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**SUBSTITUTE HOUSE BILL 2187**

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**State of Washington                      63rd Legislature                      2014 Regular Session**

**By** House Local Government (originally sponsored by Representatives Takko and Blake)

READ FIRST TIME 02/05/14.

1            AN ACT Relating to extending the date by which counties  
2 participating in the voluntary stewardship program must review and, if  
3 necessary, revise development regulations that apply to critical areas  
4 in areas used for agricultural activities; amending RCW 36.70A.735 and  
5 36.70A.130; and adding a new section to chapter 36.70A RCW.

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

7            NEW SECTION.    **Sec. 1.** A new section is added to chapter 36.70A RCW  
8 to read as follows:

9            (1) A county that elected under RCW 36.70A.710 to participate in  
10 the program, but as of December 1, 2014, has not received adequate  
11 state or federal funding as determined by the state conservation  
12 commission to establish and implement the program, is not required to  
13 review and, if necessary, revise its development regulations to protect  
14 critical areas as they specifically apply to agricultural activities  
15 until June 1, 2017, or the applicable date established in RCW  
16 36.70A.130(5), whichever is later.

17            (2) Determinations of funding adequacy under this section must be  
18 made by the commission within twenty-one days of receipt of a county

1 request for the determination. County requests under this subsection  
2 (2) must be made in a form and manner determined by the commission.

3 **Sec. 2.** RCW 36.70A.735 and 2011 c 360 s 9 are each amended to read  
4 as follows:

5 (1) Except as provided in section 1 of this act, within eighteen  
6 months after one of the events in subsection (2) of this section, a  
7 county must:

8 (a) Develop, adopt, and implement a watershed work plan approved by  
9 the department that protects critical areas in areas used for  
10 agricultural activities while maintaining the viability of agriculture  
11 in the watershed. The department shall consult with the departments of  
12 agriculture, ecology, and fish and wildlife and the commission, and  
13 other relevant state agencies before approving or disapproving the  
14 proposed work plan. The appeal of the department's decision under this  
15 subsection is subject to appeal under RCW 36.70A.280;

16 (b) Adopt development regulations previously adopted under this  
17 chapter by another local government for the purpose of protecting  
18 critical areas in areas used for agricultural activities. Regulations  
19 adopted under this subsection (1)(b) must be from a region with similar  
20 agricultural activities, geography, and geology and must: (i) Be from  
21 Clallam, Clark, King, or Whatcom counties; or (ii) have been upheld by  
22 a growth management hearings board or court after July 1, 2011, where  
23 the board or court determined that the provisions adequately protected  
24 critical areas functions and values in areas used for agricultural  
25 activities;

26 (c) Adopt development regulations certified by the department as  
27 protective of critical areas in areas used for agricultural activities  
28 as required by this chapter. The county may submit existing or amended  
29 regulations for certification. The department must make its decision  
30 on whether to certify the development regulations within ninety days  
31 after the county submits its request. If the department denies the  
32 certification, the county shall take an action under (a), (b), or (d)  
33 of this subsection. The department must consult with the departments  
34 of agriculture, ecology, and fish and wildlife and the commission  
35 before making a certification under this section. The appeal of the  
36 department's decision under this subsection (1)(c) is subject to appeal  
37 under RCW 36.70A.280; or

1 (d) Review and, if necessary, revise development regulations  
2 adopted under this chapter to protect critical areas as they relate to  
3 agricultural activities.

4 (2) A participating watershed is subject to this section if:

5 (a) The work plan is not approved by the director as provided in  
6 RCW 36.70A.725;

7 (b) The work plan's goals and benchmarks for protection have not  
8 been met as provided in RCW 36.70A.720;

9 (c) The commission has determined under RCW 36.70A.740 that the  
10 county, department, commission, or departments of agriculture, ecology,  
11 or fish and wildlife have not received adequate funding to implement a  
12 program in the watershed; or

13 (d) The commission has determined under RCW 36.70A.740 that the  
14 watershed has not received adequate funding to implement the program.

