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ENGROSSED SUBSTITUTE SENATE BILL 6334

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State of Washington

64th Legislature

2016 Regular Session

By Senate Government Operations & Security (originally sponsored by Senators Benton, Chase, Rivers, Cleveland, Warnick, Hobbs, King, and Sheldon)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to rail dependent uses for purposes of the growth  
2 management act and related development regulations; amending RCW  
3 36.70A.030, 36.70A.060, 36.70A.070, 36.70A.070, and 36.70A.108;  
4 creating a new section; providing an effective date; and providing an  
5 expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that it enacted  
8 the rail preservation program because railroads provide benefits to  
9 state and local jurisdictions that are valuable to economic  
10 development, highway safety, and the environment. The Washington  
11 state freight mobility plan includes the goal of supporting rural  
12 economies farm-to-market, manufacturing, and resource industry  
13 sectors. The plan makes clear that ensuring the availability of rail  
14 capacity is vital to meeting the future needs of the Puget Sound  
15 region. Rail-served industrial sites are a necessary part of a  
16 thriving freight mobility system, and are a key means of assuring  
17 that food and goods from rural areas are able to make it to people  
18 living in urban areas and international markets. Planned and  
19 effective access to railroad services is a pivotal aspect of  
20 transportation planning. A one hundred ten-car train can move roughly  
21 the equivalent freight of five hundred trucks. This saves highway

1 maintenance, improves safety for nonfreight drivers, and reduces  
2 carbon emissions. The number of fatalities per billion ton-miles for  
3 trucking is more than nine times greater than compared to rail. The  
4 legislature affirms that it is in the public interest to allow  
5 economic development infrastructure to occur near rail lines as a  
6 means to alleviate strains on government infrastructure elsewhere.  
7 Therefore, the legislature finds that there is a need for counties  
8 and cities to improve their planning under the growth management act  
9 to provide much needed infrastructure for freight rail dependent uses  
10 adjacent to railroad lines.

11 **Sec. 2.** RCW 36.70A.030 and 2012 c 21 s 1 are each amended to  
12 read as follows:

13 Unless the context clearly requires otherwise, the definitions in  
14 this section apply throughout this chapter.

15 (1) "Adopt a comprehensive land use plan" means to enact a new  
16 comprehensive land use plan or to update an existing comprehensive  
17 land use plan.

18 (2) "Agricultural land" means land primarily devoted to the  
19 commercial production of horticultural, viticultural, floricultural,  
20 dairy, apiary, vegetable, or animal products or of berries, grain,  
21 hay, straw, turf, seed, Christmas trees not subject to the excise tax  
22 imposed by RCW 84.33.100 through 84.33.140, finfish in upland  
23 hatcheries, or livestock, and that has long-term commercial  
24 significance for agricultural production.

25 (3) "City" means any city or town, including a code city.

26 (4) "Comprehensive land use plan," "comprehensive plan," or  
27 "plan" means a generalized coordinated land use policy statement of  
28 the governing body of a county or city that is adopted pursuant to  
29 this chapter.

30 (5) "Critical areas" include the following areas and ecosystems:

31 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
32 used for potable water; (c) fish and wildlife habitat conservation  
33 areas; (d) frequently flooded areas; and (e) geologically hazardous  
34 areas. "Fish and wildlife habitat conservation areas" does not  
35 include such artificial features or constructs as irrigation delivery  
36 systems, irrigation infrastructure, irrigation canals, or drainage  
37 ditches that lie within the boundaries of and are maintained by a  
38 port district or an irrigation district or company.

39 (6) "Department" means the department of commerce.

1 (7) "Development regulations" or "regulation" means the controls  
2 placed on development or land use activities by a county or city,  
3 including, but not limited to, zoning ordinances, critical areas  
4 ordinances, shoreline master programs, official controls, planned  
5 unit development ordinances, subdivision ordinances, and binding site  
6 plan ordinances together with any amendments thereto. A development  
7 regulation does not include a decision to approve a project permit  
8 application, as defined in RCW 36.70B.020, even though the decision  
9 may be expressed in a resolution or ordinance of the legislative body  
10 of the county or city.

11 (8) "Forest land" means land primarily devoted to growing trees  
12 for long-term commercial timber production on land that can be  
13 economically and practically managed for such production, including  
14 Christmas trees subject to the excise tax imposed under RCW 84.33.100  
15 through 84.33.140, and that has long-term commercial significance. In  
16 determining whether forest land is primarily devoted to growing trees  
17 for long-term commercial timber production on land that can be  
18 economically and practically managed for such production, the  
19 following factors shall be considered: (a) The proximity of the land  
20 to urban, suburban, and rural settlements; (b) surrounding parcel  
21 size and the compatibility and intensity of adjacent and nearby land  
22 uses; (c) long-term local economic conditions that affect the ability  
23 to manage for timber production; and (d) the availability of public  
24 facilities and services conducive to conversion of forest land to  
25 other uses.

26 (9) "Freight rail dependent uses" means buildings and other  
27 infrastructure that are used in the fabrication, processing, storage,  
28 and transport of goods where the use is dependent on and makes use of  
29 an adjacent short line railroad in a county that has a population  
30 greater than three hundred fifty thousand, is bordered by the  
31 Columbia river, is west of the Cascade mountain range, and borders  
32 another state to the south. Such facilities are both urban and rural  
33 development for purposes of this chapter.

34 (10) "Geologically hazardous areas" means areas that because of  
35 their susceptibility to erosion, sliding, earthquake, or other  
36 geological events, are not suited to the siting of commercial,  
37 residential, or industrial development consistent with public health  
38 or safety concerns.

39 ((+10)) (11) "Long-term commercial significance" includes the  
40 growing capacity, productivity, and soil composition of the land for

1 long-term commercial production, in consideration with the land's  
2 proximity to population areas, and the possibility of more intense  
3 uses of the land.

4 ~~((11))~~ (12) "Minerals" include gravel, sand, and valuable  
5 metallic substances.

