
SUBSTITUTE HOUSE BILL 2186

State of Washington 63rd Legislature 2014 Regular Session

By House Local Government (originally sponsored by Representatives Takko, Orcutt, Reykdal, Fey, S. Hunt, Wilcox, Green, Haler, Buys, Blake, and Van De Wege)

READ FIRST TIME 01/30/14.

1 AN ACT Relating to local government selection of the appropriate
2 sewer systems as part of growth management; amending RCW 36.70A.110;
3 and creating new sections.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that
6 interpretations of the growth management act have unduly restricted
7 communities and have added unnecessary cost and litigation to their
8 efforts to meet the sewage needs of their residents. The legislature
9 intends to grant local governments the authority to make decisions
10 related to the types and use of sewage systems based on particular
11 circumstances in urban growth areas.

12 (2) The legislature finds that the growth management act grants
13 local governments the authority to decide what type of approved system
14 adequately provides sewer services, in accordance with state and
15 federal health standards.

16 **Sec. 2.** RCW 36.70A.110 and 2010 c 211 s 1 are each amended to read
17 as follows:

18 (1) Each county that is required or chooses to plan under RCW

1 36.70A.040 shall designate an urban growth area or areas within which
2 urban growth shall be encouraged and outside of which growth can occur
3 only if it is not urban in nature. Each city that is located in such
4 a county shall be included within an urban growth area. An urban
5 growth area may include more than a single city. An urban growth area
6 may include territory that is located outside of a city only if such
7 territory already is characterized by urban growth whether or not the
8 urban growth area includes a city, or is adjacent to territory already
9 characterized by urban growth, or is a designated new fully contained
10 community as defined by RCW 36.70A.350.

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

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

33 Within one year of July 1, 1990, each county that as of June 1,
34 1991, was required or chose to plan under RCW 36.70A.040, shall begin
35 consulting with each city located within its boundaries and each city
36 shall propose the location of an urban growth area. Within sixty days
37 of the date the county legislative authority of a county adopts its
38 resolution of intention or of certification by the office of financial

1 management, all other counties that are required or choose to plan
2 under RCW 36.70A.040 shall begin this consultation with each city
3 located within its boundaries. The county shall attempt to reach
4 agreement with each city on the location of an urban growth area within
5 which the city is located. If such an agreement is not reached with
6 each city located within the urban growth area, the county shall
7 justify in writing why it so designated the area an urban growth area.
8 A city may object formally with the department over the designation of
9 the urban growth area within which it is located. Where appropriate,
10 the department shall attempt to resolve the conflicts, including the
11 use of mediation services.

12 (3) Urban growth should be located first in areas already
13 characterized by urban growth that have adequate existing public
14 facility and service capacities to serve such development, second in
15 areas already characterized by urban growth that will be served
16 adequately by a combination of both existing public facilities and
17 services and any additional needed public facilities and services that
18 are provided by either public or private sources, and third in the
19 remaining portions of the urban growth areas. Urban growth may also be
20 located in designated new fully contained communities as defined by RCW
21 36.70A.350.

22 (4)(a) In general, cities are the units of local government most
23 appropriate to provide urban governmental services. However, cities
24 and counties may allow approved and conforming on-site sewage systems
25 that meet applicable codes and standards as an alternative to mandatory
26 sanitary sewer system connections for existing, individual, on-site
27 sewage systems if: (i) The property served by the on-site sewage
28 system is located within existing development of an urban growth area;
29 and (ii) the cost to a property owner to connect to a sanitary sewer
30 system is cost prohibitive. In general, it is not appropriate that
31 urban governmental services be extended to or expanded in rural areas
32 except in those limited circumstances shown to be necessary to protect
33 basic public health and safety and the environment and when such
34 services are financially supportable at rural densities and do not
35 permit urban development.

36 (b) For the purposes of this subsection (4):

37 (i) "Cost prohibitive" means that the cost to a property owner to

1 connect to a sanitary sewer system exceeds the total installed cost of
2 a site-specific, approved on-site sewage system by the greater of
3 either fifteen percent or five thousand dollars;

4 (ii) "Cost of an approved on-site sewage system" includes all
5 direct and indirect costs associated with the design, application,
6 permitting, approval, installation, material, and other appurtenances,
7 including final inspection of the on-site system;

8 (iii) "Cost to a property owner to connect to a sanitary sewer
9 system" includes all direct and indirect costs associated with the
10 requirement of the property owner to connect; and

11 (iv) "Existing" means in existence when the city or county is
12 considering whether to allow an approved and conforming on-site sewage
13 system in accordance with (a) of this subsection (4).

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

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

30 (7) An urban growth area designated in accordance with this section
31 may include within its boundaries urban service areas or potential
32 annexation areas designated for specific cities or towns within the
33 county.

34 (8)(a) Except as provided in (b) of this subsection, the expansion
35 of an urban growth area is prohibited into the one hundred year
36 floodplain of any river or river segment that: (i) Is located west of
37 the crest of the Cascade mountains; and (ii) has a mean annual flow of

1 one thousand or more cubic feet per second as determined by the
2 department of ecology.

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

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

6 (ii) Urban growth areas where expansions are precluded outside
7 floodplains because:

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

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

12 (iii) Urban growth area expansions where:

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

17 (B) Urban development already exists within a floodplain as of July
18 26, 2009, and is adjacent to, but outside of, the urban growth area,
19 and the expansion of the urban growth area is necessary to include such
20 urban development within the urban growth area; or

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

24 (I) The permissible use of the land is limited to one of the
25 following: Outdoor recreation; environmentally beneficial projects,
26 including but not limited to habitat enhancement or environmental
27 restoration; storm water facilities; flood control facilities; or
28 underground conveyances; and

29 (II) The development and use of such facilities or projects will
30 not decrease flood storage, increase storm water runoff, discharge
31 pollutants to fresh or salt waters during normal operations or floods,
32 or increase hazards to people and property.

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

36 NEW SECTION. **Sec. 3.** (1) The legislature recognizes that issues
37 related to the transition between on-site sewage systems and community

1 sanitary sewage systems are complex. In addition to potential
2 connection costs to individual property owners that can be substantial,
3 there are significant service, financing, and environmental issues that
4 a sanitary sewer system service provider must consider when deciding
5 whether to exercise its authority to require a connection to a sewer
6 system or, in limited circumstances, decline to exercise that
7 authority.

8 (2) By November 1, 2015, the department of commerce must update its
9 guidance to sanitary sewer system service providers with respect to
10 factors that the department recommends the service providers consider
11 when determining whether to exercise their authority to mandate
12 connections to sanitary sewer systems. In complying with this
13 subsection (2), the department must, at a minimum, consult with
14 stakeholders representing: (a) On-site septic operators; (b) cities;
15 (c) counties; (d) special purpose districts; (e) the environmental
16 community; and (f) the business community.

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