15 (3) The department shall adopt rules to implement subsection (1)(a)  
16 and (c) of this section.

17 **Sec. 3.** RCW 36.70A.130 and 2012 c 191 s 1 are each amended to read  
18 as follows:

19 (1)(a) Each comprehensive land use plan and development regulations  
20 shall be subject to continuing review and evaluation by the county or  
21 city that adopted them. Except as otherwise provided, a county or city  
22 shall take legislative action to review and, if needed, revise its  
23 comprehensive land use plan and development regulations to ensure the  
24 plan and regulations comply with the requirements of this chapter  
25 according to the deadlines in subsections (4) and (5) of this section.

26 (b) Except as otherwise provided, a county or city not planning  
27 under RCW 36.70A.040 shall take action to review and, if needed, revise  
28 its policies and development regulations regarding critical areas and  
29 natural resource lands adopted according to this chapter to ensure  
30 these policies and regulations comply with the requirements of this  
31 chapter according to the deadlines in subsections (4) and (5) of this  
32 section. Legislative action means the adoption of a resolution or  
33 ordinance following notice and a public hearing indicating at a  
34 minimum, a finding that a review and evaluation has occurred and  
35 identifying the revisions made, or that a revision was not needed and  
36 the reasons therefor.

1 (c) The review and evaluation required by this subsection shall  
2 include, but is not limited to, consideration of critical area  
3 ordinances and, if planning under RCW 36.70A.040, an analysis of the  
4 population allocated to a city or county from the most recent ten-year  
5 population forecast by the office of financial management.

6 (d) Any amendment of or revision to a comprehensive land use plan  
7 shall conform to this chapter. Any amendment of or revision to  
8 development regulations shall be consistent with and implement the  
9 comprehensive plan.

10 (2)(a) Each county and city shall establish and broadly disseminate  
11 to the public a public participation program consistent with RCW  
12 36.70A.035 and 36.70A.140 that identifies procedures and schedules  
13 whereby updates, proposed amendments, or revisions of the comprehensive  
14 plan are considered by the governing body of the county or city no more  
15 frequently than once every year, except that, until December 31, 2015,  
16 the program shall provide for consideration of amendments of an urban  
17 growth area in accordance with RCW 36.70A.1301 once every year.  
18 "Updates" means to review and revise, if needed, according to  
19 subsection (1) of this section, and the deadlines in subsections (4)  
20 and (5) of this section or in accordance with the provisions of  
21 subsection (6) of this section. Amendments may be considered more  
22 frequently than once per year under the following circumstances:

23 (i) The initial adoption of a subarea plan. Subarea plans adopted  
24 under this subsection (2)(a)(i) must clarify, supplement, or implement  
25 jurisdiction-wide comprehensive plan policies, and may only be adopted  
26 if the cumulative impacts of the proposed plan are addressed by  
27 appropriate environmental review under chapter 43.21C RCW;

28 (ii) The development of an initial subarea plan for economic  
29 development located outside of the one hundred year floodplain in a  
30 county that has completed a state-funded pilot project that is based on  
31 watershed characterization and local habitat assessment;

32 (iii) The adoption or amendment of a shoreline master program under  
33 the procedures set forth in chapter 90.58 RCW;

34 (iv) The amendment of the capital facilities element of a  
35 comprehensive plan that occurs concurrently with the adoption or  
36 amendment of a county or city budget; or

37 (v) The adoption of comprehensive plan amendments necessary to  
38 enact a planned action under RCW (~~(43.21C.031(2))~~) 43.21C.440, provided

1 that amendments are considered in accordance with the public  
2 participation program established by the county or city under this  
3 subsection (2)(a) and all persons who have requested notice of a  
4 comprehensive plan update are given notice of the amendments and an  
5 opportunity to comment.

6 (b) Except as otherwise provided in (a) of this subsection, all  
7 proposals shall be considered by the governing body concurrently so the  
8 cumulative effect of the various proposals can be ascertained.  
9 However, after appropriate public participation a county or city may  
10 adopt amendments or revisions to its comprehensive plan that conform  
11 with this chapter whenever an emergency exists or to resolve an appeal  
12 of a comprehensive plan filed with the growth management hearings board  
13 or with the court.

