

ESHB 1017 - S COMM AMD

By Committee on Early Learning & K-12 Education

NOT ADOPTED 04/11/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes the importance
4 of providing public education to K-12 students, including those who
5 reside in an urban area and those who reside in a rural area. As a
6 part of implementing the growth management act, the legislature
7 affirms that schools are public services that are necessary in both
8 urban and rural areas. Schools are not urban or rural in nature.
9 Instead, K-12 public education is a needed public service statewide.
10 To address the need for additional classrooms, the legislature
11 intends for school districts to be authorized to site schools in the
12 rural area to serve all students and/or to site schools in the urban
13 area to serve all students. To ensure consistency in counties
14 planning under the multicounty planning policies, the legislature
15 intends to create a framework for siting schools under this act. The
16 legislature also intends to establish a policy regarding the
17 extension of utilities and/or public facilities necessary to serve
18 schools to protect public health and safety and the environment.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A
20 RCW to read as follows:

21 (1) This chapter prohibits a county planning under RCW 36.70A.040
22 from authorizing the extension of public facilities and utilities to
23 serve a school sited in a rural area that serves students from a
24 rural area and an urban area unless the following requirements are
25 met:

26 (a) The applicable school district board of directors has adopted
27 a policy addressing school service area and facility needs;

28 (b) The applicable school district has made a finding, with the
29 concurrence of the county legislative authority and the legislative
30 authorities of any affected cities, that the district's proposed site
31 is suitable to site the school and any associated recreational
32 facilities that the district has determined cannot reasonably be

1 collocated on an existing school site, taking into consideration the
2 policy adopted in (a) of this subsection and the extent to which
3 vacant or developable land within the urban growth area meets those
4 requirements;

5 (c) The county and any affected cities agree to the extension of
6 public facilities and utilities to serve the school sited in a rural
7 area that serves urban and rural students at the time of concurrence
8 in (b) of this subsection;

9 (d) If the public facility or utility is extended beyond the
10 urban growth area to serve a school, the public facility or utility
11 must serve the school and the costs of such extension must be borne
12 by the applicable school district based on a reasonable nexus to the
13 impacts of the school, except as provided in subsection (3) of this
14 section; and

15 (e) Any impacts associated with the siting of the school are
16 mitigated as required by the state environmental policy act, chapter
17 43.21C RCW.

18 (2) This chapter does not prohibit or restrict the renovation,
19 modernization, addition, expansion, or replacement of an existing
20 school in the rural area or the placement of portable classrooms at
21 an existing school in the rural area.

22 (3) Where a public facility or utility has been extended beyond
23 the urban growth area to serve a school, the public facility or
24 utility may, where consistent with RCW 36.70A.110(4), serve a
25 property or properties in addition to the school if a property owner
26 so requests, provided that the county and any affected cities agree
27 with the request and provided that the property is located no further
28 from the public facility or utility than the distance that, if the
29 property were within the urban growth area, the property would be
30 required to connect to the public facility or utility. In such an
31 instance, the school district may, for a period not to exceed twenty
32 years, require reimbursement from a requesting property owner for a
33 proportional share of the construction costs incurred by the school
34 district for the extension of the public facility or utilities.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
36 RCW to read as follows:

37 (1)(a) A county may only authorize the siting of a school in a
38 rural area that serves students from an urban area and from a rural
39 area, even when otherwise discouraged by a multicounty planning

1 policy, and (b) any comprehensive plan provision or development
2 regulation adopted to implement school siting under this chapter is
3 not subject to the requirement for compliance under any multicounty
4 planning policies or with any countywide planning policies or updates
5 to such policies, if the following conditions are met:

6 (i) The county has a population of more than eight hundred forty
7 thousand but fewer than one million five hundred thousand and that
8 abuts at least six other counties;

9 (ii) A school district has made a determination of need for a new
10 school in a rural area, taking into consideration the availability of
11 developable land within the urban growth area and relevant service
12 area suitable for the projected enrollment of the school that is
13 consistent with locally adopted educational program requirements, and
14 the financial impact of extending public services and utilities to
15 such site;

16 (iii) If there is any land available for purchase within the
17 urban growth area and in the specific service area of the school
18 district that meets the school district's planned educational
19 programs, a school district has determined that, following a review
20 of the then-current zoning, site characteristics, and the overall
21 acquisition and development costs of the alternative site in the
22 urban growth area, the development of a school on such land in the
23 urban growth area is not feasible as of the time the determination is
24 made;

25 (iv) Any impacts associated with the siting of such a school are
26 mitigated as required under the state environmental policy act,
27 chapter 43.21C RCW;

28 (v) The county must be a participant in a multicounty planning
29 policy as described in RCW 36.70A.210;

30 (vi) The school project is needed to meet projected student
31 capacity needs in an identified service area that serves students
32 residing in both the urban growth area and in the rural area, as
33 demonstrated by a capital facilities plan adopted by a locally
34 elected school board of directors;

35 (vii) The location and design of the school project provides a
36 buffer between the school project and the rural area, thereby
37 protecting the character of the rural area; and

38 (viii) The county must have adopted in its comprehensive plan a
39 policy concerning the siting of schools in rural areas.

