

HOUSE BILL REPORT

HB 1099

As Reported by House Committee On:
Environment & Energy

Title: An act relating to improving the state's climate response through updates to the state's comprehensive planning framework.

Brief Description: Improving the state's climate response through updates to the state's comprehensive planning framework.

Sponsors: Representatives Duerr, Fitzgibbon, Dolan, Bateman, Ramel, Gregerson, Goodman, Ryu, Kloba, Chopp, Ormsby, Pollet, Fey, Santos and Davis.

Brief History:

Committee Activity:

Environment & Energy: 1/19/21, 1/29/21 [DPS].

Brief Summary of Substitute Bill

- Adds a goal of climate change mitigation to the listed goals of the Growth Management Act (GMA).
- Adds a climate change and resiliency element to the list of elements that must be included within the comprehensive plans that certain counties and cities must adopt under the GMA.
- Requires the Department of Commerce (Commerce), in consultation with other state agencies, to publish guidelines that specify a set of actions counties and cities have available to them to take related to greenhouse gas (GHG) emissions reductions and vehicle miles traveled (VMT) reductions.
- Requires the climate change and resiliency element of the comprehensive plan of certain counties and cities to identify actions the jurisdiction will take, consistent with guidelines adopted by Commerce, to reduce GHG emissions and VMT.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Requires the climate change and resiliency element of the comprehensive plan of certain counties and cities to address the adverse impacts of climate change on people, property, and ecological systems.
- Specifies the process by which the GHG emissions reduction subelement of the climate change and resiliency element takes effect.
- Requires Commerce to adopt guidance that creates a model climate change and resiliency element.
- Requires the Department of Ecology to update its Shoreline Master Program guidelines to require Shoreline Master Programs to address the impact of sea level rise and increased storm severity.
- Adds consideration of climate change impacts to the list of elements that must be contained in optional comprehensive flood control management plans.
- Makes other changes.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Berry, Fey, Harris-Talley, Ramel, Shewmake and Slatter.

Minority Report: Do not pass. Signed by 5 members: Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno, Boehnke and Goehner.

Staff: Robert Hatfield (786-7117).

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 designation 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. These jurisdictions are sometimes referred to as "fully planning" under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive

land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. Comprehensive plans must contain certain required elements, including a transportation element, a land use element, and a capital facilities plan element, among others. In developing their comprehensive plans, counties and cities must consider various goals set forth in statute, including, for example, urban growth, housing, and economic development.

Growth Management Act—Comprehensive Plan Updates.

Counties and cities are required to review and, if needed, revise their comprehensive plans and development regulations every eight years. Counties, and the cities within them, are grouped into four different year classes for purposes of when the obligation to review and revise their comprehensive plans commence. The next round of required comprehensive plan updates begins with King, Kitsap, Snohomish, and Pierce counties, and the cities within those counties, in 2024.

Greenhouse Gas Emissions Reductions.

Washington first enacted legislation in 2008 that set a series of limits on the emission of greenhouse gases (GHGs) within the state. Those limits were modified by legislation enacted in 2020, such that Washington must limit anthropogenic emissions of GHGs to achieve the following reductions for the state:

- By 2020, reduce overall emissions of GHGs in the state to 1990 levels, or 90.5 million metric tons.
- By 2030, reduce overall emissions of GHGs in the state to 45 percent below 1990 levels, or 50 million metric tons.
- By 2040, reduce overall emissions of GHGs in the state to 70 percent below 1990 levels, or 27 million metric tons.
- By 2050, reduce overall emissions of GHGs in the state to 95 percent below 1990 levels, or 5 million metric tons, and achieve net-zero GHG emissions.

State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land-use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that the SEPA checklist process identifies as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an Environmental Impact Statement.

Regional Transportation Planning Organizations.

A Regional Transportation Planning Organization is a voluntary association of local governments within a county, or within geographically contiguous counties, created primarily to prepare regional transportation plans, to ensure local and regional coordination of transportation planning, and to maintain a six-year regional transportation improvement program.

Comprehensive Flood Control Management Plans.

