
SUBSTITUTE HOUSE BILL 1459

State of Washington

65th Legislature

2017 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Buys, Taylor, Van Werven, Short, Dent, Hayes, and Haler)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to considering the full hydrologic cycle in the
2 review and approval process of new water uses; amending RCW 90.44.055
3 and 36.70A.070; and adding a new section to chapter 90.03 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.03
6 RCW to read as follows:

7 The legislature finds that development requiring new uses of
8 groundwater is often associated with land use changes, such as the
9 removal of trees, that return water to the aquifer, and current water
10 impairment standards do not take this into consideration. The
11 legislature intends to require entities responsible for reviewing and
12 approving permit-exempt water uses and applications for water rights
13 under this title and chapter 36.70A RCW to establish processes and
14 procedures to fully account for the ways in which new uses of
15 groundwater offset potential impairment by recharging water into an
16 aquifer.

17 **Sec. 2.** RCW 90.44.055 and 1997 c 360 s 3 are each amended to
18 read as follows:

19 The department shall, when evaluating an application for a water
20 right or an amendment filed pursuant to RCW 90.44.050 or 90.44.100

1 that includes provision for any water impoundment or other resource
2 management technique, take into consideration the benefits and costs,
3 including environmental effects, of any water impoundment or other
4 resource management technique, or changes in land use that may result
5 in any recharge of groundwater, that is included as a component of
6 the application. The department's consideration shall extend to any
7 increased water supply that results from the impoundment or other
8 resource management technique, or changes in land use that may result
9 in any recharge of groundwater, including but not limited to any
10 recharge of groundwater that may occur, as a means of making water
11 available or otherwise offsetting the impact of the withdrawal of
12 groundwater proposed in the application for the water right or
13 amendment in the same water resource inventory area. Provision for an
14 impoundment or other resource management technique in an application
15 shall be made solely at the discretion of the applicant and shall not
16 be made by the department as a condition for approving an application
17 that does not include such provision.

18 This section does not lessen, enlarge, or modify the rights of
19 any riparian owner, or any existing water right acquired by
20 appropriation or otherwise.

21 **Sec. 3.** RCW 36.70A.070 and 2015 c 241 s 2 are each amended to
22 read as follows:

23 The comprehensive plan of a county or city that is required or
24 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
25 and descriptive text covering objectives, principles, and standards
26 used to develop the comprehensive plan. The plan shall be an
27 internally consistent document and all elements shall be consistent
28 with the future land use map. A comprehensive plan shall be adopted
29 and amended with public participation as provided in RCW 36.70A.140.
30 Each comprehensive plan shall include a plan, scheme, or design for
31 each of the following:

32 (1) A land use element designating the proposed general
33 distribution and general location and extent of the uses of land,
34 where appropriate, for agriculture, timber production, housing,
35 commerce, industry, recreation, open spaces, general aviation
36 airports, public utilities, public facilities, and other land uses.

37 (a) The land use element shall include population densities,
38 building intensities, and estimates of future population growth.

1 **(b)** The land use element shall provide for protection of the
2 quality and quantity of groundwater used for public water supplies,
3 and must take the full hydrologic cycle into account, including
4 development and land use changes that may result in a recharge of
5 groundwater.

6 **(c)** Wherever possible, the land use element should consider
7 utilizing urban planning approaches that promote physical activity.

8 **(d)** Where applicable, the land use element shall review drainage,
9 flooding, and storm water run-off in the area and nearby
10 jurisdictions and provide guidance for corrective actions to mitigate
11 or cleanse those discharges that pollute waters of the state,
12 including Puget Sound or waters entering Puget Sound.

13 (2) A housing element ensuring the vitality and character of
14 established residential neighborhoods that: (a) Includes an inventory
15 and analysis of existing and projected housing needs that identifies
16 the number of housing units necessary to manage projected growth; (b)
17 includes a statement of goals, policies, objectives, and mandatory
18 provisions for the preservation, improvement, and development of
19 housing, including single-family residences; (c) identifies
20 sufficient land for housing, including, but not limited to,
21 government-assisted housing, housing for low-income families,
22 manufactured housing, multifamily housing, and group homes and foster
23 care facilities; and (d) makes adequate provisions for existing and
24 projected needs of all economic segments of the community.

