

SENATE BILL REPORT

SB 5242

As of January 25, 2019

Title: An act relating to the economic development of rural counties.

Brief Description: Concerning the economic development of rural counties.

Sponsors: Senators Short and Wilson, L..

Brief History:

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

Brief Summary of Bill

- Allows certain counties to opt out of full planning requirements under the Growth Management Act.

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 Originally enacted in 1990 and 1991, the GMA establishes land use designations and environmental protection requirements for all Washington State counties and cities.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

All counties must plan for critical areas and natural resource land under 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 Planning Jurisdictions. Based on population criteria, 18 counties and all the cities and towns within them, are required to fully plan under the GMA. An additional 11 counties opted to fully plan. However, Ferry County chose to opt out under a process, which gave counties with populations of 20,000 or fewer the option to adopt a resolution for partial planning by December 31, 2015. Counties adopting a resolution under this process are no longer obligated to fully plan under the GMA, but are otherwise subject to requirements relating to:

- designating natural resource lands;
- designating and protecting critical areas;
- employing the best available science in designating and protecting critical areas; and
- the rural element of a comprehensive plan.

Summary of Bill: Resolution for Partial Planning Under the Growth Management Act. The deadline for adopting a resolution of partial planning is removed, and eligibility is changed from counties that have a population of 20,000 or fewer to counties:

- with a population density of less than 100 persons per square mile;
- smaller than 225 square miles;
- having an unemployment rate at least 20 percent above the state average for the previous three years;
- having a median household income that is less than 75 percent of the state median household income for the previous three years; or
- has previously adopted a resolution to opt in to the full planning requirements of the GMA.

Eligible counties may adopt a resolution of partial planning removing the county and the cities within from requirements to fully plan under the GMA, if:

- at least 60 days prior to adopting a removal resolution, the county provides written notification to the legislative body of each city located within the county of its intent to consider adopting the resolution; and
- the legislative bodies of at least 60 percent of the cities in the county having an aggregate population of at least 75 percent of the incorporated county population have not adopted resolutions opposing the removal action by the county and have not provided corresponding written notification.

Upon adoption of a resolution, the county and the cities within are no longer obligated to fully plan under the GMA. The adoption of a resolution, however, does not nullify or otherwise modify requirements of the GMA for counties and cities relating to:

- designating natural resource lands;
- designating and protecting critical areas;
- employing the best available science in designating and protecting critical areas; and
- the rural element of a comprehensive plan.

The legislative authority of a county that adopts a resolution is barred from subsequently passing a resolution indicating its intention to fully plan under the GMA for a minimum of ten years from the date the resolution was adopted.

Requirements for Counties Subject to a Resolution, Determinations of Compliance. Each county that adopts a resolution and the cities within must, within one year of the adoption of

the resolution, adopt development regulations to assure the conservation of designated natural resource lands. These regulations may not prohibit uses legally existing on any parcel prior to their adoption and must assure that the use of lands adjacent to the designated natural resource lands do not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of the lands for the production of food, agricultural products, or timber or for the extraction of minerals.

A county that adopts a resolution and is not compliant with specific obligations of the GMA when the resolution is adopted must, by January 30, 2017, apply for a determination of compliance from the Department of Commerce (Commerce) finding that the county's development regulations – including regulations adopted to protect critical areas – and comprehensive plans are in compliance with the same specified obligations of the GMA. Commerce must approve or deny the application for a determination of compliance within 120 days of its receipt or by June 30, 2017, whichever date is earlier.

The planning obligations subject to the compliance provisions require:

- the adoption of county-wide planning policies, development regulations to conserve designated natural resource lands, comprehensive plans and implementing development regulations, and designated urban growth areas;
- the adoption of a rural element of a comprehensive plan;
- the designation and conservation of natural resource lands; and
- the designation and protection of critical areas and the employment of the best available science in designating and protecting critical areas.

Denials of Applications of Determinations of Compliance, Appeals. If Commerce denies an application for a determination of compliance, the county's resolution ceases to have effect and the county and each city within is obligated to comply with all requirements of the GMA.

Until December 31, 2020, the Growth Management Hearings Board (Board) is authorized to hear and determine petitions regarding determinations of compliance by Commerce. The petition must allege that Commerce's determination was erroneous and must be filed with the Board within 60 days of the issuance of a determination decision by Commerce. In the event the petition is regarding a determination of compliance approval, the county and Commerce must equally share the costs incurred by Commerce in defending the approval before the Board.

Determinations of Compliance: Authorization for Agency Rules. Commerce is authorized to adopt rules related to determinations of compliance. The rules may address, but are not limited to:

- requirements for applications for determinations of compliance;
- charging of costs to a county for incurred defense expenses;
- procedures for processing applications;
- criteria for the evaluation of applications;
- issuance and notice of department decisions; and
- applicable timelines.

The same provisions for the previous opt-out process under EHB 1224 (2014) apply to the opt-out process under this act.

Appropriation: None.

Fiscal Note: Requested on January 16, 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: This bill does not change the existing framework but adds some considerations for income and employment in terms of eligible counties. The counties must work with the cities on this and it is permissive.

CON: There is understanding of the concerns here, and there are good limitations and guidance in the Planning Enabling Act. However, going back on the agreement from 2014 is not something to be supported at this point. There needs to be required approval from cities included.

Persons Testifying: PRO: Senator Shelly Short, Prime Sponsor.

CON: Bryce Yadon, Futurewise.

OTHER: Carl Schroeder, Association of Washington Cities.

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