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ENGROSSED SUBSTITUTE SENATE BILL 5275

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State of Washington

67th Legislature

2021 Regular Session

By Senate Housing & Local Government (originally sponsored by Senators Short, Lovelett, Das, Wellman, and Wilson, C.)

READ FIRST TIME 02/15/21.

1 AN ACT Relating to enhancing opportunity in limited areas of more  
2 intense rural development; and reenacting and amending RCW  
3 36.70A.070.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.70A.070 and 2017 3rd sp.s. c 18 s 4 and 2017 3rd  
6 sp.s. c 16 s 4 are each reenacted and amended to read as follows:

7 The comprehensive plan of a county or city that is required or  
8 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
9 and descriptive text covering objectives, principles, and standards  
10 used to develop the comprehensive plan. The plan shall be an  
11 internally consistent document and all elements shall be consistent  
12 with the future land use map. A comprehensive plan shall be adopted  
13 and amended with public participation as provided in RCW 36.70A.140.  
14 Each comprehensive plan shall include a plan, scheme, or design for  
15 each of the following:

16 (1) A land use element designating the proposed general  
17 distribution and general location and extent of the uses of land,  
18 where appropriate, for agriculture, timber production, housing,  
19 commerce, industry, recreation, open spaces, general aviation  
20 airports, public utilities, public facilities, and other land uses.  
21 The land use element shall include population densities, building

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

10 (2) A housing element ensuring the vitality and character of  
11 established residential neighborhoods that: (a) Includes an inventory  
12 and analysis of existing and projected housing needs that identifies  
13 the number of housing units necessary to manage projected growth; (b)  
14 includes a statement of goals, policies, objectives, and mandatory  
15 provisions for the preservation, improvement, and development of  
16 housing, including single-family residences; (c) identifies  
17 sufficient land for housing, including, but not limited to,  
18 government-assisted housing, housing for low-income families,  
19 manufactured housing, multifamily housing, and group homes and foster  
20 care facilities; and (d) makes adequate provisions for existing and  
21 projected needs of all economic segments of the community. In  
22 counties and cities subject to the review and evaluation requirements  
23 of RCW 36.70A.215, any revision to the housing element shall include  
24 consideration of prior review and evaluation reports and any  
25 reasonable measures identified.

26 (3) A capital facilities plan element consisting of: (a) An  
27 inventory of existing capital facilities owned by public entities,  
28 showing the locations and capacities of the capital facilities; (b) a  
29 forecast of the future needs for such capital facilities; (c) the  
30 proposed locations and capacities of expanded or new capital  
31 facilities; (d) at least a six-year plan that will finance such  
32 capital facilities within projected funding capacities and clearly  
33 identifies sources of public money for such purposes; and (e) a  
34 requirement to reassess the land use element if probable funding  
35 falls short of meeting existing needs and to ensure that the land use  
36 element, capital facilities plan element, and financing plan within  
37 the capital facilities plan element are coordinated and consistent.  
38 Park and recreation facilities shall be included in the capital  
39 facilities plan element.

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

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

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

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

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

28 (i) Containing or otherwise controlling rural development;

29 (ii) Assuring visual compatibility of rural development with the  
30 surrounding rural area;

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

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

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

37 (d) Limited areas of more intensive rural development. Subject to  
38 the requirements of this subsection and except as otherwise  
39 specifically provided in this subsection (5)(d), the rural element  
40 may allow for limited areas of more intensive rural development,

1 including necessary public facilities and public services to serve  
2 the limited area as follows:

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

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

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

16 (C) Any development or redevelopment in terms of building size,  
17 scale, use, or intensity (~~(shall be consistent with the character of~~  
18 ~~the existing areas)~~) may be permitted subject to confirmation from  
19 all existing providers of public facilities and public services of  
20 sufficient capacity of existing public facilities and public services  
21 to serve any new or additional demand from the new development or  
22 redevelopment. Development and redevelopment may include changes in  
23 use from vacant land or a previously existing use so long as the new  
24 use conforms to the requirements of this subsection (5) and is  
25 consistent with the local character. Any commercial development or  
26 redevelopment within a mixed-use area must be principally designed to  
27 serve the existing and projected rural population and must meet the  
28 following requirements:

29 (I) Any included retail or food service space must not exceed the  
30 footprint of previously occupied space or 5,000 square feet,  
31 whichever is greater, for the same or similar use; and

32 (II) Any included retail or food service space must not exceed  
33 2,500 square feet for a new use;

