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HOUSE BILL 2747

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State of Washington

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1998 Regular Session

By Representatives Mulliken, Thompson, Cairnes, DeBolt, McMorris, Sump, Koster, Wensman, Sherstad, Mielke, Bush, Johnson, Zellinsky, Sheahan, Honeyford, Pennington, Schoesler, Boldt and Dunn

Read first time 01/19/98. Referred to Committee on House Government Reform & Land Use.

1 AN ACT Relating to increasing flexibility for counties and cities  
2 in implementing growth management; amending RCW 36.70A.040 and  
3 36.70A.110; adding new sections to chapter 36.70A RCW; and declaring an  
4 emergency.

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

6 **Sec. 1.** RCW 36.70A.040 and 1995 c 400 s 1 are each amended to read  
7 as follows:

8 (1)(a) Each county that has both a population of fifty thousand or  
9 more and, until May 16, 1995, has had its population increase by more  
10 than ten percent in the previous ten years or, on or after May 16,  
11 1995, has had its population increase by more than seventeen percent in  
12 the previous ten years, and the cities located within such county, and  
13 any other county regardless of its population that has had its  
14 population increase by more than twenty percent in the previous ten  
15 years, and the cities located within such county, shall ~~((conform with  
16 all of the requirements of this chapter))~~ plan under this section.  
17 However, the county legislative authority of ~~((such a county with a  
18 population of less than fifty thousand population))~~ a rural county may  
19 adopt a resolution removing the county, and the cities located within

1 the county, from the requirement(~~(s of adopting comprehensive land use~~  
2 ~~plans and development regulations under this chapter))~~ to plan under  
3 this section if this resolution is adopted and filed with the  
4 department by December 31, (~~(1990, for counties initially meeting this~~  
5 ~~set of criteria))~~ 1998, or within (~~(sixty days))~~ six months of the date  
6 the office of financial management certifies that a county meets this  
7 set of criteria under subsection (5) of this section. A county that  
8 adopts a resolution removing the county, and the cities located within  
9 the county, from the requirement to plan under this section remains  
10 subject to the requirements for the designation and protection of  
11 critical areas and the designation of natural resource lands under RCW  
12 36.70A.060(2), 36.70A.170, and 36.70A.172.

13 (b) Once a county meets either of these sets of criteria and the  
14 county has not adopted a resolution under (a) of this subsection, the  
15 requirement to ((conform with all of the requirements of this chapter))  
16 plan under this section remains in effect, even if the county no longer  
17 meets one of these sets of criteria.

18 (2) The county legislative authority of any county that does not  
19 (~~(meet either of the sets of criteria established))~~ plan under  
20 (~~(subsection (1) of))~~ this section may adopt a resolution indicating  
21 its intention (~~(to have subsection (1) of this section apply to))~~ that  
22 the county plan under this section. Each city, located in a county  
23 that (~~(chooses to plan))~~ adopts a resolution under this subsection(~~(7))~~  
24 shall (~~(conform with all of the requirements of this chapter))~~ plan  
25 under this section. Once such a resolution has been adopted, the  
26 county and the cities located within the county remain subject to all  
27 of the requirements of this (~~(chapter))~~ section. However, a rural  
28 county that, before the effective date of this act, adopted a  
29 resolution of intention under this subsection to plan under this  
30 section may adopt a resolution removing the county, and the cities  
31 located within the county, from the requirement to plan under this  
32 section if the resolution is adopted and filed with the department by  
33 December 31, 1998. A county that adopts a resolution removing the  
34 county, and the cities located within the county, from the requirement  
35 to plan under this section remains subject to the requirements for the  
36 designation and protection of critical areas and the designation of  
37 natural resource lands under RCW 36.70A.060(2), 36.70A.170, and  
38 36.70A.172.

1       (3) Any county or city that is initially required to (~~conform with~~  
2 ~~all of the requirements of this chapter~~) plan under this section, and,  
3 where applicable, the county legislative authority has not adopted a  
4 resolution removing the county from these requirements as provided in  
5 subsection (1) of this section, shall take actions under this chapter  
6 as follows: (a) The county legislative authority shall adopt a county-  
7 wide planning policy under RCW 36.70A.210; (b) the county and each city  
8 located within the county shall designate critical areas, agricultural  
9 lands, forest lands, and mineral resource lands, and adopt development  
10 regulations conserving these designated agricultural lands, forest  
11 lands, and mineral resource lands and protecting these designated  
12 critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county  
13 shall designate and take other actions related to urban growth areas  
14 under RCW 36.70A.110; (d) if the county has a population of fifty  
15 thousand or more, the county and each city located within the county  
16 shall adopt a comprehensive plan under this chapter and development  
17 regulations that are consistent with and implement the comprehensive  
18 plan on or before July 1, 1994, and if the county has a population of  
19 less than fifty thousand, the county and each city located within the  
20 county shall adopt a comprehensive plan under this chapter and  
21 development regulations that are consistent with and implement the  
22 comprehensive plan by January 1, 1995, but if the governor makes  
23 written findings that a county with a population of less than fifty  
24 thousand or a city located within such a county is not making  
25 reasonable progress toward adopting a comprehensive plan and  
26 development regulations the governor may reduce this deadline for such  
27 actions to be taken by no more than one hundred eighty days. Any  
28 county or city subject to this subsection may obtain an additional six  
29 months before it is required to have adopted its development  
30 regulations by submitting a letter notifying the department of  
31 community, trade, and economic development of its need prior to the  
32 deadline for adopting both a comprehensive plan and development  
33 regulations.

