

HOUSE BILL REPORT

HB 1925

As Reported By House Committee On: Government Operations

Title: An act relating to growth management.

Brief Description: Modifying the growth management act.

Sponsors: Representatives Cairnes, Hargrove, Lisk, Thompson, Goldsmith, Hymes, Honeyford, D. Schmidt, Koster, Elliot, Chappell, Blanton, Hickel, Hankins, Radcliff, Pelesky, McMahan, Padden, Sheldon, K. Schmidt, Reams, Basich, Mulliken, Carrell, Huff, L. Thomas, Johnson, Silver, McMorris, Clements, Skinner, Backlund, Campbell, Benton, Carlson, Smith, Van Luven, Schoesler and Stevens.

Brief History:

Committee Activity:

Government Operations: 1/18/95, 1/20/95, 2/3/95, 2/14/95, 2/21/95, 2/28/95
[DP].

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass. Signed by 9 members: Representatives Reams, Chairman; Goldsmith, Vice Chairman; L. Thomas, Vice Chairman; Hargrove; Honeyford; Hymes; Mulliken; D. Schmidt and Van Luven.

Minority Report: Do not pass. Signed by 6 members: Representatives Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Chopp; R. Fisher; Sommers and Wolfe.

Staff: Steve Lundin (786-7127).

Background: The Growth Management Act was enacted in 1990 and 1991.

The primary requirements for counties and cities planning under all of the requirements of the act include:

- o Each county and city must identify and protect five separate critical areas, including wetlands, areas with a critical recharging effect on aquifers used for potable water, frequently flooded areas, and geologically hazardous areas.

- o Each county and city must identify and conserve natural resource lands with long term commercial significance for agriculture, forestry, or mineral resource extraction.
- o Each county must adopt a countywide planning policy using a process agreed to by the county and cities within the county. The countywide planning policy provides a framework for the comprehensive plans that the county and cities adopt.
- o Each county must designate urban growth areas within the county inside of which urban growth shall occur and outside of which urban growth may not occur.
- o Each county and city must adopt a comprehensive plan including a variety of elements, as well as designations of critical areas and natural resource lands. The comprehensive plan of a county must include its designations of urban growth areas. A comprehensive plan must be internally consistent. A comprehensive plan must be coordinated with, and consistent with, comprehensive plans of adjacent jurisdictions and jurisdictions with related regional issues.
- o Each county and city must adopt development regulations implementing its comprehensive plan.

The Office of the Attorney General was required to prepare a checklist of matters for a local government or state agency to consider when determining if its actions may constitute an unconstitutional taking of private property without payment of just compensation. The use of this checklist is part of the attorney/client relationship between the local government or state agency and its attorney.

Summary of Bill: A variety of changes are made to the Growth Management Act.

1. Development regulations.

The authority of a county or city planning under all of the requirements of the Growth Management Act to adopt zoning ordinances and other development regulations is restricted to only regulating for public health and safety.

The normal burden of justifying legislative actions is reversed and a county or city planning under all of the requirements of the Growth Management Act may only down-zone property if justified by clear and convincing evidence. Once a property is down-zoned, it may not be further down-zoned for at least another five years.

2. Critical areas.

The authority of a county or city planning under the Growth Management Act to regulate critical areas is limited to only those instances where the public's health and safety are being protected. Development regulations to protect designated critical areas may only be for protection from hazards and health and safety risks.

The definition of wetlands is altered to refer to the current or subsequent definition of wetlands in the federal Clean Water Act.

The definition of areas with critical recharging effect on aquifers used for potable water is limited to areas with documented health and sanitation recharging effects on aquifers used for potable water.

The definition of frequently flooded areas is restricted to only areas within 100 year flood plains under Title 36 RCW.

Development of geologically hazardous areas may only be precluded if the city or county can prove that geologic conditions are not conducive to development. The definition of geologically hazardous areas is limited so that only those areas are included that the county or city proves are not suited for development without any cost to the property owner.

Guidelines adopted by the Department of Community, Trade, and Economic Development (DCTED) for designating critical areas become maximum limitations, and a county or city may not designate critical areas unless the critical areas meet these guidelines.

3. Water quality certification under the federal Clean Water Act.

The Department of Ecology is required to expeditiously and summarily waive the water quality certification process of the federal Clean Water Act.

4. Natural resource lands.

Guidelines adopted by the DCTED for designating agricultural lands, forest lands, and mineral resource lands, become maximum limitations, and a county or city may not designate agricultural lands, forest lands, or mineral resource lands unless the natural resource lands meet these guidelines.

The requirement to conserve natural resource lands is altered. Development regulations are no longer required to assure the continued use of designated natural resource lands for agricultural purposes, harvesting of timber, or removing mineral resources.

The Growth Management Act goal relating to natural resource industries is altered to remove language about discouraging incompatible uses of productive forest and agricultural lands.

5. Forest Practices Act.

Land development under the Growth Management Act, is exempt from complying with the Forest Practices Act.

