
SENATE BILL 5789

State of Washington

65th Legislature

2017 Regular Session

By Senators Bailey, Pearson, and Ericksen

Read first time 02/10/17. Referred to Committee on Agriculture, Water, Trade & Economic Development.

1 AN ACT Relating to considering the full hydrologic cycle in the
2 review and approval process of new water uses; amending RCW 90.44.055
3 and 36.70A.070; and adding a new section to chapter 90.03 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.03
6 RCW to read as follows:

7 The legislature finds that development requiring new uses of
8 groundwater is often associated with land use changes, such as the
9 removal of trees, that return water to the aquifer, and current water
10 impairment standards do not take this into consideration. The
11 legislature intends to require entities responsible for reviewing and
12 approving permit-exempt water uses and applications for water rights
13 under this title and chapter 36.70A RCW to establish processes and
14 procedures to fully account for the ways in which new uses of
15 groundwater offset potential impairment by recharging water into an
16 aquifer.

17 **Sec. 2.** RCW 90.44.055 and 1997 c 360 s 3 are each amended to
18 read as follows:

19 The department shall, when evaluating an application for a water
20 right or an amendment filed pursuant to RCW 90.44.050 or 90.44.100

1 that includes provision for any water impoundment or other resource
2 management technique, or changes in land use that may result in any
3 recharge of groundwater, or changes in land use that may result in
4 any recharge of groundwater, take into consideration the benefits and
5 costs, including environmental effects, of any water impoundment or
6 other resource management technique, or changes in land use that may
7 result in any recharge of groundwater, that is included as a
8 component of the application. The department's consideration shall
9 extend to any increased water supply that results from the
10 impoundment or other resource management technique, or changes in
11 land use that may result in any recharge of groundwater, including
12 but not limited to any recharge of groundwater that may occur, as a
13 means of making water available or otherwise offsetting the impact of
14 the withdrawal of groundwater proposed in the application for the
15 water right or amendment in the same water resource inventory area.
16 Provision for an impoundment or other resource management technique
17 in an application shall be made solely at the discretion of the
18 applicant and shall not be made by the department as a condition for
19 approving an application that does not include such provision.

20 This section does not lessen, enlarge, or modify the rights of
21 any riparian owner, or any existing water right acquired by
22 appropriation or otherwise.

23 **Sec. 3.** RCW 36.70A.070 and 2015 c 241 s 2 are each amended to
24 read as follows:

25 The comprehensive plan of a county or city that is required or
26 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
27 and descriptive text covering objectives, principles, and standards
28 used to develop the comprehensive plan. The plan shall be an
29 internally consistent document and all elements shall be consistent
30 with the future land use map. A comprehensive plan shall be adopted
31 and amended with public participation as provided in RCW 36.70A.140.
32 Each comprehensive plan shall include a plan, scheme, or design for
33 each of the following:

34 (1) A land use element designating the proposed general
35 distribution and general location and extent of the uses of land,
36 where appropriate, for agriculture, timber production, housing,
37 commerce, industry, recreation, open spaces, general aviation
38 airports, public utilities, public facilities, and other land uses.

1 (a) The land use element shall include population densities,
2 building intensities, and estimates of future population growth.

3 (b) The land use element shall provide for protection of the
4 quality and quantity of groundwater used for public water supplies,
5 and must take the full hydrologic cycle into account, including
6 development and land use changes that may result in a recharge of
7 groundwater.

8 (c) Wherever possible, the land use element should consider
9 utilizing urban planning approaches that promote physical activity.

10 (d) Where applicable, the land use element shall review drainage,
11 flooding, and storm water run-off in the area and nearby
12 jurisdictions and provide guidance for corrective actions to mitigate
13 or cleanse those discharges that pollute waters of the state,
14 including Puget Sound or waters entering Puget Sound.

15 (2) A housing element ensuring the vitality and character of
16 established residential neighborhoods that: (a) Includes an inventory
17 and analysis of existing and projected housing needs that identifies
18 the number of housing units necessary to manage projected growth; (b)
19 includes a statement of goals, policies, objectives, and mandatory
20 provisions for the preservation, improvement, and development of
21 housing, including single-family residences; (c) identifies
22 sufficient land for housing, including, but not limited to,
23 government-assisted housing, housing for low-income families,
24 manufactured housing, multifamily housing, and group homes and foster
25 care facilities; and (d) makes adequate provisions for existing and
26 projected needs of all economic segments of the community.

