

FINAL BILL REPORT

E2SHB 1181

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Synopsis as Enacted

Brief Description: Improving the state's response to climate change by updating the state's planning framework.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Duerr, Fitzgibbon, Berry, Peterson, Ryu, Alvarado, Taylor, Reed, Walen, Bateman, Ramel, Goodman, Doglio, Macri, Callan, Simmons, Lekanoff, Gregerson, Bergquist, Stonier, Pollet, Davis, Kloba, Riccelli, Mena and Tharinger; by request of Office of the Governor).

House Committee on Local Government

House Committee on Appropriations

Senate Committee on Local Government, Land Use & Tribal Affairs

Senate Committee on Ways & Means

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 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, land use element, utilities element, and 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.

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.

Growth Management Act—Comprehensive Plan Updates.

Counties and cities are required to review and, if needed, revise their comprehensive plans and development regulations every 10 years. Counties, and the cities within them, are grouped into four classes based on the year that their obligation to review and revise their comprehensive plans commences. The next round of required comprehensive plan updates begins with King, Kitsap, Snohomish, and Pierce Counties, and the cities within those counties, in 2024.

Implementation Progress Report.

Counties and cities planning under the GMA that meet certain population criteria must provide the Department of Commerce (Commerce) with an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan. If a city or county has not implemented any specific actions identified in the most recent update to their comprehensive plan, the city or county must identify the need for such action in the implementation progress report. Cities and counties must adopt a work plan to implement any necessary regulations, zoning and land use changes, or take other legislative or administrative action identified in the implementation progress report and complete all work necessary for implementation within two years of submission of the implementation progress report.

Greenhouse Gas Emissions and Per Capita Vehicle Miles Traveled Reductions.

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

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

The legislation enacted in 2008 also required the Department of Transportation (DOT) to adopt statewide goals to reduce annual per capita vehicle miles traveled (VMT) by 2050. Using a statewide baseline of 75 billion VMT, Washington must achieve the following reductions for the state:

- by 2020, reduce the annual per capita VMT by 18 percent;
- by 2035, reduce the annual per capita VMT by 30 percent; and
- by 2050, reduce the annual per capita VMT by 50 percent.

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.

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 Management Program.

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 (master programs). All counties and cities with shorelines of the state are required to adopt master programs that regulate land use activities in shoreline areas.

Technical Assistance.

Commerce is required to assist cities and counties, both with funding and with technical assistance, in the adoption of comprehensive plans. Commerce's assistance program must include a priority list for funding and technical assistance based on a county's or city's growth rate, commercial and industrial development rate, and the existence and quality of a comprehensive plan, among other factors. Commerce is also required to administer a grant program to provide direct financial assistance to local governments for the preparation of comprehensive plans. Other technical assistance required includes utilizing Commerce's staff and the staff of other agencies to assist in the development of comprehensive plans, including the provision of model land use ordinances, the adoption of procedural criteria, and regional education and training programs.

Water System Plans.

Certain water systems are required to submit water systems plans (WSP) to the Department of Health for review and approval. A WSP must develop and implement a technical, managerial, and financial plan appropriate to the system's size, complexity, and performance, as well as demographic changes, community-specific resource complaints, and planning history. A WSP must also be consistent with the GMA. The goal of a WSP is to identify current demands and future needs and apply available resources efficiently to

provide high quality service at a low cost while protecting community health.

A Group A community water system is classified as a community system with 15 or more connections that serves 25 or more people per day for 60 days or more per year. A Group A community water system must submit a WSP if it meets any of the following conditions:

- serves 1,000 or more connections;
- is a new Group A water system;
- proposes to do any of the following:
 - make infrastructure changes to increase the approved number of connections;
 - expand the service area identified in a previously approved planning document or engineering project; or
 - expand the geographical area where direct service is already provided if a planning or engineering document has not been previously approved;
- seeks to be eligible for the "document submittal exception" process;
- is directed to submit a WSP because of demonstrated operational, managerial, or financial problems;
- is municipally owned or located in a critical water supply area; or
- seeks to be eligible for the Drinking Water Revolving Fund resources and does not have a current WSP that addresses the proposed project.

Summary:

Goals of the Growth Management Act.

The goals of the Growth Management Act (GMA) are amended as follows:

- The transportation goal must encourage efficient multimodal transportation systems that will reduce greenhouse gas (GHG) emissions and per capita vehicle miles traveled (VMT).
- The open space and recreation goal must retain green space and enhance fish and wildlife habitat.
- The citizen participation and coordination goal must encourage the participation of vulnerable populations and overburdened communities in the planning process.

Climate change and resiliency is added to the goals of the GMA. Under the climate change and resiliency goal, comprehensive plans, development regulations, and regional plans must support state GHG emissions reduction goals and per capita VMT and foster resiliency to climate impacts and natural hazards, among other requirements.

Growth Management Act—Comprehensive Plan Elements.

