

**ESHB 1420 - H AMD 979**

By Representative Taylor

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A  
4 RCW to read as follows:

5 (1) Any county that is planning under RCW 36.70A.040 may identify  
6 schools as essential public facilities under RCW 36.70A.200 and site  
7 the schools outside of urban growth areas based on the criteria set  
8 forth in this section.

9 (2) As an alternative to identifying and siting schools as  
10 essential public facilities under subsection (1) of this section, a  
11 county that is planning under RCW 36.70A.040 must establish, in  
12 consultation with affected school districts and affected cities, a  
13 process for approving schools outside of urban growth areas based on  
14 the criteria set forth in this section.

15 (3)(a) By July 1, 2017, any county siting schools under this  
16 section must amend, if necessary, its process for siting schools  
17 outside of the urban growth area in accordance with subsection (1) or  
18 (2) of this section. An amendment to the county's process for siting  
19 schools under this section shall not be considered an amendment to  
20 the comprehensive plan for the purposes of RCW 36.70A.130(2) and may  
21 be considered at any time.

22 (b) Any comprehensive plan or development regulation adopted to  
23 implement school siting under this section is not subject to the  
24 requirement for compliance with any applicable multicounty planning  
25 policies and countywide planning policies.

26 (4) Any school sited under this section may not be sited on land  
27 designated or zoned as agricultural land, forest land, or mineral  
28 resource land.

29 (5) A county may authorize a school to be sited outside of the  
30 urban growth area under this section when:

31 (a) The school is needed to meet student capacity needs in an  
32 identified service area that serves students residing in whole or in  
33 part outside of an urban growth area, as demonstrated by a capital

1 facilities plan adopted by a locally elected school board of  
2 directors;

3 (b) The school district determines through preparation of a  
4 written report, as provided in subsection (8) of this section, that  
5 the school district needs to site the school outside of the urban  
6 growth area;

7 (c) New infrastructure is provided for, and the cost of providing  
8 new infrastructure is paid for by the school district based on a  
9 reasonable nexus to the impact of the school on infrastructure needs.  
10 On-site and off-site infrastructure and service impacts on the county  
11 and the affected city must be fully considered and mitigated. If  
12 applicable, impact fees must be imposed based on the requirements of  
13 chapter 82.02 RCW;

14 (d) Any utility extensions are solely dedicated to the school and  
15 are provided for, and the cost of providing utility extensions is  
16 paid for by the school district. Any urban public facility necessary  
17 and appropriate to serve a school outside of the urban growth area is  
18 provided for, and the cost of providing urban public facilities is  
19 paid for by the school district based on a reasonable nexus to the  
20 impacts of the school;

21 (e) Environmental protection, including air and water quality,  
22 has been addressed and provided for;

23 (f) The plan for the school is consistent with the development  
24 regulations established for the protection of critical areas by the  
25 county pursuant to RCW 36.70A.170; and

26 (g) If deemed necessary by the county legislative authority:

27 (i) Transit-oriented site planning and traffic demand management  
28 programs required by the county, in consultation with the affected  
29 city, are provided by the school district;

30 (ii) Buffers are provided on district-owned property, on property  
31 owned by other public agencies, or through easements, between the  
32 school and adjacent nonurban uses;

33 (iii) The school complies with the applicable development  
34 regulations for the property; or

35 (iv) Provisions are made to mitigate significant adverse impacts  
36 on designated agricultural lands, forest lands, and mineral resource  
37 lands, if the school is located adjacent to such lands.

38 (6) Cities or public agencies may extend public facilities to a  
39 school sited in accordance with this section. Public facilities  
40 include water systems and sanitary sewer systems sufficient to meet

1 the facility needs of the school. If any public facility is extended  
2 beyond the urban growth area to serve a school, the public facility  
3 shall only be available to and serve the school.

4 (7) Any county that authorizes a school to be sited pursuant to  
5 this section shall determine, prior to or concurrent with review of  
6 an application for a proposed school, that the comprehensive plan  
7 includes policies, consistent with this section, to permit the school  
8 to be sited outside of the urban growth area.