34       (4) Any county or city that is required to (~~conform with all the~~  
35 ~~requirements of this chapter~~) plan under this section, as a result of  
36 the county legislative authority adopting its resolution of intention  
37 under subsection (2) of this section, and the county legislative  
38 authority has not adopted a resolution removing the county from these  
39 requirements under subsection (2) of this section, shall take actions

1 under this chapter as follows: (a) The county legislative authority  
2 shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the  
3 county and each city that is located within the county shall adopt  
4 development regulations conserving agricultural lands, forest lands,  
5 and mineral resource lands it designated under RCW 36.70A.060 within  
6 one year of the date the county legislative authority adopts its  
7 resolution of intention; (c) the county shall designate and take other  
8 actions related to urban growth areas under RCW 36.70A.110; and (d) the  
9 county and each city that is located within the county shall adopt a  
10 comprehensive plan and development regulations that are consistent with  
11 and implement the comprehensive plan not later than four years from the  
12 date the county legislative authority adopts its resolution of  
13 intention, but a county or city may obtain an additional six months  
14 before it is required to have adopted its development regulations by  
15 submitting a letter notifying the department of community, trade, and  
16 economic development of its need prior to the deadline for adopting  
17 both a comprehensive plan and development regulations.

18 (5) If the office of financial management certifies that the  
19 population of a county that (~~previously had not been required to~~)  
20 does not plan under (~~subsection (1) or (2) of~~) this section has  
21 changed sufficiently to meet either of the sets of criteria specified  
22 under subsection (1) of this section, and where applicable, the county  
23 legislative authority has not adopted a resolution removing the county  
24 from these requirements as provided in subsection (1) of this section,  
25 the county and each city within such county shall take actions under  
26 this chapter as follows: (a) The county legislative authority shall  
27 adopt a county-wide planning policy under RCW 36.70A.210; (b) the  
28 county and each city located within the county shall adopt development  
29 regulations under RCW 36.70A.060 conserving agricultural lands, forest  
30 lands, and mineral resource lands it designated within one year of the  
31 certification by the office of financial management; (c) the county  
32 shall designate and take other actions related to urban growth areas  
33 under RCW 36.70A.110; and (d) the county and each city located within  
34 the county shall adopt a comprehensive land use plan and development  
35 regulations that are consistent with and implement the comprehensive  
36 plan within four years of the certification by the office of financial  
37 management, but a county or city may obtain an additional six months  
38 before it is required to have adopted its development regulations by  
39 submitting a letter notifying the department of community, trade, and

1 economic development of its need prior to the deadline for adopting  
2 both a comprehensive plan and development regulations.

3 (6) A copy of each document that is required under this section  
4 shall be submitted to the department at the time of its adoption.

5 (7) For purposes of this section, "rural county" means a county  
6 with a land base that is at least seventy-five percent in public  
7 ownership or designated resource lands, as determined by the county, or  
8 has a population density of sixty or fewer persons per square mile, as  
9 determined by the office of financial management.

10 NEW SECTION. Sec. 2. A new section is added to chapter 36.70A RCW  
11 to read as follows:

12 If a county adopts a resolution under RCW 36.70A.040 (1)(a) or (2)  
13 removing the county and the cities located within the county from the  
14 requirement to plan under this chapter, any claim pending before a  
15 board or court that relates to the requirement to plan under this  
16 chapter is moot and the claim shall be dismissed.

17 NEW SECTION. Sec. 3. A new section is added to chapter 36.70A RCW  
18 to read as follows:

19 (1) A county, after conferring with its cities, may develop  
20 alternative methods of achieving the planning goals established by RCW  
21 36.70A.020.

22 (2) The authority provided by this section may not be used to  
23 modify:

24 (a) Requirements for the designation and protection of critical  
25 areas or for the designation of natural resource lands under RCW  
26 36.70A.060(2), 36.70A.170, and 36.70A.172;

27 (b) The requirement that wetlands be delineated consistent with the  
28 requirements of RCW 36.70A.175; or

29 (c) The requirement to establish a process for the siting of  
30 essential public facilities pursuant to RCW 36.70A.200.

