

E2SSB 5239 - S AMD 298
By Senator Warnick

ADOPTED 06/29/2017

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

3 "Sec. 1. RCW 19.27.097 and 2015 c 225 s 17 are each amended to
4 read as follows:

5 (1) Each applicant for a building permit of a building
6 necessitating potable water shall provide evidence of an adequate
7 water supply for the intended use of the building. Evidence may be in
8 the form of a water right permit from the department of ecology, a
9 letter from an approved water purveyor stating the ability to provide
10 water, a water well report for a groundwater withdrawal exempt from
11 permitting under RCW 90.44.050 and not prohibited by an applicable
12 water resources management rule adopted by the department of ecology,
13 or another form sufficient to verify the existence of an adequate
14 water supply. (~~In addition to other authorities, the county or city~~
15 ~~may impose conditions on building permits requiring connection to an~~
16 ~~existing public water system where the existing system is willing and~~
17 ~~able to provide safe and reliable potable water to the applicant with~~
18 ~~reasonable economy and efficiency.)) Providing evidence of an
19 adequate water supply under this subsection does not require
20 impairment review by the applicant or local permitting authority. An
21 application for a water right shall not be sufficient proof of an
22 adequate water supply.~~

23 (2) In addition to other authorities, the county or city may
24 impose conditions on building permits requiring connection to an
25 existing public water system where the existing system is willing and
26 able to provide safe and reliable potable water to the applicant with
27 reasonable economy and efficiency.

28 (3) Within counties not required or not choosing to plan pursuant
29 to RCW 36.70A.040, the county and the state may mutually determine
30 those areas in the county in which the requirements of subsections
31 (1) and (2) of this section shall not apply. The departments of
32 health and ecology shall coordinate on the implementation of this

1 section. Should the county and the state fail to mutually determine
2 those areas to be designated pursuant to this subsection, the county
3 may petition the department of enterprise services to mediate or, if
4 necessary, make the determination.

5 ~~((+3+))~~ (4) Buildings that do not need potable water facilities
6 are exempt from the provisions of this section. The department of
7 ecology, after consultation with local governments, may adopt rules
8 to implement this section, which may recognize differences between
9 high-growth and low-growth counties.

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

12 The comprehensive plan of a county or city that is required or
13 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
14 and descriptive text covering objectives, principles, and standards
15 used to develop the comprehensive plan. The plan shall be an
16 internally consistent document and all elements shall be consistent
17 with the future land use map. A comprehensive plan shall be adopted
18 and amended with public participation as provided in RCW 36.70A.140.
19 Each comprehensive plan shall include a plan, scheme, or design for
20 each of the following:

21 (1) A land use element designating the proposed general
22 distribution and general location and extent of the uses of land,
23 where appropriate, for agriculture, timber production, housing,
24 commerce, industry, recreation, open spaces, general aviation
25 airports, public utilities, public facilities, and other land uses.
26 The land use element shall include population densities, building
27 intensities, and estimates of future population growth. The land use
28 element shall provide for protection of the quality and quantity of
29 groundwater used for public water supplies. In providing for the
30 protection of the quantity of groundwater used for public water
31 supplies under this subsection, a county or city may rely on or refer
32 to applicable water resources management rules adopted by the
33 department of ecology. Wherever possible, the land use element should
34 consider utilizing urban planning approaches that promote physical
35 activity. Where applicable, the land use element shall review
36 drainage, flooding, and storm water run-off in the area and nearby
37 jurisdictions and provide guidance for corrective actions to mitigate
38 or cleanse those discharges that pollute waters of the state,
39 including Puget Sound or waters entering Puget Sound.

1 (2) A housing element ensuring the vitality and character of
2 established residential neighborhoods that: (a) Includes an inventory
3 and analysis of existing and projected housing needs that identifies
4 the number of housing units necessary to manage projected growth; (b)
5 includes a statement of goals, policies, objectives, and mandatory
6 provisions for the preservation, improvement, and development of
7 housing, including single-family residences; (c) identifies
8 sufficient land for housing, including, but not limited to,
9 government-assisted housing, housing for low-income families,
10 manufactured housing, multifamily housing, and group homes and foster
11 care facilities; and (d) makes adequate provisions for existing and
12 projected needs of all economic segments of the community.