Counties may adopt comprehensive flood control management plans for any drainage basin that is located wholly or partially within the county. Whenever any river flows through two counties, the counties may contract with each other for purposes of flood control and settling disputes regarding flood control.

Shoreline Master Programs.

The Shoreline Management Act (SMA) involves a cooperative regulatory approach between local governments and the state. The Department of Ecology and local governments are authorized to adopt necessary and appropriate rules for implementing the provisions of the SMA. At the local level, SMA regulations are developed in local Shoreline Master Programs. All counties and cities with shorelines of the state are required to adopt Shoreline Master Programs that regulate land-use activities in shoreline areas of the state.

Summary of Substitute Bill:

Goals of the Growth Management Act—Climate Change.

The issue of climate change is added as a goal of the Growth Management Act (GMA). Under the climate change goal, comprehensive plans, development regulations, and regional plans must support state greenhouse gas (GHG) emissions reduction goals and foster resiliency to climate impacts and natural hazards, among other requirements.

Growth Management Act—Elements of Comprehensive Plans.

The land use element of comprehensive plans should give special consideration to achieving environmental justice in its goals and policies. In addition, the land use element must avoid creating or worsening environmental health disparities. The land use element must also reduce and mitigate the risk to lives and property posed by wildfires including, but not limited to, by reducing residential development in the wildland urban interface area.

The forecasts of traffic demand contained within the transportation element of comprehensive plans must address forecasts of multimodal transportation demands and needs within cities and urban growth areas, and forecasts of traffic demands and needs

outside of cities and urban growth areas, to inform the development of a transportation element that balances transportation system safety and convenience to accommodate all users of the transportation system to safely, reliably, and efficiently provide access and mobility to people and goods.

A development approval may not be denied because it fails to meet traffic level of service standards if it is possible to provide for the transportation needs of a development through pedestrian and bicycle facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, or other transportation systems management strategies funded by the development.

The park and recreation element of comprehensive plans must include a consideration of the health disparities map, published by the Department of Health (Health), to increase greenspace in the most pollution-burdened locations.

Growth Management Act—Climate Change and Resiliency Element.

Comprehensive plans must include a climate change and resiliency element. The element must be designed to result in reductions in overall GHG emissions and must enhance resiliency to and avoid the adverse impacts of climate change. The climate change and resiliency element is divided into two subelements: a GHG emissions reduction subelement and a resiliency subelement. The GHG emissions reduction subelement is mandatory for the counties and cities described below and encouraged for all other jurisdictions. The resiliency subelement is mandatory for all counties and cities fully planning under the GMA and is encouraged for all other jurisdictions.

The GHG emissions reduction subelement of the comprehensive plan, and its related development regulations, must identify the actions the jurisdiction will take during the planning cycle consistent with the guidelines published by the Department of Commerce (Commerce) that will:

- result in reductions in overall GHG emissions generated by the transportation and land use systems within the jurisdiction;
- result in reductions in vehicle miles traveled (VMT) within the jurisdiction; and
- prioritize reductions in communities that experience disproportionate impacts and harm due to air pollution in order to maximize the cobenefits of reduced air pollution.

Actions not specifically identified in the guidelines published by Commerce may be considered to be consistent with those guidelines only if they are projected to achieve GHG emissions reductions or VMT reductions equivalent to what would be required of the jurisdiction under Commerce's guidelines and they are supported by scientifically credible projections.

The resiliency subelement must, among other things, equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change on people, property,

and ecological systems through goals, policies, and programs consistent with the best available science and scientifically credible climate projections and impact scenarios. A natural hazard mitigation plan or similar plan that complies with the applicable requirements of the GMA may be adopted by reference to satisfy those requirements.

Applicability of the Greenhouse Gas Emissions Reduction Subelement.

The requirements of the GHG emissions reduction subelement of the climate change and resiliency element apply only to those counties that are required or that choose to plan fully under the GMA, and the cities within them, that meet either of the following criteria as of January 1, 2021:

- a county with a population density of at least 100 people per square mile and a population of at least 200,000; or
- a county with a population density of at least 75 people per square mile and an annual growth rate of at least 1.75 percent as determined by the Office of Financial Management.