27 (3) A capital facilities plan element consisting of: (a) An
28 inventory of existing capital facilities owned by public entities,
29 showing the locations and capacities of the capital facilities; (b) a
30 forecast of the future needs for such capital facilities; (c) the
31 proposed locations and capacities of expanded or new capital
32 facilities; (d) at least a six-year plan that will finance such
33 capital facilities within projected funding capacities and clearly
34 identifies sources of public money for such purposes; and (e) a
35 requirement to reassess the land use element if probable funding
36 falls short of meeting existing needs and to ensure that the land use
37 element, capital facilities plan element, and financing plan within
38 the capital facilities plan element are coordinated and consistent.
39 Park and recreation facilities shall be included in the capital
40 facilities plan element.

1 (4) A utilities element consisting of the general location,
2 proposed location, and capacity of all existing and proposed
3 utilities, including, but not limited to, electrical lines,
4 telecommunication lines, and natural gas lines.

5 (5) Rural element. Counties shall include a rural element
6 including lands that are not designated for urban growth,
7 agriculture, forest, or mineral resources. The following provisions
8 shall apply to the rural element:

9 (a) Growth management act goals and local circumstances. Because
10 circumstances vary from county to county, in establishing patterns of
11 rural densities and uses, a county may consider local circumstances,
12 but shall develop a written record explaining how the rural element
13 harmonizes the planning goals in RCW 36.70A.020 and meets the
14 requirements of this chapter.

15 (b) Rural development. The rural element shall permit rural
16 development, forestry, and agriculture in rural areas. The rural
17 element shall provide for a variety of rural densities, uses,
18 essential public facilities, and rural governmental services needed
19 to serve the permitted densities and uses. To achieve a variety of
20 rural densities and uses, counties may provide for clustering,
21 density transfer, design guidelines, conservation easements, and
22 other innovative techniques that will accommodate appropriate rural
23 densities and uses that are not characterized by urban growth and
24 that are consistent with rural character.

25 (c) Measures governing rural development. The rural element shall
26 include measures that apply to rural development and protect the
27 rural character of the area, as established by the county, by:

28 (i) Containing or otherwise controlling rural development;

29 (ii) Assuring visual compatibility of rural development with the
30 surrounding rural area;

31 (iii) Reducing the inappropriate conversion of undeveloped land
32 into sprawling, low-density development in the rural area;

33 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
34 and surface water and groundwater resources, to the extent that such
35 measures take into account the full hydrologic cycle, including
36 development and land use changes that result in groundwater recharge;
37 and

38 (v) Protecting against conflicts with the use of agricultural,
39 forest, and mineral resource lands designated under RCW 36.70A.170.

1 (d) Limited areas of more intensive rural development. Subject to
2 the requirements of this subsection and except as otherwise
3 specifically provided in this subsection (5)(d), the rural element
4 may allow for limited areas of more intensive rural development,
5 including necessary public facilities and public services to serve
6 the limited area as follows:

7 (i) Rural development consisting of the infill, development, or
8 redevelopment of existing commercial, industrial, residential, or
9 mixed-use areas, whether characterized as shoreline development,
10 villages, hamlets, rural activity centers, or crossroads
11 developments.

12 (A) A commercial, industrial, residential, shoreline, or mixed-
13 use area are subject to the requirements of (d)(iv) of this
14 subsection, but are not subject to the requirements of (c)(ii) and
15 (iii) of this subsection.

16 (B) Any development or redevelopment other than an industrial
17 area or an industrial use within a mixed-use area or an industrial
18 area under this subsection (5)(d)(i) must be principally designed to
19 serve the existing and projected rural population.

20 (C) Any development or redevelopment in terms of building size,
21 scale, use, or intensity shall be consistent with the character of
22 the existing areas. Development and redevelopment may include changes
23 in use from vacant land or a previously existing use so long as the
24 new use conforms to the requirements of this subsection (5);

25 (ii) The intensification of development on lots containing, or
26 new development of, small-scale recreational or tourist uses,
27 including commercial facilities to serve those recreational or
28 tourist uses, that rely on a rural location and setting, but that do
29 not include new residential development. A small-scale recreation or
30 tourist use is not required to be principally designed to serve the
31 existing and projected rural population. Public services and public
32 facilities shall be limited to those necessary to serve the
33 recreation or tourist use and shall be provided in a manner that does
34 not permit low-density sprawl;

