
SUBSTITUTE SENATE BILL 5259

State of Washington

66th Legislature

2019 Regular Session

By Senate Local Government (originally sponsored by Senators Zeiger, Warnick, Van De Wege, Fortunato, and Takko)

READ FIRST TIME 02/01/19.

1 AN ACT Relating to encouraging the success of agriculture on
2 agricultural land; and amending RCW 36.70A.020, 36.70A.177,
3 36.70A.190, 36.70A.710, and 36.70A.740.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.70A.020 and 2002 c 154 s 1 are each amended to
6 read as follows:

7 The following goals are adopted to guide the development and
8 adoption of comprehensive plans and development regulations of those
9 counties and cities that are required or choose to plan under RCW
10 36.70A.040. The following goals are not listed in order of priority
11 and shall be used exclusively for the purpose of guiding the
12 development of comprehensive plans and development regulations:

13 (1) Urban growth. Encourage development in urban areas where
14 adequate public facilities and services exist or can be provided in
15 an efficient manner.

16 (2) Reduce sprawl. Reduce the inappropriate conversion of
17 undeveloped land into sprawling, low-density development.

18 (3) Transportation. Encourage efficient multimodal transportation
19 systems that are based on regional priorities and coordinated with
20 county and city comprehensive plans.

1 (4) Housing. Encourage the availability of affordable housing to
2 all economic segments of the population of this state, promote a
3 variety of residential densities and housing types, and encourage
4 preservation of existing housing stock.

5 (5) Economic development. Encourage economic development
6 throughout the state that is consistent with adopted comprehensive
7 plans, promote economic opportunity for all citizens of this state,
8 especially for unemployed and for disadvantaged persons, promote the
9 retention and expansion of existing businesses and recruitment of new
10 businesses, recognize regional differences impacting economic
11 development opportunities, and encourage growth in areas experiencing
12 insufficient economic growth, all within the capacities of the
13 state's natural resources, public services, and public facilities.

14 (6) Property rights. Private property shall not be taken for
15 public use without just compensation having been made. The property
16 rights of landowners shall be protected from arbitrary and
17 discriminatory actions.

18 (7) Permits. Applications for both state and local government
19 permits should be processed in a timely and fair manner to ensure
20 predictability.

21 (8) Natural resource industries. Maintain and enhance natural
22 resource-based industries, including productive timber, agricultural,
23 and fisheries industries. Encourage the conservation of productive
24 forestlands and productive agricultural lands, and discourage
25 incompatible uses. Encouraging the conservation of productive
26 agricultural lands requires local governments to have a regulatory
27 strategy that allows agricultural landowners to successfully engage
28 in agriculture.

29 (9) Open space and recreation. Retain open space, enhance
30 recreational opportunities, conserve fish and wildlife habitat,
31 increase access to natural resource lands and water, and develop
32 parks and recreation facilities.

33 (10) Environment. Protect the environment and enhance the state's
34 high quality of life, including air and water quality, and the
35 availability of water.

36 (11) Citizen participation and coordination. Encourage the
37 involvement of citizens in the planning process and ensure
38 coordination between communities and jurisdictions to reconcile
39 conflicts.

1 (12) Public facilities and services. Ensure that those public
2 facilities and services necessary to support development shall be
3 adequate to serve the development at the time the development is
4 available for occupancy and use without decreasing current service
5 levels below locally established minimum standards.

6 (13) Historic preservation. Identify and encourage the
7 preservation of lands, sites, and structures, that have historical or
8 archaeological significance.

9 **Sec. 2.** RCW 36.70A.177 and 2006 c 147 s 1 are each amended to
10 read as follows:

11 (1) A county or a city may use a variety of innovative zoning
12 techniques and other measures described in this section in areas
13 designated as agricultural lands of long-term commercial significance
14 (~~under RCW 36.70A.170~~). This section applies to lands that are
15 within an urban growth area and lands that are not within an urban
16 growth area. The innovative zoning techniques (~~should~~) and other
17 measures must be designed to conserve agricultural lands and
18 encourage the agricultural economy. Except as provided in subsection
19 (3) of this section, a county or city should encourage
20 nonagricultural uses to be limited to lands with poor soils or
21 otherwise not suitable for agricultural purposes.

