

E2SHB 1117 - S COMM AMD

By Committee on Housing & Local Government

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

4 (a) Salmon and other anadromous fish have a special historical,
5 economic, and cultural importance to Washington;

6 (b) As a consequence of their centrality to cultural identity and
7 treaty-protected rights reserved to Indian tribes, and the efforts
8 required to be undertaken in order to preserve those rights and
9 recover threatened and endangered species, the preservation and
10 recovery of salmonid populations is a uniquely important legislative
11 priority;

12 (c) Nontribal commercial and recreational fishing and salmon
13 viewing contribute significantly to the economic and social stability
14 and well-being of Washington residents; and

15 (d) Ensuring that future development, redevelopment, and
16 population growth are compatible with the long-term survival and
17 recovery of anadromous fish species is essential to Washington's
18 continued vibrancy and quality of life.

19 (2) Therefore, it is the intent of the legislature to support the
20 protection and recovery of salmon through:

21 (a) The adoption and state support of net ecological gain at the
22 WRIA scale and incorporation of applicable elements of the local
23 salmon recovery plan through local government growth and shoreline
24 planning efforts;

25 (b) Ensuring that proportional compensatory mitigation for direct
26 and indirect impacts that are predicted to occur over the expected
27 life of the project to wetlands, water, and fish and wildlife habitat
28 conservation areas and other elements of the environment that affect
29 salmon habitat achieves its desired outcomes; and

1 (c) Providing local governments the full resources needed in the
2 form of funding and technical support to achieve the goals and
3 requirements of this act.

4 **Sec. 2.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Adopt a comprehensive land use plan" means to enact a new
9 comprehensive land use plan or to update an existing comprehensive
10 land use plan.

11 (2) "Affordable housing" means, unless the context clearly
12 indicates otherwise, residential housing whose monthly costs,
13 including utilities other than telephone, do not exceed thirty
14 percent of the monthly income of a household whose income is:

15 (a) For rental housing, sixty percent of the median household
16 income adjusted for household size, for the county where the
17 household is located, as reported by the United States department of
18 housing and urban development; or

19 (b) For owner-occupied housing, eighty percent of the median
20 household income adjusted for household size, for the county where
21 the household is located, as reported by the United States department
22 of housing and urban development.

23 (3) "Agricultural land" means land primarily devoted to the
24 commercial production of horticultural, viticultural, floricultural,
25 dairy, apiary, vegetable, or animal products or of berries, grain,
26 hay, straw, turf, seed, Christmas trees not subject to the excise tax
27 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
28 hatcheries, or livestock, and that has long-term commercial
29 significance for agricultural production.

30 (4) "City" means any city or town, including a code city.

31 (5) "Comprehensive land use plan," "comprehensive plan," or
32 "plan" means a generalized coordinated land use policy statement of
33 the governing body of a county or city that is adopted pursuant to
34 this chapter.

35 (6) "Critical areas" include the following areas and ecosystems:

36 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
37 used for potable water; (c) fish and wildlife habitat conservation
38 areas; (d) frequently flooded areas; and (e) geologically hazardous
39 areas. "Fish and wildlife habitat conservation areas" does not

1 include such artificial features or constructs as irrigation delivery
2 systems, irrigation infrastructure, irrigation canals, or drainage
3 ditches that lie within the boundaries of and are maintained by a
4 port district or an irrigation district or company.

5 (7) "Department" means the department of commerce.

6 (8) "Development regulations" or "regulation" means the controls
7 placed on development or land use activities by a county or city,
8 including, but not limited to, zoning ordinances, critical areas
9 ordinances, shoreline master programs, official controls, planned
10 unit development ordinances, subdivision ordinances, and binding site
11 plan ordinances together with any amendments thereto. A development
12 regulation does not include a decision to approve a project permit
13 application, as defined in RCW 36.70B.020, even though the decision
14 may be expressed in a resolution or ordinance of the legislative body
15 of the county or city.

16 (9) "Emergency housing" means temporary indoor accommodations for
17 individuals or families who are homeless or at imminent risk of
18 becoming homeless that is intended to address the basic health, food,
19 clothing, and personal hygiene needs of individuals or families.
20 Emergency housing may or may not require occupants to enter into a
21 lease or an occupancy agreement.

22 (10) "Emergency shelter" means a facility that provides a
23 temporary shelter for individuals or families who are currently
24 homeless. Emergency shelter may not require occupants to enter into a
25 lease or an occupancy agreement. Emergency shelter facilities may
26 include day and warming centers that do not provide overnight
27 accommodations.

28 (11) "Extremely low-income household" means a single person,
29 family, or unrelated persons living together whose adjusted income is
30 at or below thirty percent of the median household income adjusted
31 for household size, for the county where the household is located, as
32 reported by the United States department of housing and urban
33 development.

