

SENATE BILL REPORT

SB 5651

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 16, 2017

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

Brief Description: Concerning the siting of schools and school facilities.

Sponsors: Senators Conway, Becker and Zeiger.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/13/17, 2/16/17 [DPS, DNP].

Brief Summary of Substitute Bill

- Allows school projects to be sited outside urban growth areas if certain requirements are met.
- Requires school districts to prepare a determination of need before submitting an application for school projects.
- Mandates counties required to plan or choosing to plan under the Growth Management Act to amend their process for siting schools outside urban growth areas.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5651 be substituted therefor, and the substitute bill do pass.

Signed by Senators Zeiger, Chair; Fain, Vice Chair; Mullet, Rivers and Warnick.

Minority Report: Do not pass.

Signed by Senator Rolfes, Ranking Minority Member.

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 Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements

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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.

The GMA provides that, in general, it is not appropriate for urban governmental services, such as public services and public facilities 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.

Essential Public Facilities. Comprehensive plans must include a process for identifying and siting essential public facilities. The GMA specifies that essential public facilities include facilities that are typically difficult to site, such as airports, state education facilities, state or regional transportation facilities, regional transit authority facilities, state and local correctional facilities, solid waste facilities, and certain inpatient facilities, such as substance abuse facilities or group homes. Comprehensive plans and development regulations may not preclude the siting of essential public facilities.

Public Participation Program. Each county and city must disseminate a public participation program, which identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered. Amendments of the UGA are considered once every year.

Legislative Task Force on School Siting (Task Force). In 2015, the capital budget created the 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 classifying schools as essential public facilities.

Summary of Bill (First Substitute): School Projects Outside of the UGA. A county may designate public school projects as an essential public facility within its jurisdiction, and school projects may be sited outside the UGA based on certain criteria. As an alternative to designating school projects as an essential public facility, a county required to or choosing to

plan under the GMA must establish, in consultation with affected school districts and affected cities, a process for approving school projects outside of the UGA based on certain criteria.

School projects sited outside the UGA must be needed to meet student capacity needs in an identified service area that serves students residing in whole or in part outside of a UGA, as demonstrated by a capital facilities plan adopted by a locally elected school board of directors. These projects must also include specific planning criteria to address the following:

- new infrastructure, public facilities, utility and transportation demands;
- development regulations that ensure urban growth will not occur in adjacent nonurban areas; and
- protections for designated commercial lands, critical areas, and the environment.

School projects may not be sited on agricultural lands, forest lands, or mineral resource lands.

Amending the Process for Siting Schools. By July 1, 2018, each county required to or choosing to plan under the GMA must amend its process for siting schools outside the UGA. The approval of an amendment must not be considered an amendment to the comprehensive plan for the purposes of the public participation program. The amendment may be considered at any time. Any comprehensive plan or development regulation adopted to implement a school siting is not subject to the requirement for compliance with applicable multicounty planning policies and countywide planning policies.

Each county that is required to or choosing to plan under the GMA must make a finding after the appropriate amendment process that:

- the comprehensive plan includes policies to permit schools to be sited outside of the UGA;
- the comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of school projects, except in areas otherwise designated for urban growth; and
- the county finds that the school project plan is consistent with the development regulations established for critical areas.

Determination of Need. Before submitting an application for a school project, a school district must prepare a written report setting forth a determination of need, which must include:

- an inventory of developable land within the UGA and relevant service area suitable for the school project, taking into consideration locally adopted educational program requirements;
- a review of, to the extent there is such suitable land available within the UGA and in the specific service area needed, current zoning, site characteristics, and the financial feasibility of using public dollars to secure such a school site; and
- findings that set forth the school district's siting criteria and applying them to the question of whether it is feasible for the district to acquire such suitable land.

The county may review a school district's determination of need, but any findings are presumed to be correct. The county may overturn the school district's determination of need only if it is clearly erroneous. In that case, the county must identify other sites that meet the district's criteria as set forth in the district's determination of need.

Approval of an application for a school project must not be considered an amendment to the comprehensive plan for the purposes of the public participation program and may be considered at any time.

Appeals. The Growth Management Hearings Board is not authorized to hear petitions alleging noncompliance for siting a school outside an UGA. Only the state courts have the authority to review causes of action, and they must give substantial deference to the actions of the county in which a permit has been granted to site a school outside of the UGA and to a determination of need.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):

- Removes language stating that impact fees must be imposed if applicable.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The GMA does not address schools, but interpretations of this act prevent schools from being built in rural areas. It also prevents the extension of drinking water and sewer lines outside of the urban area. The issue of siting schools has been around for awhile, and a legislative resolution is needed. This bill has statewide impact, rather than individual counties, because there are a number of school districts that are having difficulty siting schools where students and families live and where they are needed because of growth and development. This bill has parameters and requires school districts to do a comprehensive search for land inside the UGA and address utility considerations before asking the county to build outside of the UGA. Each school district is unique in its geography, infrastructure, and opportunities, which is why school districts should have the flexibility to make local decisions. The GMA did not intend to remove this local decision-making authority. Restrictions on the siting of schools unduly limits the school district in its program offerings.

CON: Some local governments and school districts have failed to communicate about growth management, and now school districts are asking for exceptions to the law. This bill represents a direct threat to multi-county policies. The bill circumvents the authority of the Growth Management Hearings Board, and it gives ultimate authority to the school districts, which is not a proper process. Building a school in rural areas for urban students requires

that those students are bused to that school, which is bad for students, traffic, and the environment. If schools are built in a rural area, it will eventually make that area urban. The GMA is silent as to where schools should and should not be built, so that local communities can make this decision. This bill could be amended to direct OSPI to change its acreage requirements to allow for schools to be built up, and require schools to plan along with local jurisdictions. This bill will have a negative unintended impact on the health and safety of children because schools in rural areas increases traffic and decreases walking and biking to and from school. When there are multiple jurisdictions involved in siting a school, there is concern about who will bear the cost of certain impacts such as roads and traffic.

OTHER: The bill should be narrowed in scope to a certain number of sites or schools. Pilot projects could be established to see how siting schools outside of the UGA would work, and the process could be tweaked if necessary. The GMA update cycle is very time consuming and costly. The bill requires all counties to amend its process for siting schools. This could be changed to when a school district has completed an application to site a school outside of the UGA. The GMA does not prohibit schools outside of the UGA or in rural areas serving urban students. Local community and regional plans made that policy choice. This bill means that the State is substituting its judgment for local communities. School districts should bear the cost of utilities and potential impacts on neighboring communities. This issue needs to be fixed in a way that there are not problems in the future.

Persons Testifying: PRO: Senator Steve Conway, Prime Sponsor; Sarah Thornton, Pasco School District; Sandy Hayes, Northshore School Director; Tom Seigel, Superintendent, Bethel School District; Jeff Lucas, Eatonville School District; Robin Heinrichs, Franklin Pierce Schools.

CON: David Friscia, citizen; George Wearn, citizen; Marilyn Sanders, citizen; William Rehberg, citizen; Bryce Yadon, Futurewise; Alex Alston, Washington Bikes; Brynn Brady, City of Woodinville.

OTHER: Laura Berg, Washington State Association of Counties; Carl Schroeder, Association of Washington Cities; Dave Mastin, Office of Superintendent of Public Instruction.

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