
SUBSTITUTE SENATE BILL 5651

State of Washington

65th Legislature

2017 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Conway, Becker, and Zeiger)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to the siting of schools and school facilities;
2 amending RCW 36.70A.280 and 36.70A.280; adding new sections to
3 chapter 36.70A RCW; providing an effective date; and providing an
4 expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A
7 RCW to read as follows:

8 (1) A county may designate public school projects as an essential
9 public facility within its jurisdiction, and school projects may be
10 sited outside the urban growth area based on the criteria set forth
11 in section 2 of this act.

12 (2) As an alternative to designating school projects as an
13 essential public facility under subsection (1) of this section, a
14 county required to or choosing to plan under RCW 36.70A.040 must
15 establish, in consultation with affected school districts and
16 affected cities, a process for approving school projects outside of
17 the urban growth area based on the criteria in section 2 of this act.

18 (3) School projects may not be sited on agricultural lands,
19 forest lands, or mineral resource lands.

20 (4) For purposes of this section and section 2 of this act and
21 before submitting an application for a school project, a school

1 district must prepare a written report setting forth a determination
2 of need. The determination of need must include:

3 (a) An inventory of developable land within the urban growth area
4 and relevant service area suitable for the school project, taking
5 into consideration locally adopted educational program requirements;

6 (b) A review of, to the extent there is such suitable land
7 available within the urban growth area and in the specific service
8 area needed, current zoning, site characteristics, and the financial
9 feasibility of using public dollars to secure such a school site; and

10 (c) Findings that set forth the school district's siting criteria
11 and applying them to the question of whether it is feasible for the
12 district to acquire such suitable land.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A
14 RCW to read as follows:

15 (1) By July 1, 2018, each county required to or choosing to plan
16 under RCW 36.70A.040 must amend its process for siting schools
17 outside the urban growth area pursuant to section 1 (1) or (2) of
18 this act. The approval of an amendment must not be considered an
19 amendment to the comprehensive plan for the purposes of RCW
20 36.70A.130(2) and may be considered at any time. Any comprehensive
21 plan or development regulation adopted to implement a school siting
22 under this section and section 1 of this act is not subject to the
23 requirement for compliance with applicable multicounty planning
24 policies and countywide planning policies.

25 (2) School projects may be permitted outside the urban growth
26 area when:

27 (a) The school project is needed to meet student capacity needs
28 in an identified service area that serves students residing in whole
29 or in part outside of an urban growth area, as demonstrated by a
30 capital facilities plan adopted by a locally elected school board of
31 directors;

32 (b) New infrastructure is provided for, with the costs to the
33 school district based on a reasonable nexus to the impacts of the
34 school project on infrastructure needs. On-site and off-site
35 infrastructure and service impacts on the county and the affected
36 city are fully considered and mitigated;

37 (c) Cities or other public agencies, or both, are authorized to
38 extend public facilities to the school project. Public facilities
39 include water systems and storm and sanitary sewer systems sufficient

1 to meet the facility needs of the school. If any public facility is
2 extended beyond the urban growth area to serve the school project,
3 the public facility must only be available to and serve the school
4 project;

5 (d) Any utility extensions are solely dedicated to the school
6 project and are provided for, with the costs to the school district,
7 and any urban public facility necessary and appropriate to serve a
8 school project outside the urban growth area are provided for, with
9 the cost to the school district based on a reasonable nexus to the
10 impacts of the school project;

11 (e) Transit-oriented site planning and traffic demand management
12 programs required by the county in consultation with the affected
13 city are provided by the school project;

14 (f) Buffers are provided on district-owned property or on
15 property owned by other public agencies or provided through easements
16 between the school project and adjacent nonurban uses;

17 (g) Environmental protection, including air and water quality,
18 has been addressed and provided for;

19 (h) The school project complies with the applicable development
20 regulations for the property;

21 (i) If development regulations are not in place, the county
22 adopts development regulations during the next amendment cycle to
23 ensure that the urban growth will not occur in adjacent nonurban
24 areas;

25 (j) Provisions are made to mitigate significant adverse impacts
26 on designated agricultural lands, forest lands, and mineral resource
27 lands if the school is located adjacent to such lands; and

28 (k) The plan for the school project is consistent with the
29 development regulations established for the protection of critical
30 areas by the county pursuant to RCW 36.70A.170.

