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SENATE BILL 5651

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State of Washington

65th Legislature

2017 Regular Session

By Senators Conway, Becker, and Zeiger

Read first time 02/01/17. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to the siting of schools and school facilities;  
2 amending RCW 36.70A.280 and 36.70A.280; adding new sections to  
3 chapter 36.70A RCW; providing an effective date; and providing an  
4 expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A  
7 RCW to read as follows:

8 (1) A county may designate public school projects as an essential  
9 public facility within its jurisdiction, and school projects may be  
10 sited outside the urban growth area based on the criteria set forth  
11 in section 2 of this act.

12 (2) As an alternative to designating school projects as an  
13 essential public facility under subsection (1) of this section, a  
14 county required to or choosing to plan under RCW 36.70A.040 must  
15 establish, in consultation with affected school districts and  
16 affected cities, a process for approving school projects outside of  
17 the urban growth area based on the criteria in section 2 of this act.

18 (3) School projects may not be sited on agricultural lands,  
19 forest lands, or mineral resource lands.

20 (4) For purposes of this section and section 2 of this act and  
21 before submitting an application for a school project, a school

1 district must prepare a written report setting forth a determination  
2 of need. The determination of need must include:

3 (a) An inventory of developable land within the urban growth area  
4 and relevant service area suitable for the school project, taking  
5 into consideration locally adopted educational program requirements;

6 (b) A review of, to the extent there is such suitable land  
7 available within the urban growth area and in the specific service  
8 area needed, current zoning, site characteristics, and the financial  
9 feasibility of using public dollars to secure such a school site; and

10 (c) Findings that set forth the school district's siting criteria  
11 and applying them to the question of whether it is feasible for the  
12 district to acquire such suitable land.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A  
14 RCW to read as follows:

15 (1) By July 1, 2018, each county required to or choosing to plan  
16 under RCW 36.70A.040 must amend its process for siting schools  
17 outside the urban growth area pursuant to section 1 (1) or (2) of  
18 this act. The approval of an amendment must not be considered an  
19 amendment to the comprehensive plan for the purposes of RCW  
20 36.70A.130(2) and may be considered at any time. Any comprehensive  
21 plan or development regulation adopted to implement a school siting  
22 under this section and section 1 of this act is not subject to the  
23 requirement for compliance with applicable multicounty planning  
24 policies and countywide planning policies.

25 (2) School projects may be permitted outside the urban growth  
26 area when:

27 (a) The school project is needed to meet student capacity needs  
28 in an identified service area that serves students residing in whole  
29 or in part outside of an urban growth area, as demonstrated by a  
30 capital facilities plan adopted by a locally elected school board of  
31 directors;

32 (b) New infrastructure is provided for, with the costs to the  
33 school district based on a reasonable nexus to the impacts of the  
34 school project on infrastructure needs. On-site and off-site  
35 infrastructure and service impacts on the county and the affected  
36 city are fully considered and mitigated. If applicable, impact fees  
37 must be imposed based on the requirements of chapter 82.02 RCW;

38 (c) Cities or other public agencies, or both, are authorized to  
39 extend public facilities to the school project. Public facilities

1 include water systems and storm and sanitary sewer systems sufficient  
2 to meet the facility needs of the school. If any public facility is  
3 extended beyond the urban growth area to serve the school project,  
4 the public facility must only be available to and serve the school  
5 project;

6 (d) Any utility extensions are solely dedicated to the school  
7 project and are provided for, with the costs to the school district,  
8 and any urban public facility necessary and appropriate to serve a  
9 school project outside the urban growth area are provided for, with  
10 the cost to the school district based on a reasonable nexus to the  
11 impacts of the school project;

12 (e) Transit-oriented site planning and traffic demand management  
13 programs required by the county in consultation with the affected  
14 city are provided by the school project;

15 (f) Buffers are provided on district-owned property or on  
16 property owned by other public agencies or provided through easements  
17 between the school project and adjacent nonurban uses;

18 (g) Environmental protection, including air and water quality,  
19 has been addressed and provided for;

20 (h) The school project complies with the applicable development  
21 regulations for the property;

22 (i) If development regulations are not in place, the county  
23 adopts development regulations during the next amendment cycle to  
24 ensure that the urban growth will not occur in adjacent nonurban  
25 areas;

26 (j) Provisions are made to mitigate significant adverse impacts  
27 on designated agricultural lands, forest lands, and mineral resource  
28 lands if the school is located adjacent to such lands; and

29 (k) The plan for the school project is consistent with the  
30 development regulations established for the protection of critical  
31 areas by the county pursuant to RCW 36.70A.170.

32 (3) Each county that is required to or choosing to plan under RCW  
33 36.70A.040 and subject to this section and section 1 of this act must  
34 make a finding after the appropriate amendment process that:

35 (a) The comprehensive plan includes policies, consistent with  
36 this section, to permit schools to be sited outside of the urban  
37 growth area;

38 (b) The comprehensive plan and development regulations include  
39 restrictions that preclude new urban or suburban land uses in the

1 vicinity of school projects, except in areas otherwise designated for  
2 urban growth under RCW 36.70A.110; and

3 (c) The county finds that the school project plan is consistent  
4 with the development regulations established for critical areas.

5 (4) The county may review the determination of need made by a  
6 school district under section 1(4) of this act, but any findings are  
7 presumed to be correct. The county may overturn the school district's  
8 determination of need only if it is clearly erroneous. In that case,  
9 the county must identify other sites that meet the district's  
10 criteria as set forth in the district's determination of need.

11 (5) Approval of an application for a school project must not be  
12 considered an amendment to the comprehensive plan for the purposes of  
13 RCW 36.70A.130(2) and may be considered at any time.

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

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

18 (a) That, except as provided otherwise by this subsection, a  
19 state agency, county, or city planning under this chapter is not in  
20 compliance with the requirements of this chapter, chapter 90.58 RCW  
21 as it relates to the adoption of shoreline master programs or  
22 amendments thereto, or chapter 43.21C RCW as it relates to plans,  
23 development regulations, or amendments, adopted under RCW 36.70A.040  
24 or chapter 90.58 RCW. Nothing in this subsection authorizes the board  
25 to hear petitions alleging noncompliance (~~(with RCW 36.70A.5801)~~) for  
26 siting a school outside an urban growth area in accordance with  
27 sections 1 and 2 of this act;

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

31 (c) That the approval of a work plan adopted under RCW  
32 36.70A.735(1)(a) is not in compliance with the requirements of the  
33 program established under RCW 36.70A.710;

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

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

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

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

9 (3) For purposes of this section "person" means any individual,  
10 partnership, corporation, association, state agency, governmental  
11 subdivision or unit thereof, or public or private organization or  
12 entity of any character.

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

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

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

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

31 (6) Only the state courts have the authority to review causes of  
32 action arising from sections 1 and 2 of this act and must give  
33 substantial deference to the actions of the county in which a permit  
34 has been granted to site a school outside of the urban growth area,  
35 and to a determination of need under section 1 of this act.

36 **Sec. 4.** 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 an urban growth area in accordance with  
10 sections 1 and 2 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 (6) Only the state courts have the authority to review causes of  
12 action arising from sections 1 and 2 of this act and must give  
13 substantial deference to the actions of the county in which a permit  
14 has been granted to site a school outside of the urban growth area,  
15 and to a determination of need under section 1 of this act.

16 NEW SECTION. Sec. 5. Section 3 of this act expires December 31,  
17 2020.

18 NEW SECTION. Sec. 6. Section 4 of this act takes effect  
19 December 31, 2020.

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