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## Local Government Committee

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### ESB 6194

**Brief Description:** Providing a process for county legislative authorities to withdraw from voluntary planning under the growth management act.

**Sponsors:** Senators Dansel, Sheldon, Schoesler, Rivers, King, Benton, Brown, Braun, Angel, Padden, Bailey, Becker, Honeyford, Roach, Dammeier, Baumgartner, Holmquist Newbry and Hatfield.

#### Brief Summary of Engrossed Bill

- Allows a county that elected to fully plan under the Growth Management Act (GMA) and that has 20,000 or fewer inhabitants to remove itself and the cities within from requirements to fully plan under the GMA.
- Specifies that a county action to remove itself and the cities within from requirements to fully plan under the GMA is, provided the county is not in compliance with numerous planning provisions at the time of the removal action, subject to approval by the Department of Commerce (Commerce).
- Makes approval determinations by Commerce subject to review by the Growth Management Hearings Board.
- Requires counties that remove themselves and the cities within from requirements to fully plan under the GMA to adopt development regulations to assure the conservation of designated natural resource lands.
- Expires the authority of a county to remove itself and the cities within from requirements to fully plan under the GMA on December 31, 2015.

**Hearing Date:** 2/24/14

**Staff:** Ethan Moreno (786-7386).

**Background:**

Growth Management Act: Introduction and Two-Tiered Planning Requirements.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated by mandate or choice to satisfy all planning requirements of the GMA.

The GMA directs planning jurisdictions (jurisdictions that must satisfy all planning requirements of the GMA) to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specific planning elements, including land use, housing, and rural area provisions, each of which is a subset of a comprehensive plan. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to recurring review and revision requirements prescribed in the GMA.

Planning jurisdictions are further required to satisfy a wide array of planning requirements established in the GMA. Examples of these planning requirements include provisions for:

- developing and adopting countywide planning policies;
- designating urban growth areas; and
- developing processes for identifying and siting essential public facilities.

While planning jurisdictions are subject to significantly more requirements under the GMA than nonplanning jurisdictions, the GMA requires all counties and cities to satisfy specific designation mandates for natural resource lands. All counties and cities, for example, must designate, where appropriate, agricultural lands that are not characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products. Planning jurisdictions must also adopt development regulations that conserve these agricultural lands and other designated natural resource lands.

As established in the GMA, all counties and cities must also designate and protect environmentally sensitive critical areas. These protection requirements obligate local governments, using the best available science, to adopt development regulations, also known as critical areas ordinances, that comply with specified criteria. As defined by statute, critical areas include: wetlands; aquifer recharge areas; fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas.

The Department of Commerce (Commerce) provides technical and financial assistance to jurisdictions that must implement requirements of the GMA.

#### Planning Jurisdiction Obligations: Mandates and Choices.

Of the 29 counties and the cities within that fully plan under the GMA, 18 were required by population criteria established in the GMA to become planning jurisdictions. The remaining 11 counties elected through a process described below to have all planning requirements of the GMA apply to them and to the cities within.

A county obligated by mandate to fully plan under the GMA is one that either:

- has a population of 50,000 or more and has experienced a population increase of more than 17 percent in the previous 10 years; or

- has experienced a population increase of more than 20 percent over the previous 10 years, regardless of population.

A county obligated by choice to fully plan under the GMA is one that, not meeting the specified population requirements, adopted a resolution of intention permanently subjecting itself and the cities within to all planning requirements of the GMA.

The counties that elected to fully plan under the GMA, and the year in which their resolution of intention was adopted, are as follows: Benton (1990); Columbia (1991); Douglas (1990); Ferry (1990); Franklin (1990); Garfield (1991); Kittitas (1990); Pacific (1990); Pend Oreille (1990); Stevens (1993); and Walla Walla (1990).

