

HOUSE BILL REPORT

ESHB 1504

As Amended by the Senate

Title: An act relating to rail dependent uses for purposes of the growth management act and related development regulations.

Brief Description: Concerning rail dependent uses for purposes of the growth management act and related development regulations.

Sponsors: House Committee on Environment (originally sponsored by Representatives Pike, Blake, Wylie, Peterson, Harris, Vick, Manweller, Tarleton, Orcutt, Farrell, Haler, Dent, Fey, Sells, Kraft, Johnson, MacEwen, Chandler, Stambaugh, Van Werven, Dye, Doglio and Springer).

Brief History:

Committee Activity:

Environment: 1/31/17, 2/16/17 [DPS].

Floor Activity:

Passed House: 3/7/17, 83-14.

Senate Amended.

Passed Senate: 4/12/17, 41-8.

Brief Summary of Engrossed Substitute Bill

- Adds definitions of "freight rail dependent uses" and "short line railroad" to the Growth Management Act (GMA), and provides that railroad tracks are included within the definition of "rural character."
- Authorizes certain counties and cities planning under the GMA to adopt development regulations to permit resource lands adjacent to short line railroads to be developed for freight rail dependent purposes, subject to certain conditions.
- Authorizes certain counties and cities planning under the GMA to include development of freight rail dependent uses on land adjacent to railroad lines and infrastructure in the transportation element of their comprehensive plan.
- Authorizes certain counties and cities planning under the GMA to modify their development regulations to include development of freight rail dependent uses that do not require urban governmental services in rural lands.

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.

- Directs the Department of Commerce to submit a report to the Legislature by November 15 of each-even numbered year, beginning in 2022 and ending in 2032, that describes any job gains, tax impacts, and impacts to resource lands resulting from freight rail dependent uses sited under the GMA.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Taylor, Ranking Minority Member; Maycumber, Assistant Ranking Minority Member; Buys, Dye, Fey, Kagi and McBride.

Staff: Robert Hatfield (786-7117).

Background:

Growth Management Act—Introduction.

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 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to review and revision requirements prescribed in the GMA.

Planning Goals.

For the purpose of guiding the development of comprehensive plans and development regulations, counties and cities must consider various planning goals set forth in statute. These planning goals include:

- *Urban growth:* Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- *Transportation:* Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
- *Natural resource industries:* Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.
- *Environment:* Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

Comprehensive Plans—Mandatory Elements.

The comprehensive plan of a county or city must consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the plan. The plan must be internally consistent, and all elements must be consistent with a future land use map. Each comprehensive plan must also include a plan, scheme, or design for each of the following elements:

- land use element;
- housing element;
- capital facilities plan element;
- utilities element;
- rural element;
- transportation element;
- economic development element; and
- park and recreation element.

The rural element of a comprehensive plan must allow for rural development, forestry, and agriculture in rural areas, and must provide for a variety for rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. "Rural development" is development that occurs outside an Urban Growth Area, or designated agriculture, forest, or mineral resource land.

The transportation element of a comprehensive plan must implement, and be consistent with, the land use element, and must include subelements concerning:

- land use assumptions used in estimating travel;
- estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions;
- facilities and service needs;
- finances;
- intergovernmental coordination efforts;
- demand-management strategies; and
- pedestrian and bicycle components.

The transportation element may also include multimodal transportation improvements or strategies that are made concurrent with development.

Natural Resource Lands.

Counties and cities must designate agricultural lands, forest lands, and mineral resource lands in their comprehensive plans. "Agricultural land" means land: (1) primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products, or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to an excise tax, finfish in upland hatcheries, or livestock; and (2) that has long-term commercial significance for agricultural production. "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, and that has long-term commercial significance. "Minerals" include gravel, sand, and valuable metallic substances.

Each county and city planning under the GMA must adopt, review, and update as necessary development regulations to assure the conservation of designated agriculture, forest, and mineral resource lands. Regulations must ensure that the use of lands adjacent to agriculture,

forest, or mineral resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

Counties and cities must require that all plats, short plats, development permits, and building permits issued for development activities on or within 500 feet of lands designated as agriculture, forest, or mineral resource lands, contain a notice that the subject property is within or near natural resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

Railroad Classification.

The United States Surface Transportation Board (STB) classifies types of railroads by annual carrier operating revenue. As of 2014, those revenue cutoffs were:

- Class I—more than \$433.2 million;
- Class II—\$34.7 million to \$433.2 million; and
- Class III—less than \$34.7 million.