22 (2) Innovative zoning techniques a county or city may consider
23 include, but are not limited to:

24 (a) Agricultural zoning, which limits the density of development
25 and restricts or prohibits nonfarm uses of agricultural land and may
26 allow accessory uses, including nonagricultural accessory uses and
27 activities, that support, promote, or sustain agricultural operations
28 and production, as provided in subsection (3) of this section;

29 (b) Cluster zoning, which allows new development on one portion
30 of the land, leaving the remainder in agricultural or open space
31 uses;

32 (c) Large lot zoning, which establishes as a minimum lot size the
33 amount of land necessary to achieve a successful farming practice;

34 (d) Quarter/quarter zoning, which permits one residential
35 dwelling on a one-acre minimum lot for each one-sixteenth of a
36 section of land; and

37 (e) Sliding scale zoning, which allows the number of lots for
38 single-family residential purposes with a minimum lot size of one

1 acre to increase inversely as the size of the total acreage
2 increases.

3 (3) Accessory uses allowed under subsection (2)(a) of this
4 section shall comply with the following:

5 (a) Accessory uses shall be located, designed, and operated so as
6 to not interfere with, and to support the continuation of, the
7 overall agricultural use of the property and neighboring properties,
8 and shall comply with the requirements of this chapter;

9 (b) Accessory uses may include:

10 (i) Agricultural accessory uses and activities, including but not
11 limited to the storage, distribution, and marketing of regional
12 agricultural products from one or more producers, agriculturally
13 related experiences, or the production, marketing, and distribution
14 of value-added agricultural products, including support services that
15 facilitate these activities; and

16 (ii) Nonagricultural accessory uses and activities as long as
17 they are consistent with the size, scale, and intensity of the
18 existing agricultural use of the property and the existing buildings
19 on the site. Nonagricultural accessory uses and activities, including
20 new buildings, parking, or supportive uses, shall not (~~be located~~
21 ~~outside the general area already developed for buildings and~~
22 ~~residential uses and shall not~~) otherwise convert more than one acre
23 of agricultural land to nonagricultural uses; and

24 (c) Counties and cities have the authority to limit or exclude
25 accessory uses otherwise authorized in this subsection (3) in areas
26 designated as agricultural lands of long-term commercial
27 significance.

28 (4) Other measures that a county or city may use with regard to
29 agricultural lands include, but are not limited to:

30 (a) Consolidating multiple permit requirements to create a more
31 efficient permitting system;

32 (b) Reducing the amount of time required for permit review;

33 (c) Expanding opportunities for county or city employees to
34 provide technical assistance to landowners who request assistance;
35 and

36 (d) Increasing coordination among counties or cities and other
37 agencies to avoid duplication of work during permit review.

38 (5) This section shall not be interpreted to limit agricultural
39 production on designated agricultural lands. Furthermore, this

1 section must be applied in a manner that allows agricultural
2 landowners to successfully engage in agriculture.

3 **Sec. 3.** RCW 36.70A.190 and 1991 sp.s. c 32 s 3 are each amended
4 to read as follows:

5 (1) The department shall establish a program of technical and
6 financial assistance and incentives to counties and cities to
7 encourage and facilitate the adoption and implementation of
8 comprehensive plans and development regulations throughout the state.

9 (2) The department shall develop a priority list and establish
10 funding levels for planning and technical assistance grants both for
11 counties and cities that plan under RCW 36.70A.040. Priority for
12 assistance (~~shall~~) must be based on a county's or city's population
13 growth rates, commercial and industrial development rates, the
14 existence and quality of a comprehensive plan and development
15 regulations, and other relevant factors.

