

SENATE BILL REPORT

E2SHB 1099

As Passed Senate - Amended, March 3, 2022

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: House Committee on Appropriations (originally sponsored by Representatives Duerr, Fitzgibbon, Dolan, Bateman, Ramel, Gregerson, Goodman, Ryu, Kloba, Chopp, Ormsby, Pollet, Fey, Santos and Davis).

Brief History: Passed House: 1/21/22, 57-41.

Committee Activity: Housing & Local Government: 3/16/21, 3/24/21 [DPA-WM, DNP]; 2/01/22, 2/17/22 [DPA-WM, DNP].

Ways & Means: 3/27/21, 3/29/21 [DPA (HLG)-TRAN, DNP, w/oRec]; 2/24/22, 2/28/22 [DPA, DNP].

Transportation: 4/01/21.

Floor Activity: Passed Senate - Amended: 3/3/22, 31-16.

Brief Summary of Bill (As Amended by Senate)

- Adds a goal of environmental resiliency to the listed goals of the Growth Management Act (GMA).
- Adds an environmental resiliency element to the list of elements that must be included within the comprehensive plans certain counties and cities must adopt under the GMA.
- Requires the environmental resiliency element of the comprehensive plan of certain counties and cities to address the environmental related problems specific to a jurisdiction.
- Requires Commerce to adopt guidance that creates a model

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.

environmental 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 changing conditions impacts to the list of elements that must be contained in optional comprehensive flood control management plans.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Cleveland, Lovelett, Salomon and Trudeau.

Minority Report: Do not pass.

Signed by Senators Fortunato, Ranking Member; Gildon, Assistant Ranking Member; Sefzik, Warnick and Wilson, J.

Staff: Maggie Douglas (786-7279)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Billig, Carlyle, Conway, Dhingra, Hasegawa, Hunt, Keiser, Mullet, Pedersen, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Braun, Gildon, Muzzall, Rivers, Wagoner and Warnick.

Staff: Maggie Douglas (786-7279)

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. 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, which 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 year classes for 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 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 to 1990 levels, or 90.5 million metric tons;
- by 2030, reduce overall emissions of GHGs to 45 percent below 1990 levels, or 50 million metric tons;
- by 2040, reduce overall emissions of GHGs to 70 percent below 1990 levels, or 27 million metric tons; and
- by 2050, reduce overall emissions of GHGs 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 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 located wholly or partially within the county. Whenever any river flows through two counties, the counties may contract with each other for 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 Amended Bill: Goals of the Growth Management Act—Environmental Resiliency. The issue of environmental resiliency is added as a goal of the GMA. Under the environmental resiliency goal, comprehensive plans, development regulations, and regional plans must address jurisdictional needs for resilience to changing conditions and protect and enhance environmental, economic, and human health and safety.

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, incorporate greenspaces, and should 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 by using land use planning tools, which may include establishing development standards for 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 the state-owned or operated transit routes that serve them, 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 active transportation 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 (DOH), to increase

greenspace in the most pollution-burdened locations.

Growth Management Act—Environmental Resiliency Element. Comprehensive plans must include an environmental resiliency element. The element must be designed to address environmental related problems specific to the jurisdiction. These problems may include limiting damage from wildfires, sea level rise, addressing air quality issues, designing transportation systems that balance the needs of the jurisdiction and its people as well as environmental impacts.

The resiliency subelement must, among other things, equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, extreme weather eventson 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. A supplement to a natural hazard mitigation plan adopted by reference may be required if not all substantive requirements are met by the adopted plan.

If a county or city intends to incorporate by reference a Federal Emergency Management Agency (FEMA) natural hazard mitigation plan in order to meet the requirement of the resiliency subelement, and the natural hazard mitigation plan does not comply with the subelement requirements, Commerce may grant an extension for which the county or city may submit a natural hazard mitigation plan. An extension request is limited to a city or county required to review and, if needed, revise its comprehensive plan on or before June 30, 2025, or for a city or county with an existing, unexpired FEMA natural hazard mitigation plan scheduled to expire before December 31, 2024. Extension requests after July 1, 2027 may be granted if the requirements for the resiliency subelement are amended or added by the Legislature, or if Commerce finds other circumstances that may result in a potential finding of noncompliance.

Upon submission of an extension request to Commerce, a city or county may have an additional 48 months from the statutory review schedule to adopt by reference an updated FEMA natural hazard mitigation plan or adopt its own natural hazard mitigation plan.

Model Climate Change and Resiliency Element. Commerce must develop, in collaboration with the departments of Ecology, Fish and Wildlife, Natural Resources, and DOH, and the Emergency Management Division of the Washington Military Department, and adopt by rule a model environmental resiliency element that may be used by counties, cities, and multiple-county planning regions for developing and implementing environmental resiliency plans and policies. The model element must establish minimum requirements, including model options or voluntary cross-jurisdictional strategies.

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 changing conditions impacts, including the impact of sea level rise and increased storm severity on people, property, natural resources, and the environment.

Growth Management Act—Definitions. "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.

"Active transportation facilities" means facilities provided for the safety and mobility of active transportation users, including, but not limited to, trails, sidewalks, bike lanes, shared-use paths, and other facilities in the public right-of-way.

"Green infrastructure" means a wide array of natural assets, built structures, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.