34 (12) "Forestland" means land primarily devoted to growing trees
35 for long-term commercial timber production on land that can be
36 economically and practically managed for such production, including
37 Christmas trees subject to the excise tax imposed under RCW 84.33.100
38 through 84.33.140, and that has long-term commercial significance. In
39 determining whether forestland is primarily devoted to growing trees
40 for long-term commercial timber production on land that can be

1 economically and practically managed for such production, the
2 following factors shall be considered: (a) The proximity of the land
3 to urban, suburban, and rural settlements; (b) surrounding parcel
4 size and the compatibility and intensity of adjacent and nearby land
5 uses; (c) long-term local economic conditions that affect the ability
6 to manage for timber production; and (d) the availability of public
7 facilities and services conducive to conversion of forestland to
8 other uses.

9 (13) "Freight rail dependent uses" means buildings and other
10 infrastructure that are used in the fabrication, processing, storage,
11 and transport of goods where the use is dependent on and makes use of
12 an adjacent short line railroad. Such facilities are both urban and
13 rural development for purposes of this chapter. "Freight rail
14 dependent uses" does not include buildings and other infrastructure
15 that are used in the fabrication, processing, storage, and transport
16 of coal, liquefied natural gas, or "crude oil" as defined in RCW
17 90.56.010.

18 (14) "Geologically hazardous areas" means areas that because of
19 their susceptibility to erosion, sliding, earthquake, or other
20 geological events, are not suited to the siting of commercial,
21 residential, or industrial development consistent with public health
22 or safety concerns.

23 (15) "Long-term commercial significance" includes the growing
24 capacity, productivity, and soil composition of the land for long-
25 term commercial production, in consideration with the land's
26 proximity to population areas, and the possibility of more intense
27 uses of the land.

28 (16) "Low-income household" means a single person, family, or
29 unrelated persons living together whose adjusted income is at or
30 below eighty percent of the median household income adjusted for
31 household size, for the county where the household is located, as
32 reported by the United States department of housing and urban
33 development.

34 (17) "Minerals" include gravel, sand, and valuable metallic
35 substances.

36 (18) "Moderate-income household" means a single person, family,
37 or unrelated persons living together whose adjusted income is at or
38 below 120 percent of the median household income adjusted for
39 household size, for the county where the household is located, as

1 reported by the United States department of housing and urban
2 development.

3 (19) "Permanent supportive housing" is subsidized, leased housing
4 with no limit on length of stay that prioritizes people who need
5 comprehensive support services to retain tenancy and utilizes
6 admissions practices designed to use lower barriers to entry than
7 would be typical for other subsidized or unsubsidized rental housing,
8 especially related to rental history, criminal history, and personal
9 behaviors. Permanent supportive housing is paired with on-site or
10 off-site voluntary services designed to support a person living with
11 a complex and disabling behavioral health or physical health
12 condition who was experiencing homelessness or was at imminent risk
13 of homelessness prior to moving into housing to retain their housing
14 and be a successful tenant in a housing arrangement, improve the
15 resident's health status, and connect the resident of the housing
16 with community-based health care, treatment, or employment services.
17 Permanent supportive housing is subject to all of the rights and
18 responsibilities defined in chapter 59.18 RCW.

19 (20) "Public facilities" include streets, roads, highways,
20 sidewalks, street and road lighting systems, traffic signals,
21 domestic water systems, storm and sanitary sewer systems, parks and
22 recreational facilities, and schools.

23 (21) "Public services" include fire protection and suppression,
24 law enforcement, public health, education, recreation, environmental
25 protection, and other governmental services.

26 (22) (~~"Recreational land" means land so designated under RCW~~
27 ~~36.70A.1701 and that, immediately prior to this designation, was~~
28 ~~designated as agricultural land of long-term commercial significance~~
29 ~~under RCW 36.70A.170. Recreational land must have playing fields and~~
30 ~~supporting facilities existing before July 1, 2004, for sports played~~
31 ~~on grass playing fields.~~

32 (23)) "Rural character" refers to the patterns of land use and
33 development established by a county in the rural element of its
34 comprehensive plan:

35 (a) In which open space, the natural landscape, and vegetation
36 predominate over the built environment;

37 (b) That foster traditional rural lifestyles, rural-based
38 economies, and opportunities to both live and work in rural areas;

39 (c) That provide visual landscapes that are traditionally found
40 in rural areas and communities;

1 (d) That are compatible with the use of the land by wildlife
2 (~~and~~) for fish and wildlife habitat, and with the advancement of
3 net ecological gain;

4 (e) That reduce the inappropriate conversion of undeveloped land
5 into sprawling, low-density development;

6 (f) That generally do not require the extension of urban
7 governmental services; and

8 (g) That are consistent with the protection and restoration of
9 natural surface water flows and groundwater and surface water
10 recharge and discharge areas.