1 (2) A school sited under this section may not collect or impose
2 the impact fees described in RCW 82.02.050.

3 (3) A determination of need made by a school district is presumed
4 correct unless it is found to be clearly erroneous by a county within
5 which the proposed new school is sited. For the county to assert that
6 a determination is clearly erroneous, it must, at a minimum and in
7 consideration of the decision made by the locally elected school
8 board of directors, identify at least two sites that: Meet all of the
9 school district's program requirements identified in the
10 determination of need, are financially feasible, are available for
11 purchase in arm's length transactions, and meet other criteria
12 identified in sections 2 through 4 of this act. Citizens must have an
13 opportunity to appeal the determination of need as described in this
14 section.

15 (4) A multicounty planning policy in which any county referenced
16 in subsection (1) of this section is a participant must be amended,
17 at its next regularly scheduled update, to include a policy that
18 addresses the siting of schools in rural areas of all counties
19 subject to the multicounty planning policy.

20 (5) This section expires upon the adoption of, including final
21 adjudication of any appeals concerning, the next regularly scheduled
22 update of any multicounty planning policy referenced in subsection
23 (4) of this section.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
25 RCW to read as follows:

26 In a county where a school district chooses to site schools under
27 section 3 of this act, the school district siting a new school in the
28 rural area is required to participate in the county's periodic
29 updates by:

30 (1) Providing its enrollment forecasts and projections to the
31 county;

32 (2) Providing school siting criteria to the county, cities, and
33 regional transportation planning organizations;

34 (3) Reviewing with the county and affected cities the process the
35 school district has used regarding the site selection process. The
36 district shall confirm that the district has considered potential
37 sites in areas where students can safely walk and bicycle to the
38 school from their homes and that can effectively be served with
39 transit, considering the district's educational service areas, and

1 taking into consideration, at a minimum, the price and availability
2 of, and whether there is a need to assemble land for suitable school
3 sites, and whether a school district could purchase the necessary
4 parcels. Sites or any portion of the sites that cannot be acquired
5 through arm's length transactions should not be considered.

6 **Sec. 5.** RCW 36.70A.030 and 2012 c 21 s 1 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Adopt a comprehensive land use plan" means to enact a new
11 comprehensive land use plan or to update an existing comprehensive
12 land use plan.

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

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

21 (4) "Comprehensive land use plan," "comprehensive plan," or
22 "plan" means a generalized coordinated land use policy statement of
23 the governing body of a county or city that is adopted pursuant to
24 this chapter.

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

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

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

35 (7) "Development regulations" or "regulation" means the controls
36 placed on development or land use activities by a county or city,
37 including, but not limited to, zoning ordinances, critical areas
38 ordinances, shoreline master programs, official controls, planned
39 unit development ordinances, subdivision ordinances, and binding site

1 plan ordinances together with any amendments thereto. A development
2 regulation does not include a decision to approve a project permit
3 application, as defined in RCW 36.70B.020, even though the decision
4 may be expressed in a resolution or ordinance of the legislative body
5 of the county or city.

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

21 (9) "Geologically hazardous areas" means areas that because of
22 their susceptibility to erosion, sliding, earthquake, or other
23 geological events, are not suited to the siting of commercial,
24 residential, or industrial development consistent with public health
25 or safety concerns.

26 (10) "Long-term commercial significance" includes the growing
27 capacity, productivity, and soil composition of the land for long-
28 term commercial production, in consideration with the land's
29 proximity to population areas, and the possibility of more intense
30 uses of the land.

31 (11) "Minerals" include gravel, sand, and valuable metallic
32 substances.

33 (12) "Public facilities" include streets, roads, highways,
34 sidewalks, street and road lighting systems, traffic signals,
35 domestic water systems, storm and sanitary sewer systems, parks and
36 recreational facilities, and schools.

37 (13) "Public services" include fire protection and suppression,
38 law enforcement, public health, education, recreation, environmental
39 protection, and other governmental services.

1 (14) "Recreational land" means land so designated under RCW
2 36.70A.1701 and that, immediately prior to this designation, was
3 designated as agricultural land of long-term commercial significance
4 under RCW 36.70A.170. Recreational land must have playing fields and
5 supporting facilities existing before July 1, 2004, for sports played
6 on grass playing fields.

7 (15) "Rural character" refers to the patterns of land use and
8 development established by a county in the rural element of its
9 comprehensive plan:

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

12 (b) That foster traditional rural lifestyles, rural-based
13 economies, and opportunities to both live and work in rural areas;

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

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

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

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

22 (g) That are consistent with the protection of natural surface
23 water flows and groundwater and surface water recharge and discharge
24 areas.

