
HOUSE BILL 1774

State of Washington

65th Legislature

2017 Regular Session

By Representatives Griffey, MacEwen, Pike, Blake, J. Walsh, Dent, and Holy

Read first time 01/30/17. Referred to Committee on Environment.

1 AN ACT Relating to new development outside of urban growth
2 boundaries; amending RCW 36.70A.280 and 36.70A.280; adding a new
3 section to chapter 36.70A RCW; adding a new section to chapter 36.70B
4 RCW; adding a new section to chapter 36.70C RCW; creating new
5 sections; providing an effective date; and providing an expiration
6 date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** This act shall be known as the
9 environmental protection land exchange act.

10 NEW SECTION. **Sec. 2.** The legislature finds that rural counties
11 have lagged behind urban counties in satisfying the housing and
12 economic development goals of the growth management act. Furthermore,
13 decisions by the growth management hearings board and Washington
14 courts have ravaged the rural economies that the legislature sought
15 to protect in RCW 36.70A.011. The legislature intends to provide
16 expanded opportunities for new growth in rural areas through a
17 buildable lands credit process where square footage that cannot be
18 developed within urban growth areas due to legal environmental
19 protections and restrictions may be offered as a credit to property

1 owners outside of urban areas for increased development for the
2 communities.

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

5 (1) Notwithstanding other provisions of this chapter, counties,
6 cities, and towns within rural counties as defined in RCW 82.14.370
7 may designate and permit development on parcels of property outside
8 of urban growth areas to urban levels of service without expanding
9 the urban growth areas so long as the square footage of the foot
10 print of the developed land does not exceed the square footage of
11 land within the urban growth areas that are prevented from
12 development due to the existence of critical areas, conservation
13 easements, town, city, state, or national parks, and permanent
14 designations of open space and habitat corridors.

15 (2) A city or town may identify the square footage of land that
16 is not able to be developed within the urban growth areas due to the
17 existence of critical areas, conservation easements, permanent
18 designation of open space and habitat corridors, and parks owned by a
19 town, city, state, county, or any department or agency of the United
20 States government within its jurisdiction. The city or town may then
21 provide buildable lands credits by the square foot, not to exceed the
22 amount identified within the urban growth areas, for each square foot
23 to the county planning department. The buildable lands credits are to
24 be provided to property owners within the same county as the location
25 of the city or town to be used for development to urban levels of
26 service on lands outside of the urban growth areas that are not
27 designated critical areas, or agricultural, forestlands, or mineral-
28 resource lands of long-term significance.

29 (3) A property owner may request a county planning department to
30 provide any available buildable lands credit to build on property
31 outside of the urban growth area. A buildable lands credit entitles
32 the property owner to develop an equivalent amount of square footage
33 as designated in the credit on property outside of urban growth
34 areas, that are not designated critical areas, or agricultural,
35 forestlands, or mineral-resource lands of long-term significance,
36 without restrictions for rural development or rural character.

37 Credits can be used for any of the following, but are not limited
38 to just these circumstances:

1 (a) A large acreage parcel with one single-family residence, with
2 or without appurtenant structures, could be developed to include
3 additional residences or a building for a small business; and

4 (b) A property could be used to develop buildings for affordable
5 housing, government facilities, or businesses that require more
6 acreage than available within the urban growth areas.

7 (4) The county must create a planning document that will attach
8 to all development that occurs using a buildable lands credit that
9 states: "This property was legally permitted and developed with a
10 buildable lands credit allowing for urban development in an area
11 outside of the urban growth area."

12 (5) Any development occurring pursuant to this section is subject
13 to the legal process in chapters 36.70B and 36.70C RCW only, and is
14 not subject to review by the growth management hearings board.

15 (6) This section does not create any new authority for regulating
16 wetlands or critical areas beyond what is specifically provided for
17 in this section. No authority is granted to the department, the
18 growth management hearings board, or the courts under this chapter to
19 adopt rules, guidance, or orders creating new requirements on
20 counties, cities, or property owners.

21 (7) This section and all proceedings under this section shall be
22 liberally construed to the benefit of the property owner.

23 **Sec. 4.** RCW 36.70A.280 and 2014 c 147 s 3 are each amended to
24 read as follows:

25 (1) The growth management hearings board shall hear and determine
26 only those petitions alleging either:

27 (a) That, except as provided otherwise by this subsection, a
28 state agency, county, or city planning under this chapter is not in
29 compliance with the requirements of this chapter, chapter 90.58 RCW
30 as it relates to the adoption of shoreline master programs or
31 amendments thereto, or chapter 43.21C RCW as it relates to plans,
32 development regulations, or amendments, adopted under RCW 36.70A.040
33 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
34 to hear petitions alleging noncompliance with (~~RCW 36.70A.5801~~)
35 sections 1 through 3 of this act;

36 (b) That the twenty-year growth management planning population
37 projections adopted by the office of financial management pursuant to
38 RCW 43.62.035 should be adjusted;

1 (c) That the approval of a work plan adopted under RCW
2 36.70A.735(1)(a) is not in compliance with the requirements of the
3 program established under RCW 36.70A.710;

4 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
5 regionally applicable and cannot be adopted, wholly or partially, by
6 another jurisdiction;

7 (e) That a department certification under RCW 36.70A.735(1)(c) is
8 erroneous; or

9 (f) That a department determination under RCW 36.70A.060(1)(d) is
10 erroneous.