13 (3) A capital facilities plan element consisting of: (a) An
14 inventory of existing capital facilities owned by public entities,
15 showing the locations and capacities of the capital facilities; (b) a
16 forecast of the future needs for such capital facilities; (c) the
17 proposed locations and capacities of expanded or new capital
18 facilities; (d) at least a six-year plan that will finance such
19 capital facilities within projected funding capacities and clearly
20 identifies sources of public money for such purposes; and (e) a
21 requirement to reassess the land use element if probable funding
22 falls short of meeting existing needs and to ensure that the land use
23 element, capital facilities plan element, and financing plan within
24 the capital facilities plan element are coordinated and consistent.
25 Park and recreation facilities shall be included in the capital
26 facilities plan element.

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

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

35 (a) Growth management act goals and local circumstances. Because
36 circumstances vary from county to county, in establishing patterns of
37 rural densities and uses, a county may consider local circumstances,
38 but shall develop a written record explaining how the rural element
39 harmonizes the planning goals in RCW 36.70A.020 and meets the
40 requirements of this chapter.

1 (b) Rural development. The rural element shall permit rural
2 development, forestry, and agriculture in rural areas. The rural
3 element shall provide for a variety of rural densities, uses,
4 essential public facilities, and rural governmental services needed
5 to serve the permitted densities and uses. To achieve a variety of
6 rural densities and uses, counties may provide for clustering,
7 density transfer, design guidelines, conservation easements, and
8 other innovative techniques that will accommodate appropriate rural
9 densities and uses that are not characterized by urban growth and
10 that are consistent with rural character.

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

14 (i) Containing or otherwise controlling rural development;

15 (ii) Assuring visual compatibility of rural development with the
16 surrounding rural area;

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

19 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
20 and surface water and groundwater resources, which may include
21 measures that rely on or refer to applicable water resources
22 management rules adopted by the department of ecology; and

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

25 (d) Limited areas of more intensive rural development. Subject to
26 the requirements of this subsection and except as otherwise
27 specifically provided in this subsection (5)(d), the rural element
28 may allow for limited areas of more intensive rural development,
29 including necessary public facilities and public services to serve
30 the limited area as follows:

31 (i) Rural development consisting of the infill, development, or
32 redevelopment of existing commercial, industrial, residential, or
33 mixed-use areas, whether characterized as shoreline development,
34 villages, hamlets, rural activity centers, or crossroads
35 developments.

36 (A) A commercial, industrial, residential, shoreline, or mixed-
37 use area are subject to the requirements of (d)(iv) of this
38 subsection, but are not subject to the requirements of (c)(ii) and
39 (iii) of this subsection.

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

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

10 (ii) The intensification of development on lots containing, or
11 new development of, small-scale recreational or tourist uses,
12 including commercial facilities to serve those recreational or
13 tourist uses, that rely on a rural location and setting, but that do
14 not include new residential development. A small-scale recreation or
15 tourist use is not required to be principally designed to serve the
16 existing and projected rural population. Public services and public
17 facilities shall be limited to those necessary to serve the
18 recreation or tourist use and shall be provided in a manner that does
19 not permit low-density sprawl;

20 (iii) The intensification of development on lots containing
21 isolated nonresidential uses or new development of isolated cottage
22 industries and isolated small-scale businesses that are not
23 principally designed to serve the existing and projected rural
24 population and nonresidential uses, but do provide job opportunities
25 for rural residents. Rural counties may allow the expansion of small-
26 scale businesses as long as those small-scale businesses conform with
27 the rural character of the area as defined by the local government
28 according to RCW 36.70A.030(15). Rural counties may also allow new
29 small-scale businesses to utilize a site previously occupied by an
30 existing business as long as the new small-scale business conforms to
31 the rural character of the area as defined by the local government
32 according to RCW 36.70A.030(15). Public services and public
33 facilities shall be limited to those necessary to serve the isolated
34 nonresidential use and shall be provided in a manner that does not
35 permit low-density sprawl;

36 (iv) A county shall adopt measures to minimize and contain the
37 existing areas or uses of more intensive rural development, as
38 appropriate, authorized under this subsection. Lands included in such
39 existing areas or uses shall not extend beyond the logical outer
40 boundary of the existing area or use, thereby allowing a new pattern