35 (iii) The intensification of development on lots containing
36 isolated nonresidential uses or new development of isolated cottage
37 industries and isolated small-scale businesses that are not
38 principally designed to serve the existing and projected rural
39 population and nonresidential uses, but do provide job opportunities
40 for rural residents. Rural counties may allow the expansion of small-

1 scale businesses as long as those small-scale businesses conform with
2 the rural character of the area as defined by the local government
3 according to RCW 36.70A.030(15). Rural counties may also allow new
4 small-scale businesses to utilize a site previously occupied by an
5 existing business as long as the new small-scale business conforms to
6 the rural character of the area as defined by the local government
7 according to RCW 36.70A.030(15). Public services and public
8 facilities shall be limited to those necessary to serve the isolated
9 nonresidential use and shall be provided in a manner that does not
10 permit low-density sprawl;

11 (iv) A county shall adopt measures to minimize and contain the
12 existing areas or uses of more intensive rural development, as
13 appropriate, authorized under this subsection. Lands included in such
14 existing areas or uses shall not extend beyond the logical outer
15 boundary of the existing area or use, thereby allowing a new pattern
16 of low-density sprawl. Existing areas are those that are clearly
17 identifiable and contained and where there is a logical boundary
18 delineated predominately by the built environment, but that may also
19 include undeveloped lands if limited as provided in this subsection.
20 The county shall establish the logical outer boundary of an area of
21 more intensive rural development. In establishing the logical outer
22 boundary, the county shall address (A) the need to preserve the
23 character of existing natural neighborhoods and communities, (B)
24 physical boundaries, such as bodies of water, streets and highways,
25 and land forms and contours, (C) the prevention of abnormally
26 irregular boundaries, and (D) the ability to provide public
27 facilities and public services in a manner that does not permit low-
28 density sprawl;

29 (v) For purposes of (d) of this subsection, an existing area or
30 existing use is one that was in existence:

31 (A) On July 1, 1990, in a county that was initially required to
32 plan under all of the provisions of this chapter;

33 (B) On the date the county adopted a resolution under RCW
34 36.70A.040(2), in a county that is planning under all of the
35 provisions of this chapter under RCW 36.70A.040(2); or

36 (C) On the date the office of financial management certifies the
37 county's population as provided in RCW 36.70A.040(5), in a county
38 that is planning under all of the provisions of this chapter pursuant
39 to RCW 36.70A.040(5).

1 (e) Exception. This subsection shall not be interpreted to permit
2 in the rural area a major industrial development or a master planned
3 resort unless otherwise specifically permitted under RCW 36.70A.360
4 and 36.70A.365.

5 (6) A transportation element that implements, and is consistent
6 with, the land use element.

7 (a) The transportation element shall include the following
8 subelements:

9 (i) Land use assumptions used in estimating travel;

10 (ii) Estimated traffic impacts to state-owned transportation
11 facilities resulting from land use assumptions to assist the
12 department of transportation in monitoring the performance of state
13 facilities, to plan improvements for the facilities, and to assess
14 the impact of land-use decisions on state-owned transportation
15 facilities;

16 (iii) Facilities and services needs, including:

17 (A) An inventory of air, water, and ground transportation
18 facilities and services, including transit alignments and general
19 aviation airport facilities, to define existing capital facilities
20 and travel levels as a basis for future planning. This inventory must
21 include state-owned transportation facilities within the city or
22 county's jurisdictional boundaries;

23 (B) Level of service standards for all locally owned arterials
24 and transit routes to serve as a gauge to judge performance of the
25 system. These standards should be regionally coordinated;

26 (C) For state-owned transportation facilities, level of service
27 standards for highways, as prescribed in chapters 47.06 and 47.80
28 RCW, to gauge the performance of the system. The purposes of
29 reflecting level of service standards for state highways in the local
30 comprehensive plan are to monitor the performance of the system, to
31 evaluate improvement strategies, and to facilitate coordination
32 between the county's or city's six-year street, road, or transit
33 program and the office of financial management's ten-year investment
34 program. The concurrency requirements of (b) of this subsection do
35 not apply to transportation facilities and services of statewide
36 significance except for counties consisting of islands whose only
37 connection to the mainland are state highways or ferry routes. In
38 these island counties, state highways and ferry route capacity must
39 be a factor in meeting the concurrency requirements in (b) of this
40 subsection;

