

# HOUSE BILL REPORT

## ESHB 1274

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**As Passed House:**

March 13, 1995

**Title:** An act relating to growth management.

**Brief Description:** Revising growth management provisions.

**Sponsors:** By House Committee on Government Operations (originally sponsored by Representatives Reams, Sheldon, K. Schmidt, Hargrove, McMahan, Mulliken, Foreman, Sherstad, Elliot, Stevens, Johnson, Talcott and Huff).

**Brief History:**

**Committee Activity:**

Government Operations: 1/18/95, 1/18/95, 1/20/95, 2/3/95, 2/14/95, 2/21/95, 2/28/95 [DPS].

**Floor Activity:**

Passed House: 3/13/95, 62-33.

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### HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Reams, Chairman; Goldsmith, Vice Chairman; L. Thomas, Vice Chairman; Hargrove; Honeyford; Hymes; Mulliken; D. Schmidt and Van Luven.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Chopp; R. Fisher; Sommers and Wolfe.

**Staff:** Steve Lundin (786-7127).

**Background:** The Growth Management Act establishes a number of requirements for counties and cities planning under all of the requirements of the act.

A county is required to plan under all the requirements of the Growth Management Act if either: (a) The county has a population of 50,000 or more and the population of the county has increased by 10 percent or more over the last 10 years; or (b) the county that has a population of less than 50,000 and the population of the county has increased by 20 percent or more over the last 10 years. In addition, the governing body of a county may adopt a resolution requiring the county to plan under all of the

requirements of the Growth Management Act. A city plans under all of the requirements of the Growth Management Act if the county in which it is located is subject to those requirements.

Once a county is required to plan under all of the requirements of the Growth Management Act, the county and cities in the county remain subject to the requirement of planning under all of the requirements of the Growth Management Act.

Each county planning under all requirements of the Growth Management Act, in cooperation with the cities located within its boundaries, develops a countywide planning policy to guide the comprehensive plans that the county and those cities develop. Counties are recognized as being regional governments and cities are recognized as the primary providers of urban government services within urban growth areas.

Among other requirements, a county planning under all of the requirements of the Growth Management Act must designate urban growth areas within the county inside of which urban growth shall occur and outside of which urban growth shall not occur. Every city must be included within an urban growth area. Other areas may be included in an urban growth area if they are already characterized by urban growth or are adjacent to such areas. The county uses a 20-year population forecast prepared by the Office of Financial Management as the basis for designating its urban growth areas.

Under certain conditions, a county may establish a process for designating new fully contained communities outside of its urban growth areas within which urban growth may occur. Among other conditions, the county must reserve a portion of its 20-year population projection for potential new fully contained communities that it may designate and offset the urban growth areas accordingly for allocation to new fully contained communities. Once designated, a new fully contained community becomes an urban growth area.

A county planning under all of the requirements of the Growth Management Act must adopt a comprehensive plan with a rural element including lands located outside of urban growth areas that are not designated for forest, agriculture, or mineral resources. The rural element must be compatible with the rural character of the area and provide for a variety of densities.

Three separate Growth Planning Hearings Boards are established with authority to hear complaints over actions taken by counties and cities under the Growth Management Act and determine if the actions are consistent with the requirements of the act. Each of the three separate boards has jurisdiction over actions taken by counties and cities within separate geographic areas in the state. Counties and cities

are given broad discretion under the Growth Management Act to adopt comprehensive plans and development regulations, which are presumed valid upon adoption.

Legislation was enacted in 1994 authorizing local governments to adopt service agreements for the provision of regional services and other services.

**Summary of Bill:**

1. Opt out.

Any county may adopt a resolution removing the county, and the cities in the county, from the requirement to plan under all the requirements of the Growth Management Act.

2. Urban growth areas and 20-year population projection.

The Office of Financial Management (OFM) prepares a range of 20-year population projections for each county planning under all of the requirements of the Growth Management Act at least once every five years. OFM must consult with affected counties and cities before making the projection. A county-wide planning policy may also establish a 20-year population projection for the county.

The projected range of population is a minimum that is the basis for a county to use when designating urban growth areas. The priorities are removed for the location of urban growth within urban growth areas.

It is clarified that an urban area may be designated that does not include a city if the territory is already characterized by urban growth or is adjacent to territory already characterized by urban growth. Further, an urban growth area may be designated that does not include a city if such an urban growth area is situated in light of geographic, resource protection, affordable housing, or utility construction as to be appropriate for urban growth within the succeeding 20-year period.

Nothing in the statute relating to the designation of urban growth areas prevents a county from including as part of its urban growth area an area that prior to July 1, 1990, was designated for urban growth and had development permits submitted to the county implementing that urban designation.

An urban growth area may be located adjacent to areas already characterized by urban growth in light of resource protection or affordable housing considerations.

