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**HOUSE BILL 1774**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Griffey, MacEwen, Pike, Blake, J. Walsh, Dent, and Holy

AN ACT Relating to new development outside of urban growth boundaries; amending RCW 36.70A.280 and 36.70A.280; adding a new section to chapter 36.70A RCW; adding a new section to chapter 36.70B RCW; adding a new section to chapter 36.70C RCW; creating new sections; providing an effective date; and providing an expiration date.

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

NEW SECTION. **Sec.**  This act shall be known as the environmental protection land exchange act.

NEW SECTION. **Sec.**  The legislature finds that rural counties have lagged behind urban counties in satisfying the housing and economic development goals of the growth management act. Furthermore, decisions by the growth management hearings board and Washington courts have ravaged the rural economies that the legislature sought to protect in RCW 36.70A.011. The legislature intends to provide expanded opportunities for new growth in rural areas through a buildable lands credit process where square footage that cannot be developed within urban growth areas due to legal environmental protections and restrictions may be offered as a credit to property owners outside of urban areas for increased development for the communities.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

(1) Notwithstanding other provisions of this chapter, counties, cities, and towns within rural counties as defined in RCW 82.14.370 may designate and permit development on parcels of property outside of urban growth areas to urban levels of service without expanding the urban growth areas so long as the square footage of the foot print of the developed land does not exceed the square footage of land within the urban growth areas that are prevented from development due to the existence of critical areas, conservation easements, town, city, state, or national parks, and permanent designations of open space and habitat corridors.

(2) A city or town may identify the square footage of land that is not able to be developed within the urban growth areas due to the existence of critical areas, conservation easements, permanent designation of open space and habitat corridors, and parks owned by a town, city, state, county, or any department or agency of the United States government within its jurisdiction. The city or town may then provide buildable lands credits by the square foot, not to exceed the amount identified within the urban growth areas, for each square foot to the county planning department. The buildable lands credits are to be provided to property owners within the same county as the location of the city or town to be used for development to urban levels of service on lands outside of the urban growth areas that are not designated critical areas, or agricultural, forestlands, or mineral-resource lands of long-term significance.

(3) A property owner may request a county planning department to provide any available buildable lands credit to build on property outside of the urban growth area. A buildable lands credit entitles the property owner to develop an equivalent amount of square footage as designated in the credit on property outside of urban growth areas, that are not designated critical areas, or agricultural, forestlands, or mineral-resource lands of long-term significance, without restrictions for rural development or rural character.

Credits can be used for any of the following, but are not limited to just these circumstances:

(a) A large acreage parcel with one single-family residence, with or without appurtenant structures, could be developed to include additional residences or a building for a small business; and

(b) A property could be used to develop buildings for affordable housing, government facilities, or businesses that require more acreage than available within the urban growth areas.

(4) The county must create a planning document that will attach to all development that occurs using a buildable lands credit that states: "This property was legally permitted and developed with a buildable lands credit allowing for urban development in an area outside of the urban growth area."

(5) Any development occurring pursuant to this section is subject to the legal process in chapters 36.70B and 36.70C RCW only, and is not subject to review by the growth management hearings board.

(6) This section does not create any new authority for regulating wetlands or critical areas beyond what is specifically provided for in this section. No authority is granted to the department, the growth management hearings board, or the courts under this chapter to adopt rules, guidance, or orders creating new requirements on counties, cities, or property owners.

(7) This section and all proceedings under this section shall be liberally construed to the benefit of the property owner.

**Sec.**  RCW 36.70A.280 and 2014 c 147 s 3 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with ((~~RCW 36.70A.5801~~)) sections 1 through 3 of this act;

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction;

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous; or

(f) That a department determination under RCW 36.70A.060(1)(d) is erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

**Sec.**  RCW 36.70A.280 and 2011 c 360 s 17 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with ((~~RCW 36.70A.5801~~)) sections 1 through 3 of this act;

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; or

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70B RCW to read as follows:

This chapter applies to sections 1 through 3 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70C RCW to read as follows:

This chapter applies to sections 1 through 3 of this act.

NEW SECTION. **Sec.**  Section 4 of this act expires December 31, 2020.

NEW SECTION. **Sec.**  Section 5 of this act takes effect December 31, 2020.

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