

# SENATE BILL REPORT

## ESHB 1017

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As Reported by Senate Committee On:  
Early Learning & K-12 Education, March 28, 2017

**Title:** An act relating to the siting of schools and school facilities.

**Brief Description:** Addressing the siting of schools and school facilities.

**Sponsors:** House Committee on Environment (originally sponsored by Representatives McCaslin, Barkis, Blake, Holy, Pettigrew, Haler, Taylor, Shea, Harris, Chandler, Smith, Muri, Stokesbary, Nealey, Stambaugh, Griffey, Vick, Buys, Dye, Short, Pike, Wilcox, Van Werven, Hargrove, Young, Klippert, Kilduff and Sawyer).

**Brief History:** Passed House: 3/07/17, 82-15.

**Committee Activity:** Early Learning & K-12 Education: 3/23/17, 3/28/17 [DPA, DNP, w/oRec].

### Brief Summary of Amended Bill

- Allows a county that has a population between 840,000 and 1.5 million and abuts at least six other counties to only authorize the siting of a school that serves urban and rural students in a rural area when certain requirements are met.
- Requires the multicounty planning policy that the county is part of to be amended to include a policy that addresses the siting of schools in rural areas of all counties subject to the multicounty planning policy.
- Authorizes a county planning under the Growth Management Act to extend public facilities and utilities to serve a school sited in a rural area that serves rural and urban students when certain requirements are met.
- Modifies the definition of urban governmental services and rural governmental services.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** Do pass as amended.

Signed by Senators Zeiger, Chair; Fain, Vice Chair; Rolfes, Ranking Minority Member; Rivers and Warnick.

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*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.*

**Minority Report:** Do not pass.  
Signed by Senator Billig.

**Minority Report:** That it be referred without recommendation.  
Signed by Senator Mullet.

**Staff:** Ailey Kato (786-7434)

**Background:** Growth Management Act (GMA). The 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 Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities.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 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land-use plans that are generalized, coordinated land-use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through locally adopted development regulations.

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.

Urban Governmental Services. The GMA provides that, in general, it is not appropriate for urban governmental services, such as public services and public facilities at an intensity historically and typically provided in cities, 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) when such services are financially supportable at rural densities and do not permit urban development.

Rural Governmental Services. Comprehensive plans must address rural development. Rural development, forestry, and agriculture must be permitted in rural areas. The rural element must provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses.

Impact Fees. Counties and cities planning under the GMA may impose impact fees on development activity as part of the financing of public facilities needed to serve new growth and development. Additionally, impact fees may only be imposed for system improvements that are reasonably related to the new development, may not exceed a proportionate share of the costs of system improvements, and must be used for system improvements that will

reasonably benefit the new development. Impact fees may be collected and spent only for qualifying public facilities that are included with a capital facilities plan element of a comprehensive plan.

Legislative Task Force on School Siting (Task Force). In 2015, the capital budget created this Task Force. The Task Force reviewed the issue of siting schools inside and outside of UGAs. The Task Force voted on potential recommendations, which included allowing urban services to serve schools in rural areas through utility extensions.

County Populations. Current law requires the Office of Financial Management (OFM) to annually determine the April 1st populations of all counties within the state. According to the OFM official April 1, 2016, population estimates, Pierce County is the only county that has more than 840,000 but fewer than 1.5 million residents.

Multicounty Planning Policies. Multicounty planning policies must be adopted by two or more counties, each with a population of 450,000 or more, with contiguous urban areas and may be adopted by other counties, according to the process established under state law or other processes. King, Pierce, and Snohomish counties are required to engage in multicounty planning.

The Puget Sound Regional Council has adopted a regional growth strategy called VISION 2040, which applies to King, Pierce, Snohomish, and Kitsap counties. It states that schools that primarily serve urban populations should be sited in the UGA in locations where they will promote the local desired growth plans. Schools serving rural residents should be located in neighboring cities and towns and the design should keep with the size and scale of the local community.