6 ~~((12))~~ (13) "Public facilities" include streets, roads,  
7 highways, sidewalks, street and road lighting systems, traffic  
8 signals, domestic water systems, storm and sanitary sewer systems,  
9 parks and recreational facilities, and schools.

10 ~~((13))~~ (14) "Public services" include fire protection and  
11 suppression, law enforcement, public health, education, recreation,  
12 environmental protection, and other governmental services.

13 ~~((14))~~ (15) "Recreational land" means land so designated under  
14 RCW 36.70A.1701 and that, immediately prior to this designation, was  
15 designated as agricultural land of long-term commercial significance  
16 under RCW 36.70A.170. Recreational land must have playing fields and  
17 supporting facilities existing before July 1, 2004, for sports played  
18 on grass playing fields.

19 ~~((15))~~ (16) "Rural character" refers to the patterns of land  
20 use and development established by a county in the rural element of  
21 its comprehensive plan:

22 (a) In which open space, the natural landscape, and vegetation  
23 predominate over the built environment;

24 (b) That foster traditional rural lifestyles, rural-based  
25 economies, and opportunities to both live and work in rural areas,  
26 including railroad tracks and freight rail dependent uses;

27 (c) That provide visual landscapes that are traditionally found  
28 in rural areas and communities;

29 (d) That are compatible with the use of the land by wildlife and  
30 for fish and wildlife habitat;

31 (e) That reduce the inappropriate conversion of undeveloped land  
32 into sprawling, low-density development;

33 (f) That generally do not require the extension of urban  
34 governmental services; and

35 (g) That are consistent with the protection of natural surface  
36 water flows and groundwater and surface water recharge and discharge  
37 areas.

38 ~~((16))~~ (17) "Rural development" refers to development outside  
39 the urban growth area and outside agricultural, forest, and mineral  
40 resource lands designated pursuant to RCW 36.70A.170. Rural

1 development can consist of a variety of uses and residential  
2 densities, including clustered residential development, at levels  
3 that are consistent with the preservation of rural character and the  
4 requirements of the rural element. Rural development includes  
5 railroad tracks and freight rail dependent uses. Rural development  
6 does not refer to agriculture or forestry activities that may be  
7 conducted in rural areas.

8 ~~((17))~~ (18) "Rural governmental services" or "rural services"  
9 include those public services and public facilities historically and  
10 typically delivered at an intensity usually found in rural areas, and  
11 may include domestic water systems, fire and police protection  
12 services, transportation and public transit services, and other  
13 public utilities associated with rural development and normally not  
14 associated with urban areas. Rural services do not include storm or  
15 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

16 ~~((18))~~ (19) "Short line railroad" means those railroad lines  
17 designated Class II or Class III by the United States Surface  
18 Transportation Board.

19 (20) "Urban governmental services" or "urban services" include  
20 those public services and public facilities at an intensity  
21 historically and typically provided in cities, specifically including  
22 storm and sanitary sewer systems, domestic water systems, street  
23 cleaning services, fire and police protection services, public  
24 transit services, and other public utilities associated with urban  
25 areas and normally not associated with rural areas.

26 ~~((19))~~ (21) "Urban growth" refers to growth that makes  
27 intensive use of land for the location of buildings, structures, and  
28 impermeable surfaces to such a degree as to be incompatible with the  
29 primary use of land for the production of food, other agricultural  
30 products, or fiber, or the extraction of mineral resources, rural  
31 uses, rural development, and natural resource lands designated  
32 pursuant to RCW 36.70A.170. A pattern of more intensive rural  
33 development, as provided in RCW 36.70A.070(5)(d), is not urban  
34 growth. When allowed to spread over wide areas, urban growth  
35 typically requires urban governmental services. "Characterized by  
36 urban growth" refers to land having urban growth located on it, or to  
37 land located in relationship to an area with urban growth on it as to  
38 be appropriate for urban growth.

39 ~~((20))~~ (22) "Urban growth areas" means those areas designated  
40 by a county pursuant to RCW 36.70A.110.

1        (~~(21)~~) (23) "Wetland" or "wetlands" means areas that are  
2 inundated or saturated by surface water or groundwater at a frequency  
3 and duration sufficient to support, and that under normal  
4 circumstances do support, a prevalence of vegetation typically  
5 adapted for life in saturated soil conditions. Wetlands generally  
6 include swamps, marshes, bogs, and similar areas. Wetlands do not  
7 include those artificial wetlands intentionally created from  
8 nonwetland sites, including, but not limited to, irrigation and  
9 drainage ditches, grass-lined swales, canals, detention facilities,  
10 wastewater treatment facilities, farm ponds, and landscape amenities,  
11 or those wetlands created after July 1, 1990, that were  
12 unintentionally created as a result of the construction of a road,  
13 street, or highway. Wetlands may include those artificial wetlands  
14 intentionally created from nonwetland areas created to mitigate  
15 conversion of wetlands.

16        **Sec. 3.** RCW 36.70A.060 and 2014 c 147 s 2 are each amended to  
17 read as follows:

18        (1)(a) Each county that is required or chooses to plan under RCW  
19 36.70A.040, and each city within such county, shall adopt development  
20 regulations on or before September 1, 1991, to assure the  
21 conservation of agricultural, forest, and mineral resource lands  
22 designated under RCW 36.70A.170. Regulations adopted under this  
23 subsection may not prohibit uses legally existing on any parcel prior  
24 to their adoption and shall remain in effect until the county or city  
25 adopts development regulations pursuant to RCW 36.70A.040. Such  
26 regulations shall assure that the use of lands adjacent to  
27 agricultural, forest, or mineral resource lands shall not interfere  
28 with the continued use, in the accustomed manner and in accordance  
29 with best management practices, of these designated lands for the  
30 production of food, agricultural products, or timber, or for the  
31 extraction of minerals. Each county and city may adopt development  
32 regulations to assure that agriculture, forest, and mineral resource  
33 lands adjacent to short line railroads may be developed for freight  
34 rail dependent uses.