Once a county meets either of the sets of criteria described above, the requirement to conform with the GHG emissions reduction subelement of the climate change and resiliency element remains in effect, even if the county no longer meets one of these sets of criteria.

If the population of a county that previously had not been required to conform with the GHG emissions reduction subelement of the climate change and resiliency element changes such that the county meets either of the sets of criteria described above, the county, and the cities within that county, must adopt a GHG emissions reduction subelement at the next scheduled update of the comprehensive plan.

Greenhouse Gas Emissions Reduction and Vehicle Miles Traveled Reduction Guidelines.

Commerce, in consultation with the Department of Ecology (Ecology), Health, and the Department of Transportation (WSDOT), must publish guidelines that specify a set of measures that counties and cities have available to them to take through updates to their comprehensive plans and development regulations that have a demonstrated ability to reduce GHG emissions in order to achieve statewide GHG emissions reductions required by the state Clean Air Act, allowing for consideration of the emissions reductions achieved through the adoption of statewide programs. The guidelines must prioritize reductions in communities that have experienced disproportionate harm due to air pollution.

Commerce, in consultation with WSDOT, must also publish guidelines that specify a set of measures that counties and cities have available to them to take through updates to their comprehensive plans and development regulations that have a demonstrated ability to reduce VMT.

Commerce must publish the full set of GHG emissions reduction and VMT reduction

guidelines no later than December 31, 2025. Commerce must update the guidelines at least every four years based on the most recently available data, and must provide a process for local governments and other interested parties to submit alternative actions for possible inclusion into the guidelines at least once per year. Commerce must publish an intermediate set of guidelines no later than December 31, 2022, for use by local governments whose comprehensive plan updates are required to occur prior to December 31, 2025.

In any updates to the guidelines published after 2025, Commerce must include a determination of whether adequate progress has been made toward statewide GHG emissions reduction and VMT reduction goals. If adequate progress has not been made, Commerce must identify in the guidelines what additional measures counties and cities must take in order to make further progress.

Greenhouse Gas Emissions Reduction —Process for Adoption.

Upon receipt of a proposed GHG emissions reduction subelement, Commerce must first provide notice and an opportunity for comment to all persons, groups, and agencies that have requested in writing notice of the proposed subelement. Commerce may, at its discretion, conduct a public hearing in the jurisdiction proposing the subelement. The comment period must be at least 30 days.

Within 15 days of the close of the comment period, Commerce must request that the local government address the comments raised during the comment period and provide a written response as to how the proposal addresses the identified issues. Within 30 days of receiving the local government's response, Commerce must make written findings and conclusions regarding the consistency of the proposal with the requirements of the GMA and the applicable guidelines adopted by Commerce, and provide a response to the issues identified during the comment period. Commerce must either approve the GHG emissions reduction subelement as submitted, recommend specific changes, or deny the subelement in those instances in which no alteration of the GHG emissions reduction subelement appears likely to be consistent with the policy of the GMA and the applicable guidelines.

If Commerce recommends changes to the proposed GHG emissions reduction subelement, Commerce must require that the local government either agree to the proposed changes or submit an alternative GHG emissions reduction subelement.

Commerce must approve a proposed GHG emissions reduction subelement unless it determines that the proposed subelement is not consistent with the policy of the GMA or the applicable guidelines.

A GHG emissions reduction subelement takes effect once approved by Commerce. Commerce must maintain a record of each GHG emissions reduction subelement, the action taken on any proposed GHG emissions reduction subelement, and any appeal of Commerce's action. Commerce's approved document of record constitutes the official GHG

emissions reduction subelement.

Greenhouse Gas Emissions Reduction —Appeals.

Commerce's final decision to approve or reject a proposed GHG emissions reduction subelement or amendment may be appealed to the Growth Management Hearings Board (GMHB). The GMHB's decision concerning an appeal of Commerce's final decision to approve or reject a proposed GHG emissions reduction subelement or amendment must be based solely on whether or not the adopted or amended GHG emissions reduction subelement complies with the GMA's climate change goal, the guidelines adopted by Commerce related to GHG emissions reductions and VMT reductions, or the State Environmental Policy Act (SEPA).