25 (3) A capital facilities plan element consisting of: (a) An
26 inventory of existing capital facilities owned by public entities,
27 showing the locations and capacities of the capital facilities; (b) a
28 forecast of the future needs for such capital facilities; (c) the
29 proposed locations and capacities of expanded or new capital
30 facilities; (d) at least a six-year plan that will finance such
31 capital facilities within projected funding capacities and clearly
32 identifies sources of public money for such purposes; and (e) a
33 requirement to reassess the land use element if probable funding
34 falls short of meeting existing needs and to ensure that the land use
35 element, capital facilities plan element, and financing plan within
36 the capital facilities plan element are coordinated and consistent.
37 Park and recreation facilities shall be included in the capital
38 facilities plan element.

39 (4) A utilities element consisting of the general location,
40 proposed location, and capacity of all existing and proposed

1 utilities, including, but not limited to, electrical lines,
2 telecommunication lines, and natural gas lines.

3 (5) Rural element. Counties shall include a rural element
4 including lands that are not designated for urban growth,
5 agriculture, forest, or mineral resources. The following provisions
6 shall apply to the rural element:

7 (a) Growth management act goals and local circumstances. Because
8 circumstances vary from county to county, in establishing patterns of
9 rural densities and uses, a county may consider local circumstances,
10 but shall develop a written record explaining how the rural element
11 harmonizes the planning goals in RCW 36.70A.020 and meets the
12 requirements of this chapter.

13 (b) Rural development. The rural element shall permit rural
14 development, forestry, and agriculture in rural areas. The rural
15 element shall provide for a variety of rural densities, uses,
16 essential public facilities, and rural governmental services needed
17 to serve the permitted densities and uses. To achieve a variety of
18 rural densities and uses, counties may provide for clustering,
19 density transfer, design guidelines, conservation easements, and
20 other innovative techniques that will accommodate appropriate rural
21 densities and uses that are not characterized by urban growth and
22 that are consistent with rural character.

23 (c) Measures governing rural development. The rural element shall
24 include measures that apply to rural development and protect the
25 rural character of the area, as established by the county, by:

26 (i) Containing or otherwise controlling rural development;

27 (ii) Assuring visual compatibility of rural development with the
28 surrounding rural area;

29 (iii) Reducing the inappropriate conversion of undeveloped land
30 into sprawling, low-density development in the rural area;

31 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
32 and surface water and groundwater resources, to the extent that such
33 measures take into account the full hydrologic cycle, including
34 development and land use changes that result in groundwater recharge;
35 and

36 (v) Protecting against conflicts with the use of agricultural,
37 forest, and mineral resource lands designated under RCW 36.70A.170.

38 (d) Limited areas of more intensive rural development. Subject to
39 the requirements of this subsection and except as otherwise
40 specifically provided in this subsection (5)(d), the rural element

1 may allow for limited areas of more intensive rural development,
2 including necessary public facilities and public services to serve
3 the limited area as follows:

4 (i) Rural development consisting of the infill, development, or
5 redevelopment of existing commercial, industrial, residential, or
6 mixed-use areas, whether characterized as shoreline development,
7 villages, hamlets, rural activity centers, or crossroads
8 developments.

9 (A) A commercial, industrial, residential, shoreline, or mixed-
10 use area are subject to the requirements of (d)(iv) of this
11 subsection, but are not subject to the requirements of (c)(ii) and
12 (iii) of this subsection.

13 (B) Any development or redevelopment other than an industrial
14 area or an industrial use within a mixed-use area or an industrial
15 area under this subsection (5)(d)(i) must be principally designed to
16 serve the existing and projected rural population.

17 (C) Any development or redevelopment in terms of building size,
18 scale, use, or intensity shall be consistent with the character of
19 the existing areas. Development and redevelopment may include changes
20 in use from vacant land or a previously existing use so long as the
21 new use conforms to the requirements of this subsection (5);

22 (ii) The intensification of development on lots containing, or
23 new development of, small-scale recreational or tourist uses,
24 including commercial facilities to serve those recreational or
25 tourist uses, that rely on a rural location and setting, but that do
26 not include new residential development. A small-scale recreation or
27 tourist use is not required to be principally designed to serve the
28 existing and projected rural population. Public services and public
29 facilities shall be limited to those necessary to serve the
30 recreation or tourist use and shall be provided in a manner that does
31 not permit low-density sprawl;

