
SUBSTITUTE SENATE BILL 5145

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Agriculture & Rural Economic Development
(originally sponsored by Senators Haugen and Rasmussen)

READ FIRST TIME 02/27/07.

1 AN ACT Relating to clarifying existing requirements for
2 conservation of agricultural lands; amending RCW 36.70A.020 and
3 36.70A.177; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the decision of
6 the Washington state supreme court in *King County v. Central Puget*
7 *Sound Growth Management Hearings Board*, 142 Wn.2d 543 (2000) reflects
8 the original and continuing intent of the legislature regarding
9 designation and conservation of agricultural lands under the growth
10 management act, when it says that the act creates an agricultural
11 conservation imperative that imposes an affirmative duty on local
12 governments to designate and conserve agricultural lands in order to
13 assure the maintenance and enhancement of the agricultural resource
14 industry, and, again, when it says that agricultural lands are
15 protected not for the sake of their ecological role but to ensure the
16 viability of the resource-based industries that depend upon them.
17 Allowing conversion of resource lands to other uses or allowing
18 incompatible uses impairs the viability of the agricultural industry.
19 The legislature intends to clarify the existing requirements of the

1 growth management act that pertain to conservation of agricultural
2 lands, in order to help assure that comprehensive plans and
3 corresponding development regulations adopted by local governments
4 conserve agricultural lands according to the original and continuing
5 intent of the growth management act as reflected in *King County v.*
6 *Central Puget Sound Growth Management Hearings Board*, 142 Wn.2d 543
7 (2000).

8 **Sec. 2.** RCW 36.70A.020 and 2002 c 154 s 1 are each amended to read
9 as follows:

10 The following goals are adopted to guide the development and
11 adoption of comprehensive plans and development regulations of those
12 counties and cities that are required or choose to plan under RCW
13 36.70A.040. The following goals are not listed in order of priority
14 and shall be used exclusively for the purpose of guiding the
15 development of comprehensive plans and development regulations:

16 (1) Urban growth. Encourage development in urban areas where
17 adequate public facilities and services exist or can be provided in an
18 efficient manner.

19 (2) Reduce sprawl. Reduce the inappropriate conversion of
20 undeveloped land into sprawling, low-density development.

21 (3) Transportation. Encourage efficient multimodal transportation
22 systems that are based on regional priorities and coordinated with
23 county and city comprehensive plans.

24 (4) Housing. Encourage the availability of affordable housing to
25 all economic segments of the population of this state, promote a
26 variety of residential densities and housing types, and encourage
27 preservation of existing housing stock.

28 (5) Economic development. Encourage economic development
29 throughout the state that is consistent with adopted comprehensive
30 plans, promote economic opportunity for all citizens of this state,
31 especially for unemployed and for disadvantaged persons, promote the
32 retention and expansion of existing businesses and recruitment of new
33 businesses, recognize regional differences impacting economic
34 development opportunities, and encourage growth in areas experiencing
35 insufficient economic growth, all within the capacities of the state's
36 natural resources, public services, and public facilities.

1 (6) Property rights. Private property shall not be taken for
2 public use without just compensation having been made. The property
3 rights of landowners shall be protected from arbitrary and
4 discriminatory actions.

5 (7) Permits. Applications for both state and local government
6 permits should be processed in a timely and fair manner to ensure
7 predictability.

8 (8) Natural resource industries. Maintain and enhance natural
9 resource-based industries, including productive timber, agricultural,
10 and fisheries industries. Encourage the conservation of productive
11 forest lands and productive agricultural lands, ~~((and))~~ discourage
12 incompatible uses, and prevent new incompatible uses on designated
13 agricultural lands of long-term commercial significance unless allowed
14 under RCW 36.70A.177.

15 (9) Open space and recreation. Retain open space, enhance
16 recreational opportunities, conserve fish and wildlife habitat,
17 increase access to natural resource lands and water, and develop parks
18 and recreation facilities.

19 (10) Environment. Protect the environment and enhance the state's
20 high quality of life, including air and water quality, and the
21 availability of water.

22 (11) Citizen participation and coordination. Encourage the
23 involvement of citizens in the planning process and ensure coordination
24 between communities and jurisdictions to reconcile conflicts.

25 (12) Public facilities and services. Ensure that those public
26 facilities and services necessary to support development shall be
27 adequate to serve the development at the time the development is
28 available for occupancy and use without decreasing current service
29 levels below locally established minimum standards.