**Summary of Amended Bill:** Siting a School in a Rural Area. A county may only authorize the siting of a school in a rural area that serves students from an urban area and a rural area, even when otherwise discouraged by a multicounty planning policy, under the following circumstances:

- the county has a population greater than 840,000 but less than 1.5 million and abuts at least six other counties;
- a school district has made a determination of need for a new school in a rural area taking into consideration certain factors;
- a school district has determined that land available for purchase within the UGA is not feasible taking into consideration certain factors;
- the school project is needed to meet projected student capacity needs;
- the location and design of the school project provides a buffer between the school project and the rural area to protect the character of the rural area;
- the county has adopted in its comprehensive plan a policy concerning the siting of schools in rural areas;
- any impacts associated with the siting of such a school are mitigated as required by the State Environmental Policy Act (SEPA); and
- the county is a participant in a multicounty planning policy.

Any comprehensive plan provision or development regulation adopted to implement school siting under this chapter is not subject to the requirement for compliance under any

multicounty planning policies or with any countywide planning policies or updates to such policies.

The multicounty planning policy must be amended, at its next regularly scheduled update, to include a policy that addresses the siting of schools in rural areas of all counties subject to the multicounty planning policy. A school sited under these requirements may not collect or impose impact fees. These provisions expire upon the adoption of, including final adjudication of any appeals concerning, the next regularly scheduled update of a multicounty planning policy.

In a county that chooses to site schools under these requirements, each school district within the county must participate in the county's periodic updates by:

- providing its enrollment forecasts and projections to the county;
- providing school siting criteria to the county, cities, and regional transportation planning organizations; and
- reviewing with the county and affected cities, the process the school district has used regarding the site selection process--the district must confirm that it has considered potential sites where students can safely walk and bicycle to the school from their homes and that can effectively be served with transit.

Extending Public Facilities and Utilities. The GMA prohibits a county planning under the GMA from authorizing the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area unless the following requirements are met:

- the applicable school district board of directors has adopted a policy addressing school service area and facility needs;
- the applicable school district has made a finding, with the concurrence of the county legislative authority and the legislative authorities of any affected cities, that the district's proposed site is suitable to site the school and any associated recreational facilities that the district has determined cannot reasonably be co-located on an existing school site, taking into consideration the school district policy and the extent to which vacant or developable land within the UGA meets those requirements;
- the county and any affected cities agree to the extension of public facilities and utilities at the time of concurrence;
- if the public facility or utility is extended beyond the UGA to serve a school, the public facility or utility must serve the school and the costs of such extension must be borne by the applicable school district based on a reasonable nexus to the impacts of the school, except as provided below; and
- any impacts associated with the siting of the school are mitigated as required by SEPA.

Where a public facility or utility has been extended beyond the UGA to serve a school, the public facility or utility may serve a property or properties in addition to the school if a property owner so requests, provided that:

- the county and any affected cities agree with the request; and
- the property is located no further from the public facility or utility than the distance that, if the property were within the UGA, the property would be required to connect to the public facility or utility.

Additionally, the extension of a public facility or utility must be consistent with current law, which states that extension or expansion of urban governmental services into rural areas is permitted in limited circumstances where: (1) it is shown to be necessary to protect basic public health and safety and the environment, and (2) when such services are financially supportable at rural densities and do not permit urban development.

In such an instance, the school district may, for a period not to exceed 20 years, require reimbursement from a requesting property owner for a proportional share of the construction costs incurred by the school district for the extension of the public facility or utilities.

The GMA does not prohibit or restrict the renovation, modernization, addition, expansion, or replacement of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area.

Definitions. The definition of rural governmental services is amended to include schools serving primarily rural students. The definition of urban governmental services includes schools.