Model Climate Change and Resiliency Element.

Commerce must develop, in collaboration with the departments of Ecology, Fish and Wildlife, Natural Resources, and Health, and the Emergency Management Division of the Washington Military Department, and adopt by rule a model climate change and resiliency element that may be used by counties, cities, and multiple-county planning regions for developing and implementing climate change and resiliency plans and policies.

Compilation of Vehicle Miles Traveled.

The WSDOT must compile, maintain, and publish a summary of the per capita VMT annually in each city in the state, and in the unincorporated portions of each county in the state.

Shoreline Master Program Guidelines.

Ecology must update its Shoreline Master Program guidelines to require Shoreline Master Programs to address the impact of sea level rise and increased storm severity on people, property, and shoreline natural resources and the environment.

State Environmental Policy Act—Appeals.

The adoption of ordinances, amendments to comprehensive plans, and other related nonproject actions taken by a county or city to implement the guidelines published by Commerce are not subject to appeal under the SEPA.

Comprehensive Flood Control Management Plan.

A comprehensive flood control management plan, if a county chooses to adopt such a plan, must include a consideration of climate change impacts, including the impact of sea level rise and increased storm severity on people, property, natural resources, and the

environment.

Growth Management Act—Definitions.

"Per capita vehicle miles traveled" means the number of miles traveled using cars and light trucks in a calendar year divided by the number of residents in Washington. The calculation of this value excludes vehicle miles driven conveying freight.

"Active transportation" means forms of pedestrian mobility including walking or running, the use of a mobility assistive device such as a wheelchair, bicycling and cycling irrespective of the number of wheels, and the use of small personal devices such as foot scooters or skateboards. Active transportation includes both traditional and electric-assist bicycles and other devices. Planning for active transportation must consider and address accommodation pursuant to the Americans with Disabilities Act and the distinct needs of each form of active transportation.

"Transportation system" means all infrastructure and services for all forms of transportation within a geographical area, irrespective of the responsible jurisdiction or transportation provider.

"Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to development, implementation, and enforcement of environmental laws, regulations, and policies; with a focus on the equitable distribution of resources, benefits, and burdens in a manner that prioritizes communities that experience the greatest inequities, disproportionate impacts, and have the greatest unmet needs.

Funding.

The requirements of the bill are subject to the availability of funds appropriated to support local governments for the specific purpose of complying with the bill. If sufficient funds are not appropriated consistent with the timelines set forth in the bill, counties and cities are not subject to the requirements set forth in the sections of the bill related to GMA goals and comprehensive plans, and instead those sections will apply as they exist on January 1, 2021.

Substitute Bill Compared to Original Bill:

The scope of counties and cities subject to the greenhouse gas (GHG) emissions reduction subelement is changed.

References to "pedestrian and bicycle facilities" in the context of the transportation element of comprehensive plans are changed to refer to "active transportation facilities."

The requirement for the transportation element of comprehensive plans to include forecasts

of multimodal transportation demand is changed to instead provide that the requirement to include forecasts of multimodal transportation demand and needs applies within cities and urban growth areas, and that the requirement to include forecasts of traffic demand and needs applies outside of cities and urban growth areas.

The requirement for the Department of Commerce (Commerce) to identify proportionate GHG emissions reductions and vehicle miles traveled (VMT) reductions that must be achieved by certain counties, cities, and Regional Transportation Planning Organizations is eliminated. Instead, Commerce is required to adopt guidelines that specify a set of actions that cities and counties have available to them to take related to GHG emissions reductions and VMT reductions.

The GHG emissions reduction subelement of comprehensive plans is modified to provide that jurisdictions must identify the actions the jurisdiction will take that are consistent with guidelines adopted by Commerce that will result in reductions in GHG emissions and VMT.

The requirement that certain Regional Transportation Planning Organizations adopt a regional GHG emissions and per capita vehicle miles reduction plan is eliminated.

