

HOUSE BILL REPORT

HB 2216

As of Second Reading

Title: An act relating to limiting the size and scale of utilities to support schools sited in rural areas serving urban resident students while maintaining the rural character and housing density on land surrounding schools sited in rural areas and requiring analyses by school districts demonstrating the absence of suitable land within the urban growth area for school siting.

Brief Description: Addressing the siting of schools and school facilities outside the urban growth area that serve urban resident students.

Sponsors: Representative Fitzgibbon; by request of Office of the Governor.

Brief History:

Committee Activity:

None.

Brief Summary of Bill

- Provides that the Growth Management Act (GMA) does not prohibit a county planning fully under the GMA from authorizing the siting in a rural area of a school that serves students who reside within an Urban Growth Area (UGA), and does not prohibit a local jurisdiction from extending utilities to serve such a school, if certain requirements are met.
- Includes, in the list of requirements that must be met, the following requirements: the utilities must be limited to the size needed to support the long-term needs of the school; land surrounding the school must maintain its rural character; the school district must have made a finding that there is no suitable land within the UGA for the school; the school district must have conducted a total cost analysis of potential school sites; and any impacts associated with the siting of the school are mitigated as required by the State Environmental Policy Act.

Staff: Robert Hatfield (786-7117).

Background:

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.

Growth Management Act—Introduction.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. Such jurisdictions are sometimes said to be "fully planning" under the GMA.

Growth Management Act—Comprehensive Plans.

The GMA directs jurisdictions that are obligated to satisfy all planning requirements of the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to review and revision requirements prescribed in the GMA. Comprehensive plans under the GMA must contain a number of required elements, including a rural element that must protect the character of rural areas by guiding development in those areas. Counties and cities that plan under the GMA are required to adopt development regulations that assure the conservation of agricultural, forest, and mineral resource lands.

Growth Management Act—Planning Goals and Requirements.

For the purpose of guiding the development of comprehensive plans and development regulations, counties and cities must consider various goals set forth in statute. Several goals relate to "public facilities" and "public services," which are defined as including schools and education, respectively:

- *Urban Growth:* Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- *Economic Development:* Encourage economic development throughout the state, promote economic opportunity, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.
- *Public Facilities and Services:* Ensure that those public facilities and services necessary to support development are adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

Growth Management Act—Urban Growth Areas.

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. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period. In addition, cities must include sufficient areas to accommodate the broad range of needs and uses that will accompany the projected urban growth, including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

Growth Management Act—Urban Governmental Services.

The GMA defines urban governmental services as the provision of public services and public facilities, such as sanitary sewer systems and domestic water systems, at an intensity historically and typically provided in cities. The GMA provides that, in general, it is not appropriate for urban governmental services to be extended to or expanded outside of the UGA into rural areas. Extension or expansion may be permitted in limited circumstances where: (1) it is shown to be necessary to protect basic public health and safety and the environment; and (2) such services are financially supportable at rural densities and do not permit urban development.

Growth Management Act—Rural Element.

The rural element of a comprehensive plan must allow for rural development, forestry, and agriculture in rural areas, and must provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. "Rural development" is development that occurs outside a UGA, or designated agriculture, forest, or mineral resource land.

Growth Management Act—Enforcement Provisions.

The GMA includes enforcement and penalty provisions for public entities. A seven-member Growth Management Hearings Board (Board) established under the GMA is charged with hearing and determining petitions alleging noncompliance by state agencies, counties, or cities with the GMA and related statutory provisions. The Board must make findings of fact and prepare a written decision. Final decisions and orders of the Board may be appealed to superior court. Additionally, if all parties agree, the superior court may directly review a petition filed with the Board.

State Environmental Policy Act—Introduction.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that are identified as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS).

Under SEPA, a government agency is designated as the lead agency and in that role has responsibility for complying with SEPA's procedural requirements, including making a threshold determination as to whether an EIS is needed, and preparing the EIS when one is required. If the SEPA review process identifies significant adverse environmental impacts, the lead agency may deny a government decision or may condition a proposal by requiring mitigation for identified environmental impacts.

Partial Veto of House Bill 1017.

During the 2017 legislative session, the Legislature passed Engrossed Substitute House Bill (ESHB) 1017, which dealt with the topic of siting schools in rural areas under the GMA. Section 1 of ESHB 1017 provided that the GMA does not prohibit a county planning fully under the GMA from authorizing, under certain conditions, the extension of utilities to a

school sited in the rural area that serves students from a rural area and an urban area. Sections 2 and 3 of ESHB 1017 dealt with the siting of schools in Pierce County. Governor Inslee signed ESHB 1017 into law, but in so doing, vetoed Section 1 of ESHB 1017.

Summary of Bill:

The Growth Management Act (GMA) does not prohibit a county planning fully under the GMA from authorizing the siting in a rural area of a school that serves students who reside within an Urban Growth Area (UGA), and does not prohibit a local jurisdiction from extending utilities to serve such a rural school, if the five requirements listed below are met:

- Any extension of utilities to serve a rural school must be limited to the size and scale needed to support the current and long-term needs of the school, and the costs of such extension must be borne by the school district.
 - The land surrounding a new rural school must maintain its rural character and housing density, as specified in the rural element of the existing comprehensive plan and any related development regulations, or as the plan and regulations may be later amended.
 - The school district has made a finding, with the concurrence of the county legislative authority and the legislative authorities of any affected cities, that the school district's proposed site is suitable to site the school and any associated recreational facilities, and that there is no suitable land within the UGA.
 - The school district has conducted a total cost analysis of potential school sites including, but not limited to, the costs of land acquisition, school construction, and the extension of utilities to the school sites.
 - Any impacts associated with the siting of the school are mitigated as required by the State Environmental Policy Act.
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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.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.