35        (b) Counties and cities shall require that all plats, short  
36 plats, development permits, and building permits issued for  
37 development activities on, or within five hundred feet of, lands  
38 designated as agricultural lands, forest lands, or mineral resource  
39 lands, contain a notice that the subject property is within or near

1 designated agricultural lands, forest lands, or mineral resource  
2 lands on which a variety of commercial activities may occur that are  
3 not compatible with residential development for certain periods of  
4 limited duration. The notice for mineral resource lands shall also  
5 inform that an application might be made for mining-related  
6 activities, including mining, extraction, washing, crushing,  
7 stockpiling, blasting, transporting, and recycling of minerals.

8 (c) Each county that adopts a resolution of partial planning  
9 under RCW 36.70A.040(2)(b), and each city within such county, shall  
10 adopt development regulations within one year after the adoption of  
11 the resolution of partial planning to assure the conservation of  
12 agricultural, forest, and mineral resource lands designated under RCW  
13 36.70A.170. Regulations adopted under this subsection (1)(c) must  
14 comply with the requirements governing regulations adopted under (a)  
15 of this subsection.

16 (d)(i) A county that adopts a resolution of partial planning  
17 under RCW 36.70A.040(2)(b) and that is not in compliance with the  
18 planning requirements of this section, RCW 36.70A.040(4),  
19 36.70A.070(5), 36.70A.170, and 36.70A.172 at the time the resolution  
20 is adopted must, by January 30, 2017, apply for a determination of  
21 compliance from the department finding that the county's development  
22 regulations, including development regulations adopted to protect  
23 critical areas, and comprehensive plans are in compliance with the  
24 requirements of this section, RCW 36.70A.040(4), 36.70A.070(5),  
25 36.70A.170, and 36.70A.172. The department must approve or deny the  
26 application for a determination of compliance within one hundred  
27 twenty days of its receipt or by June 30, 2017, whichever date is  
28 earlier.

29 (ii) If the department denies an application under (d)(i) of this  
30 subsection, the county and each city within is obligated to comply  
31 with all requirements of this chapter and the resolution for partial  
32 planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

33 (iii) A petition for review of a determination of compliance  
34 under (d)(i) of this subsection may only be appealed to the growth  
35 management hearings board within sixty days of the issuance of the  
36 decision by the department.

37 (iv) In the event of a filing of a petition in accordance with  
38 (d)(iii) of this subsection, the county and the department must  
39 equally share the costs incurred by the department for defending an

1 approval of determination of compliance that is before the growth  
2 management hearings board.

3 (v) The department may implement this subsection (~~((1))~~)(1)(d)  
4 by adopting rules related to determinations of compliance. The rules  
5 may address, but are not limited to: The requirements for  
6 applications for a determination of compliance; charging of costs  
7 under (d)(iv) of this subsection; procedures for processing  
8 applications; criteria for the evaluation of applications; issuance  
9 and notice of department decisions; and applicable timelines.

10 (2) Each county and city shall adopt development regulations that  
11 protect critical areas that are required to be designated under RCW  
12 36.70A.170. For counties and cities that are required or choose to  
13 plan under RCW 36.70A.040, such development regulations shall be  
14 adopted on or before September 1, 1991. For the remainder of the  
15 counties and cities, such development regulations shall be adopted on  
16 or before March 1, 1992.

17 (3) Such counties and cities shall review these designations and  
18 development regulations when adopting their comprehensive plans under  
19 RCW 36.70A.040 and implementing development regulations under RCW  
20 36.70A.120 and may alter such designations and development  
21 regulations to insure consistency.

22 (4) Forest land and agricultural land located within urban growth  
23 areas shall not be designated by a county or city as forest land or  
24 agricultural land of long-term commercial significance under RCW  
25 36.70A.170 unless the city or county has enacted a program  
26 authorizing transfer or purchase of development rights.

27 **Sec. 4.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each  
28 amended to read as follows:

29 The comprehensive plan of a county or city that is required or  
30 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
31 and descriptive text covering objectives, principles, and standards  
32 used to develop the comprehensive plan. The plan shall be an  
33 internally consistent document and all elements shall be consistent  
34 with the future land use map. A comprehensive plan shall be adopted  
35 and amended with public participation as provided in RCW 36.70A.140.

36 Each comprehensive plan shall include a plan, scheme, or design  
37 for each of the following:

38 (1) A land use element designating the proposed general  
39 distribution and general location and extent of the uses of land,

1 where appropriate, for agriculture, timber production, housing,  
2 commerce, industry, recreation, open spaces, general aviation  
3 airports, public utilities, public facilities, and other land uses.  
4 The land use element shall include population densities, building  
5 intensities, and estimates of future population growth. The land use  
6 element shall provide for protection of the quality and quantity of  
7 groundwater used for public water supplies. Wherever possible, the  
8 land use element should consider utilizing urban planning approaches  
9 that promote physical activity. Where applicable, the land use  
10 element shall review drainage, flooding, and storm water run-off in  
11 the area and nearby jurisdictions and provide guidance for corrective  
12 actions to mitigate or cleanse those discharges that pollute waters  
13 of the state, including Puget Sound or waters entering Puget Sound.

14 (2) A housing element ensuring the vitality and character of  
15 established residential neighborhoods that: (a) Includes an inventory  
16 and analysis of existing and projected housing needs that identifies  
17 the number of housing units necessary to manage projected growth; (b)  
18 includes a statement of goals, policies, objectives, and mandatory  
19 provisions for the preservation, improvement, and development of  
20 housing, including single-family residences; (c) identifies  
21 sufficient land for housing, including, but not limited to,  
22 government-assisted housing, housing for low-income families,  
23 manufactured housing, multifamily housing, and group homes and foster  
24 care facilities; and (d) makes adequate provisions for existing and  
25 projected needs of all economic segments of the community.