6. Urban growth areas.

Urban growth is allowed outside of urban growth areas. Counties and cities designate urban growth areas that favor expansive delineation. Urban growth areas must be large enough to accommodate all growth that actually occurs. Counties may use their own population forecasts to designate urban growth areas and have the discretion to include ample land supplies. A public utility retains its common law duty to make service available to all within its franchise area and other areas within which it holds itself out as a provider of service.

The Growth Management Act goal relating to reduction of sprawl is altered by removing language about reducing inappropriate sprawl and low density development.

The definition of characterized by urban growth is altered to include areas where public or private extensions of services are feasible. The definition of public services is altered by deleting environmental protection and other governmental services not specifically listed in the definition.

A city or county must approve a permit for a single-family dwelling outside of an urban growth area if the applicant has an approved water supply and approval for sewer or septic tank system.

Urban growth areas must be reviewed at least once every five years, rather than at least once every 10 years.

7. Comprehensive plan elements.

The land use element in a comprehensive plan is altered to remove requirements for population densities, building intensities, and estimates of future growth. Further language is deleted requiring the protection of groundwater and corrective action to cleanse stormwater.

The housing element is altered to delete requirements for government assisted housing, low-income housing, manufactured housing, multifamily housing, group homes and foster care facilities. Counties and cities are prohibited from using

inclusionary zoning and may not condition project approval or land use approval with regard to the provision of low income housing.

The rural element for counties is altered so that an area designated as rural could be included in an urban growth area, or designated as a forest, agricultural, or mineral resource lands. Development of less than five single-family residential units is allowed within rural areas.

The transportation element is altered to delete concurrency requirements.

8. Countywide planning policies.

The affordable housing portion of a countywide policy is altered by eliminating a requirement for parameters for distributing affordable housing to all economic segments of the population.

9. Open space corridors.

The current language restricting the authority of a county or city to only include land in open space corridors that is either publicly-owned or where the public owns easements is altered by adding statements prohibiting the taking of private property for public use unless just compensation is paid and stating that the property rights should be protected from arbitrary and discriminatory actions.

10. Public facilities.

The Growth Management Act goal relating to public facilities and services is altered to remove language relating to the provision of economic development within the capabilities of the state's resources, public services, and public facilities.

Cities operating public facilities and services are required to provide service within their service areas, if technically feasible, and in compliance with local regulations. Cities providing water or sewer service beyond their boundaries may not require the property owner to agree to lot sizes differing from the applicable zoning or to other development or design standards not required by the local government with jurisdiction over the property.

11. Permits and land use decisions.

The Growth Management Act goal on permits is altered by requiring counties and cities to issue permits for single-family residential construction within seven business days of application and permits for multi-family residential construction within 30 days.

Counties and cities planning under all of the requirements of the Growth Management Act are required to establish a process for concurrently processing all permits and rezones required for a project at the same time. If a hearing examiner finds that timely action has not been taken, the hearing examiner shall set a date certain by which the permitting agency must act on the applications and fully reimburse any filing and processing fees.

12. Other changes to goals.

The goal on economic development is altered to delete language referring to the capabilities of the state's natural resources, public services, and public facilities.

The goal on the environment is altered by limiting this goal to protecting the environment from hazards and nuisances and to maintain, rather than enhance, the high quality of life.

The goal on citizen participation is altered so that local governments coordinate their actions with property owners rather than communities.

A new goal is added providing that property owners have the prospective right to uses similar to those adjacent to their property.

13. Attorney General checklist on unconstitutional taking of private property.

Language relating to the checklist the Attorney General prepares for local governments and state agencies use in determining if an unconstitutional taking of property may occur from their proposed actions is altered to include takings beyond constitutional takings.

The attorney client privilege is removed, making any use of this process by a government available to the public.

Appropriation: None.

Fiscal Note: Requested on February 18, 1995.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This is common sense. The Growth Management Act has made affordable housing a dream, caused businesses to flee the state, and has shut off outside capital development. Only 2 percent of the land in the state is developed and 50 percent is publicly owned. Building permit fees have skyrocketed. This gives us predictability. This rebalances the process. Lots in Redmond now cost \$94,700. People want this bill.

Testimony Against: Urban sprawl will result. This threatens our quality of life. This eliminates safeguards. Give GMA a chance. This guts GMA.

Testified: Chris Vance, King County Council; Mary Lynn Myer, Dept. of Community, Trade and Economic Development; Matt Ryan, Keith Dearborn, and Win Granlund, Kitsap County; Sylviann Frankus, League of Women Voters of Wash.; Paul Parker, Wash. State Assn. of Counties; Bob Mack, Bellevue; Davidya Kasperzyk, Wash. Council of American Architects; Chris Leman, Coalition of Wash. Communities; John Woodring, Wash. Assoc. of Realtors; Mike McCormick, 1000 Friends of Wash.; Naki Stevens, People for Puget Sound; Scott Merriman, Wash. Environmental Council; Robert Dryfus; Susie Rao, Building Industry Association of Washington; and Don Chance, Association of Washington Business.