Railroads in Washington.

The Washington State Department of Transportation (WSDOT) is responsible for preparing, periodically updating, and implementing a State Freight Rail Plan for rail coordination, planning, and assistance in accordance with criteria provided in statute. The WSDOT follows the railroad classification system used by the STB. There are two Class I railroads in Washington—BNSF Railway Company and Union Pacific Railroad—and 25 Class III railroads, for a total of approximately 3,000 miles of trackage in Washington. There is no separate Class II railroad trackage in Washington.

In 1990 the Legislature enacted the Freight Rail Preservation Program (Chapter 43, Laws of 1990), which declared that the state, counties, local communities, railroads, labor, and shippers benefit from the continuation of rail service and should participate in its preservation. In addition to other directives, the WSDOT is required to monitor the status of the state's railroads and preserved rail corridors through the state rail plan, and to seek alternatives to abandonment of railroads where feasible. Additionally, local jurisdictions may implement rail service preservation projects in the absence of state participation.

Summary of Engrossed Substitute Bill:

Growth Management Act—New and Modified Definitions.

A definition of "freight rail dependent uses" is added to the Growth Management Act (GMA), to mean buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of the GMA.

A definition of "short line railroads" is added to the GMA, to mean those railroad lines designated Class II or Class III by the Surface Transportation Board.

The GMA's definition of "rural character" is expanded to include railroad tracks.

Growth Management Act—Natural Resource Lands.

Certain counties, and the cities within those counties, are authorized to adopt development regulations to assure that agriculture, forest, and mineral resource lands adjacent to short line railroads may be developed for freight rail dependent uses. Any such development regulations must require buffers sufficient to prevent encroachment on or impacts to the adjacent resource lands. The authorization is limited to those counties, and the cities within them, that, for counties located to the east of the crest of the Cascade mountains, have a population of at least 240,000, and for counties located to the west of the crest of the Cascade mountains, have both a population of at least 240,000 and a border that touches another state.

Growth Management Act—Comprehensive Plans.

Certain counties, and the cities within those counties, are authorized to include development of freight rail dependent uses on land adjacent to railroad lines and infrastructure in the transportation element of their comprehensive plan. Such counties and cities are also authorized to modify their development regulations to include development of freight rail dependent uses that do not require urban governmental services in rural lands. The authorization is limited to those counties, and the cities within them, that, for counties located to the east of the crest of the Cascade mountains, have a population of at least 240,000, and for counties located to the west of the crest of the Cascade mountains, have both a population of at least 240,000 and a border that touches another state.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment

- authorizes all counties east of the Cascades, rather than just those counties with a population of at least 240,000, to:
 - adopt development regulations to allow resource lands adjacent to short line railroads to be developed for freight rail dependent uses;
 - include development of freight rail dependent uses in the transportation element of their comprehensive plans; and
 - modify their development regulations to include development of freight rail dependent uses that do not require urban governmental services in rural areas.
- removes railroad tracks from the definition of "rural character."

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) Rail-served land is scarce, which hurts jobs. There are 22 short line railroads in Washington, this bill would allow new businesses to locate along short line railroads. It would be impossible to recreate these short line railroads today. Short line railroads provide the first mile of connectivity. Passage of this bill will signify the state's commitment to short

line railroads. The bill helps manufacturers get their products to market. If we are committed to one Washington, this will help bring family wage jobs to rural communities.

Land along railroads is very scarce. Railroads in eastern Washington would like to diversify their economies. Studies show that freight rail dependent developments would support jobs. Developable land served by rail is rare and valuable. Sometimes rural land needs to be used in order to get agricultural goods to market.

(Opposed) This bill would allow for sites on resource lands to be developed. It is important to use farm land for farm purposes. The overall goal of the bill is valuable, but it would be good to limit the definition somewhat of rail dependent uses.

(Other) The statement of intent unnecessarily disparages trucking.

Persons Testifying: (In support) Representative Pike, prime sponsor; Amber Carter, Portland-Vancouver Junction Railroad; Mike Bomar, Columbia River Economic Development Council; Mark Streuli, Washington State Farm Bureau; and Mike Ennis, Association of Washington Business.

(Opposed) Bryce Yadon, Futurewise; and Carl Schroeder, Association of Washington Cities.

(Other) Laura Berg, Washington State Association of Counties; and Sheri Call, Washington Trucking Association.

Persons Signed In To Testify But Not Testifying: None.