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HOUSE BILL 2187

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State of Washington

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By Representatives Takko and Blake

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1 AN ACT Relating to extending the date by which counties  
2 participating in the voluntary stewardship program must review and, if  
3 necessary, revise development regulations that apply to critical areas  
4 in areas used for agricultural activities; and amending RCW 36.70A.710  
5 and 36.70A.130.

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

7 **Sec. 1.** RCW 36.70A.710 and 2011 c 360 s 4 are each amended to read  
8 as follows:

9 (1)(a) As an alternative to protecting critical areas in areas used  
10 for agricultural activities through development regulations adopted  
11 under RCW 36.70A.060, the legislative authority of a county may elect  
12 to protect such critical areas through the program.

13 (b) In order to participate in the program, within six months after  
14 July 22, 2011, the legislative authority of a county must adopt an  
15 ordinance or resolution that:

16 (i) Elects to have the county participate in the program;

17 (ii) Identifies the watersheds that will participate in the  
18 program; and

1 (iii) Based on the criteria in subsection (4) of this section,  
2 nominates watersheds for consideration by the commission as state  
3 priority watersheds.

4 (2) Before adopting the ordinance or resolution under subsection  
5 (1) of this section, the county must (a) confer with tribes, and  
6 environmental and agricultural interests; and (b) provide notice  
7 following the public participation and notice provisions of RCW  
8 36.70A.035 to property owners and other affected and interested  
9 individuals, tribes, government agencies, businesses, school districts,  
10 and organizations.

11 (3) In identifying watersheds to participate in the program, a  
12 county must consider:

13 (a) The role of farming within the watershed, including the number  
14 and acreage of farms, the economic value of crops and livestock, and  
15 the risk of the conversion of farmland;

16 (b) The overall likelihood of completing a successful program in  
17 the watershed; and

18 (c) Existing watershed programs, including those of other  
19 jurisdictions in which the watershed has territory.

20 (4) In identifying priority watersheds, a county must consider the  
21 following:

22 (a) The role of farming within the watershed, including the number  
23 and acreage of farms, the economic value of crops and livestock, and  
24 the risk of the conversion of farmland;

25 (b) The importance of salmonid resources in the watershed;

26 (c) An evaluation of the biological diversity of wildlife species  
27 and their habitats in the geographic region including their  
28 significance and vulnerability;

29 (d) The presence of leadership within the watershed that is  
30 representative and inclusive of the interests in the watershed;

31 (e) Integration of regional watershed strategies, including the  
32 availability of a data and scientific review structure related to all  
33 types of critical areas;

34 (f) The presence of a local watershed group that is willing and  
35 capable of overseeing a successful program, and that has the  
36 operational structures to administer the program effectively, including  
37 professional technical assistance staff, and monitoring and adaptive  
38 management structures; and

1 (g) The overall likelihood of completing a successful program in  
2 the watershed.

3 (5) Except as otherwise provided in subsection (9) of this section,  
4 beginning with the effective date of the ordinance or resolution  
5 adopted under subsection (1) of this section, the program applies to  
6 all unincorporated property upon which agricultural activities occur  
7 within a participating watershed.

8 (6)(a) Except as otherwise provided in (b) of this subsection,  
9 within two years after July 22, 2011, a county must review and, if  
10 necessary, revise development regulations adopted under this chapter to  
11 protect critical areas as they specifically apply to agricultural  
12 activities:

13 (i) If the county has not elected to participate in the program,  
14 for all unincorporated areas; or

15 (ii) If the county has elected to participate in the program, for  
16 any watershed not participating in the program.

17 (b) A county that between July 1, 2003, and June 30, 2007, in  
18 accordance with RCW 36.70A.130 completed the review of its development  
19 regulations as required by RCW 36.70A.130 to protect critical areas as  
20 they specifically apply to agricultural activities, and that elected  
21 under subsection (1) of this section to participate in the program, is  
22 not required to review and revise ~~((its))~~ those development regulations  
23 until ~~((required by RCW 36.70A.130))~~ June 1, 2021, or the applicable  
24 date established in RCW 36.70A.130(5), whichever is later.

25 (c) After the review and amendment required under (a) of this  
26 subsection, RCW 36.70A.130 applies to the subsequent review and  
27 amendment of development regulations adopted under this chapter to  
28 protect critical areas as they specifically apply to agricultural  
29 activities.