11 (~~(24)~~) (23) "Rural development" refers to development outside
12 the urban growth area and outside agricultural, forest, and mineral
13 resource lands designated pursuant to RCW 36.70A.170. Rural
14 development can consist of a variety of uses and residential
15 densities, including clustered residential development, at levels
16 that are consistent with the preservation of rural character and the
17 requirements of the rural element. Rural development does not refer
18 to agriculture or forestry activities that may be conducted in rural
19 areas.

20 (~~(25)~~) (24) "Rural governmental services" or "rural services"
21 include those public services and public facilities historically and
22 typically delivered at an intensity usually found in rural areas, and
23 may include domestic water systems, fire and police protection
24 services, transportation and public transit services, and other
25 public utilities associated with rural development and normally not
26 associated with urban areas. Rural services do not include storm or
27 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

28 (~~(26)~~) (25) "Short line railroad" means those railroad lines
29 designated class II or class III by the United States surface
30 transportation board.

31 (~~(27)~~) (26) "Urban governmental services" or "urban services"
32 include those public services and public facilities at an intensity
33 historically and typically provided in cities, specifically including
34 storm and sanitary sewer systems, domestic water systems, street
35 cleaning services, fire and police protection services, public
36 transit services, and other public utilities associated with urban
37 areas and normally not associated with rural areas.

38 (~~(28)~~) (27) "Urban growth" refers to growth that makes
39 intensive use of land for the location of buildings, structures, and
40 impermeable surfaces to such a degree as to be incompatible with the

1 primary use of land for the production of food, other agricultural
2 products, or fiber, or the extraction of mineral resources, rural
3 uses, rural development, and natural resource lands designated
4 pursuant to RCW 36.70A.170. A pattern of more intensive rural
5 development, as provided in RCW 36.70A.070(5)(d), is not urban
6 growth. When allowed to spread over wide areas, urban growth
7 typically requires urban governmental services. "Characterized by
8 urban growth" refers to land having urban growth located on it, or to
9 land located in relationship to an area with urban growth on it as to
10 be appropriate for urban growth.

11 ~~((29))~~ (28) "Urban growth areas" means those areas designated
12 by a county pursuant to RCW 36.70A.110.

13 ~~((30))~~ (29) "Very low-income household" means a single person,
14 family, or unrelated persons living together whose adjusted income is
15 at or below fifty percent of the median household income adjusted for
16 household size, for the county where the household is located, as
17 reported by the United States department of housing and urban
18 development.

19 ~~((31))~~ (30) "Wetland" or "wetlands" means areas that are
20 inundated or saturated by surface water or groundwater at a frequency
21 and duration sufficient to support, and that under normal
22 circumstances do support, a prevalence of vegetation typically
23 adapted for life in saturated soil conditions. Wetlands generally
24 include swamps, marshes, bogs, and similar areas. Wetlands do not
25 include those artificial wetlands intentionally created from
26 nonwetland sites, including, but not limited to, irrigation and
27 drainage ditches, grass-lined swales, canals, detention facilities,
28 wastewater treatment facilities, farm ponds, and landscape amenities,
29 or those wetlands created after July 1, 1990, that were
30 unintentionally created as a result of the construction of a road,
31 street, or highway. Wetlands may include those artificial wetlands
32 intentionally created from nonwetland areas created to mitigate
33 conversion of wetlands.

34 (31) "Net ecological gain" means a standard for a comprehensive
35 plan adopted under this chapter in which the ecological integrity
36 within each WRIA or independent natural drainage that flows directly
37 into marine waters of the planning area is improved and enhanced
38 during the planning period as a result of the measures adopted by the
39 planning body, and other activities that occur within the planning
40 jurisdiction including, but not limited to, activities identified in

1 the applicable salmon recovery plan, including no net loss of
2 ecological function with respect to the permitting of individual
3 projects in order to advance salmon recovery and other environmental
4 benefits. The advancement of ecological function and advancement of
5 net ecological gain within each WRIA or independent natural drainage
6 that flows directly into marine waters will occur through the
7 appropriate selection and implementation of publicly funded projects,
8 including voluntary grant programs, salmon recovery projects,
9 ecological improvements made through the municipal stormwater permit
10 process, and investments made as a result of the capital facilities
11 element and transportation element of the comprehensive plan.

12 (32) "Properly functioning watershed conditions" are watershed
13 conditions that are necessary for salmon to survive and include but
14 are not limited to the following functions: Forest cover,
15 floodplains, instream habitats, fish passage, riparian habitats,
16 water quality and quantity, and impervious surface levels.

