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SENATE BILL 5995

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Angel and Dammeier

Read first time 01/13/14. Referred to Committee on Governmental Operations.

1 AN ACT Relating to local government selection of the appropriate  
2 sewer systems as part of growth management; amending RCW 36.70A.110;  
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that  
6 interpretations of the growth management act have unduly restricted  
7 communities and have added unnecessary cost and litigation to their  
8 efforts to meet the sewage needs of their residents. The legislature  
9 intends to grant local governments the authority to make decisions  
10 related to the types and use of sewage systems based on particular  
11 circumstances in urban growth areas.

12 (2) The legislature finds that the growth management act grants  
13 local governments the authority to decide what type of approved system  
14 adequately provides sewer services, in accordance with state and  
15 federal health standards.

16 **Sec. 2.** RCW 36.70A.110 and 2010 c 211 s 1 are each amended to read  
17 as follows:

18 (1) Each county that is required or chooses to plan under RCW

1 36.70A.040 shall designate an urban growth area or areas within which  
2 urban growth shall be encouraged and outside of which growth can occur  
3 only if it is not urban in nature. Each city that is located in such  
4 a county shall be included within an urban growth area. An urban  
5 growth area may include more than a single city. An urban growth area  
6 may include territory that is located outside of a city only if such  
7 territory already is characterized by urban growth whether or not the  
8 urban growth area includes a city, or is adjacent to territory already  
9 characterized by urban growth, or is a designated new fully contained  
10 community as defined by RCW 36.70A.350.

11 (2) Based upon the growth management population projection made for  
12 the county by the office of financial management, the county and each  
13 city within the county shall include areas and densities sufficient to  
14 permit the urban growth that is projected to occur in the county or  
15 city for the succeeding twenty-year period, except for those urban  
16 growth areas contained totally within a national historical reserve.  
17 As part of this planning process, each city within the county must  
18 include areas sufficient to accommodate the broad range of needs and  
19 uses that will accompany the projected urban growth including, as  
20 appropriate, medical, governmental, institutional, commercial, service,  
21 retail, and other nonresidential uses.

22 Each urban growth area shall permit urban densities and shall  
23 include greenbelt and open space areas. In the case of urban growth  
24 areas contained totally within a national historical reserve, the city  
25 may restrict densities, intensities, and forms of urban growth as  
26 determined to be necessary and appropriate to protect the physical,  
27 cultural, or historic integrity of the reserve. An urban growth area  
28 determination may include a reasonable land market supply factor and  
29 shall permit a range of urban densities and uses. In determining this  
30 market factor, cities and counties may consider local circumstances.  
31 Cities and counties have discretion in their comprehensive plans to  
32 make many choices about accommodating growth.

33 Within one year of July 1, 1990, each county that as of June 1,  
34 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
35 consulting with each city located within its boundaries and each city  
36 shall propose the location of an urban growth area. Within sixty days  
37 of the date the county legislative authority of a county adopts its  
38 resolution of intention or of certification by the office of financial

1 management, all other counties that are required or choose to plan  
2 under RCW 36.70A.040 shall begin this consultation with each city  
3 located within its boundaries. The county shall attempt to reach  
4 agreement with each city on the location of an urban growth area within  
5 which the city is located. If such an agreement is not reached with  
6 each city located within the urban growth area, the county shall  
7 justify in writing why it so designated the area an urban growth area.  
8 A city may object formally with the department over the designation of  
9 the urban growth area within which it is located. Where appropriate,  
10 the department shall attempt to resolve the conflicts, including the  
11 use of mediation services.

12 (3) Urban growth should be located first in areas already  
13 characterized by urban growth that have adequate existing public  
14 facility and service capacities to serve such development, second in  
15 areas already characterized by urban growth that will be served  
16 adequately by a combination of both existing public facilities and  
17 services and any additional needed public facilities and services that  
18 are provided by either public or private sources, and third in the  
19 remaining portions of the urban growth areas. Urban growth may also be  
20 located in designated new fully contained communities as defined by RCW  
21 36.70A.350.