31 (3) Before adopting any alternative methods of achieving the  
32 planning goals established by RCW 36.70A.020, a county shall provide an  
33 opportunity for public review and comment. An ordinance or resolution  
34 proposing or adopting alternative methods must be submitted to the  
35 department in the same manner as provided in RCW 36.70A.106 for  
36 submittal of proposed and adopted comprehensive plans and development  
37 regulations.

1       **Sec. 4.** RCW 36.70A.110 and 1997 c 429 s 24 are each amended to  
2 read as follows:

3       (1) Each county that is required or chooses to plan under RCW  
4 36.70A.040 shall designate an urban growth area or areas within which  
5 urban growth shall be encouraged and outside of which growth can occur  
6 only if it is not urban in nature. Each city that is located in such  
7 a county shall be included within an urban growth area. An urban  
8 growth area may include more than a single city. An urban growth area  
9 may include territory that is located outside of a city only if such  
10 territory already is characterized by urban growth whether or not the  
11 urban growth area includes a city, or is adjacent to territory already  
12 characterized by urban growth, or is a designated new fully contained  
13 community as defined by RCW 36.70A.350.

14       (2) Based upon the growth management population projection made for  
15 the county by the office of financial management, the county and each  
16 city within the county shall include areas and densities sufficient to  
17 permit the urban growth that is projected to occur in the county or  
18 city for the succeeding twenty-year period. Each urban growth area  
19 shall permit urban densities and shall include greenbelt and open space  
20 areas. An urban growth area determination may include a reasonable  
21 land market supply factor and shall permit a range of urban densities  
22 and uses. In determining this market factor, cities and counties may  
23 consider local circumstances. Cities and counties have discretion in  
24 their comprehensive plans to make many choices about accommodating  
25 growth.

26       Within one year of July 1, 1990, each county that as of June 1,  
27 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
28 consulting with each city located within its boundaries and each city  
29 shall propose the location of an urban growth area. Within sixty days  
30 of the date the county legislative authority of a county adopts its  
31 resolution of intention or of certification by the office of financial  
32 management, all other counties that are required or choose to plan  
33 under RCW 36.70A.040 shall begin this consultation with each city  
34 located within its boundaries. The county shall attempt to reach  
35 agreement with each city on the location of an urban growth area within  
36 which the city is located. If such an agreement is not reached with  
37 each city located within the urban growth area, the county shall  
38 justify in writing why it so designated the area an urban growth area.  
39 A city may object formally with the department over the designation of

1 the urban growth area within which it is located. Where appropriate,  
2 the department shall attempt to resolve the conflicts, including the  
3 use of mediation services.

4 (3) Urban growth should be located first in areas already  
5 characterized by urban growth that have adequate existing public  
6 facility and service capacities to serve such development, second in  
7 areas already characterized by urban growth that will be served  
8 adequately by a combination of both existing public facilities and  
9 services and any additional needed public facilities and services that  
10 are provided by either public or private sources, and third in the  
11 remaining portions of the urban growth areas. Urban growth may also be  
12 located in designated new fully contained communities as defined by RCW  
13 36.70A.350.

14 (4) In general, cities are the units of local government most  
15 appropriate to provide urban governmental services. In general, it is  
16 not appropriate that urban governmental services be extended to or  
17 expanded in rural areas except in those limited circumstances shown to  
18 be necessary to protect basic public health and safety and the  
19 environment and when such services are financially supportable at rural  
20 densities and do not permit urban development. Counties and special  
21 districts also may provide a variety of governmental services,  
22 including but not limited to, public safety and fire protection; water,  
23 wastewater, and other utility service; and transit and transportation  
24 services. When such services are provided outside the urban growth  
25 area it is usually at a lower service level than for urban governmental  
26 services.

27 (5) On or before October 1, 1993, each county that was initially  
28 required to plan under RCW 36.70A.040(1) shall adopt development  
29 regulations designating interim urban growth areas under this chapter.  
30 Within three years and three months of the date the county legislative  
31 authority of a county adopts its resolution of intention or of  
32 certification by the office of financial management, all other counties  
33 that are required or choose to plan under RCW 36.70A.040 shall adopt  
34 development regulations designating interim urban growth areas under  
35 this chapter. Adoption of the interim urban growth areas may only  
36 occur after public notice; public hearing; and compliance with the  
37 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.  
38 Such action may be appealed to the appropriate growth management

1 hearings board under RCW 36.70A.280. Final urban growth areas shall be  
2 adopted at the time of comprehensive plan adoption under this chapter.

3 (6) Each county shall include designations of urban growth areas in  
4 its comprehensive plan.

5 NEW SECTION. **Sec. 5.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
10 preservation of the public peace, health, or safety, or support of the  
11 state government and its existing public institutions, and takes effect  
12 immediately.

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