30 (7)(a) A county that has made the election under subsection (1) of  
31 this section may withdraw a participating watershed from the program by  
32 adopting an ordinance or resolution withdrawing the watershed from the  
33 program. A county may withdraw a watershed from the program at the end  
34 of three years, five years, or eight years after receipt of funding, or  
35 any time after ten years from receipt of funding.

36 (b) Within eighteen months after withdrawing a participating  
37 watershed from the program, the county must review and, if necessary,  
38 revise its development regulations that protect critical areas in that

1 watershed as they specifically apply to agricultural activities. The  
2 development regulations must protect the critical area functions and  
3 values as they existed on July 22, 2011. RCW 36.70A.130 applies to the  
4 subsequent review and amendment of development regulations adopted  
5 under this chapter to protect critical areas as they specifically apply  
6 to agricultural activities.

7 (8) A county that has made the election under subsection (1) of  
8 this section is eligible for a share of the funding made available to  
9 implement the program, subject to funding availability from the state.

10 (9) A county that has made the election under subsection (1) of  
11 this section is not required to implement the program in a  
12 participating watershed until adequate funding for the program in that  
13 watershed is provided to the county.

14 **Sec. 2.** RCW 36.70A.130 and 2012 c 191 s 1 are each amended to read  
15 as follows:

16 (1)(a) Each comprehensive land use plan and development regulations  
17 shall be subject to continuing review and evaluation by the county or  
18 city that adopted them. Except as otherwise provided, a county or city  
19 shall take legislative action to review and, if needed, revise its  
20 comprehensive land use plan and development regulations to ensure the  
21 plan and regulations comply with the requirements of this chapter  
22 according to the deadlines in subsections (4) and (5) of this section.

23 (b) Except as otherwise provided, a county or city not planning  
24 under RCW 36.70A.040 shall take action to review and, if needed, revise  
25 its policies and development regulations regarding critical areas and  
26 natural resource lands adopted according to this chapter to ensure  
27 these policies and regulations comply with the requirements of this  
28 chapter according to the deadlines in subsections (4) and (5) of this  
29 section. Legislative action means the adoption of a resolution or  
30 ordinance following notice and a public hearing indicating at a  
31 minimum, a finding that a review and evaluation has occurred and  
32 identifying the revisions made, or that a revision was not needed and  
33 the reasons therefor.

34 (c) The review and evaluation required by this subsection shall  
35 include, but is not limited to, consideration of critical area  
36 ordinances and, if planning under RCW 36.70A.040, an analysis of the

1 population allocated to a city or county from the most recent ten-year  
2 population forecast by the office of financial management.

3 (d) Any amendment of or revision to a comprehensive land use plan  
4 shall conform to this chapter. Any amendment of or revision to  
5 development regulations shall be consistent with and implement the  
6 comprehensive plan.

7 (2)(a) Each county and city shall establish and broadly disseminate  
8 to the public a public participation program consistent with RCW  
9 36.70A.035 and 36.70A.140 that identifies procedures and schedules  
10 whereby updates, proposed amendments, or revisions of the comprehensive  
11 plan are considered by the governing body of the county or city no more  
12 frequently than once every year, except that, until December 31, 2015,  
13 the program shall provide for consideration of amendments of an urban  
14 growth area in accordance with RCW 36.70A.1301 once every year.  
15 "Updates" means to review and revise, if needed, according to  
16 subsection (1) of this section, and the deadlines in subsections (4)  
17 and (5) of this section or in accordance with the provisions of  
18 subsection (6) of this section. Amendments may be considered more  
19 frequently than once per year under the following circumstances:

20 (i) The initial adoption of a subarea plan. Subarea plans adopted  
21 under this subsection (2)(a)(i) must clarify, supplement, or implement  
22 jurisdiction-wide comprehensive plan policies, and may only be adopted  
23 if the cumulative impacts of the proposed plan are addressed by  
24 appropriate environmental review under chapter 43.21C RCW;

25 (ii) The development of an initial subarea plan for economic  
26 development located outside of the one hundred year floodplain in a  
27 county that has completed a state-funded pilot project that is based on  
28 watershed characterization and local habitat assessment;

29 (iii) The adoption or amendment of a shoreline master program under  
30 the procedures set forth in chapter 90.58 RCW;

31 (iv) The amendment of the capital facilities element of a  
32 comprehensive plan that occurs concurrently with the adoption or  
33 amendment of a county or city budget; or

34 (v) The adoption of comprehensive plan amendments necessary to  
35 enact a planned action under RCW (~~(43.21C.031(2))~~) 43.21C.440, provided  
36 that amendments are considered in accordance with the public  
37 participation program established by the county or city under this

1 subsection (2)(a) and all persons who have requested notice of a  
2 comprehensive plan update are given notice of the amendments and an  
3 opportunity to comment.