17 (33) "Watershed" means a water resource inventory area or "WRIA"
18 established consistent with chapter 90.82 RCW, subbasin watershed
19 therein, or an independent natural drainage that flows directly into
20 marine waters.

21 (34) "Compensatory mitigation" means a measurement of the size,
22 temporal duration, or quality of mitigation required by a permitting
23 agency in order to ensure that impacts to regulated aspects of the
24 environment from an activity subject to a permit are fully mitigated
25 over the life of the activity or project subject to the permit.

26 **Sec. 3.** RCW 36.70A.020 and 2021 c 254 s 1 are each amended to
27 read as follows:

28 The following goals are adopted to guide the development and
29 adoption of comprehensive plans and development regulations of those
30 counties and cities that are required or choose to plan under RCW
31 36.70A.040. The following goals are not listed in order of priority
32 and shall be used exclusively for the purpose of guiding the
33 development of comprehensive plans and development regulations:

34 (1) Urban growth. Encourage development in urban areas where
35 adequate public facilities and services exist or can be provided in
36 an efficient manner.

37 (2) Reduce sprawl. Reduce the inappropriate conversion of
38 undeveloped land into sprawling, low-density development.

1 (3) Transportation. Encourage efficient multimodal transportation
2 systems that are based on regional priorities and coordinated with
3 county and city comprehensive plans.

4 (4) Housing. Plan for and accommodate housing affordable to all
5 economic segments of the population of this state, promote a variety
6 of residential densities and housing types, and encourage
7 preservation of existing housing stock.

8 (5) Economic development. Encourage economic development
9 throughout the state that is consistent with adopted comprehensive
10 plans, promote economic opportunity for all citizens of this state,
11 especially for unemployed and for disadvantaged persons, promote the
12 retention and expansion of existing businesses and recruitment of new
13 businesses, recognize regional differences impacting economic
14 development opportunities, and encourage growth in areas experiencing
15 insufficient economic growth, all within the capacities of the
16 state's natural resources, public services, and public facilities.

17 (6) Property rights. Private property shall not be taken for
18 public use without just compensation having been made. The property
19 rights of landowners shall be protected from arbitrary and
20 discriminatory actions.

21 (7) Permits. Applications for both state and local government
22 permits should be processed in a timely and fair manner to ensure
23 predictability.

24 (8) Natural resource industries. Maintain and enhance natural
25 resource-based industries, including productive timber, agricultural,
26 and fisheries industries. Encourage the conservation of productive
27 forestlands and productive agricultural lands, and discourage
28 incompatible uses.

29 (9) Open space and recreation. Retain open space((~~τ~~)); enhance
30 recreational opportunities((~~τ~~)); conserve, protect, restore, and
31 contribute to net ecological gain with respect to fish and wildlife
32 habitat((~~τ~~)) in accordance with rules adopted pursuant to this act;
33 increase access to natural resource lands and water((~~τ~~)); and develop
34 parks and recreation facilities.

35 (10) Environment. Protect, restore, and contribute to net
36 ecological gain to the environment in accordance with rules adopted
37 pursuant to this act and enhance the state's high quality of life,
38 including air and water quality, ((~~and~~)) the availability of water,
39 and fish and wildlife habitat.

1 (11) Citizen participation and coordination. Encourage the
2 involvement of citizens in the planning process and ensure
3 coordination between communities and jurisdictions to reconcile
4 conflicts.

5 (12) Public facilities and services. Ensure that those public
6 facilities and services necessary to support development shall be
7 adequate to serve the development at the time the development is
8 available for occupancy and use without decreasing current service
9 levels below locally established minimum standards.

10 (13) Historic preservation. Identify and encourage the
11 preservation of lands, sites, and structures, that have historical or
12 archaeological significance.

13 (14) Salmon recovery. Support the recovery and enhancement of
14 salmon and steelhead stocks through the advancement of net ecological
15 gain from planning under this chapter in accordance with rules
16 adopted pursuant to this act in order to fulfill Washington's tribal
17 treaty obligations, support nontribal commercial and recreational
18 fisheries, and achieve the delisting and recovery of threatened or
19 endangered salmon and steelhead runs under the federal endangered
20 species act.

21 **Sec. 4.** RCW 36.70A.070 and 2021 c 254 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) 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 The land use element shall include population densities, building
38 intensities, and estimates of future population growth. The land use
39 element shall provide for protection of the quality and quantity of

1 groundwater used for public water supplies. Wherever possible, the
2 land use element should consider utilizing urban planning approaches
3 that promote physical activity. Where applicable, the land use
4 element shall review drainage, flooding, and stormwater runoff in the
5 area and nearby jurisdictions and provide guidance for corrective
6 actions to mitigate or cleanse those discharges that pollute waters
7 of the state, including Puget Sound or waters entering Puget Sound.

