
SENATE BILL 5301

State of Washington

60th Legislature

2007 Regular Session

By Senators Haugen and Rasmussen

Read first time 01/16/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to voluntary measures to protect critical areas;
2 amending RCW 36.70A.070; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that there is a
5 broadly held ethic among the citizens of the state that includes
6 appreciation of nature and environmental values, and that citizens are
7 willing to voluntarily undertake activities to protect and enhance
8 environmental values at their homes and gardens, on land on which they
9 live or work, and in their communities. The legislature finds that
10 voluntary activities can be invaluable toward achieving the overall
11 goal of protecting and enhancing the environment and that such
12 activities should be given recognition as highly valued endeavors.

13 The legislature finds that there are successful programs that can
14 be used as models, such as the "Shore Stewards Guide for Shoreline
15 Living" jointly prepared by university extension faculty and local
16 governments, that provide information on a broad array of actions that
17 citizens can undertake that fits their unique conditions and interests.
18 The legislature finds that better enabling citizens to undertake

1 voluntary activities can in many circumstances be more advantageous and
2 with fewer unintended negative consequences than adopting prescriptive
3 rules affecting existing and nonconforming uses of land.

4 The purpose of this act is to encourage counties and cities to
5 expand the availability and use of nonregulatory measures for existing
6 and nonconforming uses as a component of ordinances under RCW
7 36.70A.130 adopted after the effective date of this section and to
8 encourage an increase in the information and resources to the public to
9 foster voluntary activities by citizens to improve their environment.

10 **Sec. 2.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read
11 as follows:

12 The comprehensive plan of a county or city that is required or
13 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
14 and descriptive text covering objectives, principles, and standards
15 used to develop the comprehensive plan. The plan shall be an
16 internally consistent document and all elements shall be consistent
17 with the future land use map. A comprehensive plan shall be adopted
18 and amended with public participation as provided in RCW 36.70A.140.

19 Each comprehensive plan shall include a plan, scheme, or design for
20 each of the following:

21 (1) A land use element designating the proposed general
22 distribution and general location and extent of the uses of land, where
23 appropriate, for agriculture, timber production, housing, commerce,
24 industry, recreation, open spaces, general aviation airports, public
25 utilities, public facilities, and other land uses. The land use
26 element shall include population densities, building intensities, and
27 estimates of future population growth. The land use element shall
28 provide for protection of the quality and quantity of ground water used
29 for public water supplies. Wherever possible, the land use element
30 should consider utilizing urban planning approaches that promote
31 physical activity. Where applicable, the land use element shall review
32 drainage, flooding, and storm water run-off in the area and nearby
33 jurisdictions and provide guidance for corrective actions to mitigate
34 or cleanse those discharges that pollute waters of the state, including
35 Puget Sound or waters entering Puget Sound.

36 (2) A housing element ensuring the vitality and character of
37 established residential neighborhoods that: (a) Includes an inventory

1 and analysis of existing and projected housing needs that identifies
2 the number of housing units necessary to manage projected growth; (b)
3 includes a statement of goals, policies, objectives, and mandatory
4 provisions for the preservation, improvement, and development of
5 housing, including single-family residences; (c) identifies sufficient
6 land for housing, including, but not limited to, government-assisted
7 housing, housing for low-income families, manufactured housing,
8 multifamily housing, and group homes and foster care facilities; and
9 (d) makes adequate provisions for existing and projected needs of all
10 economic segments of the community.

11 (3) A capital facilities plan element consisting of: (a) An
12 inventory of existing capital facilities owned by public entities,
13 showing the locations and capacities of the capital facilities; (b) a
14 forecast of the future needs for such capital facilities; (c) the
15 proposed locations and capacities of expanded or new capital
16 facilities; (d) at least a six-year plan that will finance such capital
17 facilities within projected funding capacities and clearly identifies
18 sources of public money for such purposes; and (e) a requirement to
19 reassess the land use element if probable funding falls short of
20 meeting existing needs and to ensure that the land use element, capital
21 facilities plan element, and financing plan within the capital
22 facilities plan element are coordinated and consistent. Park and
23 recreation facilities shall be included in the capital facilities plan
24 element.

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

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

33 (a) Growth management act goals and local circumstances. Because
34 circumstances vary from county to county, in establishing patterns of
35 rural densities and uses, a county may consider local circumstances,
36 but shall develop a written record explaining how the rural element
37 harmonizes the planning goals in RCW 36.70A.020 and meets the
38 requirements of this chapter.