26 (3) A capital facilities plan element consisting of: (a) An  
27 inventory of existing capital facilities owned by public entities,  
28 showing the locations and capacities of the capital facilities; (b) a  
29 forecast of the future needs for such capital facilities; (c) the  
30 proposed locations and capacities of expanded or new capital  
31 facilities; (d) at least a six-year plan that will finance such  
32 capital facilities within projected funding capacities and clearly  
33 identifies sources of public money for such purposes; and (e) a  
34 requirement to reassess the land use element if probable funding  
35 falls short of meeting existing needs and to ensure that the land use  
36 element, capital facilities plan element, and financing plan within  
37 the capital facilities plan element are coordinated and consistent.  
38 Park and recreation facilities shall be included in the capital  
39 facilities plan element.

1 (4) A utilities element consisting of the general location,  
2 proposed location, and capacity of all existing and proposed  
3 utilities, including, but not limited to, electrical lines,  
4 telecommunication lines, and natural gas lines.

5 (5) Rural element. Counties shall include a rural element  
6 including lands that are not designated for urban growth,  
7 agriculture, forest, or mineral resources. The following provisions  
8 shall apply to the rural element:

9 (a) Growth management act goals and local circumstances. Because  
10 circumstances vary from county to county, in establishing patterns of  
11 rural densities and uses, a county may consider local circumstances,  
12 but shall develop a written record explaining how the rural element  
13 harmonizes the planning goals in RCW 36.70A.020 and meets the  
14 requirements of this chapter.

15 (b) Rural development. The rural element shall permit rural  
16 development, forestry, and agriculture in rural areas, and freight  
17 rail dependent uses. The rural element shall provide for a variety of  
18 rural densities, uses, essential public facilities, and rural  
19 governmental services needed to serve the permitted densities and  
20 uses. To achieve a variety of rural densities and uses, counties may  
21 provide for clustering, density transfer, design guidelines,  
22 conservation easements, and other innovative techniques that will  
23 accommodate appropriate rural densities and uses that are not  
24 characterized by urban growth and that are consistent with rural  
25 character.

26 (c) Measures governing rural development. The rural element shall  
27 include measures that apply to rural development and protect the  
28 rural character of the area, as established by the county, by:

29 (i) Containing or otherwise controlling rural development;

30 (ii) Assuring visual compatibility of rural development with the  
31 surrounding rural area;

32 (iii) Reducing the inappropriate conversion of undeveloped land  
33 into sprawling, low-density development in the rural area;

34 (iv) Protecting critical areas, as provided in RCW 36.70A.060,  
35 and surface water and groundwater resources; and

36 (v) Protecting against conflicts with the use of agricultural,  
37 forest, and mineral resource lands designated under RCW 36.70A.170.

38 (d) Limited areas of more intensive rural development. Subject to  
39 the requirements of this subsection and except as otherwise  
40 specifically provided in this subsection (5)(d), the rural element

1 may allow for limited areas of more intensive rural development,  
2 including necessary public facilities and public services to serve  
3 the limited area as follows:

4 (i) Rural development consisting of the infill, development, or  
5 redevelopment of existing commercial, industrial, residential, or  
6 mixed-use areas, whether characterized as shoreline development,  
7 villages, hamlets, rural activity centers, or crossroads  
8 developments.

9 (A) A commercial, industrial, residential, shoreline, or mixed-  
10 use area shall be subject to the requirements of (d)(iv) of this  
11 subsection, but shall not be subject to the requirements of (c)(ii)  
12 and (iii) of this subsection.

13 (B) Any development or redevelopment other than an industrial  
14 area or an industrial use within a mixed-use area or an industrial  
15 area under this subsection (5)(d)(i) must be principally designed to  
16 serve the existing and projected rural population.

17 (C) Any development or redevelopment in terms of building size,  
18 scale, use, or intensity shall be consistent with the character of  
19 the existing areas. Development and redevelopment may include changes  
20 in use from vacant land or a previously existing use so long as the  
21 new use conforms to the requirements of this subsection (5);

22 (ii) The intensification of development on lots containing, or  
23 new development of, small-scale recreational or tourist uses,  
24 including commercial facilities to serve those recreational or  
25 tourist uses, that rely on a rural location and setting, but that do  
26 not include new residential development. A small-scale recreation or  
27 tourist use is not required to be principally designed to serve the  
28 existing and projected rural population. Public services and public  
29 facilities shall be limited to those necessary to serve the  
30 recreation or tourist use and shall be provided in a manner that does  
31 not permit low-density sprawl;

32 (iii) The intensification of development on lots containing  
33 isolated nonresidential uses or new development of isolated cottage  
34 industries and isolated small-scale businesses that are not  
35 principally designed to serve the existing and projected rural  
36 population and nonresidential uses, but do provide job opportunities  
37 for rural residents. Rural counties may allow the expansion of small-  
38 scale businesses as long as those small-scale businesses conform with  
39 the rural character of the area as defined by the local government  
40 according to RCW 36.70A.030(~~(+15+)~~)(16). Rural counties may also

1 allow new small-scale businesses to utilize a site previously  
2 occupied by an existing business as long as the new small-scale  
3 business conforms to the rural character of the area as defined by  
4 the local government according to RCW 36.70A.030(~~(+15)~~)(16). Public  
5 services and public facilities shall be limited to those necessary to  
6 serve the isolated nonresidential use and shall be provided in a  
7 manner that does not permit low-density sprawl;

8 (iv) A county shall adopt measures to minimize and contain the  
9 existing areas or uses of more intensive rural development, as  
10 appropriate, authorized under this subsection. Lands included in such  
11 existing areas or uses shall not extend beyond the logical outer  
12 boundary of the existing area or use, thereby allowing a new pattern  
13 of low-density sprawl. Existing areas are those that are clearly  
14 identifiable and contained and where there is a logical boundary  
15 delineated predominately by the built environment, but that may also  
16 include undeveloped lands if limited as provided in this subsection.  
17 The county shall establish the logical outer boundary of an area of  
18 more intensive rural development. In establishing the logical outer  
19 boundary, the county shall address (A) the need to preserve the  
20 character of existing natural neighborhoods and communities, (B)  
21 physical boundaries, such as bodies of water, streets and highways,  
22 and land forms and contours, (C) the prevention of abnormally  
23 irregular boundaries, and (D) the ability to provide public  
24 facilities and public services in a manner that does not permit low-  
25 density sprawl;

26 (v) For purposes of (d) of this subsection, an existing area or  
27 existing use is one that was in existence:

28 (A) On July 1, 1990, in a county that was initially required to  
29 plan under all of the provisions of this chapter;

30 (B) On the date the county adopted a resolution under RCW  
31 36.70A.040(2), in a county that is planning under all of the  
32 provisions of this chapter under RCW 36.70A.040(2); or

33 (C) On the date the office of financial management certifies the  
34 county's population as provided in RCW 36.70A.040(5), in a county  
35 that is planning under all of the provisions of this chapter pursuant  
36 to RCW 36.70A.040(5).

