

# SENATE BILL REPORT

## SB 6456

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As of January 26, 2018

**Title:** An act relating to the protection of military installations operated by the United States armed services from incompatible development.

**Brief Description:** Concerning the protection of military installations operated by the United States armed services from incompatible development.

**Sponsors:** Senators Conway, Bailey, Hobbs, Zeiger, Palumbo and Rolfes.

**Brief History:**

**Committee Activity:** Local Government: 1/25/18.

**Brief Summary of Bill**

- Prohibits cities or counties from allowing development in the vicinity of a military installation that is incompatible with the installation's ability to carry out its mission requirements.
- Requires cities and counties that have participated in a joint land use solution to incorporate recommendations from the study into their development regulations and comprehensive plans.
- Amends the coordination process between local governments and military installations regarding the adoption of local plans or development regulations that are potentially incompatible with the military installation.
- Establishes a prioritization process for capital budget funding to address incompatible development surrounding military installations.
- Authorizes regional transportation planning organizations to designate military installations as regional growth centers.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Staff:** Bonnie Kim (786-7316)

**Background:** The Growth Management Act (GMA). The GMA is the comprehensive land-use planning framework for counties and cities in Washington. Originally enacted in 1990

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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 (GMA planning jurisdictions).

The GMA directs jurisdictions that fully plan under the GMA 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. Each comprehensive plan adopted by a county or city must include seven mandatory elements consisting of a plan, scheme, or design, including a land use element and a transportation element.

GMA - Local Government Planning Near Military Facilities. Local government comprehensive plans and development regulations are discouraged, but not prohibited, from allowing development in the vicinity of a military installation that is incompatible with the installation's mission requirements.

As part of the land use element, GMA planning jurisdictions that contain or are adjacent to certain federal military installations operated by the U.S. Department of Defense (DOD) must notify the commander of the military installation of an intent to amend comprehensive plans or development regulations to address lands adjacent to the military installation. This requirement does not apply to reserve centers or facilities that employ fewer than 100 personnel.

The purpose of this notification is to protect the land from incompatible development. In the notification, the local government must request that the commander provide a written recommendation and supporting facts relating to the use of land being considered in a comprehensive plan or development regulation. If a commander does not respond to the notification within 60 days, the local government may presume that the development does not have adverse impact.

The DOD is the federal cabinet agency that contains the U.S. Army, U.S. Navy, and U.S. Air Force. Beyond the DOD, other branches of the United States Armed Forces include the U.S. Coast Guard, which is part of the Department of Homeland Security.

Joint Land Use Studies. The DOD implements a program to ensure that community development and economic growth do not interfere with the military's ability to test and train. One facet of this program may include targeting a military installation for a Joint Land Use Study (JLUS), in coordination with state or local governments. A JLUS includes a strategic plan to ensure civilian growth and development are compatible with training, testing, and other military missions. State or local governments must apply to the DOD to receive assistance in carrying out a JLUS.

In the Fiscal Year 2016 Supplemental Operating Budget, the Department of Commerce (Commerce) was directed to complete a study addressing best practices for avoiding

incompatible development near military installations. The DOD also provided financial support for this study.

Comprehensive Plans - Transportation Element and Concurrency. The transportation element of a comprehensive plan must include sub-elements that address transportation mandates for forecasting, finance, coordination, and facilities and services needs. A provision of the sub-element for facilities and services needs requires planning jurisdictions to adopt level-of-service (LOS) standards for all locally owned arterials and transit routes.

Planning jurisdictions must adopt and enforce ordinances prohibiting development approval if the proposed development will cause the LOS on a locally owned transportation facility to decline below standards adopted in the transportation element. Exemptions to this "concurrency" prohibition may be made if improvements or strategies to accommodate development impacts are made concurrent with the development. These strategies may include:

- increased public transportation service;
- ridesharing programs;
- demand management; and
- other transportation systems management strategies.

Regional Transportation Planning Organizations (RTPO). A RTPO is a voluntary association of local governments within a county, or within geographically contiguous counties, created primarily to prepare regional transportation plans, to ensure local and regional coordination of transportation planning, and to maintain a six-year regional transportation improvement program.