22 (4)(a) In general, cities are the units of local government most  
23 appropriate to provide urban governmental services. However, cities  
24 and counties may allow approved on-site sewage systems as an  
25 alternative to mandatory sanitary sewer connections for sites located  
26 in existing developments in urban growth areas where the cost to a  
27 property owner to connect to a sanitary sewer system is cost  
28 prohibitive. In general, it is not appropriate that urban governmental  
29 services be extended to or expanded in rural areas except in those  
30 limited circumstances shown to be necessary to protect basic public  
31 health and safety and the environment and when such services are  
32 financially supportable at rural densities and do not permit urban  
33 development.

34 (b) For the purposes of this subsection (4):

35 (i) "Cost prohibitive" means that the cost to a property owner to  
36 connect to a sanitary sewer system exceeds the total installed cost of  
37 an approved on-site sewage system by fifteen percent or more;

1        (ii) "Cost of an approved on-site sewage system" includes all  
2 direct and indirect costs associated with the design, application,  
3 permitting, approval, installation, material, and other appurtenances,  
4 including final inspection of the on-site system; and

5        (iii) "Cost to a property owner to connect to a sanitary sewer  
6 system" includes all direct and indirect costs associated with the  
7 requirement of the property owner to connect.

8        (5) On or before October 1, 1993, each county that was initially  
9 required to plan under RCW 36.70A.040(1) shall adopt development  
10 regulations designating interim urban growth areas under this chapter.  
11 Within three years and three months of the date the county legislative  
12 authority of a county adopts its resolution of intention or of  
13 certification by the office of financial management, all other counties  
14 that are required or choose to plan under RCW 36.70A.040 shall adopt  
15 development regulations designating interim urban growth areas under  
16 this chapter. Adoption of the interim urban growth areas may only  
17 occur after public notice; public hearing; and compliance with the  
18 state environmental policy act, chapter 43.21C RCW, and under this  
19 section. Such action may be appealed to the growth management hearings  
20 board under RCW 36.70A.280. Final urban growth areas shall be adopted  
21 at the time of comprehensive plan adoption under this chapter.

22        (6) Each county shall include designations of urban growth areas in  
23 its comprehensive plan.

24        (7) An urban growth area designated in accordance with this section  
25 may include within its boundaries urban service areas or potential  
26 annexation areas designated for specific cities or towns within the  
27 county.

28        (8)(a) Except as provided in (b) of this subsection, the expansion  
29 of an urban growth area is prohibited into the one hundred year  
30 floodplain of any river or river segment that: (i) Is located west of  
31 the crest of the Cascade mountains; and (ii) has a mean annual flow of  
32 one thousand or more cubic feet per second as determined by the  
33 department of ecology.

34        (b) Subsection (8)(a) of this section does not apply to:

35        (i) Urban growth areas that are fully contained within a floodplain  
36 and lack adjacent buildable areas outside the floodplain;

37        (ii) Urban growth areas where expansions are precluded outside  
38 floodplains because:

1 (A) Urban governmental services cannot be physically provided to  
2 serve areas outside the floodplain; or

3 (B) Expansions outside the floodplain would require a river or  
4 estuary crossing to access the expansion; or

5 (iii) Urban growth area expansions where:

6 (A) Public facilities already exist within the floodplain and the  
7 expansion of an existing public facility is only possible on the land  
8 to be included in the urban growth area and located within the  
9 floodplain; or

10 (B) Urban development already exists within a floodplain as of July  
11 26, 2009, and is adjacent to, but outside of, the urban growth area,  
12 and the expansion of the urban growth area is necessary to include such  
13 urban development within the urban growth area; or

14 (C) The land is owned by a jurisdiction planning under this chapter  
15 or the rights to the development of the land have been permanently  
16 extinguished, and the following criteria are met:

17 (I) The permissible use of the land is limited to one of the  
18 following: Outdoor recreation; environmentally beneficial projects,  
19 including but not limited to habitat enhancement or environmental  
20 restoration; storm water facilities; flood control facilities; or  
21 underground conveyances; and

22 (II) The development and use of such facilities or projects will  
23 not decrease flood storage, increase storm water runoff, discharge  
24 pollutants to fresh or salt waters during normal operations or floods,  
25 or increase hazards to people and property.

26 (c) For the purposes of this subsection (8), "one hundred year  
27 floodplain" means the same as "special flood hazard area" as set forth  
28 in WAC 173-158-040 as it exists on July 26, 2009.

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