31 (3) Each county that is required to or choosing to plan under RCW
32 36.70A.040 and subject to this section and section 1 of this act must
33 make a finding after the appropriate amendment process that:

34 (a) The comprehensive plan includes policies, consistent with
35 this section, to permit schools to be sited outside of the urban
36 growth area;

37 (b) The comprehensive plan and development regulations include
38 restrictions that preclude new urban or suburban land uses in the
39 vicinity of school projects, except in areas otherwise designated for
40 urban growth under RCW 36.70A.110; and

1 (c) The county finds that the school project plan is consistent
2 with the development regulations established for critical areas.

3 (4) The county may review the determination of need made by a
4 school district under section 1(4) of this act, but any findings are
5 presumed to be correct. The county may overturn the school district's
6 determination of need only if it is clearly erroneous. In that case,
7 the county must identify other sites that meet the district's
8 criteria as set forth in the district's determination of need.

9 (5) Approval of an application for a school project must not be
10 considered an amendment to the comprehensive plan for the purposes of
11 RCW 36.70A.130(2) and may be considered at any time.

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

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

16 (a) That, except as provided otherwise by this subsection, a
17 state agency, county, or city planning under this chapter is not in
18 compliance with the requirements of this chapter, chapter 90.58 RCW
19 as it relates to the adoption of shoreline master programs or
20 amendments thereto, or chapter 43.21C RCW as it relates to plans,
21 development regulations, or amendments, adopted under RCW 36.70A.040
22 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
23 to hear petitions alleging noncompliance (~~(with RCW 36.70A.5801)~~) for
24 siting a school outside an urban growth area in accordance with
25 sections 1 and 2 of this act;

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

29 (c) That the approval of a work plan adopted under RCW
30 36.70A.735(1)(a) is not in compliance with the requirements of the
31 program established under RCW 36.70A.710;

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

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

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

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

7 (3) For purposes of this section "person" means any individual,
8 partnership, corporation, association, state agency, governmental
9 subdivision or unit thereof, or public or private organization or
10 entity of any character.

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

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

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

22 If adjusted by the board, a county growth management planning
23 population projection shall only be used for the planning purposes
24 set forth in this chapter and shall be known as the "board adjusted
25 population projection." None of these changes shall affect the
26 official state and county population forecasts prepared by the office
27 of financial management, which shall continue to be used for state
28 budget and planning purposes.

29 (6) Only the state courts have the authority to review causes of
30 action arising from sections 1 and 2 of this act and must give
31 substantial deference to the actions of the county in which a permit
32 has been granted to site a school outside of the urban growth area,
33 and to a determination of need under section 1 of this act.

34 **Sec. 4.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
35 read as follows:

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

38 (a) That, except as provided otherwise by this subsection, a
39 state agency, county, or city planning under this chapter is not in

1 compliance with the requirements of this chapter, chapter 90.58 RCW
2 as it relates to the adoption of shoreline master programs or
3 amendments thereto, or chapter 43.21C RCW as it relates to plans,
4 development regulations, or amendments, adopted under RCW 36.70A.040
5 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
6 to hear petitions alleging noncompliance (~~(with RCW 36.70A.5801)~~) for
7 siting a school outside an urban growth area in accordance with
8 sections 1 and 2 of this act;

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

12 (c) That the approval of a work plan adopted under RCW
13 36.70A.735(1)(a) is not in compliance with the requirements of the
14 program established under RCW 36.70A.710;

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

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

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

26 (3) For purposes of this section "person" means any individual,
27 partnership, corporation, association, state agency, governmental
28 subdivision or unit thereof, or public or private organization or
29 entity of any character.

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

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

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

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

8 (6) Only the state courts have the authority to review causes of
9 action arising from sections 1 and 2 of this act and must give
10 substantial deference to the actions of the county in which a permit
11 has been granted to site a school outside of the urban growth area,
12 and to a determination of need under section 1 of this act.

13 NEW SECTION. **Sec. 5.** Section 3 of this act expires December 31,
14 2020.

15 NEW SECTION. **Sec. 6.** Section 4 of this act takes effect
16 December 31, 2020.

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