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**SENATE BILL 6420**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senators Roach and Takko

AN ACT Relating to land capacity review and evaluation; and amending RCW 36.70A.215.

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

**Sec.**  RCW 36.70A.215 and 2011 c 353 s 3 are each amended to read as follows:

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures((~~, other than adjusting urban growth areas,~~)) that will be taken to comply with the requirements of this chapter, including allowing the division of lands within urban growth areas not yet served by sewer systems.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land available and suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection as provided in subsection (3) of this section. The evaluation shall be completed no later than one year prior to the deadline for review and, if necessary, update of comprehensive plans and development regulations as required by RCW 36.70A.130. The county and its cities may establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the countywide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the countywide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine through a land capacity analysis whether there is sufficient suitable land to accommodate the countywide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine through a land capacity analysis the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the countywide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that ((~~are reasonably likely to increase consistency~~)) bring them into compliance with the requirements of this chapter during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to countywide planning policies to ((~~increase consistency~~)) bring them into compliance with the requirements of this chapter. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the countywide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7)(a) For purposes of this section, available and suitable land for development does not include lands that are unlikely to be available for development or the following lands:

(i) Lands where building is constrained by: Critical areas ordinances; wetlands; slopes greater than fifteen percent; landslide areas that have active or historically unstable slopes; one hundred year floodplains; lands within two hundred feet of a shoreline buffer; hydric soils with fifty foot buffers; habitat areas with one hundred foot buffers; species areas with three hundred foot buffers; riparian stream buffers by stream type: Shoreline two hundred fifty feet, fish bearing two hundred feet, perennial nonfish bearing one hundred feet, and seasonal nonfish bearing seventy-five feet; sewer and water availability; current or future roads and rights-of-way; current or future public and quasi-public facilities; and

(ii) Parcels containing a building on the property that is valued at over thirteen thousand dollars, is tax exempt, or is a mobile home park.

(b) Parcels that may not be considered available and suitable for commercial construction include all of the lands in (a)(i) of this subsection, parcels where the building value is more than sixty-seven thousand five hundred dollars, and parcels that are assessed with other parcels, tax exempt, less than five thousand square feet, or state assessed or institutional.

(8) Lands designated as underutilized do not include:

(a) For residential construction, lands that are constrained by subsection (7)(a) of this section and lands with a building value per acre above the twentieth percentile of building value per acre for all residential parcels within all urban growth areas in the county.

(b) For commercial construction, lands that are constrained by subsection (7)(a)(i) and (c) of this section and lands with a building value per acre of fifty thousand dollars or more.

(9) The provisions of this section shall apply to ((~~counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section~~)) every local jurisdiction planning under this chapter.

(10) The requirements of subsections (2), (3), and (4) of this section must be met before jurisdictions are eligible to receive growth management grant funds administered by the department of commerce, except for grant funds expressly related to buildable lands.

(11) In any action brought under chapter 7.24 RCW to ensure compliance with this section, the prevailing party may be entitled to reasonable costs and attorneys' fees. If the requirements of this section are not met in full, there is no presumption of validity.

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