37 (e) Exception. This subsection shall not be interpreted to permit  
38 in the rural area a major industrial development or a master planned  
39 resort unless otherwise specifically permitted under RCW 36.70A.360  
40 and 36.70A.365.

1 (6) A transportation element that implements, and is consistent  
2 with, the land use element.

3 (a) The transportation element shall include the following  
4 subelements:

5 (i) Land use assumptions used in estimating travel;

6 (ii) Estimated traffic impacts to state-owned transportation  
7 facilities resulting from land use assumptions to assist the  
8 department of transportation in monitoring the performance of state  
9 facilities, to plan improvements for the facilities, and to assess  
10 the impact of land-use decisions on state-owned transportation  
11 facilities;

12 (iii) Facilities and services needs, including:

13 (A) An inventory of air, water, and ground transportation  
14 facilities and services, including transit alignments and general  
15 aviation airport facilities, to define existing capital facilities  
16 and travel levels as a basis for future planning. This inventory must  
17 include state-owned transportation facilities within the city or  
18 county's jurisdictional boundaries;

19 (B) Level of service standards for all locally owned arterials  
20 and transit routes to serve as a gauge to judge performance of the  
21 system. These standards should be regionally coordinated;

22 (C) For state-owned transportation facilities, level of service  
23 standards for highways, as prescribed in chapters 47.06 and 47.80  
24 RCW, to gauge the performance of the system. The purposes of  
25 reflecting level of service standards for state highways in the local  
26 comprehensive plan are to monitor the performance of the system, to  
27 evaluate improvement strategies, and to facilitate coordination  
28 between the county's or city's six-year street, road, or transit  
29 program and the office of financial management's ten-year investment  
30 program. The concurrency requirements of (b) of this subsection do  
31 not apply to transportation facilities and services of statewide  
32 significance except for counties consisting of islands whose only  
33 connection to the mainland are state highways or ferry routes. In  
34 these island counties, state highways and ferry route capacity must  
35 be a factor in meeting the concurrency requirements in (b) of this  
36 subsection;

37 (D) Specific actions and requirements for bringing into  
38 compliance locally owned transportation facilities or services that  
39 are below an established level of service standard;

1 (E) Forecasts of traffic for at least ten years based on the  
2 adopted land use plan to provide information on the location, timing,  
3 and capacity needs of future growth;

4 (F) Identification of state and local system needs to meet  
5 current and future demands. Identified needs on state-owned  
6 transportation facilities must be consistent with the statewide  
7 multimodal transportation plan required under chapter 47.06 RCW;

8 (iv) Finance, including:

9 (A) An analysis of funding capability to judge needs against  
10 probable funding resources;

11 (B) A multiyear financing plan based on the needs identified in  
12 the comprehensive plan, the appropriate parts of which shall serve as  
13 the basis for the six-year street, road, or transit program required  
14 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
15 35.58.2795 for public transportation systems. The multiyear financing  
16 plan should be coordinated with the ten-year investment program  
17 developed by the office of financial management as required by RCW  
18 47.05.030;

19 (C) If probable funding falls short of meeting identified needs,  
20 a discussion of how additional funding will be raised, or how land  
21 use assumptions will be reassessed to ensure that level of service  
22 standards will be met;

23 (v) Intergovernmental coordination efforts, including an  
24 assessment of the impacts of the transportation plan and land use  
25 assumptions on the transportation systems of adjacent jurisdictions;

26 (vi) Demand-management strategies;

27 (vii) Pedestrian and bicycle component to include collaborative  
28 efforts to identify and designate planned improvements for pedestrian  
29 and bicycle facilities and corridors that address and encourage  
30 enhanced community access and promote healthy lifestyles.

31 (b) After adoption of the comprehensive plan by jurisdictions  
32 required to plan or who choose to plan under RCW 36.70A.040, local  
33 jurisdictions must adopt and enforce ordinances which prohibit  
34 development approval if the development causes the level of service  
35 on a locally owned transportation facility to decline below the  
36 standards adopted in the transportation element of the comprehensive  
37 plan, unless transportation improvements or strategies to accommodate  
38 the impacts of development are made concurrent with the development.  
39 These strategies may include increased public transportation service,  
40 ride sharing programs, demand management, and other transportation

1 systems management strategies. For the purposes of this subsection  
2 (6), "concurrent with the development" means that improvements or  
3 strategies are in place at the time of development, or that a  
4 financial commitment is in place to complete the improvements or  
5 strategies within six years.

6 (c) The transportation element described in this subsection (6),  
7 the six-year plans required by RCW 35.77.010 for cities, RCW  
8 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
9 systems, and the ten-year investment program required by RCW  
10 47.05.030 for the state, must be consistent.

11 (7) An economic development element establishing local goals,  
12 policies, objectives, and provisions for economic growth and vitality  
13 and a high quality of life. The element shall include: (a) A summary  
14 of the local economy such as population, employment, payroll,  
15 sectors, businesses, sales, and other information as appropriate; (b)  
16 a summary of the strengths and weaknesses of the local economy  
17 defined as the commercial and industrial sectors and supporting  
18 factors such as land use, transportation, utilities, education,  
19 workforce, housing, and natural/cultural resources; and (c) an  
20 identification of policies, programs, and projects to foster economic  
21 growth and development and to address future needs. A city that has  
22 chosen to be a residential community is exempt from the economic  
23 development element requirement of this subsection.

