

# HOUSE BILL REPORT

## ESHB 1017

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### As Passed Legislature

**Title:** An act relating to the siting of schools and school facilities.

**Brief Description:** Addressing the siting of schools and school facilities.

**Sponsors:** House Committee on Environment (originally sponsored by Representatives McCaslin, Barkis, Blake, Holy, Pettigrew, Haler, Taylor, Shea, Harris, Chandler, Smith, Muri, Stokesbary, Nealey, Stambaugh, Griffey, Vick, Buys, Dye, Short, Pike, Wilcox, Van Werven, Hargrove, Young, Klippert, Kilduff and Sawyer).

#### **Brief History:**

##### **Committee Activity:**

Environment: 1/12/17, 2/16/17 [DPS].

##### **Floor Activity:**

Passed House: 3/7/17, 82-15.

Senate Amended.

Passed Senate: 4/11/17, 31-17.

House Concurred.

Passed House: 4/18/17, 81-15.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Provides that the Growth Management Act (GMA) does not prohibit a county planning fully under the GMA from authorizing the extension of public facilities and utilities to serve a school sited in a rural area under certain conditions, including, among others, that the county and any affected cities agree with the siting, that any public facility or utility that is extended beyond the urban growth area to serve the school is limited in the number of other properties that it may serve, and that any impacts associated with the siting of the school are mitigated as required by the State Environmental Policy Act.
- Permits a public facility or utility extended beyond the urban growth area in order to serve a school to also serve a property or properties in addition to the school, provided that the county and any affected cities agree with the request and provided that the property is located no further from the public facility or utility than the distance that, if the property were within the urban growth area, the property would be required to connect to the public facility or utility.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Permits a county to site in the rural area a school that serves students from an urban area, even where otherwise prohibited by a multicounty planning policy, under certain conditions, including, among others, that the county must have a population greater than 840,000 but less than 1,500,000, and that the county abut at least six other counties.
- Requires the amendment of any multicounty planning policy in which any county that sites a school in the rural area is a participant, at the next regularly scheduled update, to include a policy that addresses the siting of schools in rural areas.
- Requires, for any county that sites a school in the rural area and that is also a participant in a multicounty planning policy, that the school districts in such a county participate in the county's periodic comprehensive plan updates.

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## HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Fey, Kagi and McBride.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Maycumber, Assistant Ranking Minority Member; Buys and Dye.

**Staff:** Robert Hatfield (786-7117).

### **Background:**

#### Growth Management Act—Introduction.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs jurisdictions that fully plan under the GMA (planning jurisdictions) to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to review and revision requirements prescribed in the GMA. Comprehensive plans under the GMA must contain a number of required elements, including a rural element that must protect the character of rural areas by guiding development in those areas. Counties and cities that plan under the GMA are required to adopt development regulations that assure the conservation of agricultural, forest, and mineral resource lands.

#### Growth Management Act—Planning Goals and Requirements.

For the purpose of guiding the development of comprehensive plans and development regulations, counties and cities must consider various goals set forth in statute. Several goals relate to "public facilities" and "public services," which are defined as including schools and education, respectively:

- *Urban Growth:* Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- *Economic Development:* Encourage economic development throughout the state, promote economic opportunity, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.
- *Public Facilities and Services:* Ensure that those public facilities and services necessary to support development are adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

#### Growth Management Act—Urban Growth Areas.

Counties that fully plan under the GMA must designate Urban Growth Areas (UGAs), areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period. In addition, cities must include sufficient areas to accommodate the broad range of needs and uses that will accompany the projected urban growth, including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

The GMA provides that, in general, it is not appropriate for urban governmental services, such as public services and public facilities at an intensity historically and typically provided in cities, to be extended to or expanded outside of the UGA into rural areas. Extension or expansion may be permitted in limited circumstances where: (1) it is shown to be necessary to protect basic public health and safety and the environment; and (2) when such services are financially supportable at rural densities and do not permit urban development.

#### Growth Management Act—Impact Fees.

Counties and cities planning under the GMA may impose impact fees on development activity as part of the financing of public facilities needed to serve new growth and development.

Additionally, impact fees may only be imposed for system improvements that are reasonably related to the new development, may not exceed a proportionate share of the costs of system improvements, and must be used for system improvements that will reasonably benefit the new development.

Impact fees may be collected and spent only for qualifying public facilities that are included within a capital facilities plan element of a comprehensive plan.

#### Growth Management Act—Multicounty Planning Policies.

Multicounty planning policies must be adopted by two or more counties where each county has a population 450,000 or more and with contiguous urban areas. Multicounty planning policies may be adopted by other counties, according to the process established under the GMA, or through other processes agreed to among the counties and cities within the affected counties throughout the multicounty region.

