

HOUSE BILL REPORT

ESHB 1094

As Passed House:
March 4, 2011

Title: An act relating to providing a process for county legislative authorities to withdraw from voluntary planning under the growth management act.

Brief Description: Providing a process for county legislative authorities to withdraw from voluntary planning under the growth management act.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Kretz, Blake, Taylor, Shea, Short, Haler and McCune).

Brief History:

Committee Activity:

Local Government: 1/19/11, 1/21/11, 2/9/11 [DPS].

Floor Activity:

Passed House: 3/4/11, 69-28.

Brief Summary of Engrossed Substitute Bill

- Until December 31, 2013, a county that has elected to plan under the Growth Management Act (GMA), meets certain population requirements, and has the support of at least 60 percent of its cities meeting specified population requirements, may adopt a resolution removing the county from specific, on-going requirements to adopt land use plans and development regulations.
- Bars a county that has adopted a removal resolution from re-electing to plan under the GMA for at least 10 years from the date of adoption of the removal resolution.
- Requires a county that has adopted a removal resolution to adopt development regulations to assure the conservation of designation agricultural, forest, and mineral resource lands.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Takko, Chair; Tharinger, Vice Chair; Angel, Ranking Minority Member; Asay, Assistant Ranking Minority Member; Rodne, Smith and Springer.

Minority Report: Do not pass. Signed by 2 members: Representatives Fitzgibbon and Upthegrove.

Staff: Heather Emery (786-7136).

Background:

The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the GMA and a reduced number of directives for all other counties and cities.

A county obligated by mandate to fully plan under the GMA is one that either:

- has a population of 50,000 or more and has experienced a population increase of more than 17 percent in the previous 10 years; or
- has experienced a population increase of more than 20 percent over the previous 10 years, regardless of population.

A county obligated by choice to fully plan under the GMA is one that, not meeting the population requirements described above, has adopted a resolution subjecting itself, and cities located in the county, to the full requirements of the GMA (resolution of intention). Once a resolution of intention is adopted, the county and its cities remain subject to all GMA planning requirements. The following counties have adopted resolutions of intention: Columbia, Douglas, Ferry, Garfield, Kittitas, Pacific, Pend Oreille, Stevens, and Walla Walla.

Pursuant to RCW 36.70A.040, in addition to complying with the more broadly applicable requirements of the GMA, a county obligated by choice to fully plan under the GMA must:

- adopt a countywide planning policy;
- adopt development regulations to conserve designated agricultural lands, forest lands, and mineral resource lands within one year of adopting a resolution of intention;
- designate and take other actions related to urban growth areas; and
- adopt a comprehensive plan and development regulations to implement that plan within four years of adopting a resolution of intention.

Mandatory requirements for the comprehensive plan are described in RCW 36.70A.070 (pertaining to Comprehensive plans - Mandatory elements).

Summary of Engrossed Substitute Bill:

Until December 31, 2013, the legislative authority of a county that is obligated by choice to fully plan under the GMA may adopt a resolution removing the county, and the cities located within its boundaries, from the requirements to fully plan if:

- the county has a population of 20,000 or fewer inhabitants at any time between January 1, 2010, and December 31, 2013;
- at least 60 days prior to adopting a removal resolution, the county provides written notification to each city located within its boundaries of the county's intent to consider adopting such a resolution; and
- before the county legislative authority adopts the removal resolution, the legislative bodies of at least 60 percent of those cities having an aggregate population of at least 75 percent of the incorporated county population adopt resolutions supporting the removal action by the county.

Once an eligible county adopts a removal resolution, the county is barred for at least 10 years from adopting another resolution to fully plan under the GMA. Additionally, while the county and its cities are no longer bound to fully plan under the GMA, they are required, within one year of the adoption of the removal resolution, to adopt development regulations to assure the conservation of designated agricultural, forest, and mineral resource lands.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) When the GMA was adopted, the state enticed small counties to opt in with promises of funding to assist with implementation. Since then, opt-in counties have spent far more money on costly litigation and appeals and on compliance with mandatory update cycles. A legislative authority should not be allowed to bind future legislative authorities. Allowing it to do so prevents a future legislative authority from actually representing citizens. This bill would appropriately restore a county commissioner's ability to represent his constituents. The appointed Growth Management Hearings Board is not representative government and lacks insight into local jurisdictions.

It is fair to allow jurisdictions that opted in to opt out, and it provides counties with needed options and flexibility. For small counties with limited planning potential, the GMA is costly and delays development projects, and its restrictions impede development. Local planning has been hijacked by litigants who are taking advantage of the smallest, weakest planning jurisdictions to establish legal precedents. Since the GMA's adoption, the Legislature has imposed more and more unrealistic changes and mandates. Voluntary planning commissions are over-taxed. Experience has shown that some GMA goals, like the goal to increase the supply of affordable housing, have not been met. The GMA harms rural inhabitants and hinders economic development by minimizing property development options. It also limits the ability of families to divide property among heirs and restricts opportunities for home sales. The GMA unfairly burdens small property owners who do not do the harm that big developers do, but who have trouble navigating the process. Permitting is arduous and expensive.

(With concerns) This bill would only affect three counties: Columbia, Garfield, and Pacific. The remaining opt-in counties have reached population thresholds that require them to fully plan under the GMA.

(Opposed) The GMA requires cities to have a vision for growth, housing, transportation, design, and planning. The statute does not have an opt-out provision because the GMA articulates a long-term vision and approach as to how cities grow. The requirement to plan for transportation benefits the public in general, and those with special needs in particular. Rescinding requirements to analyze the impact of development on state transportation facilities could pose an obstacle to supporting needed upgrades. The state has made a significant investment into planning jurisdictions, and allowing some to opt out at this juncture equates to throwing money away. Cities should have a voice in a county's decision to opt out. Planning and zoning inside a city are city issues; county commissioners have no voice. Allowing even a limited number of counties to opt out sets a bad precedent; it is likely that other counties will seek removal rights through future legislation.

(Information only) The Department of Commerce will continue to work with interested parties on edits to the proposed legislation.

Persons Testifying: (In support) Representative Kretz, prime sponsor; Art Castle, Building Industry Association of Washington; Josh Weiss, Washington State Association of Counties; Dan Wood, Washington Farm Bureau; Hazelanna McMahan; Brian Dansel, Ferry County; Ron Ross; Daniel K. Defenbaugh; Larry F. Smith; Scott L. Simmons; Karen Skoog; Wendy Birnbaum, Citizen Alliance for Property Rights Pierce County; Pat Tharzwel; and Ken Morse.

(With concerns) Nick Demerice, Department of Commerce.

(Opposed) Dave Williams, Association of Washington Cities; Peter Thein, Sierra Club; April Putney, Futurewise; Carrie Dolwick, Transportation Choices Coalition; and Mo McBroom, Washington Environmental Council.

(Information only) Leonard Bauer, Department of Commerce.

Persons Signed In To Testify But Not Testifying: None.