24 (8) A park and recreation element that implements, and is  
25 consistent with, the capital facilities plan element as it relates to  
26 park and recreation facilities. The element shall include: (a)  
27 Estimates of park and recreation demand for at least a ten-year  
28 period; (b) an evaluation of facilities and service needs; and (c) an  
29 evaluation of intergovernmental coordination opportunities to provide  
30 regional approaches for meeting park and recreational demand.

31 (9) It is the intent that new or amended elements required after  
32 January 1, 2002, be adopted concurrent with the scheduled update  
33 provided in RCW 36.70A.130. Requirements to incorporate any such new  
34 or amended elements shall be null and void until funds sufficient to  
35 cover applicable local government costs are appropriated and  
36 distributed by the state at least two years before local government  
37 must update comprehensive plans as required in RCW 36.70A.130.

38 **Sec. 5.** RCW 36.70A.070 and 2015 c 241 s 2 are each amended to  
39 read as follows:

1 The comprehensive plan of a county or city that is required or  
2 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
3 and descriptive text covering objectives, principles, and standards  
4 used to develop the comprehensive plan. The plan shall be an  
5 internally consistent document and all elements shall be consistent  
6 with the future land use map. A comprehensive plan shall be adopted  
7 and amended with public participation as provided in RCW 36.70A.140.  
8 Each comprehensive plan shall include a plan, scheme, or design for  
9 each of the following:

10 (1) A land use element designating the proposed general  
11 distribution and general location and extent of the uses of land,  
12 where appropriate, for agriculture, timber production, housing,  
13 commerce, industry, recreation, open spaces, general aviation  
14 airports, public utilities, public facilities, and other land uses.  
15 The land use element shall include population densities, building  
16 intensities, and estimates of future population growth. The land use  
17 element shall provide for protection of the quality and quantity of  
18 groundwater used for public water supplies. Wherever possible, the  
19 land use element should consider utilizing urban planning approaches  
20 that promote physical activity. Where applicable, the land use  
21 element shall review drainage, flooding, and storm water run-off in  
22 the area and nearby jurisdictions and provide guidance for corrective  
23 actions to mitigate or cleanse those discharges that pollute waters  
24 of the state, including Puget Sound or waters entering Puget Sound.

25 (2) A housing element ensuring the vitality and character of  
26 established residential neighborhoods that: (a) Includes an inventory  
27 and analysis of existing and projected housing needs that identifies  
28 the number of housing units necessary to manage projected growth; (b)  
29 includes a statement of goals, policies, objectives, and mandatory  
30 provisions for the preservation, improvement, and development of  
31 housing, including single-family residences; (c) identifies  
32 sufficient land for housing, including, but not limited to,  
33 government-assisted housing, housing for low-income families,  
34 manufactured housing, multifamily housing, and group homes and foster  
35 care facilities; and (d) makes adequate provisions for existing and  
36 projected needs of all economic segments of the community.

37 (3) A capital facilities plan element consisting of: (a) An  
38 inventory of existing capital facilities owned by public entities,  
39 showing the locations and capacities of the capital facilities; (b) a  
40 forecast of the future needs for such capital facilities; (c) the

1 proposed locations and capacities of expanded or new capital  
2 facilities; (d) at least a six-year plan that will finance such  
3 capital facilities within projected funding capacities and clearly  
4 identifies sources of public money for such purposes; and (e) a  
5 requirement to reassess the land use element if probable funding  
6 falls short of meeting existing needs and to ensure that the land use  
7 element, capital facilities plan element, and financing plan within  
8 the capital facilities plan element are coordinated and consistent.  
9 Park and recreation facilities shall be included in the capital  
10 facilities plan element.

11 (4) A utilities element consisting of the general location,  
12 proposed location, and capacity of all existing and proposed  
13 utilities, including, but not limited to, electrical lines,  
14 telecommunication lines, and natural gas lines.

15 (5) Rural element. Counties shall include a rural element  
16 including lands that are not designated for urban growth,  
17 agriculture, forest, or mineral resources. The following provisions  
18 shall apply to the rural element:

19 (a) Growth management act goals and local circumstances. Because  
20 circumstances vary from county to county, in establishing patterns of  
21 rural densities and uses, a county may consider local circumstances,  
22 but shall develop a written record explaining how the rural element  
23 harmonizes the planning goals in RCW 36.70A.020 and meets the  
24 requirements of this chapter.

25 (b) Rural development. The rural element shall permit rural  
26 development, forestry, and agriculture in rural areas, and freight  
27 rail dependent uses. The rural element shall provide for a variety of  
28 rural densities, uses, essential public facilities, and rural  
29 governmental services needed to serve the permitted densities and  
30 uses. To achieve a variety of rural densities and uses, counties may  
31 provide for clustering, density transfer, design guidelines,  
32 conservation easements, and other innovative techniques that will  
33 accommodate appropriate rural densities and uses that are not  
34 characterized by urban growth and that are consistent with rural  
35 character.

36 (c) Measures governing rural development. The rural element shall  
37 include measures that apply to rural development and protect the  
38 rural character of the area, as established by the county, by:

39 (i) Containing or otherwise controlling rural development;

1 (ii) Assuring visual compatibility of rural development with the  
2 surrounding rural area;

3 (iii) Reducing the inappropriate conversion of undeveloped land  
4 into sprawling, low-density development in the rural area;

5 (iv) Protecting critical areas, as provided in RCW 36.70A.060,  
6 and surface water and groundwater resources; and

7 (v) Protecting against conflicts with the use of agricultural,  
8 forest, and mineral resource lands designated under RCW 36.70A.170.

9 (d) Limited areas of more intensive rural development. Subject to  
10 the requirements of this subsection and except as otherwise  
11 specifically provided in this subsection (5)(d), the rural element  
12 may allow for limited areas of more intensive rural development,  
13 including necessary public facilities and public services to serve  
14 the limited area as follows:

15 (i) Rural development consisting of the infill, development, or  
16 redevelopment of existing commercial, industrial, residential, or  
17 mixed-use areas, whether characterized as shoreline development,  
18 villages, hamlets, rural activity centers, or crossroads  
19 developments.