1 (D) Specific actions and requirements for bringing into
2 compliance locally owned transportation facilities or services that
3 are below an established level of service standard;

4 (E) Forecasts of traffic for at least ten years based on the
5 adopted land use plan to provide information on the location, timing,
6 and capacity needs of future growth;

7 (F) Identification of state and local system needs to meet
8 current and future demands. Identified needs on state-owned
9 transportation facilities must be consistent with the statewide
10 multimodal transportation plan required under chapter 47.06 RCW;

11 (iv) Finance, including:

12 (A) An analysis of funding capability to judge needs against
13 probable funding resources;

14 (B) A multiyear financing plan based on the needs identified in
15 the comprehensive plan, the appropriate parts of which shall serve as
16 the basis for the six-year street, road, or transit program required
17 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
18 35.58.2795 for public transportation systems. The multiyear financing
19 plan should be coordinated with the ten-year investment program
20 developed by the office of financial management as required by RCW
21 47.05.030;

22 (C) If probable funding falls short of meeting identified needs,
23 a discussion of how additional funding will be raised, or how land
24 use assumptions will be reassessed to ensure that level of service
25 standards will be met;

26 (v) Intergovernmental coordination efforts, including an
27 assessment of the impacts of the transportation plan and land use
28 assumptions on the transportation systems of adjacent jurisdictions;

29 (vi) Demand-management strategies;

30 (vii) Pedestrian and bicycle component to include collaborative
31 efforts to identify and designate planned improvements for pedestrian
32 and bicycle facilities and corridors that address and encourage
33 enhanced community access and promote healthy lifestyles.

34 (b) After adoption of the comprehensive plan by jurisdictions
35 required to plan or who choose to plan under RCW 36.70A.040, local
36 jurisdictions must adopt and enforce ordinances which prohibit
37 development approval if the development causes the level of service
38 on a locally owned transportation facility to decline below the
39 standards adopted in the transportation element of the comprehensive
40 plan, unless transportation improvements or strategies to accommodate

1 the impacts of development are made concurrent with the development.
2 These strategies may include increased public transportation service,
3 ride-sharing programs, demand management, and other transportation
4 systems management strategies. For the purposes of this subsection
5 (6), "concurrent with the development" means that improvements or
6 strategies are in place at the time of development, or that a
7 financial commitment is in place to complete the improvements or
8 strategies within six years. If the collection of impact fees is
9 delayed under RCW 82.02.050(3), the six-year period required by this
10 subsection (6)(b) must begin after full payment of all impact fees is
11 due to the county or city.

12 (c) The transportation element described in this subsection (6),
13 the six-year plans required by RCW 35.77.010 for cities, RCW
14 36.81.121 for counties, and RCW 35.58.2795 for public transportation
15 systems, and the ten-year investment program required by RCW
16 47.05.030 for the state, must be consistent.

17 (7) An economic development element establishing local goals,
18 policies, objectives, and provisions for economic growth and vitality
19 and a high quality of life. The element shall include: (a) A summary
20 of the local economy such as population, employment, payroll,
21 sectors, businesses, sales, and other information as appropriate; (b)
22 a summary of the strengths and weaknesses of the local economy
23 defined as the commercial and industrial sectors and supporting
24 factors such as land use, transportation, utilities, education,
25 workforce, housing, and natural/cultural resources; and (c) an
26 identification of policies, programs, and projects to foster economic
27 growth and development and to address future needs. A city that has
28 chosen to be a residential community is exempt from the economic
29 development element requirement of this subsection.

30 (8) A park and recreation element that implements, and is
31 consistent with, the capital facilities plan element as it relates to
32 park and recreation facilities. The element shall include: (a)
33 Estimates of park and recreation demand for at least a ten-year
34 period; (b) an evaluation of facilities and service needs; and (c) an
35 evaluation of intergovernmental coordination opportunities to provide
36 regional approaches for meeting park and recreational demand.

37 (9) It is the intent that new or amended elements required after
38 January 1, 2002, be adopted concurrent with the scheduled update
39 provided in RCW 36.70A.130. Requirements to incorporate any such new
40 or amended elements shall be null and void until funds sufficient to

1 cover applicable local government costs are appropriated and
2 distributed by the state at least two years before local government
3 must update comprehensive plans as required in RCW 36.70A.130.

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