16 (3) The department shall develop and administer a grant program
17 to provide direct financial assistance to counties and cities for the
18 preparation of comprehensive plans under this chapter. The department
19 may establish provisions for county and city matching funds to
20 conduct activities under this subsection. Grants may be expended for
21 any purpose directly related to the preparation of a county or city
22 comprehensive plan as the county or city and the department may
23 agree, including, without limitation, the conducting of surveys,
24 inventories and other data gathering and management activities, the
25 retention of planning consultants, contracts with regional councils
26 for planning and related services, and other related purposes.

27 (4) The department shall establish a program of technical
28 assistance:

29 (a) Utilizing department staff, the staff of other state
30 agencies, and the technical resources of counties and cities to help
31 in the development of comprehensive plans required under this
32 chapter. The technical assistance may include, but not be limited to,
33 model land use ordinances, regional education and training programs,
34 and information for local and regional inventories; and

35 (b) Adopting by rule procedural criteria to assist counties and
36 cities in adopting comprehensive plans and development regulations
37 that meet the goals and requirements of this chapter. These criteria
38 shall reflect regional and local variations and the diversity that

1 exists among different counties and cities that plan under this
2 chapter.

3 (5) The department shall provide mediation services to resolve
4 disputes between counties and cities regarding, among other things,
5 coordination of regional issues and designation of urban growth
6 areas.

7 (6) The department shall provide planning grants to enhance
8 citizen participation under RCW 36.70A.140.

9 (7) The department may provide financial assistance and
10 incentives to counties and cities to promote innovative zoning
11 techniques and other measures under RCW 36.70A.177.

12 **Sec. 4.** RCW 36.70A.710 and 2011 c 360 s 4 are each amended to
13 read as follows:

14 (1)(a) As an alternative to protecting critical areas in areas
15 used for agricultural activities through development regulations
16 adopted under RCW 36.70A.060, the legislative authority of a county
17 may elect to protect such critical areas through the program.

18 (b) In order to participate in the program, (~~within six months~~
19 ~~after July 22, 2011~~) by July 1, 2020, the legislative authority of a
20 county must adopt an ordinance or resolution that:

21 (i) Elects to have the county participate in the program;

22 (ii) Identifies the watersheds that will participate in the
23 program; and

24 (iii) Based on the criteria in subsection (4) of this section,
25 nominates watersheds for consideration by the commission as state
26 priority watersheds.

27 (2) Before adopting the ordinance or resolution under subsection
28 (1) of this section, the county must (a) confer with tribes, and
29 environmental and agricultural interests; and (b) provide notice
30 following the public participation and notice provisions of RCW
31 36.70A.035 to property owners and other affected and interested
32 individuals, tribes, government agencies, businesses, school
33 districts, and organizations.

34 (3) In identifying watersheds to participate in the program, a
35 county must consider:

36 (a) The role of farming within the watershed, including the
37 number and acreage of farms, the economic value of crops and
38 livestock, and the risk of the conversion of farmland;

1 (b) The overall likelihood of completing a successful program in
2 the watershed; and

3 (c) Existing watershed programs, including those of other
4 jurisdictions in which the watershed has territory.

5 (4) In identifying priority watersheds, a county must consider
6 the following:

7 (a) The role of farming within the watershed, including the
8 number and acreage of farms, the economic value of crops and
9 livestock, and the risk of the conversion of farmland;

10 (b) The importance of salmonid resources in the watershed;

11 (c) An evaluation of the biological diversity of wildlife species
12 and their habitats in the geographic region including their
13 significance and vulnerability;

14 (d) The presence of leadership within the watershed that is
15 representative and inclusive of the interests in the watershed;

16 (e) Integration of regional watershed strategies, including the
17 availability of a data and scientific review structure related to all
18 types of critical areas;

19 (f) The presence of a local watershed group that is willing and
20 capable of overseeing a successful program, and that has the
21 operational structures to administer the program effectively,
22 including professional technical assistance staff, and monitoring and
23 adaptive management structures; and

24 (g) The overall likelihood of completing a successful program in
25 the watershed.