32 (iii) The intensification of development on lots containing
33 isolated nonresidential uses or new development of isolated cottage
34 industries and isolated small-scale businesses that are not
35 principally designed to serve the existing and projected rural
36 population and nonresidential uses, but do provide job opportunities
37 for rural residents. Rural counties may allow the expansion of small-
38 scale businesses as long as those small-scale businesses conform with
39 the rural character of the area as defined by the local government
40 according to RCW 36.70A.030(15). Rural counties may also allow new

1 small-scale businesses to utilize a site previously occupied by an
2 existing business as long as the new small-scale business conforms to
3 the rural character of the area as defined by the local government
4 according to RCW 36.70A.030(15). Public services and public
5 facilities shall be limited to those necessary to serve the isolated
6 nonresidential use and shall be provided in a manner that does not
7 permit low-density sprawl;

8 (iv) A county shall adopt measures to minimize and contain the
9 existing areas or uses of more intensive rural development, as
10 appropriate, authorized under this subsection. Lands included in such
11 existing areas or uses shall not extend beyond the logical outer
12 boundary of the existing area or use, thereby allowing a new pattern
13 of low-density sprawl. Existing areas are those that are clearly
14 identifiable and contained and where there is a logical boundary
15 delineated predominately by the built environment, but that may also
16 include undeveloped lands if limited as provided in this subsection.
17 The county shall establish the logical outer boundary of an area of
18 more intensive rural development. In establishing the logical outer
19 boundary, the county shall address (A) the need to preserve the
20 character of existing natural neighborhoods and communities, (B)
21 physical boundaries, such as bodies of water, streets and highways,
22 and land forms and contours, (C) the prevention of abnormally
23 irregular boundaries, and (D) the ability to provide public
24 facilities and public services in a manner that does not permit low-
25 density sprawl;

26 (v) For purposes of (d) of this subsection, an existing area or
27 existing use is one that was in existence:

28 (A) On July 1, 1990, in a county that was initially required to
29 plan under all of the provisions of this chapter;

30 (B) On the date the county adopted a resolution under RCW
31 36.70A.040(2), in a county that is planning under all of the
32 provisions of this chapter under RCW 36.70A.040(2); or

33 (C) On the date the office of financial management certifies the
34 county's population as provided in RCW 36.70A.040(5), in a county
35 that is planning under all of the provisions of this chapter pursuant
36 to RCW 36.70A.040(5).

37 (e) Exception. This subsection shall not be interpreted to permit
38 in the rural area a major industrial development or a master planned
39 resort unless otherwise specifically permitted under RCW 36.70A.360
40 and 36.70A.365.

1 (6) A transportation element that implements, and is consistent
2 with, the land use element.

3 (a) The transportation element shall include the following
4 subelements:

5 (i) Land use assumptions used in estimating travel;

6 (ii) Estimated traffic impacts to state-owned transportation
7 facilities resulting from land use assumptions to assist the
8 department of transportation in monitoring the performance of state
9 facilities, to plan improvements for the facilities, and to assess
10 the impact of land-use decisions on state-owned transportation
11 facilities;

12 (iii) Facilities and services needs, including:

13 (A) An inventory of air, water, and ground transportation
14 facilities and services, including transit alignments and general
15 aviation airport facilities, to define existing capital facilities
16 and travel levels as a basis for future planning. This inventory must
17 include state-owned transportation facilities within the city or
18 county's jurisdictional boundaries;

19 (B) Level of service standards for all locally owned arterials
20 and transit routes to serve as a gauge to judge performance of the
21 system. These standards should be regionally coordinated;

22 (C) For state-owned transportation facilities, level of service
23 standards for highways, as prescribed in chapters 47.06 and 47.80
24 RCW, to gauge the performance of the system. The purposes of
25 reflecting level of service standards for state highways in the local
26 comprehensive plan are to monitor the performance of the system, to
27 evaluate improvement strategies, and to facilitate coordination
28 between the county's or city's six-year street, road, or transit
29 program and the office of financial management's ten-year investment
30 program. The concurrency requirements of (b) of this subsection do
31 not apply to transportation facilities and services of statewide
32 significance except for counties consisting of islands whose only
33 connection to the mainland are state highways or ferry routes. In
34 these island counties, state highways and ferry route capacity must
35 be a factor in meeting the concurrency requirements in (b) of this
36 subsection;

