**1017-S.E AMS EDU S2461.1 - NOT FOR FLOOR USE**

**ESHB 1017** - S COMM AMD

By Committee on Early Learning & K-12 Education

**NOT ADOPTED 04/11/2017**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature recognizes the importance of providing public education to K-12 students, including those who reside in an urban area and those who reside in a rural area. As a part of implementing the growth management act, the legislature affirms that schools are public services that are necessary in both urban and rural areas. Schools are not urban or rural in nature. Instead, K-12 public education is a needed public service statewide. To address the need for additional classrooms, the legislature intends for school districts to be authorized to site schools in the rural area to serve all students and/or to site schools in the urban area to serve all students. To ensure consistency in counties planning under the multicounty planning policies, the legislature intends to create a framework for siting schools under this act. The legislature also intends to establish a policy regarding the extension of utilities and/or public facilities necessary to serve schools to protect public health and safety and the environment.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

(1) This chapter prohibits a county planning under RCW 36.70A.040 from authorizing the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area unless the following requirements are met:

(a) The applicable school district board of directors has adopted a policy addressing school service area and facility needs;

(b) The applicable school district has made a finding, with the concurrence of the county legislative authority and the legislative authorities of any affected cities, that the district's proposed site is suitable to site the school and any associated recreational facilities that the district has determined cannot reasonably be colocated on an existing school site, taking into consideration the policy adopted in (a) of this subsection and the extent to which vacant or developable land within the urban growth area meets those requirements;

(c) The county and any affected cities agree to the extension of public facilities and utilities to serve the school sited in a rural area that serves urban and rural students at the time of concurrence in (b) of this subsection;

(d) If the public facility or utility is extended beyond the urban growth area to serve a school, the public facility or utility must serve the school and the costs of such extension must be borne by the applicable school district based on a reasonable nexus to the impacts of the school, except as provided in subsection (3) of this section; and

(e) Any impacts associated with the siting of the school are mitigated as required by the state environmental policy act, chapter 43.21C RCW.

(2) This chapter does not prohibit or restrict the renovation, modernization, addition, expansion, or replacement of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area.

(3) Where a public facility or utility has been extended beyond the urban growth area to serve a school, the public facility or utility may, where consistent with RCW 36.70A.110(4), serve a property or properties in addition to the school if a property owner so requests, provided that the county and any affected cities agree with the request and provided that the property is located no further from the public facility or utility than the distance that, if the property were within the urban growth area, the property would be required to connect to the public facility or utility. In such an instance, the school district may, for a period not to exceed twenty years, require reimbursement from a requesting property owner for a proportional share of the construction costs incurred by the school district for the extension of the public facility or utilities.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

(1)(a) A county may only authorize the siting of a school in a rural area that serves students from an urban area and from a rural area, even when otherwise discouraged by a multicounty planning policy, and (b) any comprehensive plan provision or development regulation adopted to implement school siting under this chapter is not subject to the requirement for compliance under any multicounty planning policies or with any countywide planning policies or updates to such policies, if the following conditions are met:

(i) The county has a population of more than eight hundred forty thousand but fewer than one million five hundred thousand and that abuts at least six other counties;

(ii) A school district has made a determination of need for a new school in a rural area, taking into consideration the availability of developable land within the urban growth area and relevant service area suitable for the projected enrollment of the school that is consistent with locally adopted educational program requirements, and the financial impact of extending public services and utilities to such site;

(iii) If there is any land available for purchase within the urban growth area and in the specific service area of the school district that meets the school district's planned educational programs, a school district has determined that, following a review of the then-current zoning, site characteristics, and the overall acquisition and development costs of the alternative site in the urban growth area, the development of a school on such land in the urban growth area is not feasible as of the time the determination is made;

(iv) Any impacts associated with the siting of such a school are mitigated as required under the state environmental policy act, chapter 43.21C RCW;

(v) The county must be a participant in a multicounty planning policy as described in RCW 36.70A.210;

(vi) The school project is needed to meet projected student capacity needs in an identified service area that serves students residing in both the urban growth area and in the rural area, as demonstrated by a capital facilities plan adopted by a locally elected school board of directors;

(vii) The location and design of the school project provides a buffer between the school project and the rural area, thereby protecting the character of the rural area; and

(viii) The county must have adopted in its comprehensive plan a policy concerning the siting of schools in rural areas.

