

SENATE BILL REPORT

EHB 1224

As Reported by Senate Committee On:
Governmental Operations, February 27, 2014

Title: An act relating to providing a process for county legislative authorities to withdraw from voluntary planning under the growth management act.

Brief Description: Providing a process for county legislative authorities to withdraw from voluntary planning under the growth management act.

Sponsors: Representatives Kretz, Takko and Short.

Brief History: Passed House: 2/17/14, 75-19.

Committee Activity: Governmental Operations: 2/27/14 [DPA].

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: Do pass as amended.

Signed by Senators Roach, Chair; Benton, Vice Chair; Hasegawa, Ranking Member; Conway, Dansel and McCoy.

Staff: Karen Epps (786-7424)

Background: The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under GMA and a reduced number of directives for all other counties and cities.

A county obligated by mandate to fully plan under GMA is one that either:

- has a population of 50,000 or more and has experienced a population increase of more than 17 percent in the previous ten years; or
- has experienced a population increase of more than 20 percent over the previous ten years, regardless of population.

A county obligated by choice to fully plan under GMA is one that, not meeting the population requirements described above, has adopted a resolution subjecting itself, and cities located in the county, to the full requirements of GMA (resolution of intention). Once a resolution of intention is adopted, the county and its cities remain subject to all GMA

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planning requirements. The following counties adopted resolutions of intention: Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Kittitas, Pacific, Pend Oreille, Stevens, and Walla Walla.

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.

Additionally, GMA requires all counties and cities to satisfy specific designation mandates for natural resource lands. All counties and cities must designate, where appropriate, agricultural lands that are not characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products. Planning jurisdictions must also adopt development regulations that conserve these agricultural lands and other designated natural resource lands. All counties and cities must also designate and protect environmentally sensitive critical areas. These protection requirements obligate local governments, using the best available science, to adopt development regulations, also known as critical areas ordinances, that comply with specified criteria.

Summary of Bill (Recommended Amendments): Until December 31, 2015, the legislative authority of a county that is obligated by choice to fully plan under GMA may adopt a resolution for partial planning (resolution) removing the county and the cities within from requirements to fully plan under GMA. A county may exercise the authority to adopt the resolution if:

- the county has a population of 20,000 or fewer inhabitants at any time between January 1, 2010, and December 31, 2015;
- at least 60 days prior to adopting a removal resolution, the county provides written notification to the legislative body of each city located within the county of its intent to consider adopting the resolution; and
- the legislative bodies of at least 60 percent of the cities in the county having an aggregate population of at least 75 percent of the incorporated county population have not adopted resolutions opposing the removal action by the county and have not provided corresponding written notification.

Upon adoption of a resolution, the county and the cities within are no longer obligated to fully plan under GMA. The adoption of a resolution, however, does not nullify or otherwise modify requirements of GMA for counties and cities relating to the designation of natural resource lands, the designation and protection of critical areas, and the use of the best available science in designating and protecting critical areas.

The legislative authority of a county that adopts a resolution cannot pass a subsequent resolution indicating its intention to fully plan under GMA for a minimum of ten years from the date of the adoption of the resolution.

Each county that adopts a resolution and the cities within must, within one year of the adoption of the resolution, adopt development regulations to assure the conservation of designated natural resource lands. These regulations may not prohibit uses legally existing

on any parcel prior to their adoption, and must assure that the use of lands adjacent to the designated natural resource lands do not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of the lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

A county that adopts a resolution and that is not in compliance with specific planning obligations of GMA at the time the resolution is adopted must by January 30, 2017, apply for a determination of compliance from the Department of Commerce (Commerce) finding that the county's development regulations, including regulations adopted to protect critical areas, and comprehensive plans are in compliance with the same specified obligations of GMA. Commerce must approve or deny the application for a determination of compliance within 120 days of its receipt or by June 30, 2017, whichever date is earlier.