1 of low-density sprawl. Existing areas are those that are clearly
2 identifiable and contained and where there is a logical boundary
3 delineated predominately by the built environment, but that may also
4 include undeveloped lands if limited as provided in this subsection.
5 The county shall establish the logical outer boundary of an area of
6 more intensive rural development. In establishing the logical outer
7 boundary, the county shall address (A) the need to preserve the
8 character of existing natural neighborhoods and communities, (B)
9 physical boundaries, such as bodies of water, streets and highways,
10 and land forms and contours, (C) the prevention of abnormally
11 irregular boundaries, and (D) the ability to provide public
12 facilities and public services in a manner that does not permit low-
13 density sprawl;

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

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

18 (B) On the date the county adopted a resolution under RCW
19 36.70A.040(2), in a county that is planning under all of the
20 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

31 (a) The transportation element shall include the following
32 subelements:

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

34 (ii) Estimated traffic impacts to state-owned transportation
35 facilities resulting from land use assumptions to assist the
36 department of transportation in monitoring the performance of state
37 facilities, to plan improvements for the facilities, and to assess
38 the impact of land-use decisions on state-owned transportation
39 facilities;

40 (iii) Facilities and services needs, including:

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

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

10 (C) For state-owned transportation facilities, level of service
11 standards for highways, as prescribed in chapters 47.06 and 47.80
12 RCW, to gauge the performance of the system. The purposes of
13 reflecting level of service standards for state highways in the local
14 comprehensive plan are to monitor the performance of the system, to
15 evaluate improvement strategies, and to facilitate coordination
16 between the county's or city's six-year street, road, or transit
17 program and the office of financial management's ten-year investment
18 program. The concurrency requirements of (b) of this subsection do
19 not apply to transportation facilities and services of statewide
20 significance except for counties consisting of islands whose only
21 connection to the mainland are state highways or ferry routes. In
22 these island counties, state highways and ferry route capacity must
23 be a factor in meeting the concurrency requirements in (b) of this
24 subsection;

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

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

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

35 (iv) Finance, including:

36 (A) An analysis of funding capability to judge needs against
37 probable funding resources;

38 (B) A multiyear financing plan based on the needs identified in
39 the comprehensive plan, the appropriate parts of which shall serve as
40 the basis for the six-year street, road, or transit program required

1 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
2 35.58.2795 for public transportation systems. The multiyear financing
3 plan should be coordinated with the ten-year investment program
4 developed by the office of financial management as required by RCW
5 47.05.030;

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

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

13 (vi) Demand-management strategies;

14 (vii) Pedestrian and bicycle component to include collaborative
15 efforts to identify and designate planned improvements for pedestrian
16 and bicycle facilities and corridors that address and encourage
17 enhanced community access and promote healthy lifestyles.

18 (b) After adoption of the comprehensive plan by jurisdictions
19 required to plan or who choose to plan under RCW 36.70A.040, local
20 jurisdictions must adopt and enforce ordinances which prohibit
21 development approval if the development causes the level of service
22 on a locally owned transportation facility to decline below the
23 standards adopted in the transportation element of the comprehensive
24 plan, unless transportation improvements or strategies to accommodate
25 the impacts of development are made concurrent with the development.
26 These strategies may include increased public transportation service,
27 ride-sharing programs, demand management, and other transportation
28 systems management strategies. For the purposes of this subsection
29 (6), "concurrent with the development" means that improvements or
30 strategies are in place at the time of development, or that a
31 financial commitment is in place to complete the improvements or
32 strategies within six years. If the collection of impact fees is
33 delayed under RCW 82.02.050(3), the six-year period required by this
34 subsection (6)(b) must begin after full payment of all impact fees is
35 due to the county or city.

36 (c) The transportation element described in this subsection (6),
37 the six-year plans required by RCW 35.77.010 for cities, RCW
38 36.81.121 for counties, and RCW 35.58.2795 for public transportation
39 systems, and the ten-year investment program required by RCW
40 47.05.030 for the state, must be consistent.

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

14 (8) A park and recreation element that implements, and is
15 consistent with, the capital facilities plan element as it relates to
16 park and recreation facilities. The element shall include: (a)
17 Estimates of park and recreation demand for at least a ten-year
18 period; (b) an evaluation of facilities and service needs; and (c) an
19 evaluation of intergovernmental coordination opportunities to provide
20 regional approaches for meeting park and recreational demand.