8 (b) Beginning with plan updates adopted after January 1, 2024, in
9 counties located to the west of the crest of the Cascade mountains,
10 the land use element must, in accordance with rules adopted pursuant
11 to this act, include a strategy that, through a combination of
12 regulatory and nonregulatory programs, achieves net ecological gain
13 of in-water and upland habitats that contribute to anadromous fish
14 habitat on a watershed basis, including applicable elements of salmon
15 recovery plans adopted pursuant to either the federal endangered
16 species act or chapter 77.85 RCW, such as vegetation, water quantity,
17 water quality, and other natural features. This strategy must be
18 developed after providing notice and an opportunity to consult to
19 each federally recognized Indian tribe with property, tribal
20 reservation land, or usual and accustomed fishing areas in, adjacent
21 to, or directly affected by the planning jurisdiction. The
22 advancement of net ecological gain may rely on activities carried out
23 by a county or city that are physically located outside the county or
24 city if the activities occur within the same watershed. Development
25 regulations adopted pursuant to this section may not require
26 individual private projects to contribute to net ecological gain.
27 Development regulations adopted pursuant to this section must require
28 that projects owned by public entities including, but not limited to,
29 state agencies, counties, cities, towns, public utility districts,
30 schools, libraries, and transportation agencies, contribute to net
31 ecological gain. In the course of complying with development
32 regulations adopted pursuant to this subsection, projects owned by
33 public entities' net ecological gain contribution must be additive to
34 salmon recovery or restoration projects that are funded and
35 implemented by other entities.

36 (2) A housing element ensuring the vitality and character of
37 established residential neighborhoods that:

38 (a) Includes an inventory and analysis of existing and projected
39 housing needs that identifies the number of housing units necessary

1 to manage projected growth, as provided by the department of
2 commerce, including:

3 (i) Units for moderate, low, very low, and extremely low-income
4 households; and

5 (ii) Emergency housing, emergency shelters, and permanent
6 supportive housing;

7 (b) Includes a statement of goals, policies, objectives, and
8 mandatory provisions for the preservation, improvement, and
9 development of housing, including single-family residences, and
10 within an urban growth area boundary, moderate density housing
11 options including(~~(+)~~), but not limited to, duplexes, triplexes,
12 and townhomes;

13 (c) Identifies sufficient capacity of land for housing including,
14 but not limited to, government-assisted housing, housing for
15 moderate, low, very low, and extremely low-income households,
16 manufactured housing, multifamily housing, group homes, foster care
17 facilities, emergency housing, emergency shelters, permanent
18 supportive housing, and within an urban growth area boundary,
19 consideration of duplexes, triplexes, and townhomes;

20 (d) Makes adequate provisions for existing and projected needs of
21 all economic segments of the community, including:

22 (i) Incorporating consideration for low, very low, extremely low,
23 and moderate-income households;

24 (ii) Documenting programs and actions needed to achieve housing
25 availability including gaps in local funding, barriers such as
26 development regulations, and other limitations;

27 (iii) Consideration of housing locations in relation to
28 employment location; and

29 (iv) Consideration of the role of accessory dwelling units in
30 meeting housing needs;

31 (e) Identifies local policies and regulations that result in
32 racially disparate impacts, displacement, and exclusion in housing,
33 including:

34 (i) Zoning that may have a discriminatory effect;

35 (ii) Disinvestment; and

36 (iii) Infrastructure availability;

37 (f) Identifies and implements policies and regulations to address
38 and begin to undo racially disparate impacts, displacement, and
39 exclusion in housing caused by local policies, plans, and actions;

1 (g) Identifies areas that may be at higher risk of displacement
2 from market forces that occur with changes to zoning development
3 regulations and capital investments; and

4 (h) Establishes antidisplacement policies, with consideration
5 given to the preservation of historical and cultural communities as
6 well as investments in low, very low, extremely low, and moderate-
7 income housing; equitable development initiatives; inclusionary
8 zoning; community planning requirements; tenant protections; land
9 disposition policies; and consideration of land that may be used for
10 affordable housing.

11 In counties and cities subject to the review and evaluation
12 requirements of RCW 36.70A.215, any revision to the housing element
13 shall include consideration of prior review and evaluation reports
14 and any reasonable measures identified. The housing element should
15 link jurisdictional goals with overall county goals to ensure that
16 the housing element goals are met.