9 (8) Prior to submitting an application to site a school under  
10 this section, a school district must prepare a written report setting  
11 forth a determination of need. A determination of need must include:

12 (a) An inventory of developable land within the urban growth area  
13 and relevant service area for the school, taking into consideration  
14 locally adopted educational program requirements;

15 (b) A review of the extent to which land is available within the  
16 urban growth area and the relevant service area, current zoning, site  
17 characteristics, and the financial feasibility of using public  
18 dollars to secure such a school site; and

19 (c) Findings that set forth the siting criteria of the school  
20 district and apply them to the question of whether it is feasible for  
21 the school district to acquire land suitable to site the school  
22 within the urban growth area and relevant service area.

23 (9) In reviewing an application for a proposed school, a county  
24 may review a determination of need made by a school district under  
25 subsection (8) of this section, but the findings of the school  
26 district are presumed to be correct. The county may overturn the  
27 school district's determination of need only if the determination is  
28 clearly erroneous. If a county overturns a determination of need, the  
29 county must identify other reasonable sites that meet the siting  
30 criteria of the school district set forth in the determination of  
31 need.

32 (10) Approval of an application for a school under this section  
33 shall not be considered an amendment to the comprehensive plan of the  
34 county for the purposes of RCW 36.70A.130(2) and may be considered at  
35 any time.

36 (11) Only the state courts have authority to review causes of  
37 action arising from the provisions of this section, and the state  
38 courts shall give substantial deference to the actions of the county.

39 (12)(a) This section applies only to any county that is required  
40 or chooses to plan under RCW 36.70A.040 with a population of at least

1 eight hundred thousand and no more than one million one hundred  
2 thousand that abuts at least five other counties.

3 (b) This section applies only to any county that is required or  
4 chooses to plan under RCW 36.70A.040 with a population of at least  
5 one hundred fifty thousand and no more than two hundred thousand that  
6 abuts at least five other counties.

7 (c) This section applies only to any county that is required or  
8 chooses to plan under RCW 36.70A.040 with a population of at least  
9 one hundred fifteen thousand and no more than one hundred fifty  
10 thousand that abuts at least four other counties.

11 (d) This section applies only to any county that is required or  
12 chooses to plan under RCW 36.70A.040 with a population of at least  
13 ninety thousand and no more than one hundred thousand that abuts at  
14 least six other counties.

15 (13) A county may authorize no more than five school sites  
16 outside of urban growth areas under this section.

17 (14) This section expires July 1, 2026.

18 **Sec. 2.** RCW 36.70A.280 and 2014 c 147 s 3 are each amended to  
19 read as follows:

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

22 (a) That, except as provided otherwise by this subsection, a  
23 state agency, county, or city planning under this chapter is not in  
24 compliance with the requirements of this chapter, chapter 90.58 RCW  
25 as it relates to the adoption of shoreline master programs or  
26 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
27 development regulations, or amendments, adopted under RCW 36.70A.040  
28 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
29 to hear petitions alleging noncompliance (~~(with RCW 36.70A.5801)~~) for  
30 siting a school outside of an urban growth area in accordance with  
31 section 1 of this act;

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

35 (c) That the approval of a work plan adopted under RCW  
36 36.70A.735(1)(a) is not in compliance with the requirements of the  
37 program established under RCW 36.70A.710;

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

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

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

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

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

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

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

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

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

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

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

1 (a) That, except as provided otherwise by this subsection, a  
2 state agency, county, or city planning under this chapter is not in  
3 compliance with the requirements of this chapter, chapter 90.58 RCW  
4 as it relates to the adoption of shoreline master programs or  
5 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
6 development regulations, or amendments, adopted under RCW 36.70A.040  
7 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
8 to hear petitions alleging noncompliance (~~(with RCW 36.70A.5801)~~) for  
9 siting a school outside of an urban growth area in accordance with  
10 section 1 of this act;

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

14 (c) That the approval of a work plan adopted under RCW  
15 36.70A.735(1)(a) is not in compliance with the requirements of the  
16 program established under RCW 36.70A.710;

17 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not  
18 regionally applicable and cannot be adopted, wholly or partially, by  
19 another jurisdiction; or

20 (e) That a department certification under RCW 36.70A.735(1)(c) is  
21 erroneous.

