

SENATE BILL REPORT

SB 6562

As of January 30, 2018

Title: An act relating to preserving farm and agricultural land.

Brief Description: Preserving farm and agricultural land.

Sponsors: Senators Honeyford, Becker, Bailey, Brown and Wilson.

Brief History:

Committee Activity: Local Government: 1/30/18.

Brief Summary of Bill

- Prohibits a school from being sited within one-quarter mile of farm and agricultural land.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Staff: Greg Vogel (786-7413)

Background: The Growth Management Act (GMA). The GMA is the comprehensive land use planning framework for counties and cities in Washington. The GMA sets forth three broad planning obligations for those counties and cities who plan fully under the GMA: (1) the county legislative authority must adopt a countywide planning policy; (2) the county, and the cities within the county, must designate critical areas, agricultural lands, forestlands, and mineral resource lands, and adopt development regulations accordingly; and (3) the county must designate and take other actions related to Urban Growth Areas (UGAs).

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

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.

The GMA provides that, in general, it is not appropriate for urban governmental services, such as public services and public facilities 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.

GMA - School Siting. In 2017, the Legislature passed two bills, ESHB 1017 and HB 2243, that allow schools to be sited outside of UGAs, subject to specific conditions. Under ESHB 1017, a county may authorize the siting in a rural area of a school that serves students from an urban area, even where otherwise prohibited by a multicounty planning policy, under the following circumstances:

- the county has a population of more than 840,000 but fewer than 1,500,000 and abuts at least six other counties;
- the county must have adopted a policy concerning the siting of schools in rural areas in its comprehensive plan;
- any impacts associated with the siting of such a school are mitigated as required by the State Environmental Policy Act (SEPA); and
- the county must be a participant in a multicounty planning policy.

Under HB 2243, the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area is permitted if the following conditions are met:

- the school district has adopted a policy about school service area, facility needs, and educational program requirements;
- the school district has made a finding, with the concurrence of the county and any affected cities, that the proposed site is suitable, and that there is no reasonable potential collocation on an existing school site for the proposed school and any associated facilities;
- the county and any affected cities must agree to the extension of public facilities and utilities to the school to be sited in a rural area;
- any extension of a public facility or utility beyond a UGA must only serve the school (with one exception described below), and the cost of such extensions must be borne by the school district based on a reasonable nexus basis; and
- any impacts with the school's siting are mitigated as required by SEPA.

Where a public facility or utility has been extended outside a UGA to serve a school, the public facility or utility may serve a property or properties in addition to the school if the property owner so requests, provided that:

- the county and any affected cities agree with the request; and
- the property is located no further from the public facility or utility than the distance that, if the property were within the UGA, the property would be required to connect to the public facility or utility.

In such an instance, the school district may require reimbursement from a requesting property owner for a proportional share of the construction costs incurred by the school district for the extension of the public facility or utility.

Open Space, Agricultural and Farm Land. The Open Space Taxation Act allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens. Farm and agricultural land is defined as any of the following:

1. Any parcel of land that is 20 or more acres, or multiple parcels of land that are contiguous and total 20 or more acres, and are:
 - a. devoted primarily to the production of livestock or agricultural commodities for commercial purposes;
 - b. enrolled in the federal conservation reserve program or its successor administered by the United States Department of Agriculture; or
 - c. other commercial agricultural activities.
2. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has produced a gross income equivalent to:
 - a. \$100 or more per acre per year for three of the five calendar years preceding the date of application for classification, prior to January 1, 1993; or
 - b. 1993, \$200 or more per acre per year for three of the five calendar years preceding the date of application for classification, on or after January 1.
3. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
 - a. seven years and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year; or
 - b. fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year.
4. For parcels of land five acres or more but less than 20 acres, gross income from agricultural uses includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.
5. Any parcel of land less than five acres devoted primarily to agricultural uses and has produced a gross income of:
 - a. \$1,000 or more per year for three of the five calendar years preceding the date of application for classification; or
 - b. 1993, \$1,500 or more per year for three of the five calendar years preceding the date of application for classification, on or after January 1.
6. Farm and agricultural land also includes any of the following:
 - a. incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land, prior to January 1, 1993;
 - b. land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products;
 - c. any non-contiguous parcel one to five acres, that is an integral part of the farming operations;

- d. land on which housing for employees or the principal place of residence of the farm operator or owner is sited provided the use of the housing or residence is integral to the use of the classified land for agricultural purposes, the housing or residence is on or contiguous to the classified land, and the classified land is 20 or more acres;
- e. land that is used primarily for equestrian-related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed—depending on the number of classified acres, the land may be subject to minimum gross income requirements; or
- f. land that is primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not.

Summary of Bill: A school may not be sited within one-quarter mile of any property that is farm and agricultural land as defined in the Open Space Taxation Act.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: School and agricultural uses are generally compatible. What this bill has to do with is pesticide drift, smells and noises disrupting schools, and safety regarding farm equipment on roadways. Data shows that pesticide drift is extremely rare. However, because there are people concerned about drift and smells, it is probably better for everybody to have some space between the two. The sad part is that it potentially denies kids the opportunities to learn a little bit more about their food and where it comes from.

Persons Testifying: PRO: Bryce Yadon, Futurewise; Heather Hansen, Washington Friends of Farms And Forests.

Persons Signed In To Testify But Not Testifying: No one.