**Summary of Engrossed Substitute Bill:**

The GMA does not prohibit a county planning fully under the GMA from authorizing the extension of public facilities and utilities to serve a school sited in a rural area under certain conditions. These conditions include: (a) the school district must have adopted a policy addressing school service area and facility needs and educational program requirements; (b) the school district must have found, with the concurrence of the county and any affected cities, that the proposed site is suitable to site the school and any associated recreational facilities that the districting has determined cannot reasonably be colocated on an existing school site, taking into account certain factors, including the extent to which there is suitable land available within the growth area that is vacant or developable; (c) the county and any affected cities must agree with the extension of public facilities and utilities to serve the school; (d) if the public facility or utility is extended beyond the UGA to serve a school, the public facility or utility must serve only the school and the costs of such extension must be borne by the applicable school district, with one exception, described below; and (e) any impacts associated with the siting of the school must be mitigated as required by the State Environmental Policy Act (SEPA).

The GMA does not prohibit either the expansion or modernization of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area.

A public facility or utility that has been extended beyond the UGA to serve a school may serve properties in addition to the school, under two conditions. First, the county and any affected cities must agree that the public facility or utility may serve other properties in addition to the school. Second, the property must be located no further from the public facility or utility than the distance that, if the property were within the UGA, the property would be required to connect to the public facility or utility. Where the public facility or utility serves a property or properties in addition to the school, the school district may, for a period not to exceed 20 years, require reimbursement from such property owners for a proportional share of the construction costs incurred by the school district for the extension of the public facility or utilities.

A county may site in the rural area a school that serves students from an urban area, even where otherwise prohibited by a multicounty planning policy, under certain conditions. These conditions include: (a) the county must have a population greater than 840,000 but less than 1,500,000, and must abut at least six other counties; (b) the county must have adopted in its comprehensive plan a policy concerning the siting of schools in rural areas; (c) impacts associated with the siting of such a school are mitigated as required by the SEPA; and (d) the county must be a participant in a multicounty planning policy.

A multicounty planning policy in which a county that sites a school in the rural area is a participant must be amended, at the next regularly scheduled update of the policy, to include a policy that addresses the siting of school in rural areas.

A school sited in the rural area of a county that is a participant in a multicounty planning policy may not collect or impose the impact fees described in RCW 82.02.050.

In a county that sites a school in the rural area of the county and that is also a participant in a multicounty planning process, the school districts of the county must take certain steps to participate in the county's periodic comprehensive plan updates. These steps include: (a) coordinating enrollment forecasts with the county; (b) identifying school siting criteria with the county, cities, and regional transportation planning organizations; (c) identifying suitable school sites with the county and cities; and (d) working with the county and cities to identify school costs and funding for the comprehensive plan's capital facilities element.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) It was not possible in 1990 when the GMA was passed, to look forward 25 years and know that schools wouldn't have land. Land inside the UGA is expensive, when it is available. The consequence is crowding, and portable classrooms. The GMA is a wonderful concept but it can use some polish, and this is an area that needs some polish. This bill is narrowly tailored to schools, and puts decisionmaking into the local level through the conditional use permit process.

One of the fundamental decisions of school boards is school siting, and the Board interpretation of the GMA has stripped school districts of the ability to make complex school siting decisions. This bill would reinstate school board siting decisions based on programmatic criteria, like student numbers and geography. Transportation is a significant consideration in school siting; there's a need to minimize travel time for students, and student safety is important. It doesn't make sense that a student attending an urban school be bused six miles to an urban high school when a local high school is closer.

One school district owns 300 acres outside the UGA that the school has used as an educational tree farm for many years; the district would like to expand the educational opportunities at the tree farm, but recent decisions under the GMA are preventing that. School districts would benefit from a clarification that schools are permissible in rural areas.

The Board has decided that schools are an urban service. This bill provides necessary flexibility under certain conditions. The address of students should not be the primary factor in providing them an education.

Schools are unique and so are their siting requirements. They should not be treated the same as industrial areas. There are good schools that have room to expand, but cannot because of a recent Board decision. With the state struggling for school funding, it does not make sense to waste money buying land inside the UGA when there is additional capacity to expand at schools in rural area.

School district boundaries are drawn without regard to UGAs. Instead, they are based on efficiency of transportation and maintaining community school environment. Schools need additional capacity, but under the Board decision, they cannot expand. Instead, as one example, it becomes necessary to bus a kid six miles away to a school, when another school is much closer. There needs to be recognition of the unique circumstances of school district planning. Schools don't get built in the hopes that students will come; instead, school building is reactionary, based on growth and need.

The Board has prevented schools that serve urban kids from being sited in a rural area. This cuts school districts' ability to respond to school needs. Bethel School District needs a fourth high school, yet cannot find anything within the UGA. In order to build inside the UGA, they would need to use eminent domain, which requires a bond to buy land, making land inside the UGA much more expensive than rural land. This bill represents a surgical, focused solution. There are 28 school districts facing this problem, representing 29 percent of the students in Washington. Some of the urban-rural lines that have been drawn under the GMA don't reflect reality.

