

# SENATE BILL REPORT

## SB 5193

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As of January 25, 2019

**Title:** An act relating to the process of identifying limited areas of more intensive rural development.

**Brief Description:** Concerning the process of identifying limited areas of more intensive rural development.

**Sponsors:** Senators Short and Palumbo.

**Brief History:**

**Committee Activity:** Local Government: 1/24/19.

**Brief Summary of Bill**

- Makes revisions to the limited areas of more intensive rural development provisions of the Growth Management Act, including the removal of requirements concerning the logical outer boundary and the removal of the existing areas requirement for infill, development, or redevelopment of commercial, industrial, residential, or mixed-use areas.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Staff:** Greg Vogel (786-7413)

**Background:** Growth Management Act. 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 Originally enacted in 1990 and 1991, the GMA establishes land use designations and environmental protection requirements for all Washington counties and cities.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.

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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.*

Rural Element and Limited Areas of More Intensive Rural Development. One element that county comprehensive plans must include is a rural element. Rural character refers to the pattern of land use and development established by a county in the rural element:

- in which open space, the natural landscape, and vegetation predominate over the built environment;
- that foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;
- that provide visual landscapes that are traditionally found in rural areas and communities;
- that are compatible with the use of the land by wildlife and for fish and wildlife habitat;
- that reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
- that generally do not require the extension of urban governmental services; and
- that are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

Additionally, the rural element must protect rural character by applying measures that:

- contain or control rural development;
- assure the visual compatibility of rural development with surrounding rural areas;
- reduce inappropriate land conversions to low-density sprawl in rural areas;
- protect critical areas and surface and groundwater resources; and
- protect against conflicts with designated agricultural, forest, and mineral resource lands.

The rural element of county comprehensive plans allows for the designation of limited areas of more intensive rural development (LAMIRDs), including public facilities and services for the LAMIRD. Counties are authorized to designate three types of LAMIRDs.

Type I LAMIRDs consist of infill, development, or redevelopment of commercial, industrial, residential, or mixed-use areas that existed as of July 1, 1990, at the time a county became required to plan under the GMA, or at the time that a county chose to plan under the GMA. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but may also include undeveloped lands as provided by the logical outer boundary. With the exception of industrial areas, Type I LAMIRDs must be principally designed to serve rural populations. Type I LAMIRDs must be consistent with the character of existing areas and may include changes in use. Type I LAMIRDs are not, however, required to adhere to the otherwise applicable requirements that rural elements assure the visual compatibility of rural development with surrounding rural areas, and that rural elements reduce inappropriate land conversion to low-density sprawl.

Type II LAMIRDs consist of the intensification or new development of small-scale recreational or tourist uses that do not include new residential development. Type II LAMIRDs are not required to principally serve rural populations.

Type III LAMIRDs consist of isolated intensified development of nonresidential uses or of new development of isolated cottage industries and small-scale businesses. Type III LAMIRDs are not required to principally serve rural populations, but must provide job opportunities for rural residents. Type III LAMIRDs may allow the expansion of an existing business, or new small-scale business, so long as there is conformance to the rural character of the area.

Counties must adopt measures to minimize and contain existing areas subject to LAMIRDs. Counties must establish a logical outer boundary for LAMIRD lands, beyond which LAMIRDs may not extend. In establishing the logical outer boundary, the county shall address:

- the need to preserve the character of existing natural neighborhoods and communities;
- physical boundaries, such as bodies of water, streets and highways, and land forms and contours;
- the prevention of abnormally irregular boundaries; and
- the ability to provide public facilities and public services in a manner that does not permit low-density sprawl.

Master planned resorts and major industrial developments are generally not allowed under LAMIRDs.

The Department of Commerce has adopted rules, developed guidance, and provides technical assistance to GMA planning jurisdictions, including with regard to the contents of the rural elements of the county comprehensive plans and to the designation of LAMIRDs by counties.