The process for counties to designate new fully contained communities is somewhat altered so that a county may initially include new fully contained communities instead of altering established urban growth areas to accommodate the new fully contained

communities. The criteria for designating new fully contained communities are those contained in the section on new fully contained communities and not the criteria for designating urban growth areas.

3. Areas outside of urban growth areas.

Sanitary sewer systems and public domestic water systems in rural areas, designed for serving approved rural uses, are not considered urban governmental services.

The rural element of a county's comprehensive plan may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques providing a variety of residential and nonresidential uses and lifestyles.

4. Counties as regional governments and cities providing urban services.

Language in the countywide planning policy is altered concerning county and city government. It is recognized that counties in general are the most appropriate local government to provide regional governmental services. It is recognized that cities are the unit of local government most appropriate to provide urban governmental services.

This language may not be construed to alter the authority of counties and special districts to provide urban government services. Regional and urban government service decisions should be made through the process established in legislation enacted in 1994 authorizing local governments to adopt service agreements.

5. Development regulations.

Existing zoning and legal uses, lots, and structures are affected only through locally adopted development regulations. Development regulations shall establish rules of transition to ensure implementation of the Growth Management Act in an orderly, fair, and predictable manner.

6. Location of major industrial and commercial areas outside of urban growth areas.

A county planning under all of the requirements of the Growth Management Act may designate major industrial areas outside of urban growth areas. A "major industrial area" is defined as a master planned location for a specific manufacturing, industrial, or commercial business that:

- o Requires a parcel of land so large that no suitable parcels without critical areas are available within any urban growth area; or
- o Is a natural-resource-based industry requiring location near agricultural land, forest land, or mineral resource land; and

- o Is not for the purpose of retail shopping developments.

7. Water supply.

The land use element in a comprehensive plan must incorporate the regional water resources management plan. The capital facilities element of a comprehensive plan shall include existing water supply owned by private entities.

8. Growth Management Hearings Boards.

Growth Management Hearings Boards are quasi-judicial bodies. Members of the boards are subject to confirmation by the Senate.

A Growth Management Hearings Board may hear appeals on whether the 20-year population projection for a county, or the allocation to a city, should be reduced.

A board shall find a state agency, county, or city to be in compliance with the act unless the action either: (a) Was predicated upon an interpretation that was clearly erroneous; or (b) is not supported by substantial evidence. In making its determination, a board shall consider the extent of urbanization of the area, the planning history and capabilities, and the relative amount of state financial assistance.

Under no circumstances, unless specifically provided for in the Administrative Procedures Act, shall a board: (a) Undertake de novo review of a discretionary decision by a county or city; (b) exercise the discretion delegated to a county or city; (c) substitute its judgement for that of the local government; (d) decide matters not clearly presented in a petition; or (e) render advisory opinions.

A state agency or the commissioner of public lands may not challenge the actions of a county or city under the Growth Management Act unless the Governor finds that either the agency or commissioner has participated substantially in the local process and has consistently raised the issues in the petition or review by a board is the best means to accomplish the state's goals.

9. Remedial.

The legislation is declared to be remedial and is applied retroactively to July 1, 1990.

**Appropriation:** None.

**Fiscal Note:** New fiscal note requested on substitute bill on March 1, 1995.

**Effective Date of Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Some counties under 75,000 are experiencing difficulties. The 75,000 threshold is a minor change. It is important to clarify urban growth areas and population projections. Each of the three county comprehensive plans that have been adopted have multiple appeals. Growth boards are substituting their own opinions for local officials' opinions. It is hard to find large tracts of industrial land. Many areas already have reached their projected 20-year population. Let the populations be minimums, as everyone already thought. There are no parcels larger than 25 acres zoned for industrial uses in the Kent area. This provides a safety valve.

**Testimony Against:** Cities and counties should work out their differences locally. We support the Growth Hearings Boards. Cities should be part of any opt out decision. Unilateral opt out is not right. Cities have expended a lot of money predicated on urban growth areas. Urban sprawl reduces quality of life. Neighborhoods are stakeholders. Quality of life is the key. The task force bill will not apply to jurisdictions that opt out. Limiting appeals conflicts with I-164. Give GMA a chance.

**Testified:** Chris Vance, King County Council; Mary Lynn Myer, Dept. of Community, Trade and Economic Development; Matt Ryan, Keith Dearborn, and Win Granlund, Kitsap County; Sylviann Frankus, League of Women Voters of Wash.; Paul Parker, Wash. State Assn. of Counties; Bob Mack, Bellevue; Davidya Kasperzyk, Wash. Council of American Architects; Chris Leman, Coalition of Wash. Communities; John Woodring, Wash. Assoc. of Realtors; Steve Clagget, 1000 Friends of Wash.; Naki Stevens, People for Puget Sound; Scott Merriman, Wash. Environmental Council; Robert Dryfus; Susie Rao, Building Industry Association of Washington; and Don Chance, Association of Washington Business.