
Environment & Energy Committee

HB 1544

Brief Description: Addressing the effective date of certain actions taken under the growth management act.

Sponsors: Representatives Mead, Fitzgibbon and Kloba.

Brief Summary of Bill

- Provides that the effective date of certain actions taken under the Growth Management Act (GMA) will be the later of the two following dates: 60 days after publication of notice of the action, or if a petition for review to the Growth Management Hearings Board (Board) is timely filed, the date on which the Board's final order is issued.
- Includes, in the list of actions under the GMA subject to the effective dates of the bill: expansion of an Urban Growth Area; removal of the designation of agricultural, forest, or mineral resource lands; creation or expansion of a limited area of more intensive rural development; establishment of a new fully contained community; and creation or expansion of a master planned resort.

Hearing Date: 1/31/19

Staff: Robert Hatfield (786-7117).

Background:

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 Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities.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.

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 - Comprehensive Plans.

The GMA directs jurisdictions that fully plan under 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.

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. Final decisions and orders of the Board may be appealed to superior court.

Petitions that relate to whether an adopted comprehensive plan or development regulation is in compliance with the GMA must be filed within 60 days after publication of the action. For counties, the date of publication is the date that the county publishes a notice that it has adopted the comprehensive plan or development regulations. For cities, the date of publication is the date the city publishes the ordinance or summary of the ordinance, which adopts the comprehensive plan or development regulations.

The Vested Rights Doctrine.

Vested rights in the context of land use law refers to the right of a property owner to use his or her property in accordance with the laws and regulations governing the division, use, or development of real property in effect on a certain date. Washington's "vested rights doctrine," which was developed by courts under the common law, is applicable if a permit application is sufficiently complete, complies with existing ordinances and codes, and is filed at a time when the ordinance or regulation the applicant seeks to develop under is in effect. If requirements are met, the application must be processed according to the laws in effect at the time of the application, regardless of subsequent changes in the law.

The Legislature has codified the vested rights doctrine, in various forms, as it pertains to land use, property development, and construction permitting. For example, the State Building Code Act requires that a valid and fully complete building permit application for a structure, which is permitted under applicable zoning or other land use control ordinances, be considered under the ordinances in effect at the time of the application. Similarly, a proposed division of land must be considered under the subdivision or short subdivision ordinances in effect at the time a fully completed application for preliminary approval is submitted.

Vesting Under the Growth Management Act.

Under the GMA, unless the Board makes a determination of invalidity, a finding of noncompliance and an order of remand does not affect the validity of comprehensive plans and development regulations during the period of remand. Not only are rights that vested prior to a finding not affected, but also rights may continue to vest in plans and regulations subject to a finding of noncompliance, unless or until they are amended or repealed by a county or city.

For determinations of invalidity issued by the Board, the effect on vested rights is prospective. The Board's determination does not extinguish rights that vested prior to receipt of the Board's

order; however, after the date of receipt, rights can no longer vest to the invalidated plans or regulations. Also, for a development permit application that did not vest before receipt of the Board's order, the application may still vest to local ordinances or resolutions determined by the Board not to substantially interfere with the fulfillment of the goals of the GMA.

Summary of Bill:

The initial effective date of certain actions under the Growth Management Act (GMA) is the later of the two following dates: 60 days after publication of notice of the action, or if a petition for review to the Growth Management Hearings Board (Board) is timely filed, the date on which the Board's final order is issued.

The actions under the GMA subject to the effective dates under the bill are:

- expansion of an urban growth area designated under RCW 36.70A.110;
- removal of the designation of agricultural, forest, or mineral resource lands designated under RCW 36.70A.170;
- creation or expansion of a limited area of more intensive rural development designated under RCW 36.70A.070(5)(d);
- establishment of a new fully contained community under RCW 36.70A.350; and
- creation or expansion of a master planned resort designated under RCW 36.70A.360.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.