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

28 **Sec. 3.** RCW 36.70A.070 and 2017 c 331 s 2 are each amended to
29 read as follows:

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

1 (1) A land use element designating the proposed general
2 distribution and general location and extent of the uses of land,
3 where appropriate, for agriculture, timber production, housing,
4 commerce, industry, recreation, open spaces, general aviation
5 airports, public utilities, public facilities, and other land uses.
6 The land use element shall include population densities, building
7 intensities, and estimates of future population growth. The land use
8 element shall provide for protection of the quality and quantity of
9 groundwater used for public water supplies. In providing for the
10 protection of the quantity of groundwater used for public water
11 supplies under this subsection, a county or city may rely on or refer
12 to applicable water resources management rules adopted by the
13 department of ecology. Wherever possible, the land use element should
14 consider utilizing urban planning approaches that promote physical
15 activity. Where applicable, the land use element shall review
16 drainage, flooding, and storm water run-off in the area and nearby
17 jurisdictions and provide guidance for corrective actions to mitigate
18 or cleanse those discharges that pollute waters of the state,
19 including Puget Sound or waters entering Puget Sound.

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

32 (3) A capital facilities plan element consisting of: (a) An
33 inventory of existing capital facilities owned by public entities,
34 showing the locations and capacities of the capital facilities; (b) a
35 forecast of the future needs for such capital facilities; (c) the
36 proposed locations and capacities of expanded or new capital
37 facilities; (d) at least a six-year plan that will finance such
38 capital facilities within projected funding capacities and clearly
39 identifies sources of public money for such purposes; and (e) a
40 requirement to reassess the land use element if probable funding

1 falls short of meeting existing needs and to ensure that the land use
2 element, capital facilities plan element, and financing plan within
3 the capital facilities plan element are coordinated and consistent.
4 Park and recreation facilities shall be included in the capital
5 facilities plan element.

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

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

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

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

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

33 (i) Containing or otherwise controlling rural development;

34 (ii) Assuring visual compatibility of rural development with the
35 surrounding rural area;

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

38 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
39 and surface water and groundwater resources, which may include

1 measures that rely on or refer to applicable water resources
2 management rules adopted by the department of ecology; and

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

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

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

16 (A) A commercial, industrial, residential, shoreline, or mixed-
17 use area are subject to the requirements of (d)(iv) of this
18 subsection, but are not subject to the requirements of (c)(ii) and
19 (iii) of this subsection.

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

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

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

39 (iii) The intensification of development on lots containing
40 isolated nonresidential uses or new development of isolated cottage

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

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

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

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

37 (B) On the date the county adopted a resolution under RCW
38 36.70A.040(2), in a county that is planning under all of the
39 provisions of this chapter under RCW 36.70A.040(2); or

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

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

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

11 (a) The transportation element shall include the following
12 subelements:

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

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

20 (iii) Facilities and services needs, including:

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

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

30 (C) For state-owned transportation facilities, level of service
31 standards for highways, as prescribed in chapters 47.06 and 47.80
32 RCW, to gauge the performance of the system. The purposes of
33 reflecting level of service standards for state highways in the local
34 comprehensive plan are to monitor the performance of the system, to
35 evaluate improvement strategies, and to facilitate coordination
36 between the county's or city's six-year street, road, or transit
37 program and the office of financial management's ten-year investment
38 program. The concurrency requirements of (b) of this subsection do
39 not apply to transportation facilities and services of statewide
40 significance except for counties consisting of islands whose only

1 connection to the mainland are state highways or ferry routes. In
2 these island counties, state highways and ferry route capacity must
3 be a factor in meeting the concurrency requirements in (b) of this
4 subsection;

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

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

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

15 (iv) Finance, including:

16 (A) An analysis of funding capability to judge needs against
17 probable funding resources;

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

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

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

33 (vi) Demand-management strategies;

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

38 (b) After adoption of the comprehensive plan by jurisdictions
39 required to plan or who choose to plan under RCW 36.70A.040, local
40 jurisdictions must adopt and enforce ordinances which prohibit

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

16 (c) The transportation element described in this subsection (6),
17 the six-year plans required by RCW 35.77.010 for cities, RCW
18 36.81.121 for counties, and RCW 35.58.2795 for public transportation
19 systems, and the ten-year investment program required by RCW
20 47.05.030 for the state, must be consistent.