37 (D) Specific actions and requirements for bringing into
38 compliance locally owned transportation facilities or services that
39 are below an established level of service standard;

1 (E) Forecasts of traffic for at least ten years based on the
2 adopted land use plan to provide information on the location, timing,
3 and capacity needs of future growth;

4 (F) Identification of state and local system needs to meet
5 current and future demands. Identified needs on state-owned
6 transportation facilities must be consistent with the statewide
7 multimodal transportation plan required under chapter 47.06 RCW;

8 (iv) Finance, including:

9 (A) An analysis of funding capability to judge needs against
10 probable funding resources;

11 (B) A multiyear financing plan based on the needs identified in
12 the comprehensive plan, the appropriate parts of which shall serve as
13 the basis for the six-year street, road, or transit program required
14 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
15 35.58.2795 for public transportation systems. The multiyear financing
16 plan should be coordinated with the ten-year investment program
17 developed by the office of financial management as required by RCW
18 47.05.030;

19 (C) If probable funding falls short of meeting identified needs,
20 a discussion of how additional funding will be raised, or how land
21 use assumptions will be reassessed to ensure that level of service
22 standards will be met;

23 (v) Intergovernmental coordination efforts, including an
24 assessment of the impacts of the transportation plan and land use
25 assumptions on the transportation systems of adjacent jurisdictions;

26 (vi) Demand-management strategies;

27 (vii) Pedestrian and bicycle component to include collaborative
28 efforts to identify and designate planned improvements for pedestrian
29 and bicycle facilities and corridors that address and encourage
30 enhanced community access and promote healthy lifestyles.

31 (b) After adoption of the comprehensive plan by jurisdictions
32 required to plan or who choose to plan under RCW 36.70A.040, local
33 jurisdictions must adopt and enforce ordinances which prohibit
34 development approval if the development causes the level of service
35 on a locally owned transportation facility to decline below the
36 standards adopted in the transportation element of the comprehensive
37 plan, unless transportation improvements or strategies to accommodate
38 the impacts of development are made concurrent with the development.
39 These strategies may include increased public transportation service,
40 ride-sharing programs, demand management, and other transportation

1 systems management strategies. For the purposes of this subsection
2 (6), "concurrent with the development" means that improvements or
3 strategies are in place at the time of development, or that a
4 financial commitment is in place to complete the improvements or
5 strategies within six years. If the collection of impact fees is
6 delayed under RCW 82.02.050(3), the six-year period required by this
7 subsection (6)(b) must begin after full payment of all impact fees is
8 due to the county or city.

9 (c) The transportation element described in this subsection (6),
10 the six-year plans required by RCW 35.77.010 for cities, RCW
11 36.81.121 for counties, and RCW 35.58.2795 for public transportation
12 systems, and the ten-year investment program required by RCW
13 47.05.030 for the state, must be consistent.

14 (7) An economic development element establishing local goals,
15 policies, objectives, and provisions for economic growth and vitality
16 and a high quality of life. The element shall include: (a) A summary
17 of the local economy such as population, employment, payroll,
18 sectors, businesses, sales, and other information as appropriate; (b)
19 a summary of the strengths and weaknesses of the local economy
20 defined as the commercial and industrial sectors and supporting
21 factors such as land use, transportation, utilities, education,
22 workforce, housing, and natural/cultural resources; and (c) an
23 identification of policies, programs, and projects to foster economic
24 growth and development and to address future needs. A city that has
25 chosen to be a residential community is exempt from the economic
26 development element requirement of this subsection.

27 (8) A park and recreation element that implements, and is
28 consistent with, the capital facilities plan element as it relates to
29 park and recreation facilities. The element shall include: (a)
30 Estimates of park and recreation demand for at least a ten-year
31 period; (b) an evaluation of facilities and service needs; and (c) an
32 evaluation of intergovernmental coordination opportunities to provide
33 regional approaches for meeting park and recreational demand.

34 (9) It is the intent that new or amended elements required after
35 January 1, 2002, be adopted concurrent with the scheduled update
36 provided in RCW 36.70A.130. Requirements to incorporate any such new
37 or amended elements shall be null and void until funds sufficient to
38 cover applicable local government costs are appropriated and

1 distributed by the state at least two years before local government
2 must update comprehensive plans as required in RCW 36.70A.130.

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