on-site sewage system by 15 percent or more;
- "Cost of an approved on-site sewage system" includes all direct and indirect costs associated with the design, application, permitting, approval, installation, material, and other appurtenances, including final inspection of the on-site system; and
- "Cost to a property owner to connect to a sanitary sewer system" includes all direct and indirect costs associated with the requirement of the property owner to connect.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.