30 (13) Historic preservation. Identify and encourage the
31 preservation of lands, sites, and structures, that have historical or
32 archaeological significance.

33 **Sec. 3.** RCW 36.70A.177 and 2006 c 147 s 1 are each amended to read
34 as follows:

35 (1) A county or a city may use a variety of innovative zoning
36 techniques in areas designated as agricultural lands of long-term
37 commercial significance under RCW 36.70A.170. The innovative zoning

1 techniques should be designed to conserve agricultural lands and
2 encourage the agricultural economy. Except as provided in subsection
3 (3) of this section, a county or city should encourage nonagricultural
4 uses to be limited to lands with poor soils or otherwise not suitable
5 for agricultural purposes.

6 (2) Innovative zoning techniques a county or city may consider
7 include, but are not limited to:

8 (a) Agricultural zoning, which limits the density of development
9 and restricts or prohibits nonfarm uses of agricultural land and may
10 allow accessory uses, including nonagricultural accessory uses and
11 activities, that support, promote, or sustain agricultural operations
12 and production, as provided in subsection (3) of this section;

13 (b) Cluster zoning, which allows new development on one portion of
14 the land, leaving the remainder in agricultural or open space uses;

15 (c) Large lot zoning, which establishes as a minimum lot size the
16 amount of land necessary to achieve a successful farming practice;

17 (d) Quarter/quarter zoning, which permits one residential dwelling
18 on a one-acre minimum lot for each one-sixteenth of a section of land;
19 and

20 (e) Sliding scale zoning, which allows the number of lots for
21 single-family residential purposes with a minimum lot size of one acre
22 to increase inversely as the size of the total acreage increases.

23 (3) Accessory uses allowed under subsection (2)(a) of this section
24 shall comply with the following:

25 (a) Accessory uses shall be located, designed, and operated so as
26 to not interfere with, and to support the continuation of, the overall
27 agricultural use of the property and neighboring properties, and shall
28 comply with the requirements of this chapter;

29 (b) Accessory uses may include:

30 (i) Agricultural accessory uses and activities, including but not
31 limited to the storage, distribution, and marketing of regional
32 agricultural products from one or more producers, agriculturally
33 related experiences, or the production, marketing, and distribution of
34 value-added agricultural products, including support services that
35 facilitate these activities; and

36 (ii) Nonagricultural accessory uses and activities as long as they
37 are consistent with the size, scale, and intensity of the existing
38 agricultural use of the property and the existing buildings on the

1 site. Nonagricultural accessory uses and activities, including new
2 buildings, parking, or supportive uses, shall not be located outside
3 the general area already developed for buildings and residential uses
4 and shall not otherwise convert more than one acre of agricultural land
5 to nonagricultural uses; and

6 (c) Counties and cities have the authority to limit or exclude
7 accessory uses otherwise authorized in this subsection (3) in areas
8 designated as agricultural lands of long-term commercial significance.

9 (4) Except as provided in this subsection, wetland mitigation
10 banking projects may be permitted by conditional or special use on
11 agricultural lands, including agricultural lands of long-term
12 commercial significance, if the local government has adopted the
13 criteria for evaluating such projects established by rule by the
14 department. "Wetland mitigation banking project" means any private or
15 public project on a site where wetlands are restored, created,
16 enhanced, or in exceptional circumstances, preserved expressly for the
17 purpose of providing compensatory mitigation in advance of authorized
18 impacts to similar resources. Conservation projects that consist
19 exclusively of planting vegetation or on-site mitigation projects
20 required for permitted activities are allowed. The department shall
21 work with representatives from the department of agriculture, the
22 department of ecology, county governments, and interested stakeholders
23 to develop, and adopt by rule, the permitting criteria that counties
24 can use to decide whether and how to evaluate proposals for the
25 establishment of mitigation banks on agricultural lands of long-term
26 commercial significance. The criteria shall reflect the priority
27 expressed in this chapter for preserving agricultural lands of long-
28 term commercial significance, without entirely precluding the
29 establishment of mitigation banks sites necessary to meet long-term
30 mitigation objectives. The criteria shall minimize the impact on the
31 continued agricultural use of agricultural lands of long-term
32 commercial significance. By January 1, 2008, the department shall
33 provide a written report on the recommended criteria to the chief clerk
34 of the house of representatives and the secretary of the senate.

35 (5) This section shall not be interpreted to limit agricultural
36 production on designated agricultural lands.

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