According to the 2010 Census and April 1, 2013 population estimates of the Office of Financial Management (OFM), four counties that adopted resolutions of intention have had populations of 20,000 or fewer residents between April 1, 2010, and April 1, 2013.

<i>County</i>	<i>Census (April 1, 2010) Population</i>	<i>April 1, 2013 OFM Estimate</i>
Columbia	4,078	4,100
Ferry	7,551	7,650
Garfield	2,266	2,250
Pend Oreille	13,001	13,150

Growth Management Hearings Board.

The GMA establishes a seven-member quasi-judicial Growth Management Hearings Board (Board) to make determinations related to the implementation of the GMA. The Board has limited jurisdiction and may only hear and determine petitions alleging:

- that a state agency or planning jurisdiction is noncompliant with the GMA, specific provisions of the Shoreline Management Act, or certain mandates of the State Environmental Policy Act relating to qualifying plans, regulations, or amendments;
- that the 20-year planning population projections adopted by the OFM should be adjusted;
- that an approval or rejection of a county work plan by Commerce for the Voluntary Stewardship Program (VSP) is noncompliant with specific VSP requirements;
- that county regulations adopted to comply with VSP requirements are not rationally applicable and cannot be adopted by another jurisdiction in the implementation of the VSP; or
- that Commerce's certification of county development regulations adopted to protect certain critical areas in conformity with VSP requirements is erroneous.

Each petition for review that is filed with the Board must be heard and decided by a regional three-member panel of Board members. The Board must make findings of fact and prepare a written decision in each decided case. Findings of fact and decisions become effective upon being signed by two or more members of the regional panel deciding the case and upon being filed at the Board's principal office. Final decisions of the Board may be appealed to the superior court. Additionally, if all parties agree, the superior court may directly review a petition filed with the Board.

## Summary of Bill:

Until December 31, 2015, the legislative authority of a county that is obligated by choice to fully plan under the GMA may adopt a removal resolution exempting the county and the cities within from requirements to fully plan under the GMA if:

- the county has a population of 20,000 or fewer inhabitants at any time between January 1, 2010, and December 31, 2015;
- at least 60 days prior to adopting a removal resolution, the county provides written notification to the legislative body of each city located within the county of its intent to consider adopting the resolution; and
- the legislative bodies of at least 60 percent of those cities having an aggregate population of at least 75 percent of the incorporated county population *have not* adopted resolutions opposing the removal action by the county and provided corresponding written notification.

Upon adoption of a removal resolution, the county and the cities within are no longer obligated to fully plan under the GMA. Additionally, the legislative authority of a county that adopts a removal resolution is barred from subsequently passing a resolution indicating its intention to fully plan under the GMA for a minimum of 10 years after the adoption of the removal resolution.

Each county that adopts a removal resolution and the cities within must, within one year of the adoption of the resolution, adopt development regulations to assure the conservation of designated natural resource lands. These regulations may not prohibit uses legally existing on any parcel prior to their adoption, and must assure that the use of lands adjacent to the designated natural resource lands do not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of the lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

Any county that adopts a removal resolution and is not in compliance with specific provisions of the GMA at the time the resolution is adopted must, by June 30, 2017, obtain approval from Commerce regarding development regulations that protect critical areas, other development regulations, and comprehensive plans, all as they apply the same specified provisions. Absent approval from Commerce, the county is obligated to satisfy all planning requirements of the GMA.

The planning provisions that are subject to the compliance and approval provisions are obligations of the GMA requiring:

- the designation of natural resource lands and critical areas;
- the adoption of development regulations that assure the conservation of designated natural resource lands;
- the adoption of development regulations that protect designated critical areas;
- the use of the best available science in designating and protecting critical areas; and
- the adoption of comprehensive plans and implementing development regulations, countywide planning policies, and designated urban growth areas.

Approval decisions by Commerce may be appealed to the Growth Management Hearings Board.

**Appropriation:** None.

**Fiscal Note:** Requested on February 20, 2014.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.