The GMA needs to be permissive; it needs to give counties the authority to work with schools, while still protecting resource lands. Counties could probably work with schools to come up with appropriate school sites if they were given the authority.

There are few developable lands available for commercial use. This bill would relieve a bit of the pressure. Small business cannot compete with schools for land inside UGAs. This bill provides some release and flexibility, and keeps higher value parcels inside UGAs on the tax rolls.

This bill is a work in progress. Few parcels are available for schools in some districts.

The bill is necessary to help meet the challenge of building schools where students live. This bill supports walkable neighborhood schools. Pasco has doubled in the last 10 years, Richland is adding 500 students per year, together they are opening one new school every other year. Pasco cannot keep up with the inventory of buildable land. It is very hard to find the land needed to build schools.

(Opposed) This bill undermines the GMA. The GMA was intended to concentrate development in urban areas, but the bill would have the opposite effect. Schools argue that it is too expensive to site in the UGA, but building rurally adds significant costs, like utilities, road capacity, and those costs offset any savings. One school district recently built a new school for \$130 million, but the land cost only \$10 million; land is a small function of the overall cost to build a school. It makes more sense to address complete utilization of sites that are already in use; perhaps a multistory building would make more sense than a one-story building.

This bill takes authority away from local governments and gives it just to school districts. This would give schools more authority over land use than local governments. There is always an incentive for schools to buy the cheapest land, which is usually the rural undeveloped land, and then further development follows the school, which is what the GMA was supposed to guard against. It does not make sense to designate schools as essential public facilities.

The GMA was established to separate urban and rural uses, but this bill blurs that distinction, and accelerates urban growth. This bill is bad policy and is contrary to long-established GMA policies.

Land prices are not a good reason to undo rural protections from the GMA. For the benefit of students, parents, and society, schools should be located in neighborhoods where they serve students. Schools that serve students from distant, urban areas are not a good idea.

It is not a state law issue that is creating this situation in the central Puget Sound region; it is the Puget Sound Regional Council's Vision 2040 that makes the choice about school siting. Other counties allow rural schools. This bill represents a statewide approach that says schools are permitted uses in all zones, with a low bar for what it takes to get to that point. This bill seems to have taken a step back from previous approaches. If this bill moves forward, the impacts and costs should be fully accounted for and addressed.

The word "permitted" is concerning, because when something is permitted, it doesn't get the same process as a conditional use; instead, it can go through without notice or comment. There are many competing interests and uses for land, and a preemptive use doesn't allow for a holistic view. A permissive approach, or a pilot approach, would be a better outcome.

The GMA is silent on whether schools are inside or outside the UGA. The counties that adopted Vision 2040 agreed to abide by its rules, and Vision 2040 speaks to where schools should be and where they should not be. This is a local planning problem that does not need to be resolved at the state level.

There is concern about the impact the bill would have on children's health and safety. The United States is still in an obesity crisis and it is important that all sectors contribute to healthier communities, including land use planning. School siting has a nexus to student health, and health is connected to achievement. Creating a piecemeal exemption for one sector is problematic. If we want our kids to live longer than their parents, we need to make land use decisions that align with that goal.

There is a concern with exempting one use group from the GMA; letting one group be exempt causes great concerns. The ongoing issue under the GMA is that all jurisdictions planning under the GMA are supposed to identify buildable lands, but the UGA boundaries are not reflecting the buildable lands. Asking home builders to pay impact fees under the GMA for buildings that would themselves be exempt from the GMA is not a fair deal.

(Other) It is uncertain whether this approach is the right way. There does need to be some form of proposal to move forward this year.

**Persons Testifying:** (In support) Representative McCaslin, prime sponsor; Mark Hood, White River School District; John Page, Tacoma School District; Jeff Lucas and Ronda Litzenberger, Eatonville School District; Jessica Vavrus, Washington State School Directors' Association; Cathie Carlson, Amy Pivetta Hoffman, and Tom Siegel, Bethel School District; Derek Young, Pierce County Council; Patrick Connor, National Federation for Independent Business; Melissa Gombosky, Spokane Public Schools; and Marie Sullivan, Richland School District.

(Opposed) Bernie Talmas and Brandon Buchanon, City of Woodinville; Carl Schroeder, Association of Washington Cities; Bill Stankus and Catherine Stankus, Neighbors to Save Wellington Park; Laura Berg, Washington Association of Counties; Bryce Yadon, Futerwise; Victor Coleman, Childhood Obesity Prevention Coalition; and Steve Gano, Building Industries Association of Washington.

(Other) Dave Mastin, Office of the Superintendent of Public Instruction.

**Persons Signed In To Testify But Not Testifying:** None.