If Commerce denies an application for a determination of compliance, the county's resolution ceases to have effect and the county and each city within is obligated to comply with all requirements of GMA.

Commerce is authorized to adopt rules related to determinations of compliance. The rules may address, but are not limited to the following:

- requirements for applications for a determination of compliance;
- charging of costs to a county for incurred defense expenses;
- procedures for processing applications;
- criteria for the evaluation of applications;
- issuance and notice of Commerce decisions; and
- applicable timelines.

Until December 31, 2020, the Growth Management Hearings Board (Board) is authorized to hear and determine petitions regarding determinations of compliance by Commerce. The petition must allege that Commerce's determination was erroneous and must be filed with the Board within 60 days of the issuance of a determination decision by Commerce. In the event the petition is regarding a determination of compliance approval, the county and Commerce must equally share the costs incurred by Commerce in defending the approval before the Board.

EFFECT OF CHANGES MADE BY GOVERNMENTAL OPERATIONS COMMITTEE (Recommended Amendments):

- Makes technical modifications to provisions governing development regulations to assure the conservation of natural resource lands that a county and the cities within must adopt after a resolution is adopted.
- Specifies that the adoption of a resolution does not nullify or otherwise modify the requirements for counties and cities relating to the designation and conservation of natural resource lands, the designation and protection of critical areas, and the use of the best available science in designating and protecting critical areas.
- Specifies that a county that adopts a resolution and that is not in compliance with specified requirements of GMA must, by January 30, 2017, apply for a determination of compliance from Commerce for the county's development regulations, including development regulations adopted to protect critical areas, and comprehensive plans.

- Specifies that Commerce must approve or deny the application for a determination of compliance within 120 days of its receipt or by June 30, 2017, whichever date is earlier.
- Specifies that if Commerce denies an application for a determination of compliance, the county and each city within is obligated to comply with all requirements of GMA, and that the adopted resolution is no longer in effect.
- Establishes that determinations of Commerce may only be appealed to the Growth Management Hearings Board (Board) within 60 days of the issuance of the decision by Commerce.
- Specifies that, in the event of a filing of a petition with the Board regarding the defense of an approval of a determination of compliance, the county and Commerce must equally share the appeal defense costs of Commerce.
- Authorizes Commerce to adopt rules related to determinations of compliance.
- Authorizes the Board to hear petitions alleging that Commerce's determination was erroneous.
- Expires the Board's authority to hear petitions alleging that Commerce's determination was erroneous on December 31, 2020.
- Modifies the requirement that at least 60 percent of the cities having an aggregate population of at least 75 percent of the incorporated county population adopt resolutions supporting the county action to instead require that at least 60 percent of the cities having an aggregate population of at least 75 percent of the incorporated county population have not adopted resolutions opposing the withdrawal from fully planning under GMA.
- Provides that a county that adopts a resolution may not, for a minimum of ten years from the date of adoption of the resolution, adopt a resolution to fully plan under GMA.
- Expires the authority of a county to remove itself and the cities within the county from requirements to fully plan under GMA on December 31, 2015, rather than December 31, 2014.
- Makes numerous technical changes, including deleting references to a withdrawal resolution and inserting the term resolution of partial planning.

Appropriation: None.

Fiscal Note: Available.

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 Engrossed House Bill: PRO: The county most affected by this bill is Ferry County. In 1900 the county had approximately 7000 people and currently the county has approximately 7000 people. There is not a lot of urban sprawl and there is not the same population growth pressures as there are in other counties. This bill is the right thing to do for these counties while also keeping all of the environmental protections in place for agriculture and forest lands.

OTHER: Commerce will work with the counties that will be impacted by this bill to make sure that this process is successful.

Persons Testifying: PRO: Representative Kretz, prime sponsor; Laura Merrill, WA State Assn of Counties; Jeanette McKague, WA Realtors.

OTHER: Jeff Wilson, Commerce.