21 (7) An economic development element establishing local goals,
22 policies, objectives, and provisions for economic growth and vitality
23 and a high quality of life. (~~The element may include the provisions~~
24 ~~in section 3 of this act.~~) A city that has chosen to be a
25 residential community is exempt from the economic development element
26 requirement of this subsection.

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

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

1 **Sec. 4.** RCW 58.17.110 and 1995 c 32 s 3 are each amended to read
2 as follows:

3 (1) The city, town, or county legislative body shall inquire into
4 the public use and interest proposed to be served by the
5 establishment of the subdivision and dedication. It shall determine:

6 (a) If appropriate provisions are made for, but not limited to, the
7 public health, safety, and general welfare, for open spaces, drainage
8 ways, streets or roads, alleys, other public ways, transit stops,
9 potable water supplies, sanitary wastes, parks and recreation,
10 playgrounds, schools and schoolgrounds, and shall consider all other
11 relevant facts, including sidewalks and other planning features that
12 assure safe walking conditions for students who only walk to and from
13 school; and (b) whether the public interest will be served by the
14 subdivision and dedication.

15 (2) A proposed subdivision and dedication shall not be approved
16 unless the city, town, or county legislative body makes written
17 findings that: (a) Appropriate provisions are made for the public
18 health, safety, and general welfare and for such open spaces,
19 drainage ways, streets or roads, alleys, other public ways, transit
20 stops, potable water supplies, sanitary wastes, parks and recreation,
21 playgrounds, schools and schoolgrounds and all other relevant facts,
22 including sidewalks and other planning features that assure safe
23 walking conditions for students who only walk to and from school; and

24 (b) the public use and interest will be served by the platting of
25 such subdivision and dedication. If it finds that the proposed
26 subdivision and dedication make such appropriate provisions and that
27 the public use and interest will be served, then the legislative body
28 shall approve the proposed subdivision and dedication. Dedication of
29 land to any public body, provision of public improvements to serve
30 the subdivision, and/or impact fees imposed under RCW 82.02.050
31 through 82.02.090 may be required as a condition of subdivision
32 approval. Dedications shall be clearly shown on the final plat. No
33 dedication, provision of public improvements, or impact fees imposed
34 under RCW 82.02.050 through 82.02.090 shall be allowed that
35 constitutes an unconstitutional taking of private property. The
36 legislative body shall not as a condition to the approval of any
37 subdivision require a release from damages to be procured from other
38 property owners.

39 (3) If the preliminary plat includes a dedication of a public
40 park with an area of less than two acres and the donor has designated

1 that the park be named in honor of a deceased individual of good
2 character, the city, town, or county legislative body must adopt the
3 designated name.

4 (4) In approving a subdivision, dedication, or short subdivision
5 under this chapter, a city, town, or county may rely on or refer to
6 applicable water resources management rules adopted by the department
7 of ecology to determine if appropriate provisions have been made for
8 potable water supplies. Such a determination does not require
9 impairment review by the applicant, city, town, or county.

10 **Sec. 5.** RCW 90.03.247 and 2003 c 39 s 48 are each amended to
11 read as follows:

12 (1) Whenever an application for a permit to make beneficial use
13 of public waters is approved relating to a stream or other water body
14 for which minimum flows or levels have been adopted and are in effect
15 and applicable to the approval at the time of approval, the
16 ((permit)) approval shall be conditioned to: (a) Protect the levels
17 or flows; (b) comply with applicable mitigation requirements
18 established in the rule setting forth minimum flows or levels; or (c)
19 mitigate impacts to fish or aquatic habitat by providing replacement
20 water rights offsetting the impacts in time and in place, providing
21 replacement water rights resulting in no net annual increase in the
22 quantity of water diverted or withdrawn from the stream or water
23 body, or providing other measures designed to mitigate the impact of
24 the water appropriation. Mitigation that does not involve the
25 provision of replacement water rights offsetting impacts in time and
26 in place may be allowed only if the department determines that in-
27 time and in-place water mitigation is not reasonably available and
28 that the proposed mitigation will protect fish and aquatic habitat.
29 An applicant may propose, but the department may not require,
30 mitigation of impacts that are not caused by the applicant's water
31 diversion or withdrawal. This subsection applies to approvals by the
32 department under this chapter and chapters 90.38, 90.42, 90.44, and
33 90.54 RCW.