11 (2) A petition may be filed only by: (a) The state, or a county
12 or city that plans under this chapter; (b) a person who has
13 participated orally or in writing before the county or city regarding
14 the matter on which a review is being requested; (c) a person who is
15 certified by the governor within sixty days of filing the request
16 with the board; or (d) a person qualified pursuant to RCW 34.05.530.

17 (3) For purposes of this section "person" means any individual,
18 partnership, corporation, association, state agency, governmental
19 subdivision or unit thereof, or public or private organization or
20 entity of any character.

21 (4) To establish participation standing under subsection (2)(b)
22 of this section, a person must show that his or her participation
23 before the county or city was reasonably related to the person's
24 issue as presented to the board.

25 (5) When considering a possible adjustment to a growth management
26 planning population projection prepared by the office of financial
27 management, the board shall consider the implications of any such
28 adjustment to the population forecast for the entire state.

29 The rationale for any adjustment that is adopted by the board
30 must be documented and filed with the office of financial management
31 within ten working days after adoption.

32 If adjusted by the board, a county growth management planning
33 population projection shall only be used for the planning purposes
34 set forth in this chapter and shall be known as the "board adjusted
35 population projection." None of these changes shall affect the
36 official state and county population forecasts prepared by the office
37 of financial management, which shall continue to be used for state
38 budget and planning purposes.

1 **Sec. 5.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
2 read as follows:

3 (1) The growth management hearings board shall hear and determine
4 only those petitions alleging either:

5 (a) That, except as provided otherwise by this subsection, a
6 state agency, county, or city planning under this chapter is not in
7 compliance with the requirements of this chapter, chapter 90.58 RCW
8 as it relates to the adoption of shoreline master programs or
9 amendments thereto, or chapter 43.21C RCW as it relates to plans,
10 development regulations, or amendments, adopted under RCW 36.70A.040
11 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
12 to hear petitions alleging noncompliance with ((~~RCW 36.70A.5801~~))
13 sections 1 through 3 of this act;

14 (b) That the twenty-year growth management planning population
15 projections adopted by the office of financial management pursuant to
16 RCW 43.62.035 should be adjusted;

17 (c) That the approval of a work plan adopted under RCW
18 36.70A.735(1)(a) is not in compliance with the requirements of the
19 program established under RCW 36.70A.710;

20 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
21 regionally applicable and cannot be adopted, wholly or partially, by
22 another jurisdiction; or

23 (e) That a department certification under RCW 36.70A.735(1)(c) is
24 erroneous.

25 (2) A petition may be filed only by: (a) The state, or a county
26 or city that plans under this chapter; (b) a person who has
27 participated orally or in writing before the county or city regarding
28 the matter on which a review is being requested; (c) a person who is
29 certified by the governor within sixty days of filing the request
30 with the board; or (d) a person qualified pursuant to RCW 34.05.530.

31 (3) For purposes of this section "person" means any individual,
32 partnership, corporation, association, state agency, governmental
33 subdivision or unit thereof, or public or private organization or
34 entity of any character.

35 (4) To establish participation standing under subsection (2)(b)
36 of this section, a person must show that his or her participation
37 before the county or city was reasonably related to the person's
38 issue as presented to the board.

39 (5) When considering a possible adjustment to a growth management
40 planning population projection prepared by the office of financial

1 management, the board shall consider the implications of any such
2 adjustment to the population forecast for the entire state.

3 The rationale for any adjustment that is adopted by the board
4 must be documented and filed with the office of financial management
5 within ten working days after adoption.

6 If adjusted by the board, a county growth management planning
7 population projection shall only be used for the planning purposes
8 set forth in this chapter and shall be known as the "board adjusted
9 population projection." None of these changes shall affect the
10 official state and county population forecasts prepared by the office
11 of financial management, which shall continue to be used for state
12 budget and planning purposes.

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70B
14 RCW to read as follows:

15 This chapter applies to sections 1 through 3 of this act.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70C
17 RCW to read as follows:

18 This chapter applies to sections 1 through 3 of this act.

19 NEW SECTION. **Sec. 8.** Section 4 of this act expires December 31,
20 2020.

21 NEW SECTION. **Sec. 9.** Section 5 of this act takes effect
22 December 31, 2020.

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