14 (3)(a) Each county that designates urban growth areas under RCW  
15 36.70A.110 shall review, according to the schedules established in  
16 subsection (5) of this section, its designated urban growth area or  
17 areas, and the densities permitted within both the incorporated and  
18 unincorporated portions of each urban growth area. In conjunction with  
19 this review by the county, each city located within an urban growth  
20 area shall review the densities permitted within its boundaries, and  
21 the extent to which the urban growth occurring within the county has  
22 located within each city and the unincorporated portions of the urban  
23 growth areas.

24 (b) The county comprehensive plan designating urban growth areas,  
25 and the densities permitted in the urban growth areas by the  
26 comprehensive plans of the county and each city located within the  
27 urban growth areas, shall be revised to accommodate the urban growth  
28 projected to occur in the county for the succeeding twenty-year period.  
29 The review required by this subsection may be combined with the review  
30 and evaluation required by RCW 36.70A.215.

31 (4) Except as provided in subsection (6) of this section, counties  
32 and cities shall take action to review and, if needed, revise their  
33 comprehensive plans and development regulations to ensure the plan and  
34 regulations comply with the requirements of this chapter as follows:

35 (a) On or before December 1, 2004, for Clallam, Clark, Jefferson,  
36 King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the  
37 cities within those counties;

1 (b) On or before December 1, 2005, for Cowlitz, Island, Lewis,  
2 Mason, San Juan, Skagit, and Skamania counties and the cities within  
3 those counties;

4 (c) On or before December 1, 2006, for Benton, Chelan, Douglas,  
5 Grant, Kittitas, Spokane, and Yakima counties and the cities within  
6 those counties; and

7 (d) On or before December 1, 2007, for Adams, Asotin, Columbia,  
8 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,  
9 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman  
10 counties and the cities within those counties.

11 (5) Except as otherwise provided in subsections (6) and (8) of this  
12 section and section 1 of this act, following the review of  
13 comprehensive plans and development regulations required by subsection  
14 (4) of this section, counties and cities shall take action to review  
15 and, if needed, revise their comprehensive plans and development  
16 regulations to ensure the plan and regulations comply with the  
17 requirements of this chapter as follows:

18 (a) On or before June 30, 2015, and every eight years thereafter,  
19 for King, Pierce, and Snohomish counties and the cities within those  
20 counties;

21 (b) On or before June 30, 2016, and every eight years thereafter,  
22 for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit,  
23 Thurston, and Whatcom counties and the cities within those counties;

24 (c) On or before June 30, 2017, and every eight years thereafter,  
25 for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania,  
26 Spokane, and Yakima counties and the cities within those counties; and

27 (d) On or before June 30, 2018, and every eight years thereafter,  
28 for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays  
29 Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens,  
30 Wahkiakum, Walla Walla, and Whitman counties and the cities within  
31 those counties.

32 (6)(a) Nothing in this section precludes a county or city from  
33 conducting the review and evaluation required by this section before  
34 the deadlines established in subsections (4) and (5) of this section.  
35 Counties and cities may begin this process early and may be eligible  
36 for grants from the department, subject to available funding, if they  
37 elect to do so.

1 (b) A county that is subject to a deadline established in  
2 subsection (4)(b) through (d) of this section and meets the following  
3 criteria may comply with the requirements of this section at any time  
4 within the thirty-six months following the deadline established in  
5 subsection (4) of this section: The county has a population of less  
6 than fifty thousand and has had its population increase by no more than  
7 seventeen percent in the ten years preceding the deadline established  
8 in subsection (4) of this section as of that date.

9 (c) A city that is subject to a deadline established in subsection  
10 (4)(b) through (d) of this section and meets the following criteria may  
11 comply with the requirements of this section at any time within the  
12 thirty-six months following the deadline established in subsection (4)  
13 of this section: The city has a population of no more than five  
14 thousand and has had its population increase by the greater of either  
15 no more than one hundred persons or no more than seventeen percent in  
16 the ten years preceding the deadline established in subsection (4) of  
17 this section as of that date.