34 (2) No agency may establish minimum flows and levels or similar
35 water flow or level restrictions for any stream or lake of the state
36 other than the department of ecology whose authority to establish is
37 exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and
38 90.54.040. The provisions of other statutes, including but not
39 limited to ((RCW 77.55.100 and)) chapter 43.21C RCW, may not be

1 interpreted in a manner that is inconsistent with this section. In
2 establishing such minimum flows, levels, or similar restrictions, the
3 department shall, during all stages of development by the department
4 of ecology of minimum flow proposals, consult with, and carefully
5 consider the recommendations of, the department of fish and wildlife,
6 the department of ((community, trade, and economic development))
7 commerce, the department of agriculture, and representatives of the
8 affected Indian tribes. Nothing herein shall preclude the department
9 of fish and wildlife, the department of ((community, trade, and
10 economic development)) commerce, or the department of agriculture
11 from presenting its views on minimum flow needs at any public hearing
12 or to any person or agency, and the department of fish and wildlife,
13 the department of ((community, trade, and economic development))
14 commerce, and the department of agriculture are each empowered to
15 participate in proceedings of the federal energy regulatory
16 commission and other agencies to present its views on minimum flow
17 needs.

18 **Sec. 6.** RCW 18.104.055 and 2005 c 84 s 4 are each amended to
19 read as follows:

20 (1) A fee is hereby imposed on each well constructed in this
21 state on or after July 1, 2005.

22 (2)(a) The fee for one water well, other than a dewatering well,
23 with a minimum top casing diameter of less than twelve inches is two
24 hundred dollars. This fee does not apply to a ground source heat pump
25 boring or a grounding well.

26 (b) The fee for one water well, other than a dewatering well,
27 with a minimum top casing diameter of twelve inches or greater is
28 three hundred dollars.

29 (c) The fee for a resource protection well, except for an
30 environmental investigation well, a ground source heat pump boring,
31 or a grounding well, is forty dollars for each well.

32 (d) The fee for an environmental investigation well in which
33 groundwater is sampled or measured is forty dollars for construction
34 of up to four environmental investigation wells per project, ten
35 dollars for each additional environmental investigation well
36 constructed on a project with more than four wells. There is no fee
37 for soil or vapor sampling purposes.

38 (e) The fee for a ground source heat pump boring or a grounding
39 well is forty dollars for construction of up to four ground source

1 heat pump borings or grounding wells per project and ten dollars for
2 each additional ground source heat pump boring or grounding well
3 constructed on a project with more than four wells.

4 (f) The combined fee for construction and decommissioning of a
5 dewatering well system shall be forty dollars for each two hundred
6 horizontal lineal feet, or portion thereof, of the dewatering well
7 system.

8 (g) The fee to decommission a water well is fifty dollars.

9 (h) The fee to decommission a resource protection well, except
10 for an environmental investigation well, is twenty dollars. There is
11 no fee to decommission an environmental investigation well or a
12 geotechnical soil boring.

13 (i) The fee to decommission a ground source heat pump boring or a
14 grounding well is twenty dollars.

15 (3) For a well constructed under subsection (2)(a) or (b) of this
16 section, the department must collect an additional fee of three
17 hundred dollars. The amounts collected under this subsection must be
18 used by the department for projects designed to measure or improve
19 stream flow, projects that restore or enhance aquatic habitat, or
20 water infrastructure projects. This fee may not be used in any manner
21 so as to require mitigation when drilling a well constructed under
22 subsection (2)(a) or (b) of this section.

23 (4) The fees imposed by this section shall be paid at the time
24 the notice of well construction is submitted to the department as
25 provided by RCW 18.104.048. The department by rule may adopt
26 procedures to permit the fees required for resource protection wells
27 to be paid after the number of wells actually constructed has been
28 determined. The department shall refund the amount of any fee
29 collected for wells, borings, probes, or excavations as long as
30 construction has not started and the department has received a refund
31 request within one hundred eighty days from the time the department
32 received the fee. The refund request shall be made on a form provided
33 by the department.