Funding. The obligation of local governments to comply with the requirements established in the amendments to the requirements of comprehensive plans under the GMA and the updated shoreline master program guidelines adopted by Ecology is contingent on the

provision of state funding to local governments for the specific purpose of complying with these requirements. The obligation of local governments to comply with these requirements takes effect two years after the date the Legislature appropriates state funding to provide to local governments for complying with these requirements. All provisions requiring WSDOT to publish guidelines for updates to comprehensive plans are subject to appropriation.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

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 on Engrossed Second Substitute House Bill (Housing & Local Government) (Regular Session 2022):

The committee recommended a different version of the bill than what was heard. PRO: This bill directs local governments to address emissions and climate resiliency through land use planning. The bill reduces sprawl. We know that sprawl exacerbates climate change and the bill requires communities to design and invest in infrastructure that will help Washingtonians thrive in a new climate era. Additionally, it is important that large jurisdictions take on their share of mitigating climate change and do it in a way that is appropriate for their individual communities. Environmental justice is a critical portion of this bill. We would appreciate an incorporated commitment from the state to help address these goals, and we know that Commerce will be critical in supporting the outcomes of this bill.

CON: The state has provided an explicit commitment towards addressing climate change, but the bill distorts the balance of the goals of the Growth Management Act. The bill would add additional costs of construction and does not mitigate the additional burden that contractors will absorb as a result of additional regulations. This would have an adverse impact on permit delivery and cost of goods. This bill would push climate to the forefront of the GMA goals and trump the housing goal. We do agree with the resiliency subelement, that local governments do have the obligation to prepare for severe weather.

OTHER: We request that rural forest lands must not be exempt from the Growth Management Act. Section 4 directs counties to protect natural areas, which are currently undefined. This doesn't apply to GMA designated forest land of long term commercial significance, but any forest land that is larger than five acres and undeveloped. We would like to see the requirement that Commerce must approve the greenhouse gas emissions reduction subelement prior to local comprehensive plans going into effect to be amended to

read as voluntary. We would also like to see that Section 15 of the bill be amended to require that any funding provided is sufficient to cover complete costs so that it does not become an unfunded mandate.

Persons Testifying (Housing & Local Government): PRO: Representative Davina Duerr, Prime Sponsor; Joe A Kunzler, None; Victoria Hunt, Councilmember, City of Issaquah; Cynthia Stewart, League of Women Voters of Washington; Steve Zemke, Tree PAC; Bryce Yadon, Futurewise; Leah Missik, Climate Solutions; Danielle Shaw, WEC; Chris Covert-Bowlds, MD, WA Physicians for Social Responsibility; Gus Gates, Surfrider Foundation; Michael Shaw, American Planning Association Washington Chapter; Dave Andersen, Washington Department of Commerce; Dan Bertolet, Sightline Institute; Carl Schroeder, Association of Washington Cities.

CON: John Worthington, AAMC; Brent Ludeman, Building Industry Association of Washington; Bill Clarke, WA REALTORS; Mike Ennis, Association of Washington Business.

OTHER: Steve Erickson, Whidbey Environmental Action; ALLISON WARNER; Paul Jewell, Washington State Association of Counties; Kory Slaatthaug; Angie Homola.

Persons Signed In To Testify But Not Testifying (Housing & Local Government): No one.

Staff Summary of Public Testimony on Bill as Amended by Housing & Local Government (Ways & Means) (Regular Session 2022): *The committee recommended a different version of the bill than what was heard.* PRO: The vast majority of stakeholders are in support of this bill. To make this work, there needs to be funding for local jurisdictions. This bill makes an investment in many climate impacts that have bigger price tags when we do not prepare for them. This bill is very well timed. Communities of color are getting the worst impacts from climate change. It is encouraging to see the centering of environmental justice. We cannot continue to do business as usual, so it is important to include this new element in the growth management act. It is also important that environmental justice be considered. Whatcom County has seen the impacts of climate change. Climate impacts are costly when we do not prepare. This bill helps prepare the state in the long run. We appreciate that the bill acknowledges the importance of environmental planning. Planning is just the first step and cities need help for implementation as well. Cities need resources to plan for needs that our communities demand. We have had too many once in a life time climate events over the past years. This policy is important for children. Climate change is a health crisis for youth.

CON: Washington State has a housing affordability crisis. This bill makes our problems worse by slowing permitting and restricting use. Last year's budget includes new model ordinances, the growth management act is about solving local problems not global problems. You have already done a lot of planning, but this bill is based on the theory of global warming. The whole premise of the bill is a theory and has never been proved.

OTHER: The changes that have been made so far on the bill are appreciated. The new section six is a model that could be used as a model for other elements. Funding contingency is the main issue of the bill, as the bill does not require that funding is sufficient to cover costs to local governments. The purpose of section four is too strained and the proposal is too vague for implementation. The exemption for forest land is overly broad. Counties should plan for forest coverage for both habitat and climate purpose.

Persons Testifying (Ways & Means): PRO: Bryce Yadon, Futurewise; Danielle Shaw, Washington Environmental Council / Washington Conservation Voters; Guillermo Rogel, Front and Centered; Cynthia Stewart, League of Women Voters of WA; Kaylee Galloway, Councilmember, Whatcom County; Victoria Hunt, Councilmember, City of Issaquah; Kristiana de Leon, Councilmember, City of Black Diamond; Susan Baird-Joshi, Washington State PTA.

CON: Brent Ludeman, Building Industry Association of Washington; Bill Clarke, WA REALTORS; John Worthington; Sandy Rozumny , None.

OTHER: Paul Jewell, Washington State Association of Counties; Steve Erickson, Whidbey Environmental Action.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.