1 (b) Rural development. The rural element shall permit rural
2 development, forestry, and agriculture in rural areas. The rural
3 element shall provide for a variety of rural densities, uses, essential
4 public facilities, and rural governmental services needed to serve the
5 permitted densities and uses. To achieve a variety of rural densities
6 and uses, counties may provide for clustering, density transfer, design
7 guidelines, conservation easements, and other innovative techniques
8 that will accommodate appropriate rural densities and uses that are not
9 characterized by urban growth and that are consistent with rural
10 character.

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

14 (i) Containing or otherwise controlling rural development;

15 (ii) Assuring visual compatibility of rural development with the
16 surrounding rural area;

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

19 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
20 surface water and ground water resources, while, to the greatest extent
21 to which they can be effective for existing and nonconforming uses,
22 employing voluntary measures, incentives, and educational programs and
23 regulatory measures authorized outside of this chapter for purposes of
24 complying with the goals and requirements of this chapter; and

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

27 (d) Limited areas of more intensive rural development. Subject to
28 the requirements of this subsection and except as otherwise
29 specifically provided in this subsection (5)(d), the rural element may
30 allow for limited areas of more intensive rural development, including
31 necessary public facilities and public services to serve the limited
32 area as follows:

33 (i) Rural development consisting of the infill, development, or
34 redevelopment of existing commercial, industrial, residential, or
35 mixed-use areas, whether characterized as shoreline development,
36 villages, hamlets, rural activity centers, or crossroads developments.

37 (A) A commercial, industrial, residential, shoreline, or mixed-use

1 area shall be subject to the requirements of (d)(iv) of this
2 subsection, but shall not be subject to the requirements of (c)(ii) and
3 (iii) of this subsection.

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

8 (C) Any development or redevelopment in terms of building size,
9 scale, use, or intensity shall be consistent with the character of the
10 existing areas. Development and redevelopment may include changes in
11 use from vacant land or a previously existing use so long as the new
12 use conforms to the requirements of this subsection (5);

13 (ii) The intensification of development on lots containing, or new
14 development of, small-scale recreational or tourist uses, including
15 commercial facilities to serve those recreational or tourist uses, that
16 rely on a rural location and setting, but that do not include new
17 residential development. A small-scale recreation or tourist use is
18 not required to be principally designed to serve the existing and
19 projected rural population. Public services and public facilities
20 shall be limited to those necessary to serve the recreation or tourist
21 use and shall be provided in a manner that does not permit low-density
22 sprawl;

23 (iii) The intensification of development on lots containing
24 isolated nonresidential uses or new development of isolated cottage
25 industries and isolated small-scale businesses that are not principally
26 designed to serve the existing and projected rural population and
27 nonresidential uses, but do provide job opportunities for rural
28 residents. Rural counties may allow the expansion of small-scale
29 businesses as long as those small-scale businesses conform with the
30 rural character of the area as defined by the local government
31 according to RCW 36.70A.030(~~((+14))~~) (15). Rural counties may also
32 allow new small-scale businesses to utilize a site previously occupied
33 by an existing business as long as the new small-scale business
34 conforms to the rural character of the area as defined by the local
35 government according to RCW 36.70A.030(~~((+14))~~) (15). Public services
36 and public facilities shall be limited to those necessary to serve the
37 isolated nonresidential use and shall be provided in a manner that does
38 not permit low-density sprawl;

1 (iv) A county shall adopt measures to minimize and contain the
2 existing areas or uses of more intensive rural development, as
3 appropriate, authorized under this subsection. Lands included in such
4 existing areas or uses shall not extend beyond the logical outer
5 boundary of the existing area or use, thereby allowing a new pattern of
6 low-density sprawl. Existing areas are those that are clearly
7 identifiable and contained and where there is a logical boundary
8 delineated predominately by the built environment, but that may also
9 include undeveloped lands if limited as provided in this subsection.
10 The county shall establish the logical outer boundary of an area of
11 more intensive rural development. In establishing the logical outer
12 boundary the county shall address (A) the need to preserve the
13 character of existing natural neighborhoods and communities, (B)
14 physical boundaries such as bodies of water, streets and highways, and
15 land forms and contours, (C) the prevention of abnormally irregular
16 boundaries, and (D) the ability to provide public facilities and public
17 services in a manner that does not permit low-density sprawl;

18 (v) For purposes of (d) of this subsection, an existing area or
19 existing use is one that was in existence:

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

22 (B) On the date the county adopted a resolution under RCW
23 36.70A.040(2), in a county that is planning under all of the provisions
24 of this chapter under RCW 36.70A.040(2); or

25 (C) On the date the office of financial management certifies the
26 county's population as provided in RCW 36.70A.040(5), in a county that
27 is planning under all of the provisions of this chapter pursuant to RCW
28 36.70A.040(5).