20 (A) A commercial, industrial, residential, shoreline, or mixed-  
21 use area are subject to the requirements of (d)(iv) of this  
22 subsection, but are not subject to the requirements of (c)(ii) and  
23 (iii) of this subsection.

24 (B) Any development or redevelopment other than an industrial  
25 area or an industrial use within a mixed-use area or an industrial  
26 area under this subsection (5)(d)(i) must be principally designed to  
27 serve the existing and projected rural population.

28 (C) Any development or redevelopment in terms of building size,  
29 scale, use, or intensity shall be consistent with the character of  
30 the existing areas. Development and redevelopment may include changes  
31 in use from vacant land or a previously existing use so long as the  
32 new use conforms to the requirements of this subsection (5);

33 (ii) The intensification of development on lots containing, or  
34 new development of, small-scale recreational or tourist uses,  
35 including commercial facilities to serve those recreational or  
36 tourist uses, that rely on a rural location and setting, but that do  
37 not include new residential development. A small-scale recreation or  
38 tourist use is not required to be principally designed to serve the  
39 existing and projected rural population. Public services and public  
40 facilities shall be limited to those necessary to serve the

1 recreation or tourist use and shall be provided in a manner that does  
2 not permit low-density sprawl;

3 (iii) The intensification of development on lots containing  
4 isolated nonresidential uses or new development of isolated cottage  
5 industries and isolated small-scale businesses that are not  
6 principally designed to serve the existing and projected rural  
7 population and nonresidential uses, but do provide job opportunities  
8 for rural residents. Rural counties may allow the expansion of small-  
9 scale businesses as long as those small-scale businesses conform with  
10 the rural character of the area as defined by the local government  
11 according to RCW 36.70A.030(~~((+15+))~~)(16). Rural counties may also  
12 allow new small-scale businesses to utilize a site previously  
13 occupied by an existing business as long as the new small-scale  
14 business conforms to the rural character of the area as defined by  
15 the local government according to RCW 36.70A.030(~~((+15+))~~)(16). Public  
16 services and public facilities shall be limited to those necessary to  
17 serve the isolated nonresidential use and shall be provided in a  
18 manner that does not permit low-density sprawl;

19 (iv) A county shall adopt measures to minimize and contain the  
20 existing areas or uses of more intensive rural development, as  
21 appropriate, authorized under this subsection. Lands included in such  
22 existing areas or uses shall not extend beyond the logical outer  
23 boundary of the existing area or use, thereby allowing a new pattern  
24 of low-density sprawl. Existing areas are those that are clearly  
25 identifiable and contained and where there is a logical boundary  
26 delineated predominately by the built environment, but that may also  
27 include undeveloped lands if limited as provided in this subsection.  
28 The county shall establish the logical outer boundary of an area of  
29 more intensive rural development. In establishing the logical outer  
30 boundary, the county shall address (A) the need to preserve the  
31 character of existing natural neighborhoods and communities, (B)  
32 physical boundaries, such as bodies of water, streets and highways,  
33 and land forms and contours, (C) the prevention of abnormally  
34 irregular boundaries, and (D) the ability to provide public  
35 facilities and public services in a manner that does not permit low-  
36 density sprawl;

37 (v) For purposes of (d) of this subsection, an existing area or  
38 existing use is one that was in existence:

39 (A) On July 1, 1990, in a county that was initially required to  
40 plan under all of the provisions of this chapter;

1 (B) On the date the county adopted a resolution under RCW  
2 36.70A.040(2), in a county that is planning under all of the  
3 provisions of this chapter under RCW 36.70A.040(2); or

4 (C) On the date the office of financial management certifies the  
5 county's population as provided in RCW 36.70A.040(5), in a county  
6 that is planning under all of the provisions of this chapter pursuant  
7 to RCW 36.70A.040(5).

8 (e) Exception. This subsection shall not be interpreted to permit  
9 in the rural area a major industrial development or a master planned  
10 resort unless otherwise specifically permitted under RCW 36.70A.360  
11 and 36.70A.365.

12 (6) A transportation element that implements, and is consistent  
13 with, the land use element.

14 (a) The transportation element shall include the following  
15 subelements:

16 (i) Land use assumptions used in estimating travel;

17 (ii) Estimated traffic impacts to state-owned transportation  
18 facilities resulting from land use assumptions to assist the  
19 department of transportation in monitoring the performance of state  
20 facilities, to plan improvements for the facilities, and to assess  
21 the impact of land-use decisions on state-owned transportation  
22 facilities;

23 (iii) Facilities and services needs, including:

24 (A) An inventory of air, water, and ground transportation  
25 facilities and services, including transit alignments and general  
26 aviation airport facilities, to define existing capital facilities  
27 and travel levels as a basis for future planning. This inventory must  
28 include state-owned transportation facilities within the city or  
29 county's jurisdictional boundaries;

30 (B) Level of service standards for all locally owned arterials  
31 and transit routes to serve as a gauge to judge performance of the  
32 system. These standards should be regionally coordinated;

33 (C) For state-owned transportation facilities, level of service  
34 standards for highways, as prescribed in chapters 47.06 and 47.80  
35 RCW, to gauge the performance of the system. The purposes of  
36 reflecting level of service standards for state highways in the local  
37 comprehensive plan are to monitor the performance of the system, to  
38 evaluate improvement strategies, and to facilitate coordination  
39 between the county's or city's six-year street, road, or transit  
40 program and the office of financial management's ten-year investment

1 program. The concurrency requirements of (b) of this subsection do  
2 not apply to transportation facilities and services of statewide  
3 significance except for counties consisting of islands whose only  
4 connection to the mainland are state highways or ferry routes. In  
5 these island counties, state highways and ferry route capacity must  
6 be a factor in meeting the concurrency requirements in (b) of this  
7 subsection;

