

# SENATE BILL REPORT

## ESSB 6426

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As Passed Senate, February 16, 2016

**Title:** An act relating to essential public facilities.

**Brief Description:** Allowing schools to be sited as essential public facilities outside the urban growth area.

**Sponsors:** Senate Committee on Government Operations & Security (originally sponsored by Senators Conway, Dammeier, Takko, Becker, Mullet, Sheldon and Chase).

**Brief History:**

**Committee Activity:** Government Operations & Security: 2/01/16, 2/04/16 [DPS].  
Passed Senate: 2/16/16, 35-13.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

**Majority Report:** That Substitute Senate Bill No. 6426 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Dansel, McCoy and Takko.

**Staff:** Karen Epps (786-7424)

**Background:** The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land-use plans that are generalized, coordinated land-use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through locally adopted development regulations.

Counties that fully plan under the GMA must designate urban growth areas (UGAs), areas within which urban growth must be encouraged and outside of which growth can occur only

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if it is not urban in nature. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period. In addition, cities must include sufficient areas to accommodate the broad range of needs and uses that will accompany the projected urban growth, including as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

The GMA provides that, in general, it is not appropriate for urban governmental services, such as public services and public facilities at an intensity historically and typically provided in cities, to be extended to or expanded outside of the UGA into rural areas. Extension or expansion may be permitted in limited circumstances where: (1) it is shown to be necessary to protect basic public health and safety, and the environment; and (2) when such services are financially supportable at rural densities and do not permit urban development.

Comprehensive plans must include a process for identifying and siting essential public facilities. The GMA specifies that essential public facilities include facilities that are typically difficult to site, such as airports, state education facilities, state or regional transportation facilities, regional transit authority facilities, state and local correctional facilities, solid waste facilities, and certain inpatient facilities, such as substance abuse facilities or group homes. Comprehensive plans and development regulations may not preclude the siting of essential public facilities.

**Summary of Engrossed Substitute Bill:** The comprehensive plan of each county and city fully planning under the GMA must identify schools to be sited outside the urban growth areas as essential public facilities. Each county and city fully planning under the GMA must amend its existing process for siting essential public facilities to include schools that will be sited outside the urban growth area.

Schools may be permitted as essential public facilities outside the urban growth area when:

- the school is needed to meet student capacity needs in an identified service area that serves students residing in whole or in part outside a UGA;
- the school district has conducted an inventory of developable land and determined that vacant land suitable to site the school is unavailable within the UGA and relevant service area;
- new infrastructure is provided for and will be paid for by the school district, and impact fees, if applicable, are established;
- any utility extensions or urban services necessary to serve schools outside the urban growth area are provided for, and are solely dedicated for school purposes;
- transit-oriented site planning and traffic demand management programs are implemented;
- buffers are provided between the school development and adjacent nonurban uses;
- environmental protection has been addressed and provided for;
- development regulations are established to ensure urban growth will not occur in adjacent nonurban areas;
- provisions are made to mitigate impacts on designated agricultural lands, forestlands, and mineral resource lands if the proposed site is located adjacent to those lands; and
- the plan for the new school is consistent with the development regulations established for the protection of critical areas by the county.

Any county and city fully planning under the GMA that identifies a school as an essential public facility must also ensure that:

- the comprehensive plan specifically identifies policies to guide the development of schools as essential public facilities located outside of the urban growth boundary;
- the comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of new schools, except in areas otherwise designated for urban growth;
- the county ensures that the school development plan is consistent with the development regulations established for critical areas; and
- on-site and off-site infrastructure and service impacts are fully considered and mitigated.

The provisions of this bill apply in the following counties:

- any planning county with a population of at least 150,000 and no more than 200,000 that abuts at least five other counties.
- any planning county with a population of at least 700,000 and no more than 1,100,000 that abuts at least five other counties.
- any planning county with a population of at least 80,000 and no more than 100,000 that abuts at least five other counties.
- any planning county with a population of at least 85,000 that abuts at least six other counties.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on First Substitute:** PRO: This bill is designed to solve the problem of siting schools outside the UGA. Some school districts have no land available inside the UGA to build a high school. As an example, one school district wants to build a high school outside the UGA but near homes in the rural area. There should be a way to assist school districts in locating schools outside the UGAs. The problem that school districts are facing is rapid growth. Over the last 10 years, Tri-Cities has grown by about 40 percent. School districts are building schools every year. School districts continue to look for land inside the UGA in order to build schools. Some of the challenges that school districts face is that land inside the UGA includes wetlands, critical areas, and land with difficult topography or land that is not suitable for schools. One school district would like to purchase land adjacent to a middle school, but the land is just outside the UGA. School districts do not want to use eminent domain when there is land outside the UGA that can be used for schools. School districts have building sites across from the UGA that need a sewer extension and that is not allowed. This bill is a reasonable compromise and allows cities and counties to make sure there is reasonable parameters in place to make sure that this does not impact rural areas. This bill provides a good solution to the problem nagging school districts from being able to do their job, providing public education. Current law is preventing

schools from meeting their paramount duty, providing public education. Some school districts cannot find available land in the urban area. There are 26 school districts throughout the state that are affected by this issue. On the west side of the state, there is a lack of land and on the east side there cannot get utility access. When counties extend the UGAs, the county is sometimes challenged and the Hearings Board reverses the decision to extend the UGA. Using eminent domain would make it challenging to pass a school bond. This bill will provide relief for schools and schools should be considered essential public facilities.

CON: There were no recommendations that came from the Legislative Task Force, but rather a number of ideas. This bill would use the essential public facilities provisions to site schools outside the UGA. School districts have not participated in the planning process with the local planning jurisdiction. School districts should look at the amount of land needed to build a school. As an example, one school district purchased 100+ acres of active farmland for a school. Siting schools outside the UGA means that there will be a loss of farmland. School districts should plan under the GMA and schools should be included in the capital facilities plan. By listing schools as essential public facilities, the school is getting around the local planning process. This bill conflicts with the goals of the GMA. This bill will make it easier for school districts to locate schools outside the UGA and will undermine counties and cities comprehensive plans. Other considerations could make siting outside of the UGA expensive, including additional expenses for transportation, extension of water and sewer, and road improvements.

**Persons Testifying on First Substitute:** PRO: Senator Conway, prime sponsor; Rick Schulte, Richland School District; Shawn Lewis, Spokane Public Schools; Tom Seigel, Bethel School District; Dave Bond, Kennewick School District.

CON: Bryce Yadon, Futurewise; Holly Gadbow, American Planning Assn.

**Persons Signed In To Testify But Not Testifying on First Substitute:** PRO: Michelle Price, Moses Lake School District; Cathie Carlson, Bethel School District; Debra Campbell, Sumner School District.

CON: Laura Berg, WA State Assn of Counties.

OTHER: Art Castle, Building Industry Assn of WA.