34 (ii) The intensification of development on lots containing, or  
35 new development of, small-scale recreational or tourist uses,  
36 including commercial facilities to serve those recreational or  
37 tourist uses, that rely on a rural location and setting, but that do  
38 not include new residential development. A small-scale recreation or  
39 tourist use is not required to be principally designed to serve the  
40 existing and projected rural population. Public services and public

1 facilities shall be limited to those necessary to serve the  
2 recreation or tourist use and shall be provided in a manner that does  
3 not permit low-density sprawl;

4 (iii) The intensification of development on lots containing  
5 isolated nonresidential uses or new development of isolated cottage  
6 industries and isolated small-scale businesses that are not  
7 principally designed to serve the existing and projected rural  
8 population and nonresidential uses, but do provide job opportunities  
9 for rural residents. Rural counties may allow the expansion of small-  
10 scale businesses as long as those small-scale businesses conform with  
11 the rural character of the area as defined by the local government  
12 according to RCW 36.70A.030(~~((+16))~~) (20). Rural counties may also  
13 allow new small-scale businesses to utilize a site previously  
14 occupied by an existing business as long as the new small-scale  
15 business conforms to the rural character of the area as defined by  
16 the local government according to RCW 36.70A.030(~~((+16))~~) (20). Public  
17 services and public facilities shall be limited to those necessary to  
18 serve the isolated nonresidential use and shall be provided in a  
19 manner that does not permit low-density sprawl;

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

38 (v) For purposes of this subsection (5)(d) (~~((of—this~~  
39 ~~subsection))~~), an existing area or existing use is one that was in  
40 existence:

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

3 (B) On the date the county adopted a resolution under RCW  
4 36.70A.040(2), in a county that is planning under all of the  
5 provisions of this chapter under RCW 36.70A.040(2); or

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

10 (e) Exception. This subsection shall not be interpreted to permit  
11 in the rural area a major industrial development or a master planned  
12 resort unless otherwise specifically permitted under RCW 36.70A.360  
13 and 36.70A.365.

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

16 (a) The transportation element shall include the following  
17 subelements:

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

19 (ii) Estimated traffic impacts to state-owned transportation  
20 facilities resulting from land use assumptions to assist the  
21 department of transportation in monitoring the performance of state  
22 facilities, to plan improvements for the facilities, and to assess  
23 the impact of land-use decisions on state-owned transportation  
24 facilities;

25 (iii) Facilities and services needs, including:

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

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

35 (C) For state-owned transportation facilities, level of service  
36 standards for highways, as prescribed in chapters 47.06 and 47.80  
37 RCW, to gauge the performance of the system. The purposes of  
38 reflecting level of service standards for state highways in the local  
39 comprehensive plan are to monitor the performance of the system, to  
40 evaluate improvement strategies, and to facilitate coordination

1 between the county's or city's six-year street, road, or transit  
2 program and the office of financial management's ten-year investment  
3 program. The concurrency requirements of (b) of this subsection do  
4 not apply to transportation facilities and services of statewide  
5 significance except for counties consisting of islands whose only  
6 connection to the mainland are state highways or ferry routes. In  
7 these island counties, state highways and ferry route capacity must  
8 be a factor in meeting the concurrency requirements in (b) of this  
9 subsection;

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

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

16 (F) Identification of state and local system needs to meet  
17 current and future demands. Identified needs on state-owned  
18 transportation facilities must be consistent with the statewide  
19 multimodal transportation plan required under chapter 47.06 RCW;

20 (iv) Finance, including:

21 (A) An analysis of funding capability to judge needs against  
22 probable funding resources;

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

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

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

38 (vi) Demand-management strategies;

39 (vii) Pedestrian and bicycle component to include collaborative  
40 efforts to identify and designate planned improvements for pedestrian

1 and bicycle facilities and corridors that address and encourage  
2 enhanced community access and promote healthy lifestyles.

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

21 (c) The transportation element described in this subsection (6),  
22 the six-year plans required by RCW 35.77.010 for cities, RCW  
23 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
24 systems, and the ten-year investment program required by RCW  
25 47.05.030 for the state, must be consistent.

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

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

38 (9) It is the intent that new or amended elements required after  
39 January 1, 2002, be adopted concurrent with the scheduled update  
40 provided in RCW 36.70A.130. Requirements to incorporate any such new



1 or amended elements shall be null and void until funds sufficient to  
2 cover applicable local government costs are appropriated and  
3 distributed by the state at least two years before local government  
4 must update comprehensive plans as required in RCW 36.70A.130.

--- **END** ---