4 (b) Except as otherwise provided in (a) of this subsection, all  
5 proposals shall be considered by the governing body concurrently so the  
6 cumulative effect of the various proposals can be ascertained.  
7 However, after appropriate public participation a county or city may  
8 adopt amendments or revisions to its comprehensive plan that conform  
9 with this chapter whenever an emergency exists or to resolve an appeal  
10 of a comprehensive plan filed with the growth management hearings board  
11 or with the court.

12 (3)(a) Each county that designates urban growth areas under RCW  
13 36.70A.110 shall review, according to the schedules established in  
14 subsection (5) of this section, its designated urban growth area or  
15 areas, and the densities permitted within both the incorporated and  
16 unincorporated portions of each urban growth area. In conjunction with  
17 this review by the county, each city located within an urban growth  
18 area shall review the densities permitted within its boundaries, and  
19 the extent to which the urban growth occurring within the county has  
20 located within each city and the unincorporated portions of the urban  
21 growth areas.

22 (b) The county comprehensive plan designating urban growth areas,  
23 and the densities permitted in the urban growth areas by the  
24 comprehensive plans of the county and each city located within the  
25 urban growth areas, shall be revised to accommodate the urban growth  
26 projected to occur in the county for the succeeding twenty-year period.  
27 The review required by this subsection may be combined with the review  
28 and evaluation required by RCW 36.70A.215.

29 (4) Except as provided in subsection (6) of this section, counties  
30 and cities shall take action to review and, if needed, revise their  
31 comprehensive plans and development regulations to ensure the plan and  
32 regulations comply with the requirements of this chapter as follows:

33 (a) On or before December 1, 2004, for Clallam, Clark, Jefferson,  
34 King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the  
35 cities within those counties;

36 (b) On or before December 1, 2005, for Cowlitz, Island, Lewis,  
37 Mason, San Juan, Skagit, and Skamania counties and the cities within  
38 those counties;

1 (c) On or before December 1, 2006, for Benton, Chelan, Douglas,  
2 Grant, Kittitas, Spokane, and Yakima counties and the cities within  
3 those counties; and

4 (d) On or before December 1, 2007, for Adams, Asotin, Columbia,  
5 Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan,  
6 Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman  
7 counties and the cities within those counties.

8 (5) Except as otherwise provided in subsections (6) and (8) of this  
9 section and RCW 36.70A.710(6)(b), following the review of comprehensive  
10 plans and development regulations required by subsection (4) of this  
11 section, counties and cities shall take action to review and, if  
12 needed, revise their comprehensive plans and development regulations to  
13 ensure the plan and regulations comply with the requirements of this  
14 chapter as follows:

15 (a) On or before June 30, 2015, and every eight years thereafter,  
16 for King, Pierce, and Snohomish counties and the cities within those  
17 counties;

18 (b) On or before June 30, 2016, and every eight years thereafter,  
19 for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit,  
20 Thurston, and Whatcom counties and the cities within those counties;

21 (c) On or before June 30, 2017, and every eight years thereafter,  
22 for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania,  
23 Spokane, and Yakima counties and the cities within those counties; and

24 (d) On or before June 30, 2018, and every eight years thereafter,  
25 for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays  
26 Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens,  
27 Wahkiakum, Walla Walla, and Whitman counties and the cities within  
28 those counties.

29 (6)(a) Nothing in this section precludes a county or city from  
30 conducting the review and evaluation required by this section before  
31 the deadlines established in subsections (4) and (5) of this section.  
32 Counties and cities may begin this process early and may be eligible  
33 for grants from the department, subject to available funding, if they  
34 elect to do so.

35 (b) A county that is subject to a deadline established in  
36 subsection (4)(b) through (d) of this section and meets the following  
37 criteria may comply with the requirements of this section at any time  
38 within the thirty-six months following the deadline established in

1 subsection (4) of this section: The county has a population of less  
2 than fifty thousand and has had its population increase by no more than  
3 seventeen percent in the ten years preceding the deadline established  
4 in subsection (4) of this section as of that date.