29 (e) Exception. This subsection shall not be interpreted to permit
30 in the rural area a major industrial development or a master planned
31 resort unless otherwise specifically permitted under RCW 36.70A.360 and
32 36.70A.365.

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

35 (a) The transportation element shall include the following
36 subelements:

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

1 (ii) Estimated traffic impacts to state-owned transportation
2 facilities resulting from land use assumptions to assist the department
3 of transportation in monitoring the performance of state facilities, to
4 plan improvements for the facilities, and to assess the impact of land-
5 use decisions on state-owned transportation facilities;

6 (iii) Facilities and services needs, including:

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

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

16 (C) For state-owned transportation facilities, level of service
17 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
18 to gauge the performance of the system. The purposes of reflecting
19 level of service standards for state highways in the local
20 comprehensive plan are to monitor the performance of the system, to
21 evaluate improvement strategies, and to facilitate coordination between
22 the county's or city's six-year street, road, or transit program and
23 the department of transportation's six-year investment program. The
24 concurrency requirements of (b) of this subsection do not apply to
25 transportation facilities and services of statewide significance except
26 for counties consisting of islands whose only connection to the
27 mainland are state highways or ferry routes. In these island counties,
28 state highways and ferry route capacity must be a factor in meeting the
29 concurrency requirements in (b) of this subsection;

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

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

36 (F) Identification of state and local system needs to meet current
37 and future demands. Identified needs on state-owned transportation

1 facilities must be consistent with the statewide multimodal
2 transportation plan required under chapter 47.06 RCW;

3 (iv) Finance, including:

4 (A) An analysis of funding capability to judge needs against
5 probable funding resources;

6 (B) A multiyear financing plan based on the needs identified in the
7 comprehensive plan, the appropriate parts of which shall serve as the
8 basis for the six-year street, road, or transit program required by RCW
9 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
10 for public transportation systems. The multiyear financing plan should
11 be coordinated with the six-year improvement program developed by the
12 department of transportation as required by RCW 47.05.030;

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

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

20 (vi) Demand-management strategies;

21 (vii) Pedestrian and bicycle component to include collaborative
22 efforts to identify and designate planned improvements for pedestrian
23 and bicycle facilities and corridors that address and encourage
24 enhanced community access and promote healthy lifestyles.

25 (b) After adoption of the comprehensive plan by jurisdictions
26 required to plan or who choose to plan under RCW 36.70A.040, local
27 jurisdictions must adopt and enforce ordinances which prohibit
28 development approval if the development causes the level of service on
29 a locally owned transportation facility to decline below the standards
30 adopted in the transportation element of the comprehensive plan, unless
31 transportation improvements or strategies to accommodate the impacts of
32 development are made concurrent with the development. These strategies
33 may include increased public transportation service, ride sharing
34 programs, demand management, and other transportation systems
35 management strategies. For the purposes of this subsection (6)
36 "concurrent with the development" shall mean that improvements or
37 strategies are in place at the time of development, or that a financial

1 commitment is in place to complete the improvements or strategies
2 within six years.

3 (c) The transportation element described in this subsection (6),
4 and the six-year plans required by RCW 35.77.010 for cities, RCW
5 36.81.121 for counties, RCW 35.58.2795 for public transportation
6 systems, and RCW 47.05.030 for the state, must be consistent.

7 (7) An economic development element establishing local goals,
8 policies, objectives, and provisions for economic growth and vitality
9 and a high quality of life. The element shall include: (a) A summary
10 of the local economy such as population, employment, payroll, sectors,
11 businesses, sales, and other information as appropriate; (b) a summary
12 of the strengths and weaknesses of the local economy defined as the
13 commercial and industrial sectors and supporting factors such as land
14 use, transportation, utilities, education, work force, housing, and
15 natural/cultural resources; and (c) an identification of policies,
16 programs, and projects to foster economic growth and development and to
17 address future needs. A city that has chosen to be a residential
18 community is exempt from the economic development element requirement
19 of this subsection.

20 (8) A park and recreation element that implements, and is
21 consistent with, the capital facilities plan element as it relates to
22 park and recreation facilities. The element shall include: (a)
23 Estimates of park and recreation demand for at least a ten-year period;
24 (b) an evaluation of facilities and service needs; and (c) an
25 evaluation of intergovernmental coordination opportunities to provide
26 regional approaches for meeting park and recreational demand.

27 (9) It is the intent that new or amended elements required after
28 January 1, 2002, be adopted concurrent with the scheduled update
29 provided in RCW 36.70A.130. Requirements to incorporate any such new
30 or amended elements shall be null and void until funds sufficient to
31 cover applicable local government costs are appropriated and
32 distributed by the state at least two years before local government
33 must update comprehensive plans as required in RCW 36.70A.130.

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