(2) A school sited under this section may not collect or impose the impact fees described in RCW 82.02.050.

(3) A determination of need made by a school district is presumed correct unless it is found to be clearly erroneous by a county within which the proposed new school is sited. For the county to assert that a determination is clearly erroneous, it must, at a minimum and in consideration of the decision made by the locally elected school board of directors, identify at least two sites that: Meet all of the school district's program requirements identified in the determination of need, are financially feasible, are available for purchase in arm's length transactions, and meet other criteria identified in sections 2 through 4 of this act. Citizens must have an opportunity to appeal the determination of need as described in this section.

(4) A multicounty planning policy in which any county referenced in subsection (1) of this section is a participant must be amended, at its next regularly scheduled update, to include a policy that addresses the siting of schools in rural areas of all counties subject to the multicounty planning policy.

(5) This section expires upon the adoption of, including final adjudication of any appeals concerning, the next regularly scheduled update of any multicounty planning policy referenced in subsection (4) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

In a county where a school district chooses to site schools under section 3 of this act, the school district siting a new school in the rural area is required to participate in the county's periodic updates by:

(1) Providing its enrollment forecasts and projections to the county;

(2) Providing school siting criteria to the county, cities, and regional transportation planning organizations;

(3) Reviewing with the county and affected cities the process the school district has used regarding the site selection process. The district shall confirm that the district has considered potential sites in areas where students can safely walk and bicycle to the school from their homes and that can effectively be served with transit, considering the district's educational service areas, and taking into consideration, at a minimum, the price and availability of, and whether there is a need to assemble land for suitable school sites, and whether a school district could purchase the necessary parcels. Sites or any portion of the sites that cannot be acquired through arm's length transactions should not be considered.

**Sec.**  RCW 36.70A.030 and 2012 c 21 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(6) "Department" means the department of commerce.

(7) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(8) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(15) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(16) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(17) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, schools serving primarily rural students, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(18) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, schools, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(19) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(20) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(21) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands."

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On page 1, line 1 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 36.70A.030; adding new sections to chapter 36.70A RCW; creating a new section; and providing a contingent expiration date."

EFFECT: (1) Adds an intent section.

(2) States that the Growth Management Act (GMA) prohibits a county from authorizing the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area unless certain requirements are met including:

(a) The applicable school district board of directors has adopted a policy addressing school service area and facility needs;

(b) The applicable school district has made a finding with the concurrence of the county legislative authority and the legislative authorities of any affected cities that the district's site is suitable, taking into consideration the school district policy and the extent to which vacant or developable land within the urban growth area meets those requirements;

(c) The county and any affected cities agree to the extension of public facilities and utilities at the time of concurrence; and

(d) The extended public facilities or utilities serve the school and the costs of such extension is borne by the applicable school district.

(3) States that the GMA does not restrict the renovation, modernization, addition, or replacement, in addition to expansion, of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area.

(4) Allows a county with a population of more than 840,000 but fewer than 1.5 million that abuts at least six other counties to only authorize the siting of a school in a rural area that serves urban and rural students, even when otherwise discouraged by a multicounty planning policy, when certain requirements are met, including:

(a) A school district has made a determination of need for a new school in a rural area taking into consideration certain factors;

(b) A school district has determined that any available land within the urban growth area is not feasible following a review of certain factors;

(c) The school project is needed to meet projected student capacity needs for students residing in both urban and rural areas;

(d) The location and design of the school project provides a buffer between the school project and the rural area, thereby protecting the character of the rural area; and

(e) The county has adopted in its comprehensive plan a policy concerning the siting of schools in rural areas.

(5) Provides that a school district's determination of need is presumed correct unless it is found to be clearly erroneous by a county and requires the county to identify at least two sites that meet all of the school district's requirements, are financially feasible, and are available for purchase in arm's length transactions.

(6) Requires citizens to have an opportunity to appeal the determination of need.

(7) Requires a school district siting a new school in a rural area to participate in the county's periodic updates regarding certain topics, including enrollment and school siting criteria.