The land use element of comprehensive plans must include green spaces and, in urban growth areas, urban and community forests, in its designation of the proposed general distribution and extent of the uses of land. It must 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 and reduce per capita VMT without increasing GHG emissions elsewhere in the state. 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 reducing residential development pressure in the wildland urban interface area, the adoption of the Wildland Urban Interface Code and developing building and maintenance standards consistent with the Firewise USA Program, separating human development from wildfire prone landscapes, and protecting existing residential development.

The inventory of existing capital facilities owned by public entities within the capital facilities plan element must include green infrastructure. Fully planning cities or counties must identify all public entities that own capital facilities and endeavor in good faith to gather and include the information required by the capital facilities plan element. If, after a good faith effort, the jurisdiction is unable to gather the required information, failure to include the information may not be grounds for a finding of noncompliance or invalidity under the GMA.

The utilities element must include the general location, proposed location, and capacity of all existing and proposed utilities, including electrical, telecommunications, and natural gas systems. Cities and counties must make good faith efforts to obtain information required in the utilities element from publicly owned utilities. Failure to obtain the information after a good faith effort is not grounds for a finding of noncompliance with the GMA.

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. Estimated multimodal level of service impacts must also be included. Priority must be given to inclusion of transportation facilities and services providing the greatest multimodal safety benefit to each category of roadway users for the context and speed of the facility. The facilities and services needs under this element must include an inventory of active transportation facilities and multimodal level of service standards for all locally owned arterials, locally and regionally operated transit routes that serve urban growth areas, state-owned or operated transit routes that serve urban areas, and active transportation facilities. A development approval may not be denied for causing the level of service on a locally owned, or locally or regionally operated, transportation facility to decline below the standards adopted in the transportation element, where such impacts could be adequately mitigated through transportation systems management strategies funded by the development. The transportation element must also include an Americans with Disabilities Act transition plan.

The park and recreation element must include an evaluation of tree canopy coverage within an urban growth area.

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, which must include efforts to reduce localized GHG emissions and avoid creating or worsening localized climate impacts to vulnerable populations and overburdened communities. 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, 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, but without increasing emissions elsewhere in the state;
- result in reductions in per capita VMT within the jurisdiction but without increasing emissions elsewhere in the state; and
- prioritize reductions that benefit overburdened communities in order to maximize the cobenefits of reduced air pollution and environmental justice.

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

A jurisdiction may not restrict population growth or limit population allocation in order to achieve the requirements of the GHG emissions reduction subelement.

The resiliency subelement must, among other things, equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change in human communities 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 and prioritizes actions that benefit overburdened communities, may be adopted by reference to satisfy those requirements. If any of the substantive requirements of the resiliency subelement are not addressed in the natural hazard mitigation plan, a jurisdiction must supplement the plan so that the adopted resiliency subelement fully complies with the substantive requirements.

If a county or city intends to incorporate by reference a Federal Emergency Management Agency natural hazard mitigation plan in order to meet the requirement of the resiliency subelement, and the most recently adopted natural hazard mitigation plan does not comply

with the requirements of the resiliency subelement, Commerce may grant the county or city an extension of time in which to submit a natural hazard mitigation plan.

Ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city for the GHG emissions reduction subelement, or measures adopted by Commerce as part of updated comprehensive plans in the 2024 update cycle, are not subject to administrative or judicial appeal under the State Environmental Policy Act (SEPA).

Applicability.

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 with a population greater than 6,000, that meet any of the following criteria as of April 1, 2021:

- a county with a population density of at least 100 people per square mile and a population of at least 200,000;
- a county bordering on the Columbia and Snake rivers with a population density of at least 75 people per square mile and an annual growth rate of at least 1.65 percent; or
- a county located to the west of the crest of the Cascade Mountains with a population of at least 130,000 people.

Once a county meets any 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.

The resiliency subelement is mandatory for all counties and cities fully planning under the GMA and is encouraged for all other jurisdictions.

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.

The requirements of the amendments to the transportation element of comprehensive plans apply to the counties and cities that are required to comply with the GHG emissions reduction subelement, as well as all cities planning fully under the GMA that have a population greater than 6,000.

The requirements of the amendments to the land use element of comprehensive plans apply to all counties and cities that meet the population criteria for the GHG emissions reduction subelement and counties that have a population of 20,000 or greater as of April 1, 2021, and that are required or choose to plan under the GMA.

Population criteria must be based on data as determined by the Office of Financial Management.

Greenhouse Gas Emissions Reduction and Vehicle Miles Traveled Reduction Guidelines. Commerce, in consultation with the Department of Ecology (Ecology), the Department of Health (DOH), and the Department of Transportation (DOT), must publish guidelines that specify a set of measures that counties and cities may implement via updates to their comprehensive plans and development regulations that have a demonstrated ability to increase housing capacity within urban growth areas or reduce GHG emissions, allowing for consideration of the emissions reductions achieved through the adoption of statewide programs. The guidelines must prioritize reductions that benefit overburdened communities that have experienced disproportionate harm due to air pollution. The guidelines must be developed consistent with an environmental justice assessment and must include environmental justice assessment processes.

