
SUBSTITUTE HOUSE BILL 1338

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Government Reform & Land Use (originally sponsored by Representatives Mulliken, Hatfield, Reams, Mielke, Doumit, McMorris and Schoesler)

Read first time 02/26/97.

1 AN ACT Relating to increasing flexibility for counties and cities
2 in implementing growth management; amending RCW 36.70A.040, 36.70A.110,
3 36.70A.170, and 36.70A.060; adding a new section to chapter 36.70A RCW;
4 and declaring an emergency.

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

6 **Sec. 1.** RCW 36.70A.040 and 1995 c 400 s 1 are each amended to read
7 as follows:

8 (1)(a) Each county that has both a population of fifty thousand or
9 more and, until May 16, 1995, has had its population increase by more
10 than ten percent in the previous ten years or, on or after May 16,
11 1995, has had its population increase by more than seventeen percent in
12 the previous ten years, and the cities located within such county, and
13 any other county regardless of its population that has had its
14 population increase by more than twenty percent in the previous ten
15 years, and the cities located within such county, shall conform with
16 all of the requirements of this chapter. Subject to (b) of this
17 subsection, once a county meets either of these sets of criteria, the
18 requirement to conform with all of the requirements of this chapter

1 remains in effect, even if the county no longer meets one of these sets
2 of criteria. (~~However,~~)

3 (b) The county legislative authority of (~~such a~~) any county with
4 a population of less than (~~fifty~~) seventy-five thousand population
5 may adopt a resolution removing the county, and the cities located
6 within the county, from (~~the requirements of adopting comprehensive~~
7 ~~land use plans and development regulations~~) all the requirements and
8 obligations whatsoever under this chapter if this resolution is adopted
9 and filed with the department by December 31, (~~1990, for counties~~
10 ~~initially meeting this set of criteria~~) 1997, or within (~~sixty days~~)
11 six months of the date the office of financial management certifies
12 that a county meets this set of criteria under subsection (5) of this
13 section.

14 (~~Once a county meets either of these sets of criteria, the~~
15 ~~requirement to conform with all of the requirements of this chapter~~
16 ~~remains in effect, even if the county no longer meets one of these sets~~
17 ~~of criteria.~~)

18 (2) The county legislative authority of any county that does not
19 meet either of the sets of criteria established under subsection (1) of
20 this section may adopt a resolution indicating its intention to have
21 subsection (1) of this section apply to the county. Each city, located
22 in a county that chooses to plan under this subsection, shall conform
23 with all of the requirements of this chapter. Once such a resolution
24 has been adopted, the county and the cities located within the county
25 remain subject to all of the requirements of this chapter, until and
26 unless the county exercises its option under subsection (1)(b) of this
27 section.

28 (3) Unless a resolution is adopted under subsection (1)(b) of this
29 section, any county or city that is initially required to conform with
30 all of the requirements of this chapter under subsection (1)(a) of this
31 section shall take actions under this chapter as follows: (a) The
32 county legislative authority shall adopt a county-wide planning policy
33 under RCW 36.70A.210; (b) the county and each city located within the
34 county shall designate critical areas, agricultural lands, forest
35 lands, and mineral resource lands, and adopt development regulations
36 conserving these designated agricultural lands, forest lands, and
37 mineral resource lands and protecting these designated critical areas,
38 under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and
39 take other actions related to urban growth areas under RCW 36.70A.110;

1 (d) if the county has a population of fifty thousand or more, the
2 county and each city located within the county shall adopt a
3 comprehensive plan under this chapter and development regulations that
4 are consistent with and implement the comprehensive plan on or before
5 July 1, 1994, and if the county has a population of less than fifty
6 thousand, the county and each city located within the county shall
7 adopt a comprehensive plan under this chapter and development
8 regulations that are consistent with and implement the comprehensive
9 plan by January 1, 1995, but if the governor makes written findings
10 that a county with a population of less than fifty thousand or a city
11 located within such a county is not making reasonable progress toward
12 adopting a comprehensive plan and development regulations the governor
13 may reduce this deadline for such actions to be taken by no more than
14 one hundred eighty days. Any county or city subject to this subsection
15 may obtain an additional six months before it is required to have
16 adopted its development regulations by submitting a letter notifying
17 the department of community, trade, and economic development of its
18 need prior to the deadline for adopting both a comprehensive plan and
19 development regulations.

20 (4) Unless a resolution is adopted under subsection (1)(b) of this
21 section, any county or city that is required to conform with all the
22 requirements of this chapter, as a result of the county legislative
23 authority adopting its resolution of intention under subsection (2) of
24 this section, shall take actions under this chapter as follows: (a)
25 The county legislative authority shall adopt a county-wide planning
26 policy under RCW 36.70A.210; (b) the county and each city that is
27 located within the county shall adopt development regulations
28 conserving agricultural lands, forest lands, and mineral resource lands
29 it designated under RCW 36.70A.060 within one year of the date the
30 county legislative authority adopts its resolution of intention; (c)
31 the county shall designate and take other actions related to urban
32 growth areas under RCW 36.70A.110; and (d) the county and each city
33 that is located within the county shall adopt a comprehensive plan and
34 development regulations that are consistent with and implement the
35 comprehensive plan not later than four years from the date the county
36 legislative authority adopts its resolution of intention, but a county
37 or city may obtain an additional six months before it is required to
38 have adopted its development regulations by submitting a letter
39 notifying the department of community, trade, and economic development

1 of its need prior to the deadline for adopting both a comprehensive
2 plan and development regulations.