Definitions for the following terms are added: "per capita vehicle miles traveled," "active transportation," "transportation system," and "environmental justice."

The requirement for the Department of Transportation to compile an annual summary of miles traveled is changed to a requirement to compile an annual summary of per capita VMT.

An exemption from appeals under the State Environmental Policy Act is added for amendments to comprehensive plans and other nonproject actions taken by a city or county in order to implement GHG emissions reduction and VMT reduction measures identified in guidelines adopted by Commerce.

Appropriation: None.

Fiscal Note: Requested on January 29, 2021.

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

Staff Summary of Public Testimony:

(In support) Land use planning is one of the biggest influences on transportation options. It is imperative to address climate change in comprehensive plans. There is a need to address the planning process that leads to extended commutes. The Growth Management Act is one

of the best tools for bringing about a healthier Washington, but it has failed to address climate change or affordable housing. The resiliency elements of the bill ask communities to design and invest in infrastructure that will help Washingtonians thrive in a new climate era. The transportation sector represents the single largest sector of greenhouse gas (GHG) emissions or about 45 percent of total emissions. It is important to look at per capita vehicle miles traveled (VMT) and to promote multimodal transportation access. A recent study showed that neighborhoods with good pedestrian access and transit access saw a significant reduction in GHG emissions compared to other neighborhoods. The year 2020 saw significant wildfires, impaired air quality, and evacuations. Some companies had to shut down because their employees could not work as a result of poor air quality. There needs to be a shared standard for actions that local governments must take to address climate change. There needs to be statewide programs and regional coordination to address climate change. This bill assists local governments in focusing on climate change and resiliency. Funding needs to be a part of this bill; without funding, compliance will be only half-hearted. The cost of not taking the actions will ultimately be far greater than the cost of taking the actions in the bill. The bill should address airplane emissions, and should include trees as part of the carbon solution. It is important to prioritize investments in communities that have been over-burdened with pollution. Auto-centric infrastructure is the most expensive form of infrastructure.

(Opposed) There is a concern about unfunded mandates. The bill will increase county costs. Counties often don't have the resources to meet current mandates, much less new ones. There needs to be more discussion about the emphasis on transportation in the bill. There needs to be a long-term, stable source of funding for planning efforts. Adding requirements under the Growth Management Act will add costs and time in order to get building permits. The bill would burden already under-resourced local governments. The obligation to reduce VMT could lead to legal liability for local governments. In the midst of a pandemic, it is not the time for a bill like this. Adding these obligations to the Growth Management Act doesn't address the need to provide a broad range of housing options. Some local governments are already addressing climate change according to their own local priorities. Climate change is real and needs to be addressed, but adding it to the Growth Management Act is not the right way to address it. There are better ways to address climate change, like cap and trade and electrification.

(Other) The path to addressing climate change passes through planning for growth and development. The requirement in the bill to assign proportionate GHG emissions reductions and VMT reductions is probably the most expensive part of the bill, and is not that critical. Resiliency planning and identifying needed actions are more important. There should be an alternative to having the Department of Commerce approve the GHG emissions reduction subelement. There needs to be more clarity around the guidelines adopted by the Department of Commerce.

Persons Testifying: (In support) Representative Duerr, prime sponsor; Kristiana de Leon, Black Diamond City Council; Steve Zemke, TreePAC; Bryce Yadon, Futurewise; Danielle

Shaw, Washington Environmental Council and Washington Conservation Voters; Bruce Wishart, Sierra Club; Jessica Forsythe, Redmond City Council; Breean Beggs, City of Spokane; Dawn Vyvyan, Puyallup Tribe; Cynthia Stewart, League of Women Voters of Washington; Maria Batayola, Beacon Hill Council Seattle; and Paulo Nunes-Ueno, Nunes-Ueno Consulting.

(Opposed) Paul Jewell, Washington State Association of Counties; Mike Ennis, Association of Washington Business; Jan Himebaugh, Building Industry Association of Washington; and Jeanette McKague, Washington Realtors.

(Other) Dave Andersen, Department of Commerce; Sean Eagan, Port of Tacoma; and Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.