5 (c) A city that is subject to a deadline established in subsection  
6 (4)(b) through (d) of this section and meets the following criteria may  
7 comply with the requirements of this section at any time within the  
8 thirty-six months following the deadline established in subsection (4)  
9 of this section: The city has a population of no more than five  
10 thousand and has had its population increase by the greater of either  
11 no more than one hundred persons or no more than seventeen percent in  
12 the ten years preceding the deadline established in subsection (4) of  
13 this section as of that date.

14 (d) A county or city that is subject to a deadline established in  
15 subsection (4)(d) of this section and that meets the criteria  
16 established in (b) or (c) of this subsection may comply with the  
17 requirements of subsection (4)(d) of this section at any time within  
18 the thirty-six months after the extension provided in (b) or (c) of  
19 this subsection.

20 (e) A county that is subject to a deadline established in  
21 subsection (5)(b) through (d) of this section and meets the following  
22 criteria may comply with the requirements of this section at any time  
23 within the twenty-four months following the deadline established in  
24 subsection (5) of this section: The county has a population of less  
25 than fifty thousand and has had its population increase by no more than  
26 seventeen percent in the ten years preceding the deadline established  
27 in subsection (5) of this section as of that date.

28 (f) A city that is subject to a deadline established in subsection  
29 (5)(b) through (d) of this section and meets the following criteria may  
30 comply with the requirements of this section at any time within the  
31 twenty-four months following the deadline established in subsection (5)  
32 of this section: The city has a population of no more than five  
33 thousand and has had its population increase by the greater of either  
34 no more than one hundred persons or no more than seventeen percent in  
35 the ten years preceding the deadline established in subsection (5) of  
36 this section as of that date.

37 (g) State agencies are encouraged to provide technical assistance



1 to the counties and cities in the review of critical area ordinances,  
2 comprehensive plans, and development regulations.

3 (7)(a) The requirements imposed on counties and cities under this  
4 section shall be considered "requirements of this chapter" under the  
5 terms of RCW 36.70A.040(1). Only those counties and cities that meet  
6 the following criteria may receive grants, loans, pledges, or financial  
7 guarantees under chapter 43.155 or 70.146 RCW:

8 (i) Complying with the deadlines in this section;

9 (ii) Demonstrating substantial progress towards compliance with the  
10 schedules in this section for development regulations that protect  
11 critical areas; or

12 (iii) Complying with the extension provisions of subsection (6)(b),  
13 (c), or (d) of this section.

14 (b) A county or city that is fewer than twelve months out of  
15 compliance with the schedules in this section for development  
16 regulations that protect critical areas is making substantial progress  
17 towards compliance. Only those counties and cities in compliance with  
18 the schedules in this section may receive preference for grants or  
19 loans subject to the provisions of RCW 43.17.250.

20 (8)(a) Except as otherwise provided in (c) of this subsection, if  
21 a participating watershed is achieving benchmarks and goals for the  
22 protection of critical areas functions and values, the county is not  
23 required to update development regulations to protect critical areas as  
24 they specifically apply to agricultural activities in that watershed.

25 (b) A county that has made the election under RCW 36.70A.710(1) may  
26 only adopt or amend development regulations to protect critical areas  
27 as they specifically apply to agricultural activities in a  
28 participating watershed if:

29 (i) A work plan has been approved for that watershed in accordance  
30 with RCW 36.70A.725;

31 (ii) The local watershed group for that watershed has requested the  
32 county to adopt or amend development regulations as part of a work plan  
33 developed under RCW 36.70A.720;

34 (iii) The adoption or amendment of the development regulations is  
35 necessary to enable the county to respond to an order of the growth  
36 management hearings board or court;

37 (iv) The adoption or amendment of development regulations is  
38 necessary to address a threat to human health or safety; or

1           (v) Three or more years have elapsed since the receipt of funding.  
2           (c) Beginning ten years from the date of receipt of funding, a  
3 county that has made the election under RCW 36.70A.710(1) must review  
4 and, if necessary, revise development regulations to protect critical  
5 areas as they specifically apply to agricultural activities in a  
6 participating watershed in accordance with the review and revision  
7 requirements and timeline in subsection (5) of this section. This  
8 subsection (8)(c) does not apply to a participating watershed that has  
9 determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals  
10 and benchmarks for protection have been met.

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