34 **Sec. 7.** RCW 18.104.150 and 1993 c 387 s 20 are each amended to
35 read as follows:

36 (1) Except as provided in subsection (3) of this section, all
37 fees paid under this chapter shall be credited by the state treasurer
38 to the reclamation account established by chapter 89.16 RCW. Subject
39 to legislative appropriation, the fees collected under this chapter

1 shall be allocated and expended by the director for the
2 administration of the well construction, well operators' licensing,
3 and education programs.

4 (2) The department shall provide grants to local governing
5 entities that have been delegated portions of the well construction
6 program pursuant to RCW 18.104.043 to assist in supporting well
7 inspectors hired by the local governing body. Grants provided to a
8 local governing body shall not exceed the revenues generated from
9 fees for the portion of the program delegated and from the area in
10 which authority is delegated to the local governing body.

11 (3) All fees collected under RCW 18.104.055(3) must be deposited
12 into the water resources project account created in section 8 of this
13 act. Subject to legislative appropriation, the director shall
14 allocate and expend fees collected under RCW 18.104.055(3) for
15 projects designed to measure or improve stream flow, projects that
16 restore or enhance aquatic habitat, or water infrastructure projects.
17 The director may seek the advice of an advisory committee when
18 allocating or expending fees collected under RCW 18.104.055(3).

19 NEW SECTION. Sec. 8. A new section is added to chapter 90.54
20 RCW to read as follows:

21 (1) The water resources project account is created in the state
22 treasury. All receipts collected under RCW 18.104.055(3) must be
23 deposited into the account. Moneys in the account may only be spent
24 after appropriation. Moneys in the account may only be used for
25 projects designed to measure or improve stream flow, projects that
26 restore or enhance aquatic habitat, or water infrastructure projects.

27 (2) Consistent with RCW 43.01.036, the department must submit a
28 report to the legislature by December 1, 2020, that includes:

- 29 (a) The amount of fees collected under RCW 18.104.055(3);
30 (b) How these fees were allocated;
31 (c) A description of the projects;
32 (d) An evaluation of the effectiveness of the projects; and
33 (e) Any recommendations to the legislature regarding the fees
34 collected under RCW 18.104.055(3).

35 NEW SECTION. Sec. 9. Section 2 of this act expires July 23,
36 2017.

1 NEW SECTION. **Sec. 10.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 11.** Except for section 3 of this act, which
6 takes effect July 23, 2017, this act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of
8 the state government and its existing public institutions, and takes
9 effect immediately.

10 NEW SECTION. **Sec. 12.** Nothing in this act shall be construed to
11 affect the ability of any person to pursue a cause of action
12 cognizable under Washington state law for the protection of the
13 person's water right."

E2SSB 5239 - S AMD 298
By Senator Warnick

ADOPTED 06/29/2017

14 On page 1, line 2 of the title, after "development;" strike the
15 remainder of the title and insert "amending RCW 19.27.097,
16 36.70A.070, 36.70A.070, 58.17.110, 90.03.247, 18.104.055, and
17 18.104.150; adding a new section to chapter 90.54 RCW; creating a new
18 section; providing an effective date; providing an expiration date;
19 and declaring an emergency."

EFFECT: Updates the language in RCW 36.70A.070 to reflect changes made by chapter 331, Laws of 2017 (SSB 5790). Allows approval of water right permits if the approval complies with mitigation requirements established in an instream flow rule or mitigates impacts to fish or aquatic habitat by providing replacement water rights that meet certain conditions, or provides other measures designed to mitigate the impact of the water appropriation. Establishes that mitigation that does not involve replacement water rights offsetting impacts in time and in place may be allowed only if the department of ecology determines that in-time and in-place water mitigation is not reasonably available and that the proposed mitigation will protect fish and aquatic habitat. Allows an applicant to propose mitigation of impacts that are not caused by the applicant's water diversion or withdrawal. Provides that the ability of a person to pursue a cause of action for the protection of the person's water right is not affected. Requires that the department of ecology collect an additional fee of \$200 to be used for projects designed to measure or improve stream flow, projects that restore or

enhance aquatic habitat, or water infrastructure projects. Provides that this fee may not be used in any manner so as to require mitigation when drilling a water well. Creates the water resources project account. Allows the director of the department of ecology to seek the advice of an advisory committee when allocating or expending funds from the water resources project account. Requires the department of ecology to submit a report to the legislature by December 1, 2020, about the use of the funds in the water resources project account.

--- END ---