

SENATE BILL REPORT

SB 5971

As of February 17, 2022

Title: An act relating to the comprehensive plan and implementation of the goals and requirements of the growth management act.

Brief Description: Concerning the comprehensive plan and implementation of the goals and requirements of the growth management act.

Sponsors: Senators Lovelett and Nguyen.

Brief History:

Committee Activity: Housing & Local Government: 2/17/22.

Brief Summary of Bill

- Creates a comprehensive plan update and implementation account to assist local governments in the preparation of or amendment to comprehensive plans and/or development regulations.
- Authorizes the Department of Commerce to establish a safe harbor model ordinance that, once adopted by a city or county, is subject to a petition for review or appeal under limited circumstances.
- Defines parameters in which the Department of Commerce may administer the comprehensive plan update and implementation funds as well as standards of performance for local governments receiving funds.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

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. The GMA sets forth three broad planning obligations for those counties and cities who plan fully

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under the GMA: the county legislative authority must adopt a countywide planning policy; the county, and the cities within the county, must adopt comprehensive plans and designate critical areas, agricultural lands, forestlands, and mineral resource lands, and adopt development regulations accordingly; and the county must designate and take other actions related to urban growth areas (UGAs).

Growth Management Act—Comprehensive Plans and Development Regulations. The GMA directs planning jurisdictions to adopt internally consistent comprehensive land-use plans that are generalized, coordinated land-use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through locally adopted development regulations.

Growth Management Act—Technical Assistance, Procedural Criteria, Grants, and Mediation Services. The Department of Commerce (Commerce) provides technical and financial assistance and incentives to cities and counties to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations. Priority for assistance is provided based on a county or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, and other relevant factors. Commerce provides mediation services to resolve disputes between cities and counties regarding the coordination of regional issues and urban growth areas. Commerce provides planning grants to enhance citizen participation in the development and amendment of comprehensive plans and development regulations.

Growth Management Hearings Board. A five-member board established under the GMA is charged with hearing and determining petitions alleging noncompliance with the GMA by state agencies, counties, or cities. Petitions that relate to whether an adopted comprehensive plan or development regulation complies with the GMA must be filed within 60 days after publication of the action. For counties, the date of publication is the date the county publishes a notice it has adopted the comprehensive plan or development regulations. For cities, the date of publication is the date the city publishes the ordinance adopting the comprehensive plan or development regulations.

The Growth Management Hearings Board (GMHB) must issue its final decision and order within 180 days, with limited exceptions. In the final order, GMHB must either find the agency, county, or city in compliance or not in compliance. If found not in compliance, the matter is remanded back to the agency, county, or city and it has 180 days to come into compliance.

Summary of Bill: Comprehensive Plan Update and Implementation Account. Commerce must establish and administer a grant program to provide direct financial and technical assistance to counties and cities for the preparation of or amendment to comprehensive plans and development regulations. Grant money may be expended for any purpose directly

related to the preparation of or amendment to a county or city comprehensive plan and development regulations, including conducting surveys, inventories and other data gathering and management activities, retention of planning consultants, contracts with regional councils for planning purposes, and other related activities.

Comprehensive Plan Implementation Program. A city or county planning under the GMA may be eligible to receive state planning grants or loans if the jurisdiction adopts, as part of its operating budget, a comprehensive plan implementation program. The program must:

- list and prioritize legislative actions to implement the comprehensive plan, including development code updates and reforms, capital projects, intergovernmental planning agreements, or adaptive planning at a regional scale; and
- provide amendments to comprehensive plans required during the comprehensive plan review schedule.

The comprehensive plan implementation program must specify any financial and staff resources needed for each task, and include a projected schedule with target dates for processing, adoption, or effectuation of each task. The program must identify both near-term and long-term tasks, and give priority to the following state interests:

- increasing resiliency to the effects of climate change and natural hazards;
- increasing the supply, affordability, and diversity of housing options; and
- designing and implementing strategies to enhance human health, social equity, and environmental justice.

Prior to the distribution of funds, an eligible jurisdiction must submit a copy of its comprehensive plan implementation program to Commerce and enter into an agreement with Commerce to describe performance outcomes, schedule of milestones to document progress, and a process for the local government to take any corrective action if deemed necessary by Commerce.

Optional Safe Harbor Model Ordinance. Commerce must adopt by rule an optional safe harbor model ordinance to enable cities and counties to implement the goals and requirements of the comprehensive plan implementation program. The optional safe harbor model ordinance must include provisions that:

- increase resiliency to the effects of climate change and natural hazards;
- increase the supply, affordability, and diversity of housing forms; and
- design and implement strategies to enhance human health, social equity, and environmental justice.

The model ordinance must specify the circumstances and locations in which they may be adopted and enforced by a city or county. A jurisdiction's optional safe harbor model ordinance is not subject to petition review or an appeal, except for limited circumstances.

Appeal to Growth Management Hearings Board. The GMHB may hear and determine petitions alleging that an optional safe harbor model ordinance adopted by Commerce is not

in compliance with the goals and requirements of the GMA. The GMHB may also hear and determine petitions alleging that an optional safe harbor model ordinance adopted by a city or county is not consistent with Commerce's optional safe harbor model ordinance. A petition may be filed with a person who has participated orally or in writing before a county, city, or state agency.

Appropriation: None.

Fiscal Note: Requested on February 3, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We often talk about the goals of the comprehensive plans. The update process takes many years and involves a considerable amount of engagement. Sometimes the goals that are developed with a comprehensive plan remain goals, and never really make it into practice—just remaining on the books. The goal with this bill is to bring those two things into parallel—the goals and the practices needed to achieve those goals. This bill will provide the finances for local jurisdictions to meet goals with actual practices. The bill is meant to start a conversation and begin collaboration with other stakeholders.

OTHER: We are mostly in support of this bill. We need funding to meet local planning needs for GMA compliance and updates. We would prefer that the state fulfill its original process with funding GMA compliance and updates without any strings attached, but are appreciative of the effort to assist locals in meeting their planning goals. We will want to discuss the qualifying requirements for grants and loans as this progresses, and appreciate the language included about the optional safe harbor model ordinance. This program would be in line with best practices for the Department of Commerce and its growth management program. As its currently written, it applies to every fully planning city and county in the state. These procedural requirements can be very burdensome for smaller jurisdictions that don't have enough resources. We would respectfully request exempting smaller jurisdictions from the requirements of developing an implementation work program as a prerequisite for state financial assistance. We ask to reconsider the level of detail included in the implementation work program, including procedural requirements that go into the implementation work program. While the details included in the bill would produce positive outcomes for the program, there are multiple right ways to do this and providing flexibility for local governments will help different communities meet these goals.

Persons Testifying: PRO: Senator Liz Lovelett, Prime Sponsor.

OTHER: Paul Jewell, Washington State Association of Counties; Dave Andersen, Washington Department of Commerce.

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