17 (3) A capital facilities plan element consisting of: (a) An
18 inventory of existing capital facilities owned by public entities,
19 showing the locations and capacities of the capital facilities that
20 includes a schedule for the elimination of all identified fish
21 passage barriers, consistent with the prioritization schedule
22 identified by the fish passage barrier removal board established
23 pursuant to RCW 77.95.160, or by the local jurisdiction with
24 coordination and collaboration from the department of fish and
25 wildlife and the local federally recognized tribe or tribes, but not
26 otherwise included in the transportation and open space elements; (b)
27 a forecast of the future needs for such capital facilities; (c) the
28 proposed locations and capacities of expanded or new capital
29 facilities; (d) at least a six-year plan that will finance such
30 capital facilities within projected funding capacities and clearly
31 identifies sources of public money for such purposes; and (e) a
32 requirement to reassess the land use element if probable funding
33 falls short of meeting existing needs and to ensure that the land use
34 element, capital facilities plan element, and financing plan within
35 the capital facilities plan element are coordinated and consistent.
36 Park and recreation facilities shall be included in the capital
37 facilities plan element. For the purposes of the requirement in this
38 subsection to include a schedule for the elimination of all
39 identified fish passage barriers, "capital facilities" do not include
40 any facility covered by a hydropower license issued by the federal

1 energy regulatory commission or included in a habitat conservation
2 plan approved under the federal endangered species act.

3 (4) A utilities element consisting of the general location,
4 proposed location, and capacity of all existing and proposed
5 utilities, including, but not limited to, electrical lines,
6 telecommunication lines, and natural gas lines.

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

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

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

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

30 (i) Containing or otherwise controlling rural development;

31 (ii) Assuring visual compatibility of rural development with the
32 surrounding rural area;

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

35 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
36 and surface water and groundwater resources; and

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

39 (d) Limited areas of more intensive rural development. Subject to
40 the requirements of this subsection and except as otherwise

1 specifically provided in this subsection (5)(d), the rural element
2 may allow for limited areas of more intensive rural development,
3 including necessary public facilities and public services to serve
4 the limited area as follows:

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

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

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

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

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

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

1 according to RCW 36.70A.030(~~((23))~~) (22). Rural counties may also
2 allow new small-scale businesses to utilize a site previously
3 occupied by an existing business as long as the new small-scale
4 business conforms to the rural character of the area as defined by
5 the local government according to RCW 36.70A.030(~~((23))~~) (22). Public
6 services and public facilities shall be limited to those necessary to
7 serve the isolated nonresidential use and shall be provided in a
8 manner that does not permit low-density sprawl;

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

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

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

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

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

38 (e) Exception. This subsection shall not be interpreted to permit
39 in the rural area a major industrial development or a master planned

1 resort unless otherwise specifically permitted under RCW 36.70A.360
2 and 36.70A.365.

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

5 (a) The transportation element shall include the following
6 subelements:

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

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

14 (iii) Facilities and services needs, including:

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

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

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

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

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

7 (F) Identification of state and local system needs to meet
8 current and future demands. System needs must include a schedule for
9 the elimination of all identified fish passage barriers, consistent
10 with the prioritization schedule either identified by the fish
11 passage barrier removal board established pursuant to RCW 77.95.160,
12 or by the local jurisdiction with coordination and collaboration from
13 the department of fish and wildlife and local federally recognized
14 tribes, identified on the local transportation system. Identified
15 needs on state-owned transportation facilities must be consistent
16 with the statewide multimodal transportation plan required under
17 chapter 47.06 RCW. For the purposes of the requirement in this
18 subsection to include a schedule for the elimination of all
19 identified fish passage barriers, "system needs" may not be construed
20 so as to include any facility covered by a hydropower license issued
21 by the federal energy regulatory commission or included in a habitat
22 conservation plan approved under the federal endangered species act;

23 (iv) Finance, including:

24 (A) An analysis of funding capability to judge needs against
25 probable funding resources;

26 (B) A multiyear financing plan based on the needs identified in
27 the comprehensive plan, the appropriate parts of which shall serve as
28 the basis for the six-year street, road, or transit program required
29 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
30 35.58.2795 for public transportation systems. The multiyear financing
31 plan should be coordinated with the ten-year investment program
32 developed by the office of financial management as required by RCW
33 47.05.030;

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

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

1 (vi) Demand-management strategies;

2 (vii) Pedestrian and bicycle component to include collaborative
3 efforts to identify and designate planned improvements for pedestrian
4 and bicycle facilities and corridors that address and encourage
5 enhanced community access and promote healthy lifestyles.

6 (b) After adoption of the comprehensive plan by jurisdictions
7 required to plan or who choose to plan under RCW 36.70A.040, local
8 jurisdictions must adopt and enforce ordinances which prohibit
9 development approval if the development causes the level of service
10 on a locally owned transportation facility to decline below the
11 standards adopted in the transportation element of the comprehensive
12 plan, unless transportation improvements or strategies to accommodate
13 the impacts of development are made concurrent with the development.
14 These strategies may include increased public transportation service,
15 ride-sharing programs, demand management, and other transportation
16 systems management strategies. For the purposes of this subsection
17 (6), "concurrent with the development" means that improvements or
18 strategies are in place at the time of development, or that a
19 financial commitment is in place to complete the improvements or
20 strategies within six years. If the collection of impact fees is
21 delayed under RCW 82.02.050(3), the six-year period required by this
22 subsection (6)(b) must begin after full payment of all impact fees is
23 due to the county or city.