8 (D) Specific actions and requirements for bringing into  
9 compliance locally owned transportation facilities or services that  
10 are below an established level of service standard;

11 (E) Forecasts of traffic for at least ten years based on the  
12 adopted land use plan to provide information on the location, timing,  
13 and capacity needs of future growth;

14 (F) Identification of state and local system needs to meet  
15 current and future demands. Identified needs on state-owned  
16 transportation facilities must be consistent with the statewide  
17 multimodal transportation plan required under chapter 47.06 RCW;

18 (iv) Finance, including:

19 (A) An analysis of funding capability to judge needs against  
20 probable funding resources;

21 (B) A multiyear financing plan based on the needs identified in  
22 the comprehensive plan, the appropriate parts of which shall serve as  
23 the basis for the six-year street, road, or transit program required  
24 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
25 35.58.2795 for public transportation systems. The multiyear financing  
26 plan should be coordinated with the ten-year investment program  
27 developed by the office of financial management as required by RCW  
28 47.05.030;

29 (C) If probable funding falls short of meeting identified needs,  
30 a discussion of how additional funding will be raised, or how land  
31 use assumptions will be reassessed to ensure that level of service  
32 standards will be met;

33 (v) Intergovernmental coordination efforts, including an  
34 assessment of the impacts of the transportation plan and land use  
35 assumptions on the transportation systems of adjacent jurisdictions;

36 (vi) Demand-management strategies;

37 (vii) Pedestrian and bicycle component to include collaborative  
38 efforts to identify and designate planned improvements for pedestrian  
39 and bicycle facilities and corridors that address and encourage  
40 enhanced community access and promote healthy lifestyles.

1 (b) After adoption of the comprehensive plan by jurisdictions  
2 required to plan or who choose to plan under RCW 36.70A.040, local  
3 jurisdictions must adopt and enforce ordinances which prohibit  
4 development approval if the development causes the level of service  
5 on a locally owned transportation facility to decline below the  
6 standards adopted in the transportation element of the comprehensive  
7 plan, unless transportation improvements or strategies to accommodate  
8 the impacts of development are made concurrent with the development.  
9 These strategies may include increased public transportation service,  
10 ride sharing programs, demand management, and other transportation  
11 systems management strategies. For the purposes of this subsection  
12 (6), "concurrent with the development" means that improvements or  
13 strategies are in place at the time of development, or that a  
14 financial commitment is in place to complete the improvements or  
15 strategies within six years. If the collection of impact fees is  
16 delayed under RCW 82.02.050(3), the six-year period required by this  
17 subsection (6)(b) must begin after full payment of all impact fees is  
18 due to the county or city.

19 (c) The transportation element described in this subsection (6),  
20 the six-year plans required by RCW 35.77.010 for cities, RCW  
21 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
22 systems, and the ten-year investment program required by RCW  
23 47.05.030 for the state, must be consistent.

24 (7) An economic development element establishing local goals,  
25 policies, objectives, and provisions for economic growth and vitality  
26 and a high quality of life. The element shall include: (a) A summary  
27 of the local economy such as population, employment, payroll,  
28 sectors, businesses, sales, and other information as appropriate; (b)  
29 a summary of the strengths and weaknesses of the local economy  
30 defined as the commercial and industrial sectors and supporting  
31 factors such as land use, transportation, utilities, education,  
32 workforce, housing, and natural/cultural resources; and (c) an  
33 identification of policies, programs, and projects to foster economic  
34 growth and development and to address future needs. A city that has  
35 chosen to be a residential community is exempt from the economic  
36 development element requirement of this subsection.

37 (8) A park and recreation element that implements, and is  
38 consistent with, the capital facilities plan element as it relates to  
39 park and recreation facilities. The element shall include: (a)  
40 Estimates of park and recreation demand for at least a ten-year

1 period; (b) an evaluation of facilities and service needs; and (c) an  
2 evaluation of intergovernmental coordination opportunities to provide  
3 regional approaches for meeting park and recreational demand.

4 (9) It is the intent that new or amended elements required after  
5 January 1, 2002, be adopted concurrent with the scheduled update  
6 provided in RCW 36.70A.130. Requirements to incorporate any such new  
7 or amended elements shall be null and void until funds sufficient to  
8 cover applicable local government costs are appropriated and  
9 distributed by the state at least two years before local government  
10 must update comprehensive plans as required in RCW 36.70A.130.

11 **Sec. 6.** RCW 36.70A.108 and 2005 c 328 s 1 are each amended to  
12 read as follows:

13 (1) The transportation element required by RCW 36.70A.070 may  
14 include, in addition to improvements or strategies to accommodate the  
15 impacts of development authorized under RCW 36.70A.070(6)(b),  
16 multimodal transportation improvements or strategies that are made  
17 concurrent with the development. These transportation improvements or  
18 strategies may include, but are not limited to, measures implementing  
19 or evaluating:

20 (a) Multiple modes of transportation with peak and nonpeak hour  
21 capacity performance standards for locally owned transportation  
22 facilities; and

23 (b) Modal performance standards meeting the peak and nonpeak hour  
24 capacity performance standards.

25 (2) The transportation element required by RCW 36.70A.070 may  
26 include development of freight rail dependent uses on land adjacent  
27 to a short line railroad. Development regulations may be modified to  
28 include development of freight rail dependent uses that do not  
29 require urban governmental services in rural lands.

30 (3) Nothing in this section or RCW 36.70A.070(6)(b) shall be  
31 construed as prohibiting a county or city planning under RCW  
32 36.70A.040 from exercising existing authority to develop multimodal  
33 improvements or strategies to satisfy the concurrency requirements of  
34 this chapter.

35 ~~((3))~~ (4) Nothing in this section is intended to affect or  
36 otherwise modify the authority of jurisdictions planning under RCW  
37 36.70A.040.

1        NEW SECTION.    **Sec. 7.**    Section 4 of this act expires September 1,  
2    2016.

3        NEW SECTION.    **Sec. 8.**    Section 5 of this act takes effect  
4    September 1, 2016.

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