HB 1967 - H AMD 201 By Representative White

ADOPTED 03/10/2009

1 Strike everything after the enacting clause and insert the 2 following:

- 3 "Sec. 1. RCW 36.70A.110 and 2004 c 206 s 1 are each amended to 4 read as follows:
 - (1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.
 - (2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period, except for those urban growth areas contained totally within a national historical reserve.

Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. In the case of urban growth areas contained totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as determined to be necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this

market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

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

- (3) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.
- (4) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

- (5) On or before October 1, 1993, each county that was initially 1 2 required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. 3 4 Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of 5 6 certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt 7 8 development regulations designating interim urban growth areas under 9 this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the 10 state environmental policy act, chapter 43.21C RCW, 11 12 36.70A.110)) under this section. Such action may be appealed to the 13 appropriate growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive 14 plan adoption under this chapter. 15
- 16 (6) Each county shall include designations of urban growth areas in 17 its comprehensive plan.
 - (7) An urban growth area designated in accordance with this section may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.
 - (8)(a) Except as provided in (b) of this subsection, the expansion of an urban growth area is prohibited into the one hundred year floodplain of any river or river segment that: (i) Is located west of the crest of the Cascade mountains; and (ii) has a mean annual flow of one thousand or more cubic feet per second as determined by the department of ecology.
 - (b) Subsection (8)(a) of this section does not apply to:
- 29 <u>(i) Urban growth areas that are fully contained within a floodplain</u> 30 and lack adjacent buildable areas outside the floodplain;
- (ii) Urban growth areas where expansions are precluded outside
 floodplains because:
- 33 (A) Urban governmental services cannot be physically provided to 34 serve areas outside the floodplain; or
- 35 <u>(B) Expansions outside the floodplain would require a river or</u> 36 <u>estuary crossing to access the expansion; or</u>
 - (iii) Urban growth area expansions where:

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- (A) Public facilities already exist within the floodplain and the expansion of an existing public facility is only possible on the land to be included in the urban growth area and located within the floodplain;
 - (B) Urban development already exists within a floodplain as of the effective date of this section and is adjacent to, but outside of, the urban growth area, and the expansion of the urban growth area is necessary to include such urban development within the urban growth area;
 - (C) The land is owned by a jurisdiction planning under this chapter or the rights to the development of the land have been permanently extinguished, and the following criteria are met:
- (I) The permissible use of the land is limited to one of the following: Outdoor recreation; environmentally beneficial projects, including but not limited to habitat enhancement or environmental restoration; storm water facilities; flood control facilities; or underground conveyances; and
 - (II) The development and use of such facilities or projects will not decrease flood storage, increase storm water runoff, discharge pollutants to fresh or salt waters during normal operations or floods, or increase hazards to people and property.
- (c) For the purposes of this subsection (8), "one hundred year floodplain" means the same as "special flood hazard area" as set forth in WAC 173-158-040 as it exists on the effective date of this section."
- 25 Correct the title.

EFFECT: (1) Deletes an exemption from the floodplain development prohibition which would have allowed the expansion of an urban growth area into a floodplain where an expansion outside the floodplain is impracticable because it would preclude the effective delivery of urban governmental services; (2) adds additional exemptions to the general floodplain development prohibition, including areas already subject to specified types of urban development, as well as specified lands owned by Growth Management Act planning jurisdictions that may undergo limited development for specified uses; (3) provides a definition of "100 year floodplain"; and (4) clarifies that the mean annual flow of the rivers that may be subject to the act is to be determined by the Department of Ecology.