24 (c) The transportation element described in this subsection (6),
25 the six-year plans required by RCW 35.77.010 for cities, RCW
26 36.81.121 for counties, and RCW 35.58.2795 for public transportation
27 systems, and the ten-year investment program required by RCW
28 47.05.030 for the state, must be consistent.

29 (7) An economic development element establishing local goals,
30 policies, objectives, and provisions for economic growth and vitality
31 and a high quality of life. A city that has chosen to be a
32 residential community is exempt from the economic development element
33 requirement of this subsection.

34 (8) A park and recreation element that implements, and is
35 consistent with, the capital facilities plan element as it relates to
36 park and recreation facilities. The element shall include: (a)
37 Estimates of park and recreation demand for at least a ten-year
38 period; (b) an evaluation of facilities and service needs; and (c) an
39 evaluation of intergovernmental coordination opportunities to provide
40 regional approaches for meeting park and recreational demand.

1 (9) It is the intent that new or amended elements required after
2 January 1, 2002, be adopted concurrent with the scheduled update
3 provided in RCW 36.70A.130. Requirements to incorporate any such new
4 or amended elements shall be null and void until funds sufficient to
5 cover applicable local government costs are appropriated and
6 distributed by the state at least two years before local government
7 must update comprehensive plans as required in RCW 36.70A.130.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A
9 RCW to read as follows:

10 (1) The department of fish and wildlife, with recommendations
11 from the Washington state academy of sciences, shall adopt rules that
12 establish criteria for net ecological gain and consistency with the
13 applicable regional salmon recovery plans that counties and cities
14 planning under RCW 36.70A.040 and that are located west of the crest
15 of the Cascade mountains must meet through adoption of their
16 comprehensive plans in order to support salmon recovery. In adopting
17 rules pursuant to this section, the department of fish and wildlife
18 must consult on an early and continuous basis with each federally
19 recognized Indian tribe with property, tribal reservation land, or
20 usual and accustomed fishing areas in, adjacent to, or directly
21 affected by the planning jurisdiction and with each regional salmon
22 recovery board. The department must also communicate with regional
23 salmon recovery organizations and governments planning under RCW
24 36.70A.040 during the process of adopting rules pursuant to this
25 section.

26 (2) The rules adopted under this section must address the
27 applicable components of salmon recovery plans that local governments
28 have authority over, such as the habitat restoration and protection
29 elements of the recovery plans.

30 (3) The rules adopted under this section must ensure that, where
31 appropriate, the interjurisdictional coordination process required by
32 RCW 36.70A.100 addresses the issue of salmon recovery.

33 (4) The rules adopted under this section must not require or
34 assume that the proponents of individual private projects will be
35 responsible for achieving net ecological gain. Rules adopted under
36 this section must ensure that individual private projects achieve no
37 net loss of ecological function.

38 (5) The rules adopted under this section must not establish
39 minimum riparian buffer widths. The legislature intends to allow for

1 the governor's government-to-government process and stakeholder work
2 regarding fully functioning riparian habitats to be the venue for the
3 discussion of riparian protection and restoration standards.

4 (6) Rules adopted under this section to evaluate whether a local
5 government's performance achieves net ecological gain of in-water and
6 upland habitats that contribute to anadromous fish habitat on a
7 watershed basis must consider the implication of all projects and
8 activities. This evaluation shall consider publicly funded projects,
9 voluntary projects, and publicly owned projects.

10 (7) Rules adopted under this section related to net ecological
11 gain must account for the impact of the urban heat island effect on
12 ecological function.

13 (8) The rules adopted under this section do not apply to RCW
14 36.70A.700 through 36.70A.904, the voluntary stewardship program.

15 (9) The department of fish and wildlife shall work with other
16 state agencies, local governments, federally recognized Indian
17 tribes, and regional salmon recovery boards to monitor and report on
18 progress towards the goals set forth in the regional salmon recovery
19 plans, including parameters that affect salmonid health, including
20 properly functioning watershed conditions. As part of its monitoring,
21 and as appropriate, the department of fish and wildlife shall obtain
22 monitoring data from relevant and reliable sources including, but not
23 limited to, local governments, state agencies, federal agencies, and
24 Indian tribes. In addition, the department of fish and wildlife shall
25 also monitor and report the progress that each jurisdiction planning
26 under RCW 36.70A.040 has made toward achieving no net loss of
27 ecological function and net ecological gain. As part of this ongoing
28 monitoring effort, the department of fish and wildlife, in early and
29 continuous consultation with each federally recognized Indian tribe
30 with property, tribal reservation land, or usual and accustomed
31 fishing areas in, adjacent to, or directly affected by the planning
32 jurisdiction, and in communication with the affected local
33 governments and salmon recovery regional boards, shall first
34 establish the current watershed function conditions within each
35 county and city planning under RCW 36.70A.040, identify any
36 monitoring data gaps and make recommendations to fill those gaps, and
37 monitor the degree to which each jurisdiction is successful at
38 achieving net ecological gains, and no net losses through individual
39 projects, over time, including, where appropriate, the efforts made
40 by jurisdictions to address the effect of urban heat islands on