26 (5) Except as otherwise provided in subsection (9) of this
27 section, beginning with the effective date of the ordinance or
28 resolution adopted under subsection (1) of this section, the program
29 applies to all unincorporated property upon which agricultural
30 activities occur within a participating watershed.

31 (6)(a) Except as otherwise provided in (b) of this subsection,
32 within two years after July 22, 2011, a county must review and, if
33 necessary, revise development regulations adopted under this chapter
34 to protect critical areas as they specifically apply to agricultural
35 activities:

36 (i) If the county has not elected to participate in the program,
37 for all unincorporated areas; or

38 (ii) If the county has elected to participate in the program, for
39 any watershed not participating in the program.

1 (b) A county that between July 1, 2003, and June 30, 2007, in
2 accordance with RCW 36.70A.130 completed the review of its
3 development regulations as required by RCW 36.70A.130 to protect
4 critical areas as they specifically apply to agricultural activities
5 is not required to review and revise its development regulations
6 until required by RCW 36.70A.130.

7 (c) After the review and amendment required under (a) of this
8 subsection, RCW 36.70A.130 applies to the subsequent review and
9 amendment of development regulations adopted under this chapter to
10 protect critical areas as they specifically apply to agricultural
11 activities.

12 (7)(a) A county that has made the election under subsection (1)
13 of this section may withdraw a participating watershed from the
14 program by adopting an ordinance or resolution withdrawing the
15 watershed from the program. A county may withdraw a watershed from
16 the program at the end of three years, five years, or eight years
17 after receipt of funding, or any time after ten years from receipt of
18 funding.

19 (b) Within eighteen months after withdrawing a participating
20 watershed from the program, the county must review and, if necessary,
21 revise its development regulations that protect critical areas in
22 that watershed as they specifically apply to agricultural activities.
23 The development regulations must protect the critical area functions
24 and values as they existed on July 22, 2011. RCW 36.70A.130 applies
25 to the subsequent review and amendment of development regulations
26 adopted under this chapter to protect critical areas as they
27 specifically apply to agricultural activities.

28 (8) A county that has made the election under subsection (1) of
29 this section is eligible for a share of the funding made available to
30 implement the program, subject to funding availability from the
31 state.

32 (9) A county that has made the election under subsection (1) of
33 this section is not required to implement the program in a
34 participating watershed until adequate funding for the program in
35 that watershed is provided to the county.

36 **Sec. 5.** RCW 36.70A.740 and 2011 c 360 s 10 are each amended to
37 read as follows:

38 (1) (~~By July 31, 2015,~~) The commission must:

1 (a) In consultation with each county that has elected under RCW
2 36.70A.710 to participate in the program, determine which
3 participating watersheds received adequate funding to establish and
4 implement the program in a participating watershed (~~by July 1,~~
5 ~~2015~~); and

6 (b) In consultation with other state agencies, for each
7 participating watershed determine whether state agencies required to
8 take action under the provisions of RCW 36.70A.700 through 36.70A.760
9 have received adequate funding to support the program (~~by July 1,~~
10 ~~2015~~).

11 (2) By July 31, (~~2017~~) 2021, and every two years thereafter, in
12 consultation with each county that has elected under RCW 36.70A.710
13 to participate in the program and other state agencies, the
14 commission shall determine for each participating watershed whether
15 adequate funding to implement the program was provided during the
16 preceding biennium as provided in subsection (1) of this section.

17 (3) If the commission determines under subsection (1) or (2) of
18 this section that a participating watershed has not received adequate
19 funding, the watershed is subject to the provisions of RCW
20 36.70A.735.

21 (4) In consultation with the statewide advisory committee and
22 other state agencies, not later than August 31, 2015, and each August
23 31st every two years thereafter, the commission shall report to the
24 legislature and each county that has elected under RCW 36.70A.710 to
25 participate in the program on the participating watersheds that have
26 received adequate funding to establish and implement the program.

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