

# HOUSE BILL REPORT

## SHB 1683

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### As Passed Legislature

**Title:** An act relating to sewer service within urban growth areas.

**Brief Description:** Addressing sewer service within urban growth areas.

**Sponsors:** House Committee on Environment (originally sponsored by Representatives Appleton and Griffey).

#### **Brief History:**

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

Environment: 2/2/17, 2/9/17 [DPS].

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

Passed House: 3/3/17, 97-0.

Passed Senate: 4/10/17, 48-0.

Passed Legislature.

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

- Specifies that counties, cities, and utilities are not obligated to install sanitary sewer systems to certain properties within Urban Growth Areas served by on-site sewage systems.

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### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Taylor, Ranking Minority Member; Maycumber, Assistant Ranking Minority Member; Buys, Dye, Fey, Kagi and McBride.

**Staff:** Jacob Lipson (786-7196).

#### **Background:**

Growth Management Act Planning Obligations.

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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.*

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 Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities.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 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA (planning jurisdictions).

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land-use plans that are generalized, coordinated land-use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. Among the required elements are:

- capital facilities plan elements which must include an inventory of existing capital facilities, a forecast of the future needs for capital facilities, the proposed locations of new or expanded capital facilities;
- utilities elements, which must include the general location, proposed location, and capacity of existing and proposed utilities, including electrical, telecommunication, and gas lines; and
- land use elements, which must include designation of lands for essential public facilities, including sanitary sewer systems.

The GMA considers sanitary sewer systems to be urban services. The GMA provides that urban growth is typically required to be served by urban services, and that cities are the units of local government most appropriate to provide urban governmental services.

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. This 20-year planning period has planning and service implications. For example, the Growth Management Hearing Board, the quasi-judicial board established in the GMA, has found that counties have an obligation to bring already developed areas within the UGA to an urban level of service within the 20-year planning period. With respect to urban service provisions in UGAs, the Department of Commerce, the agency charged with providing technical and financial assistance to jurisdictions that must implement the GMA, indicates in its agency rules that the use of on-site sewage systems (OSS) within UGAs may be appropriate in limited circumstances where there is no negative effect on basic public health, safety and the environment, and where the use of OSS does not preclude development at urban densities.

#### On-Site Sewage Systems.

The State Board of Health adopts rules addressing the design, construction, installation, operation, and maintenance of OSS. Local health jurisdictions (LHJ) in each county administer and enforce those OSS regulations alongside any additional or discrepant local requirements. Owners of an OSS are generally responsible for maintaining the OSS. Once an OSS has been installed, the system must be inspected at least once every three years if the system has a septic tank and relies on a gravity-powered drain field, or at least once per year

for other types of OSS, unless a county LHJ requires more frequent inspections. In general, the owner bears the costs associated with repair and upkeep of the OSS.

#### Counties and Cities - Sanitary Sewer Systems.

Counties and cities have broad authority to construct, operate, maintain, and regulate sanitary sewer systems within all or part of their jurisdictions. Cities and towns are also authorized, subject to certain limits, to extend sewer services beyond their corporate limits.

#### Mandatory Connections to Public Sanitary Sewer Systems.

If adequate public sewer services are available within 200 feet of the residence or facility, the LHJ, upon the failure of an existing OSS may require connection to a public sewer system. If a conforming system can be designed and installed, the LHJ may also permit the repair or replacement of the OSS.

The owner of a residence or other facility served by an OSS may also be required to connect to a public sewer system when:

- connection is deemed necessary to protect public health by the LHJ;
- an adequate public sewer becomes available within 200 feet of the residence or other facility as measured along the usual or most economically feasible route of access;
- and
- the sewer utility allows the sewer connection.

Additionally, LHJs may require a new development to connect to a public sewer system to protect public health. The LHJ must require new development or a development with a failing system to connect to a public sewer system if it is required by the comprehensive land use plan or development regulations of the county or city.

#### **Summary of Substitute Bill:**

Counties, cities, and utilities that have adopted a capital facility plan or utilities element to provide sewer service within an Urban Growth Area (UGA) during a 20-year planning period are not obligated to install sanitary sewer systems to certain properties within the UGA before the end of the planning period. The properties within a UGA that are not required to be served by sanitary sewer systems must:

- have no redevelopment capacity and have an existing, functioning, non-polluting on-site sewage system (OSS) that receives periodic inspection by a public agency to verify proper functioning; or
- not require sewer service as a result of development density limitations due to wetlands, floodplains, habitats, or geological hazards.

**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) This bill is the product of a negotiated compromise, and it should move forward without amendment. Urban Growth Areas are not blank slates of flat dry land: Many feature preexisting developments, and it is not always necessary to supply those developments with sewer services where on-site sewage system (OSS) are functioning adequately. Many properties do not have redevelopment potential, and densities in some areas are too low to support sewer service and doing so would be a grossly inefficient use of public funds. The Growth Management Hearings Board has indicated that sewer systems need to be provided to all areas by the end of the 20-year planning horizon, regardless of whether sewer service is appropriate for an area. This bill does not affect local governments' responsibility to supply other urban services in urban areas, but instead narrowly allows other wastewater treatment options where appropriate.

(Opposed) There is no such thing as a clean OSS, and allowing OSS operation in urban areas has the potential to pollute sole-source aquifers. It may be acceptable to allow continuing OSS use for existing properties, but it would be inappropriate to allow new developments within UGAs that are not served by sewers. Development and infrastructure must be planned concurrently under the GMA. Pierce County commissioned a report that would provide useful information for the Environment Committee to consider on the topics addressed by this bill.

**Persons Testifying:** (In support) Rob Gelder, Kitsap County; and Cody Arledge, Futurewise.

(Opposed) David Artis, Pierce Community Coalition; Marrienne Lincoln, Spanaway Community Association; and Dan Haire.

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