1 salmonid health. The department of fish and wildlife is encouraged to
2 work with or seek feedback from the local watershed groups in review
3 of the current environmental baseline conditions and monitoring
4 efforts.

5 (10) The department of fish and wildlife shall establish an
6 advisory group to assist with the implementation of this policy. This
7 advisory group shall at a minimum include: Federally recognized
8 tribes, local governments, state agencies, regional salmon recovery
9 interests, agricultural interests, environmental organizations,
10 business interests, human health and well-being interests, and
11 diversity, equity and inclusion interests.

12 (11) The department of fish and wildlife shall facilitate an
13 ongoing and collaborative process for the purpose of identifying gaps
14 and targets related to salmon habitat and funding, to be informed by
15 its monitoring work pursuant to this section.

16 (12) The department of fish and wildlife shall provide a report
17 of its monitoring under this section to the governor, the appropriate
18 committees of the legislature, and the local governments subject to
19 this act, no later than October 15th of every even-numbered year,
20 beginning in 2022.

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

23 Nothing in this act is intended to reduce mitigation requirements
24 under other applicable state and federal environmental laws.

25 NEW SECTION. **Sec. 7.** The obligation of local governments to
26 comply with the requirements established in: (a) The amendments to
27 RCW 36.70A.020 and 36.70A.070 set forth in this act; and (b) the
28 rules related to net ecological gain adopted pursuant to section 5 of
29 this act, is contingent on the provision of state funding to local
30 governments for the specific purpose of complying with these
31 requirements. The obligation of local governments to comply with the
32 requirements established in: (a) The amendments to RCW 36.70A.020 and
33 36.70A.070 set forth in this act; and (b) the rules related to net
34 ecological gain adopted pursuant to section 5 of this act, takes
35 effect two years after the date the legislature appropriates state
36 funding to provide to local governments for the purpose of complying
37 with these requirements.

1 NEW SECTION. **Sec. 8.** If specific funding for the purposes of
2 this act, referencing this act by bill or chapter number, is not
3 provided by June 30, 2022, in the omnibus appropriations act, this
4 act is null and void."

E2SHB 1117 - S COMM AMD

By Committee on Housing & Local Government

5 On page 1, line 2 of the title, after "framework;" strike the
6 remainder of the title and insert "amending RCW 36.70A.030,
7 36.70A.020, and 36.70A.070; adding new sections to chapter 36.70A
8 RCW; and creating new sections."

EFFECT: Removes the definition of mitigation hierarchy requirement from the Growth Management Act (GMA). Adds a new term for properly functioning watershed conditions under the GMA as watershed conditions that are necessary for salmon to survive including forest cover, floodplains, instream habitats, fish passage, riparian habitats, water quality and quantity, and impervious surface levels. Restricts the requirement that by January 1, 2024, the land use element of a comprehensive plan must include a strategy for the recovery of salmon to counties west of the crest of the Cascade mountains. Clarifies that projects owned by public entities net ecological gain contribution must be additive to salmon recovery or salmon restoration projects. Restricts the requirement for the Department of Fish and Wildlife to adopt rules that establish criteria for net ecological gain which certain counties and cities must meet through adoption of comprehensive plans to counties west of the crest of the Cascade mountains. Specifies that rules adopted for net ecological gain by the WDFW must not establish minimum riparian buffer widths and that the Governor's government-to-government process will be the venue for the discussion of riparian protection and restoration standards. Adds that rules adopted by WDFW for net ecological gain to evaluate whether a local government's performance achieves net ecological gain must consider the implication of all projects and activities and adds that the evaluation shall consider publicly funded projects, voluntary projects, and publicly owned projects. Specifies that rules adopted for net ecological gain do not apply to the Voluntary Stewardship Program. Adds that the WDFW must establish an advisory group to assist with implementation of the net ecological gain policy. Removes the requirement for development regulations that protect critical areas to apply mitigation hierarchy requirements and compensatory mitigation requirements. Removes the requirement for mitigation imposed under the Aquatic Resources Mitigation Act and the Shoreline Management Act must apply mitigation hierarchy requirements and compensatory mitigation requirements.

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