3 (5) If the office of financial management certifies that the
4 population of a county that previously had not been required to plan
5 under subsection (1) or (2) of this section has changed sufficiently to
6 meet either of the sets of criteria specified under subsection (1) of
7 this section, and where applicable, the county legislative authority
8 has not adopted a resolution removing the county from these
9 requirements as provided in subsection (1)(b) of this section, the
10 county and each city within such county shall take actions under this
11 chapter as follows: (a) The county legislative authority shall adopt
12 a county-wide planning policy under RCW 36.70A.210; (b) the county and
13 each city located within the county shall adopt development regulations
14 under RCW 36.70A.060 conserving agricultural lands, forest lands, and
15 mineral resource lands it designated within one year of the
16 certification by the office of financial management; (c) the county
17 shall designate and take other actions related to urban growth areas
18 under RCW 36.70A.110; and (d) the county and each city located within
19 the county shall adopt a comprehensive land use plan and development
20 regulations that are consistent with and implement the comprehensive
21 plan within four years of the certification by the office of financial
22 management, but a county or city may obtain an additional six months
23 before it is required to have adopted its development regulations by
24 submitting a letter notifying the department of community, trade, and
25 economic development of its need prior to the deadline for adopting
26 both a comprehensive plan and development regulations.

27 (6) A copy of each document that is required under this section
28 shall be submitted to the department at the time of its adoption.

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
30 to read as follows:

31 (1) A county, after conferring with its cities, may develop
32 alternative methods of achieving the planning goals established by RCW
33 36.70A.020.

34 (2) The authority provided by this section may not be used to
35 modify:

36 (a) Requirements for the designation and protection of critical
37 areas or for the designation of natural resource lands under RCW
38 36.70A.060(2), 36.70A.170, and 36.70A.172;

1 (b) The requirement that wetlands be delineated consistent with the
2 requirements of RCW 36.70A.175; or

3 (c) The requirement to establish a process for the siting of
4 essential public facilities pursuant to RCW 36.70A.200.

5 (3) Before adopting any alternative methods of achieving the
6 planning goals established by RCW 36.70A.020, a county shall provide an
7 opportunity for public review and comment. An ordinance or resolution
8 proposing or adopting alternative methods must be submitted to the
9 department in the same manner as provided in RCW 36.70A.106 for
10 submittal of proposed and adopted comprehensive plans and development
11 regulations.

12 **Sec. 3.** RCW 36.70A.110 and 1995 c 400 s 2 are each amended to read
13 as follows:

14 (1) Each county that is required or chooses to plan under RCW
15 36.70A.040 shall designate an urban growth area or areas within which
16 urban growth shall be encouraged and outside of which growth can occur
17 only if it is not urban in nature. Each city that is located in such
18 a county shall be included within an urban growth area. An urban
19 growth area may include more than a single city. An urban growth area
20 may include territory that is located outside of a city only if such
21 territory already is characterized by urban growth whether or not the
22 urban growth area includes a city, or is adjacent to territory already
23 characterized by urban growth, or is a designated new fully contained
24 community as defined by RCW 36.70A.350.

25 (2) Based upon the growth management population projection made for
26 the county by the office of financial management, the urban growth
27 areas in the county shall include areas and densities at least
28 sufficient to permit the urban growth that is projected to occur in the
29 county for the succeeding twenty-year period. Each urban growth area
30 shall permit urban densities and shall include greenbelt and open space
31 areas. An urban growth area determination may include a reasonable
32 land market supply factor and shall permit a range of urban densities
33 and uses. In determining this market factor, cities and counties may
34 consider local circumstances. Cities and counties have discretion in
35 their comprehensive plans to make many choices about accommodating
36 growth.

37 Within one year of July 1, 1990, each county that as of June 1,
38 1991, was required or chose to plan under RCW 36.70A.040, shall begin

1 consulting with each city located within its boundaries and each city
2 shall propose the location of an urban growth area. Within sixty days
3 of the date the county legislative authority of a county adopts its
4 resolution of intention or of certification by the office of financial
5 management, all other counties that are required or choose to plan
6 under RCW 36.70A.040 shall begin this consultation with each city
7 located within its boundaries. The county shall attempt to reach
8 agreement with each city on the location of an urban growth area within
9 which the city is located. If such an agreement is not reached with
10 each city located within the urban growth area, the county shall
11 justify in writing why it so designated the area an urban growth area.
12 A city may object formally with the department over the designation of
13 the urban growth area within which it is located. Where appropriate,
14 the department shall attempt to resolve the conflicts, including the
15 use of mediation services.