#### **EFFECT OF EARLY LEARNING & K-12 EDUCATION COMMITTEE AMENDMENT(S):**

- Adds an intent section.
- States that the GMA prohibits a county from authorizing the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area unless certain requirements are met including:
  - the applicable school district board of directors has adopted a policy addressing school service area and facility needs;
  - the applicable school district has made a finding with the concurrence of the county legislative authority and the legislative authorities of any affected cities that the district's site is suitable, taking into consideration the school district policy and the extent to which vacant or developable land within the urban growth area meets those requirements;
  - the county and any affected cities agree to the extension of public facilities and utilities at the time of concurrence; and
  - the extended public facilities or utilities serves the school and the costs of such extension is borne by the applicable school district.
- States that the GMA does not restrict the renovation, modernization, addition, or replacement, in addition to expansion, of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area.
- Allows a county with a population of more than 840,000 but fewer than 1.5 million that abuts at least six other counties to only authorize the siting of a school in a rural area that serves urban and rural students, even where otherwise discouraged by a multi-county planning policy, when certain requirements are met including:
  - a school district has made a determination of need for a new school in a rural area taking into consideration certain factors;
  - a school district has determined that any available land within the urban growth area is not feasible following a review of certain factors;

- the school project is needed to meet projected student capacity needs for students residing in both urban and rural areas;
  - the location and design of the school project provides a buffer between the school project and the rural area, thereby protecting the character of the rural area; and
  - the county has adopted in its comprehensive plan a policy concerning the siting of schools in rural areas.
- Provides that a school district's determination of need is presumed correct unless it is found to be clearly erroneous by a county and requires the county to identify at least two sites that meet all of the school district's requirements, are financially feasible, and are available for purchase in arm's length transactions.
  - Requires citizens to have an opportunity to appeal the determination of need.
  - Requires a school district siting a new school in a rural area to participate in the county's periodic updates regarding certain topics including enrollment and school siting criteria.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony Engrossed Substitute House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: For a number of years, many school districts throughout the state have faced the issue of finding suitable land to site schools. School districts need more schools because the number of students has increased. More classrooms are needed because class sizes have decreased in elementary schools. This bill is a product of many stakeholder perspectives and compromise. The environmental protections in the GMA are present in this bill, but the bill allows school districts to site needed schools on property that is affordable, buildable, and in the right location. Siting schools is an issue that also impacts rural school districts. To provide predictability, counties should be required to allow schools to be sited outside of the UGA and to extend public utilities, and these decisions should be made together in one decision by counties and cities. This bill should apply to Snohomish and King Counties because they have similar issues as Pierce County. Snohomish and King Counties should not be part of this bill. Outside of the Puget Sound region, the problem that school districts face is the ability to extend public facilities. This bill allows homeowners and land development activities that serve public schools to hookup with extended public utilities. Counties should not be required to extend public utilities.

CON: School districts and counties can work together to solve the issue of siting schools, but they have not communicated. School districts have considered sites that are inappropriate to build a school because the sites are not walkable, would cause traffic issues, have environmental concerns, and would promote urban sprawl. There is no problem with siting schools in rural areas that serve rural students; the problem is siting schools in rural areas that serve urban students. Rural communities want to protect their rural character. The

bill should require school districts to rule out the availability of sites within the UGA before siting schools outside the UGA. The bill should distinguish between sites just outside the UGA and sites far outside the UGA. Transportation is expensive and a state cost. Schools should be built up and not out. Language that allows school districts to collect latecomer fees for the use of extended public utilities should be eliminated because it would actively undermine other GMA provisions.

OTHER: This bill is a major departure from the GMA, but school districts are facing many pressures in siting schools. Language that allows hookups to extended public utilities should be eliminated because it could encourage sprawl. Generally, development wants to be near schools.

**Persons Testifying:** PRO: Representative Bob McCaslin, Prime Sponsor; Mike Gunn, Everett Public Schools; Cindy Ulrich, Executive Director of Financial Services; Krestin Bahr, Eatonville School District; Marie Sullivan, Pasco School District and Richland School District; Bill Stauffacher, Building Industry Association of Washington; Carl Schroeder, Association of Washington Cities; Jessica Vavrus, Washington State School Directors' Association; Brynn Brady, City of Woodinville; Jeff Lucas, Eatonville School District, Board Director; Tiffany Spear, citizen.

CON: Bryce Yadon, Futurewise; David Friscia, citizen; William Rehberg, citizen; Marilyn Sanders, citizen; Kathy George, attorney.

OTHER: Alexandre Chateaubriand, Washington State Department of Commerce.

**Persons Signed In To Testify But Not Testifying:** No one.