
SENATE BILL 5145

State of Washington

60th Legislature

2007 Regular Session

By Senators Haugen and Rasmussen

Read first time 01/11/2007. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to clarifying existing requirements for
2 conservation of agricultural lands; amending RCW 36.70A.020,
3 36.70A.060, and 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.

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

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

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

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

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

31 **Sec. 3.** RCW 36.70A.060 and 2005 c 423 s 3 are each amended to read
32 as follows:

33 (1)(a) Except as provided in RCW 36.70A.1701, each county that is
34 required or chooses to plan under RCW 36.70A.040, and each city within
35 such county, shall adopt development regulations on or before September
36 1, 1991, to assure the conservation of agricultural, forest, and
37 mineral resource lands designated under RCW 36.70A.170. Regulations

1 adopted under this subsection may not prohibit uses legally existing on
2 any parcel prior to their adoption and shall remain in effect until the
3 county or city adopts development regulations pursuant to RCW
4 36.70A.040. Such regulations shall assure that the use of lands on or
5 adjacent to agricultural, forest, or mineral resource lands shall not
6 interfere with the continued use, in the accustomed manner and in
7 accordance with best management practices, of these designated lands
8 for the production of food, agricultural products, or timber, or for
9 the extraction of minerals.

10 (b) Counties and cities shall require that all plats, short plats,
11 development permits, and building permits issued for development
12 activities on, or within five hundred feet of, lands designated as
13 agricultural lands, forest lands, or mineral resource lands, contain a
14 notice that the subject property is within or near designated
15 agricultural lands, forest lands, or mineral resource lands on which a
16 variety of commercial activities may occur that are not compatible with
17 residential development for certain periods of limited duration. The
18 notice for mineral resource lands shall also inform that an application
19 might be made for mining-related activities, including mining,
20 extraction, washing, crushing, stockpiling, blasting, transporting, and
21 recycling of minerals.

22 (2) Each county and city shall adopt development regulations that
23 protect critical areas that are required to be designated under RCW
24 36.70A.170. For counties and cities that are required or choose to
25 plan under RCW 36.70A.040, such development regulations shall be
26 adopted on or before September 1, 1991. For the remainder of the
27 counties and cities, such development regulations shall be adopted on
28 or before March 1, 1992.

29 (3) Such counties and cities shall review these designations and
30 development regulations when adopting their comprehensive plans under
31 RCW 36.70A.040 and implementing development regulations under RCW
32 36.70A.120 and may alter such designations and development regulations
33 to insure consistency.

34 (4) Forest land and agricultural land located within urban growth
35 areas shall not be designated by a county or city as forest land or
36 agricultural land of long-term commercial significance under RCW
37 36.70A.170 unless the city or county has enacted a program authorizing
38 transfer or purchase of development rights.

1 **Sec. 4.** RCW 36.70A.177 and 2006 c 147 s 1 are each amended to read
2 as follows:

3 (1) A county or a city may use a variety of innovative zoning
4 techniques in areas designated as agricultural lands of long-term
5 commercial significance under RCW 36.70A.170. The innovative zoning
6 techniques (~~((should))~~) must be designed to conserve agricultural lands
7 and should encourage the agricultural economy. Except as provided in
8 (~~((subsection (3) of))~~) this section, (~~((a county or city should~~
9 ~~encourage))~~) nonagricultural uses (~~((to))~~) on agricultural lands of long-
10 term commercial significance must be limited to lands with poor soils
11 or otherwise not suitable for agricultural purposes.

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

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

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

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

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

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

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

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

35 (b) Accessory uses may include:

36 (i) Agricultural accessory uses and activities, including but not
37 limited to the storage, distribution, and marketing of regional
38 agricultural products from one or more producers, agriculturally

1 related experiences, or the production, marketing, and distribution of
2 value-added agricultural products, including support services that
3 facilitate these activities; and

4 (ii) Nonagricultural accessory uses and activities as long as they
5 are consistent with the size, scale, and intensity of the existing
6 agricultural use of the property and the existing buildings on the
7 site. Nonagricultural accessory uses and activities, including new
8 buildings, parking, or supportive uses, shall not be located outside
9 the general area already developed for buildings and residential uses
10 and shall not otherwise convert more than one acre of agricultural land
11 to nonagricultural uses; and

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

15 (4) Except as provided in this subsection (4), wetland mitigation
16 banking projects shall not be a permitted use on designated
17 agricultural lands of long-term commercial significance, but may be
18 permitted as a special use on other agricultural lands. "Wetland
19 mitigation banking project" means any public or private project that is
20 intended to create, restore, or enhance wetlands and includes the
21 alteration of the landscape by excavation or sculpting of soil or
22 alteration of hydrology developed expressly for the purpose of
23 providing compensatory mitigation in advance to offset for wetland
24 impacts from other projects. Conservation projects that consist
25 exclusively of planting vegetation or on-site mitigation projects
26 required for permitted activities may be permitted uses.

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

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