

# HOUSE BILL REPORT

## HB 1733

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### As Reported By House Committee On:

Local Government

**Title:** An act relating to day-care facility location restrictions.

**Brief Description:** Limiting restrictions on residential day-care facilities.

**Sponsors:** Representatives Romero, Campbell, Scott, Wolfe, Hatfield, Dickerson, Gombosky, Tokuda, Boldt, Mielke, D. Schmidt, Mitchell, Talcott, Ogden, Kenney, Wood, Santos and McIntire.

### Brief History:

#### Committee Activity:

Local Government: 2/15/99, 3/1/99 [DPS].

#### Brief Summary of Substitute Bill

- Prohibits counties from regulating against the use of a residential dwelling as a family day care in a residential or commercial zone.

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## HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Mulliken, Republican Co-Chair; Scott, Democratic Co-Chair; Doumit, Democratic Vice Chair; Mielke, Republican Vice Chair; Edwards; Ericksen; Fisher and Fortunato.

**Staff:** Caroleen Dineen (786-7156).

### Background:

A "family day care provider" is defined as a provider who regularly provides child day care for not more than 12 children in the family living quarters of the provider's home. In 1989 counties, cities and towns not providing for family day care siting in residential zones were required to study the need and demand for child care facilities and to adopt ordinances to implement their findings by June 30, 1991.

Legislation enacted in 1994 prohibited cities from zoning or otherwise regulating against use of a residential dwelling as a family day care in a residential or commercial zone. Cities may:

- require compliance with building, safety, sign, licensing and other requirements;
- require compliance with development regulations applicable to the zone (e.g., setbacks and lot size) unless the facility is a legal nonconforming structure;
- impose zoning conditions on facility establishment and maintenance that are no more restrictive than conditions imposed on other residential dwellings in the same zone; and
- limit hours of operations for neighborhood compatibility purposes while allowing for the facility to serve persons working nonstandard shifts.

Cities may also require the family day care provider to provide proof of written notification to immediately adjoining property owners of intent to operate the facility before state licensing occurs. The licensor may provide a dispute resolution forum for any disputes between neighbors and day care providers.

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**Summary of Substitute Bill:**

Counties as well as cities and towns are prohibited from zoning or otherwise regulating against use of a residential dwelling as a family day care serving 12 or fewer children if the residential dwelling is located in a residential or commercial zone. Provisions allowing specific types of regulations on these facilities that were previously applied to cities now apply to counties, cities, and towns. These specific authorized regulations are exempt from the general prohibition applied to counties, cities and towns.

**Substitute Bill Compared to Original Bill:** The substitute bill specifically exempts allowed regulations from the general prohibition and makes technical revisions to incorporate the provisions into appropriate planning statutes.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** This bill resolves an issue that has existed for a number of years by adding the same requirements for counties that already exist for cities. This bill ensures county zoning ordinances will not preclude family day care uses in residential or commercial zones, and cities currently have this requirement. Family day care providers

have to satisfy extensive licensing requirements, and the lack of consistency among state and local requirements create great frustration. Thurston County is imposing regulations that are putting family day care providers out of business. More people are moving to unincorporated areas and need child care available near their homes.

**Testimony Against:** Counties are typically opposed to legislative prohibition of local regulations. The Thurston County situation may be related to health board regulations and not county land use regulations. This bill should be revised to ensure the requirements are placed in the appropriate planning statutes.

**Testified:** (In support) Representative Romero, prime sponsor; Julie Nelson, Washington State Family Child Care Association; Terri Herring; and Marjean Allen.

(Opposed) Paul Parker, Washington State Association of Counties.