18 (d) A county or city that is subject to a deadline established in  
19 subsection (4)(d) of this section and that meets the criteria  
20 established in (b) or (c) of this subsection may comply with the  
21 requirements of subsection (4)(d) of this section at any time within  
22 the thirty-six months after the extension provided in (b) or (c) of  
23 this subsection.

24 (e) A county that is subject to a deadline established in  
25 subsection (5)(b) through (d) of this section and meets the following  
26 criteria may comply with the requirements of this section at any time  
27 within the twenty-four months following the deadline established in  
28 subsection (5) of this section: The county has a population of less  
29 than fifty thousand and has had its population increase by no more than  
30 seventeen percent in the ten years preceding the deadline established  
31 in subsection (5) of this section as of that date.

32 (f) A city that is subject to a deadline established in subsection  
33 (5)(b) through (d) of this section and meets the following criteria may  
34 comply with the requirements of this section at any time within the  
35 twenty-four months following the deadline established in subsection (5)  
36 of this section: The city has a population of no more than five  
37 thousand and has had its population increase by the greater of either

1 no more than one hundred persons or no more than seventeen percent in  
2 the ten years preceding the deadline established in subsection (5) of  
3 this section as of that date.

4 (g) State agencies are encouraged to provide technical assistance  
5 to the counties and cities in the review of critical area ordinances,  
6 comprehensive plans, and development regulations.

7 (7)(a) The requirements imposed on counties and cities under this  
8 section shall be considered "requirements of this chapter" under the  
9 terms of RCW 36.70A.040(1). Only those counties and cities that meet  
10 the following criteria may receive grants, loans, pledges, or financial  
11 guarantees under chapter 43.155 or 70.146 RCW:

12 (i) Complying with the deadlines in this section;

13 (ii) Demonstrating substantial progress towards compliance with the  
14 schedules in this section for development regulations that protect  
15 critical areas; or

16 (iii) Complying with the extension provisions of subsection (6)(b),  
17 (c), or (d) of this section.

18 (b) A county or city that is fewer than twelve months out of  
19 compliance with the schedules in this section for development  
20 regulations that protect critical areas is making substantial progress  
21 towards compliance. Only those counties and cities in compliance with  
22 the schedules in this section may receive preference for grants or  
23 loans subject to the provisions of RCW 43.17.250.

24 (8)(a) Except as otherwise provided in (c) of this subsection, if  
25 a participating watershed is achieving benchmarks and goals for the  
26 protection of critical areas functions and values, the county is not  
27 required to update development regulations to protect critical areas as  
28 they specifically apply to agricultural activities in that watershed.

29 (b) A county that has made the election under RCW 36.70A.710(1) may  
30 only adopt or amend development regulations to protect critical areas  
31 as they specifically apply to agricultural activities in a  
32 participating watershed if:

33 (i) A work plan has been approved for that watershed in accordance  
34 with RCW 36.70A.725;

35 (ii) The local watershed group for that watershed has requested the  
36 county to adopt or amend development regulations as part of a work plan  
37 developed under RCW 36.70A.720;



1           (iii) The adoption or amendment of the development regulations is  
2 necessary to enable the county to respond to an order of the growth  
3 management hearings board or court;  
4           (iv) The adoption or amendment of development regulations is  
5 necessary to address a threat to human health or safety; or  
6           (v) Three or more years have elapsed since the receipt of funding.  
7           (c) Beginning ten years from the date of receipt of funding, a  
8 county that has made the election under RCW 36.70A.710(1) must review  
9 and, if necessary, revise development regulations to protect critical  
10 areas as they specifically apply to agricultural activities in a  
11 participating watershed in accordance with the review and revision  
12 requirements and timeline in subsection (5) of this section. This  
13 subsection (8)(c) does not apply to a participating watershed that has  
14 determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals  
15 and benchmarks for protection have been met.

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