16 (3) Urban growth should be located first in areas already
17 characterized by urban growth that have adequate existing public
18 facility and service capacities to serve such development, second in
19 areas already characterized by urban growth that will be served
20 adequately by a combination of both existing public facilities and
21 services and any additional needed public facilities and services that
22 are provided by either public or private sources, and third in the
23 remaining portions of the urban growth areas. Urban growth may also be
24 located in designated new fully contained communities as defined by RCW
25 36.70A.350.

26 (4) In general, cities are the units of local government most
27 appropriate to provide urban governmental services. In general, it is
28 not appropriate that urban governmental services be extended to or
29 expanded in rural areas except in those limited circumstances shown to
30 be necessary to protect basic public health and safety and the
31 environment and when such services are financially supportable at rural
32 densities and do not permit urban development. Counties and special
33 districts also may provide a variety of governmental services,
34 including but not limited to, public safety and fire protection; water,
35 wastewater, and other utility service; and transit and transportation
36 services. When such services are provided outside the urban growth
37 area it is usually at a lower service level than for urban governmental
38 services.

1 (5) On or before October 1, 1993, each county that was initially
2 required to plan under RCW 36.70A.040(1) shall adopt development
3 regulations designating interim urban growth areas under this chapter.
4 Within three years and three months of the date the county legislative
5 authority of a county adopts its resolution of intention or of
6 certification by the office of financial management, all other counties
7 that are required or choose to plan under RCW 36.70A.040 shall adopt
8 development regulations designating interim urban growth areas under
9 this chapter. Adoption of the interim urban growth areas may only
10 occur after public notice; public hearing; and compliance with the
11 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.
12 Such action may be appealed to the appropriate growth management
13 hearings board under RCW 36.70A.280. Final urban growth areas shall be
14 adopted at the time of comprehensive plan adoption under this chapter.

15 (6) Each county shall include designations of urban growth areas in
16 its comprehensive plan.

17 **Sec. 4.** RCW 36.70A.170 and 1990 1st ex.s. c 17 s 17 are each
18 amended to read as follows:

19 (1) On or before September 1, 1991, each county, and each city,
20 shall designate where appropriate:

21 (a) Agricultural lands that are not already characterized by urban
22 growth and that have long-term significance for the commercial
23 production of food or other agricultural products;

24 (b) Forest lands that are not already characterized by urban growth
25 and that have long-term significance for the commercial production of
26 timber;

27 (c) Mineral resource lands that are not already characterized by
28 urban growth and that have long-term significance for the extraction of
29 minerals; and

30 (d) Critical areas.

31 (2) In making the designations required by this section, counties
32 and cities shall consider the guidelines established pursuant to RCW
33 36.70A.050.

34 (3) If a county adopts a resolution under RCW 36.70A.040(1)(b)
35 removing the county and the cities located within the county from this
36 chapter, this section does not apply to that county and the cities
37 located within that county.

1 **Sec. 5.** RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended
2 to read as follows:

3 (1) Each county that is required or chooses to plan under RCW
4 36.70A.040, and each city within such county, shall adopt development
5 regulations on or before September 1, 1991, to assure the conservation
6 of agricultural, forest, and mineral resource lands designated under
7 RCW 36.70A.170. Regulations adopted under this subsection may not
8 prohibit uses legally existing on any parcel prior to their adoption
9 and shall remain in effect until the county or city adopts development
10 regulations pursuant to RCW 36.70A.120. Such regulations shall assure
11 that the use of lands adjacent to agricultural, forest, or mineral
12 resource lands shall not interfere with the continued use, in the
13 accustomed manner and in accordance with best management practices, of
14 these designated lands for the production of food, agricultural
15 products, or timber, or for the extraction of minerals. Counties and
16 cities shall require that all plats, short plats, development permits,
17 and building permits issued for development activities on, or within
18 three hundred feet of, lands designated as agricultural lands, forest
19 lands, or mineral resource lands, contain a notice that the subject
20 property is within or near designated agricultural lands, forest lands,
21 or mineral resource lands on which a variety of commercial activities
22 may occur that are not compatible with residential development for
23 certain periods of limited duration.

24 (2) Each county and city shall adopt development regulations that
25 protect critical areas that are required to be designated under RCW
26 36.70A.170. For counties and cities that are required or choose to
27 plan under RCW 36.70A.040, such development regulations shall be
28 adopted on or before September 1, 1991. For the remainder of the
29 counties and cities, such development regulations shall be adopted on
30 or before March 1, 1992. If a county adopts a resolution under RCW
31 36.70A.040(1)(b) removing the county and the cities located within the
32 county from this chapter, this section does not apply to that county
33 and the cities located within that county.

34 (3) Such counties and cities shall review these designations and
35 development regulations when adopting their comprehensive plans under
36 RCW 36.70A.040 and implementing development regulations under RCW
37 36.70A.120 and may alter such designations and development regulations
38 to insure consistency.

1 (4) Forest land and agricultural land located within urban growth
2 areas shall not be designated by a county or city as forest land or
3 agricultural land of long-term commercial significance under RCW
4 36.70A.170 unless the city or county has enacted a program authorizing
5 transfer or purchase of development rights.

6 NEW SECTION. **Sec. 6.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately.

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