**Summary of Bill:** The LAMIRD provisions of the rural element requirement of comprehensive plans are changed.

Logical Outer Boundary. Instead of requiring counties to establish a logical outer boundary for LAMIRDs, counties may establish a logical outer boundary and may review that boundary during periodic comprehensive plan review for adjustment. In designating LAMIRDs, counties may consider:

- strategies to preserve and enhance the existing character of natural neighborhoods and communities;
- physical boundaries, such as bodies of water, streets and highways, and land forms and contours; and
- the ability to provide public facilities and public services in a manner that does not permit low-density sprawl.

"Areas of more intensive rural development" is defined as those areas that are clearly identifiable during a comprehensive plan review of development and delineated by the built environment, but may also include undeveloped lands as limited by the types of LAMIRDs allowed and other LAMIRD considerations by the county.

Type I Limited Areas of More Intensive Rural Development. Type I LAMIRDs are no longer limited to existing areas: commercial, industrial, residential, or mixed used areas that existed

as of July 1, 1990; at the time a county became required to plan under the GMA; or at a time that the county chose to plan under the GMA. Type I LAMIRDs are no longer required to be principally designed to serve rural populations but may be principally designed to serve the existing and projected rural population. Under current law, only industrial areas under Type I LAMIRDs are not required to be principally designed to serve rural populations.

Type III Limited Areas of More Intensive Rural Development. Cottage industries and small-scale businesses still may only expand if they continue to conform with the rural character of the area as defined by the local government according to the definition under the GMA. However, new small-scale businesses utilizing a site previously occupied by an existing business are no longer subject to this conformance requirement.

Other Provisions. Other provisions provide that future development and intensification may be principally designed to serve the existing and projected rural population. Except as provided for cottage industries and small-scale businesses, building size, scale, use, or intensity including development of vacant land or redevelopment within LAMIRDs may be consistent with the existing character of the area.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2019.

**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:** PRO: There have been significant challenges in rural communities related to having the built environment attached to 1990. The crossroads areas that have developed have reduced in vitality and folks have had to move out of the area. There is a struggle to find ways to help rural economies and provide services and jobs for these areas. The issue is how to develop in rural areas. It cannot all happen in nearby towns. People need to live close to where they work for services. The restrictions affect farm workers and innovation in agriculture and forestry.

One size does not fit all, and there are some counties with rural areas where it does not make sense to comply with the rules of the GMA. Flexibility with the LAMIRD process will help relieve critical needs of the community. Additionally, the permissive nature of the bill will allow more local control for determining the right level of protections. Much of these rural counties consist of county parks and open space. There needs to be a balance between jobs and economic development and housing. Current LAMIRDs lack these economic development and housing opportunities. Without some flexibility provided, rural areas will continue to struggle.

CON: This bill challenges and undermines existing GMA protections where necessary public facilities are not in place to serve these rural areas. Protections are in place to preserve the character and vitality of nonurban regions of the state and should be maintained. There is a need to make sure that what is done with policies in rural areas is consistent with city development.

There is concern around the lack of public facilities and services. Jurisdictions are still working through the Hirst ruling, and there are issues around lack of sewer systems and water availability. Beyond needed housing, there are also other associated services. Related to the availability of public facilities and services is also the ability to pay for and maintain them if they were put in place. Economies of scale must be considered, and there is need to make public facilities that can be maintained, enhanced, and well-supported. This bill will exacerbate the current infrastructure burden problem.

There is an understanding of the desire to continue to economically develop these areas and hopefully there is a way to move forward. There is value in providing ways to grow these areas, however this bill is too broad in terms of application. It should include additional sideboards. Although, big picture, it is time to have a conversation about reforming rural development regulations.

**Persons Testifying:** PRO: Senator Shelly Short, Prime Sponsor; Austin Watkins, Planning Manager, Jefferson County Government; Mike Ennis, Association of Washington Business; Paul Jewell, Washington State Association of Counties; Jeanette McKague, Washington REALTORS; Carl Schroeder, Association of Washington Cities.

CON: Phyllis Farrell, League of Women Voters Washington; Bryce Yadon, Futurewise.

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