25 (16) "Rural development" refers to development outside the urban
26 growth area and outside agricultural, forest, and mineral resource
27 lands designated pursuant to RCW 36.70A.170. Rural development can
28 consist of a variety of uses and residential densities, including
29 clustered residential development, at levels that are consistent with
30 the preservation of rural character and the requirements of the rural
31 element. Rural development does not refer to agriculture or forestry
32 activities that may be conducted in rural areas.

33 (17) "Rural governmental services" or "rural services" include
34 those public services and public facilities historically and
35 typically delivered at an intensity usually found in rural areas, and
36 may include domestic water systems, fire and police protection
37 services, schools serving primarily rural students, transportation
38 and public transit services, and other public utilities associated
39 with rural development and normally not associated with urban areas.

1 Rural services do not include storm or sanitary sewers, except as
2 otherwise authorized by RCW 36.70A.110(4).

3 (18) "Urban governmental services" or "urban services" include
4 those public services and public facilities at an intensity
5 historically and typically provided in cities, specifically including
6 storm and sanitary sewer systems, domestic water systems, street
7 cleaning services, fire and police protection services, schools,
8 public transit services, and other public utilities associated with
9 urban areas and normally not associated with rural areas.

10 (19) "Urban growth" refers to growth that makes intensive use of
11 land for the location of buildings, structures, and impermeable
12 surfaces to such a degree as to be incompatible with the primary use
13 of land for the production of food, other agricultural products, or
14 fiber, or the extraction of mineral resources, rural uses, rural
15 development, and natural resource lands designated pursuant to RCW
16 36.70A.170. A pattern of more intensive rural development, as
17 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed
18 to spread over wide areas, urban growth typically requires urban
19 governmental services. "Characterized by urban growth" refers to land
20 having urban growth located on it, or to land located in relationship
21 to an area with urban growth on it as to be appropriate for urban
22 growth.

23 (20) "Urban growth areas" means those areas designated by a
24 county pursuant to RCW 36.70A.110.

25 (21) "Wetland" or "wetlands" means areas that are inundated or
26 saturated by surface water or groundwater at a frequency and duration
27 sufficient to support, and that under normal circumstances do
28 support, a prevalence of vegetation typically adapted for life in
29 saturated soil conditions. Wetlands generally include swamps,
30 marshes, bogs, and similar areas. Wetlands do not include those
31 artificial wetlands intentionally created from nonwetland sites,
32 including, but not limited to, irrigation and drainage ditches,
33 grass-lined swales, canals, detention facilities, wastewater
34 treatment facilities, farm ponds, and landscape amenities, or those
35 wetlands created after July 1, 1990, that were unintentionally
36 created as a result of the construction of a road, street, or
37 highway. Wetlands may include those artificial wetlands intentionally
38 created from nonwetland areas created to mitigate conversion of
39 wetlands."

NOT ADOPTED 04/11/2017

1 On page 1, line 1 of the title, after "facilities;" strike the
2 remainder of the title and insert "amending RCW 36.70A.030; adding
3 new sections to chapter 36.70A RCW; creating a new section; and
4 providing a contingent expiration date."

EFFECT: (1) Adds an intent section.

(2) States that the Growth Management Act (GMA) prohibits a county from authorizing the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area unless certain requirements are met including:

(a) The applicable school district board of directors has adopted a policy addressing school service area and facility needs;

(b) The applicable school district has made a finding with the concurrence of the county legislative authority and the legislative authorities of any affected cities that the district's site is suitable, taking into consideration the school district policy and the extent to which vacant or developable land within the urban growth area meets those requirements;

(c) The county and any affected cities agree to the extension of public facilities and utilities at the time of concurrence; and

(d) The extended public facilities or utilities serve the school and the costs of such extension is borne by the applicable school district.

(3) States that the GMA does not restrict the renovation, modernization, addition, or replacement, in addition to expansion, of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area.

(4) Allows a county with a population of more than 840,000 but fewer than 1.5 million that abuts at least six other counties to only authorize the siting of a school in a rural area that serves urban and rural students, even when otherwise discouraged by a multicounty planning policy, when certain requirements are met, including:

(a) A school district has made a determination of need for a new school in a rural area taking into consideration certain factors;

(b) A school district has determined that any available land within the urban growth area is not feasible following a review of certain factors;

(c) The school project is needed to meet projected student capacity needs for students residing in both urban and rural areas;

(d) The location and design of the school project provides a buffer between the school project and the rural area, thereby protecting the character of the rural area; and

(e) The county has adopted in its comprehensive plan a policy concerning the siting of schools in rural areas.

(5) Provides that a school district's determination of need is presumed correct unless it is found to be clearly erroneous by a county and requires the county to identify at least two sites that meet all of the school district's requirements, are financially

feasible, and are available for purchase in arm's length transactions.

(6) Requires citizens to have an opportunity to appeal the determination of need.

(7) Requires a school district siting a new school in a rural area to participate in the county's periodic updates regarding certain topics, including enrollment and school siting criteria.

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