Commerce, in consultation with the DOT, 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 per capita VMT. The measures must be designed to be achievable throughout the state, including in small cities and rural cities.

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 five 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, 2023, 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 an evaluation of the impact that locally adopted climate change and resiliency elements have had on local GHG emissions and per capita VMT reduction goals. The updates must also include an estimate of the impacts that locally adopted climate change and resiliency elements will have on achieving local GHG emissions and per capita VMT reduction goals. The estimate and evaluation must also include an estimate of the impact that locally adopted GHG emissions reduction subelements will have on meeting local housing goals and targets. Commerce may also include additional measures that cities and counties should take to make additional progress on local reduction goals.

Commerce may not propose or adopt any guidelines directing local governments to regulate tax transportation service providers, delivery vehicles, or passenger vehicles.

In developing the guidelines, Commerce must provide and prioritize options that support increased housing supply and diversity of housing types and assist counties and cities in

meeting GHG emissions reduction and other requirements.

Greenhouse Gas Emissions Reduction—Process for Adoption.

A county or city required to complete the GHG emissions reduction subelement may submit the subelement to Commerce for approval, and it becomes effective when approved by Commerce. If a county or city does not seek Commerce's approval of the subelement, the effective date of the subelement is the date on which the comprehensive plan is adopted by the county or city.

The city or county must provide Commerce a notice of intent to apply for approval at least 120 days prior to applying for approval. A city or county may seek approval after taking final action to adopt a GHG emissions reduction subelement. Commerce may consult with other relevant state agencies in making its determination.

Commerce must publish notice of a city or county's intent to seek approval in the Washington State Register. Steps for counties and cities to seek approval are provided. Commerce must strive to issue its decision within 180 days of receipt of an application.

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

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 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 per capita VMT reductions, or SEPA.

Technical Assistance.

In addition to other factors, priority for technical assistance shall also be based on the presence of overburdened communities. Commerce must establish funding levels for grants to community-based organizations for the specific purpose of advancing participation of vulnerable populations and overburdened communities in the planning process.

Model Climate Change and Resiliency Element.

Commerce must develop, in collaboration with the DOH, Ecology, the Department of Fish and Wildlife, the Department of Natural Resources, the Emergency Management Division of the Washington Military Department, and any federally recognized tribe that chooses to participate, 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.

The model element must establish minimum requirements for fulfilling the requirements of the climate change and resiliency element, and should provide guidance on identifying, designing, and investing in infrastructure that supports community resilience to climate impacts. The model element should provide guidance on identifying and addressing natural hazards created or aggravated by climate change. The rule must recognize and promote as many cobenefits of climate resilience as possible, such as climate change mitigation, salmon recovery, forest health, ecosystem services, and socioeconomic health and resilience.

Compilation of Vehicles Miles Traveled.

The DOT 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 master programs to address the impact of sea level rise and increased storm severity on people, property, shoreline natural resources, and the environment.

Comprehensive Flood Control Management Plan.

A comprehensive flood control management plan, if a county chooses to adopt one, 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.

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 SEPA.

Growth Management Act—Definitions.

Per capita VMT, active transportation, transportation system, environmental justice, active transportation facilities, greenspace, green infrastructure, wildland urban interface, overburdened community, and vulnerable populations are defined.

Funding.

Jurisdictions that are required to update their comprehensive plans in the June 2025 update cycle must include the new climate change and resiliency element in their updated comprehensive plan. Funding provided to cover applicable costs for this purpose is considered timely, notwithstanding the requirement in the GMA that funding for new elements be provided two years before comprehensive plans must be updated.

Implementation Progress Report.

Counties or cities required to include a climate change and resiliency element in their comprehensive plans, and that must review or revise their comprehensive plan by December 31, 2024, must incorporate the climate change and resiliency element into their

comprehensive plans as part of the first implementation progress report.

Water System Plans.

Beginning with any water system plan (WSP) initiated after June 30, 2024, the DOH must ensure that WSPs for Group A community public water systems serving 1,000 or more connections include a climate resilience element at the time of approval. The DOH must update its Water System Planning Guidebook to assist water systems in implementing the climate resilience element and provide technical assistance. Subject to funds appropriated for this specific purpose, the University of Washington Climate Impacts Group must assist the DOH with developing the technical assistance.

To fulfill the requirements of the climate resilience element, water systems must:

- determine which extreme weather events pose significant challenges to their system and build scenarios to identify potential impacts;
- assess critical assets and the actions necessary to protect the system from the consequences of extreme weather events on system operations; and
- generate reports describing the costs and benefits of the system's risk reduction strategies and capital projects needs.

Climate readiness projects, including planning to meet the above requirements, are eligible for financial assistance through the Water System Acquisition and Rehabilitation Program. The DOH must adopt guidelines for the program. Financing provided may be in the form of grants or loans.

Votes on Final Passage:

House	57	41	
Senate	29	20	(Senate amended)
House	55	41	(House concurred)

Effective: July 23, 2023