RTPO regional transportation plans must, among other requirements, set forth regional transportation approaches that designate regional growth centers. The plan for regional growth centers must address transportation concurrency requirements under the GMA, and must include measures of vehicle LOS for off-peak periods and total multimodal capacity for peak periods.

**Summary of Bill:** GMA - Local Government Planning Near Military Facilities. Cities and counties are prohibited from allowing, under comprehensive plans or development regulations, development in the vicinity of a military installation that is incompatible with the installation's mission requirements.

When JLUS or similar joint study by a military base and a city or county has identified potentially incompatible uses and mitigations and avoidance measures, the comprehensive plans and development regulations must be consistent with and implement the recommendations of the study.

Notification Requirements for Development Near Military Installations. In the land use element of comprehensive plans, the criteria for when local governments must notify military installation commanders of development in the vicinity of the installation are changed so that notification requirements:

- do not apply to development near recruiting centers, in addition to reserve centers;
- apply regardless of the number of employees at the facility; and

- apply to any facilities operated by the U.S. Armed Services, rather than just DOD facilities.

The notices provided to military commanders must fully inform the commander of the local government's proposal. Notification is required if the development proposal may interfere with the installation's current or future mission requirements.

In order to determine which types and locations of development may interfere with a military installation's mission, the city or county must periodically solicit feedback from the military installation's commander. The local government must consider this feedback from the military installation commander in determining which types of development require notification. The military commander's response to a notification must include recommendations to the local government to ensure that the military installation is protected from incompatible development.

Competitive Capital Budget Projects Ranking Process. Commerce must establish a competitive process for soliciting and prioritizing projects designed to increase land use compatibility with surrounding military bases. Commerce may adopt rules related to the prioritization of projects and the issuance of grants.

Commerce must solicit projects statewide from local governments, non-profit organizations, and other entities, and must evaluate and rank proposals in consultation with a citizen advisory committee. The state's grant assistance towards a project may not exceed 25 percent of the total cost; in-kind contributions or real property may count towards the non-state contribution to a project. Eligible projects may include:

- acquisition of real property or real property interests;
- protection or recovery of endangered species that depend on military base property for habitat;
- local infrastructure or facilities to help a community accommodate an expanded military presence;
- projects that increase housing that is affordable to enlisted military personnel; and
- retrofit projects that increase compatibility with existing military operations.

Commerce must submit a prioritized list to the Governor and Legislature in its biennial capital budget request. The size of the project list may not exceed \$25 million per biennium.

Commerce must include stipulations in its grants that require the grant recipients hold the capital improvement for a length of time appropriate to the size of the grant, and that facilities be used for intended purposes. In the event that a grant recipient does not comply with a grant contract, it must repay the state general fund the grant principal, plus interest.

RTPOs. RTPOs may designate a military installation as a regional growth center when the installation's workforce is a comparable size to other regional growth centers.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill was developed by the Department of Commerce to ensure that counties and cities near military installations are planning development in a compatible manner with military missions. This bill also tries to get capital budget dollars for this purpose. Pierce County is interested in section 4 of this bill, allowing RTPOs to designate military installations as a regional growth center. Pierce County would like to see the RTPO section made mandatory. Section 3 provides a process to identify, rate, and rank projects to reduce incompatibility.

CON: There are many instances where military operations interrupt the daily lives of the citizens in Jefferson County. The Navy has purchased development rights in our jurisdiction resulting in approximately \$8 million in lost potential revenue.

OTHER: This bill looks to strengthen JLUS recommendations, but JLUS comes with no funding for implementation. This bill makes mandatory adoption of an advisory recommendation. The RTPO provisions should be strengthened with criteria for defining a regional growth center. Although Futurewise supports the prohibition on incompatible development it opposes the RTPO provision.

**Persons Testifying:** PRO: Senator Steve Conway, Prime Sponsor; Michael Shaw, Pierce County; Dave Andersen, Washington Department of Commerce.

CON: Kate Dean, Commissioner, Jefferson County.

OTHER: Bill Adamson, South Sound Military & Communities Partnership; Bryce Yadon, Futurewise.

**Persons Signed In To Testify But Not Testifying:** No one.