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

28 (3) For purposes of this section "person" means any individual,  
29 partnership, corporation, association, state agency, governmental  
30 subdivision or unit thereof, or public or private organization or  
31 entity of any character.

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

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

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

4 If adjusted by the board, a county growth management planning  
5 population projection shall only be used for the planning purposes  
6 set forth in this chapter and shall be known as the "board adjusted  
7 population projection." None of these changes shall affect the  
8 official state and county population forecasts prepared by the office  
9 of financial management, which shall continue to be used for state  
10 budget and planning purposes.

11 NEW SECTION. **Sec. 4.** If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 5.** Except for section 3 of this act, this act  
16 is necessary for the immediate preservation of the public peace,  
17 health, or safety, or support of the state government and its  
18 existing public institutions, and takes effect immediately.

19 NEW SECTION. **Sec. 6.** Section 2 of this act expires December 31,  
20 2020.

21 NEW SECTION. **Sec. 7.** Section 3 of this act takes effect  
22 December 31, 2020."

23 Correct the title.

EFFECT: Strikes all provisions of the underlying engrossed  
substitute bill and inserts provisions that do the following:

(1) Authorize, until July 1, 2026, certain counties to designate  
schools as essential public facilities and site the schools outside  
of urban growth areas (UGA). In the alternative, require counties to  
establish, in consultation with affected school districts and  
affected cities, an alternative process for approving schools to be  
sited outside of UGAs.

(2) Require certain counties, by July 1, 2017, to amend their  
process for siting schools outside the UGA in accordance with  
provisions of the bill. Provides that any comprehensive plan or  
development regulation adopted to implement school siting is not  
required to be in compliance with any applicable multicounty planning  
policies and countywide planning policies.

(3) Allow, until July 1, 2026, siting of schools authorized by  
the bill outside of UGAs when certain criteria are met.

(4) Authorize cities and public agencies to extend public facilities outside of UGAs to a school sited under the bill if the public facilities are only available to and serve the school.

(5) Require a school district, prior to submitting an application for a school, to prepare a written report setting forth a Determination of Need that includes: (a) An inventory of developable land within the UGA and relevant service area; (b) a review of available land, zoning, site characteristics, and financial feasibility; and (c) siting criteria and whether it is feasible to acquire suitable land for the school within the UGA and relevant service area.

(6) Establish that findings of a school district in a Determination of Need are presumed correct, and allow a county to overturn a determination of need only if it is clearly erroneous. Require a county that overturns a determination of need to identify other reasonable sites meeting the school district's siting criteria.

(7) Establish that only state courts have authority to review causes of action arising from provisions of the bill, and that state courts must give substantial deference to counties in siting schools in accordance with the bill.

(8) Require counties, prior to or concurrent with review of an application for a proposed school, to determine that the comprehensive plan includes policies that permit the school to be sited outside of the UGA.

(9) Make provisions of the bill applicable only to the following counties that are required or choose to plan under the Growth Management Act (GMA): (a) Any county with a population between 700,000 and 1.1 million residents that abuts at least five other counties; (b) any county that has a population between 150,000 and 200,000 residents that abuts at least five other counties; (c) any county that has a population between 115,000 and 150,000 residents that abuts at least four other counties; and (d) any county that has a population between 90,000 and 100,000 residents that abuts at least six other counties.

(10) Establish that the Growth Management Hearings Board does not have jurisdiction to hear petitions alleging noncompliance with the GMA for siting a school project outside of a UGA in accordance with the bill.

(11) Adds an emergency clause to the bill.

(12) Adds a severability clause to the bill.

--- END ---