

HOUSE BILL REPORT

HB 1627

As Reported by House Committee On:
Local Government

Title: An act relating to making it possible for more properties to have access to water, storm drains, and sanitary sewage systems.

Brief Description: Making it possible for more properties to have access to water, storm drains, and sanitary sewage systems.

Sponsors: Representatives Goehner, Eslick, Robertson, Graham, Dufault, Jacobsen and Griffey.

Brief History:

Committee Activity:

Local Government: 1/11/22, 1/28/22 [DPS].

Brief Summary of Substitute Bill

- Allows for the extension of publicly provided water, storm water, and sanitary sewer services outside of a city and urban growth area to meet the needs of people outside of the city, when there is existing development inconsistent with rural character, the expansion will not foster unplanned urban development, and the city makes findings that the extension is feasible, cost-effective, and environmentally beneficial.
- Allows for development in limited areas of more intensive rural development to include access to domestic water, storm, and sanitary sewer systems to meet the needs of the community when such systems are feasible and affordable.
- Exempts the extension of permanent water service outside of a city's boundaries from a finding of noncompliance by the Growth Management Hearings Board or review by a boundary review board if the extension is approved after complying with the procedure for extension.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Pollet, Chair; Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Robertson.

Minority Report: Do not pass. Signed by 2 members: Representatives Duerr, Vice Chair; Senn.

Minority Report: Without recommendation. Signed by 1 member: Representative Berg.

Staff: Kellen Wright (786-7134).

Background:

The Growth Management Act (GMA) requires that certain counties, and the cities within those counties, engage in planning for future population growth. The central part of the planning process is the comprehensive plan. The Legislature has established 14 goals that should act as the basis of all comprehensive plans. Examples of goals include reducing sprawl, providing affordable housing, and protecting property rights. The comprehensive plan must address these goals and set out the policies and standards that are meant to guide the city or county's actions and decisions in the future. These plans are required to be updated every eight years and must contain certain elements, such as a land use element, a housing element, and a capital facilities plan. These elements must satisfy the requirements for each individual element while fitting within the overall comprehensive plan.

One required element of the comprehensive plan that applies only to counties is the rural element. This element covers rural development and measures to protect the rural character of an area.

The rural element also provides for rural government services. These can include services historically and typically delivered to rural areas such as domestic water systems and emergency services, but generally may not include storm or sanitary sewers. Urban government services, by contrast, are most appropriately provided by cities in urban growth areas, and should not be extended into rural areas, except where necessary to protect basic public health, safety, and environment, if such services are supportable at rural densities and do not permit urban development.

A rural element may include limited areas of more intensive rural development. A county is required to adopt measures to minimize and contain areas and uses of more intensive rural development within existing areas of development. This more intensive development can consist of infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas. Development or redevelopment generally must be designed to principally serve the existing and projected rural population. Any development or

redevelopment in terms of building size, scale, use, or intensity must be consistent with the character of the existing area.

The Growth Management Hearings Board (GMHB) hears petitions and resolves disputes concerning the GMA. If the GMHB finds that a city or county is out of compliance with the GMA, it must give the city or county a reasonable time, not to exceed six months in a normal case, to come into compliance. The GMHB will then hold another hearing to determine whether the city or county has achieved compliance. If the city or county is still out of compliance, the Governor is authorized to impose sanctions. These sanctions can include the withholding of tax revenue until compliance is achieved.

Boundary review boards are quasi-judicial bodies that review certain specified actions and either approve, modify, or deny the proposed action. Certain counties have been required to create boundary review boards based on population, while others can voluntarily establish such a board. Altogether, 14 counties have established boundary review boards. Topics under the purview of boundary review boards include proposed boundary changes of cities, towns, or special purpose districts in certain circumstances; the assumption of a dissolved special purpose district's assets by a city or town; the establishment of, or change in the boundaries of, a water-sewer district; and the extension of permanent water or sewer service or facilities outside of an existing service area by a city, town, or special purpose district.

Whenever any of these actions occur, the initiator of the action must file a notice of intent with the boundary review board, which will hear the action if a sufficient number of its members file a request to review the action, if a governmental unit affected by the action files a request for review, or if a sufficient number of voters who are affected by the proposed action file a request for review. Members of the board are prohibited from filing requests for review in certain instances, including for review of an extension of water or sewer service outside of existing boundaries when the pipes used are under a certain size, and may also be precluded from filing review requests if a county planning under the GMA has waived the authority of the board to initiate such a review.

Summary of Substitute Bill:

Publicly provided water, stormwater, and sanitary sewer systems may be extended beyond city and urban growth area boundaries to meet the needs of those living outside of the city when there is exiting development inconsistent with rural character, if the expansion will not foster expanded unplanned urban development and the city makes findings that the extension is feasible, cost-effective within 20 years, and environmentally beneficial. In order to be environmentally beneficial, an action must be subject to a quantified analysis under the State Environmental Policy Act that finds that the action would mitigate current or projected environmental impacts or would provide defined benefits that help advance state, federal or state environmental policies, or policies in the city's comprehensive plan.

Development or redevelopment in a limited area of more intensive rural development must be consistent with the character of the existing areas while meeting the needs of the people in the community, including access to water, storm, and sanitary sewers systems that are feasible and affordable in the location.

The GMHB may not base a finding of noncompliance on the provision of water, sewer, or stormwater facilities outside of a city's boundaries when such an extension is approved after satisfying the requirements for the extension of such services, and state funding cannot be restricted or reduced for such a reason.

A boundary review board may not review an extension of permanent water or sewer service outside of a city, town, or special purpose district's corporate boundaries when such an extension is approved after satisfying the requirements for the extension.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the underlying bill:

- removes changes made to definitions used in the GMA;
- removes provision allowing permits to be issued for water, sewerage, or storm water facilities under existing local project review rules while new rules are being created;
- removes provisions that would prevent the GMHB from hearing petitions involving the extension of water, storm water, and sanitary sewer services outside of a city and urban growth area, but provides that an extension of such services approved through the process in the bill cannot be the basis for a finding of noncompliance or a reduction in state funding;
- restores language requiring comprehensive plans to be internally consistent, as well as language relating to the rural element of the comprehensive plan;
- restores the requirement that development be consistent with the character of the existing area within a local area of more intensive rural development, but allows such development to meet the needs of the residents in those communities for domestic water, storm, and sanitary sewer systems that are feasible and affordable for the location;
- allows for the extension of publicly provided water, storm water, and sanitary sewer services outside of a city and urban growth area to meet the needs of people outside of the city, when there is existing development inconsistent with rural character, such an expansion will not foster unplanned urban development, and the city makes findings that the extension is feasible, cost-effective, and environmentally beneficial; and
- allows a boundary review board to review an extension of water, storm water, and sanitary sewer services outside of a city and urban growth area, unless such extension is approved by the process in the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill is designed to provide responsible flexibility to extend utilities in an affordable and environmentally sensitive way in proximity to existing services. There are times when it is beneficial for everyone for services to be extended. This bill does not circumvent comprehensive plans, change zoning, or promote sprawl. It can be tough for small jurisdictions to upgrade existing services. The flexibility for basic services outside of urban growth areas is appreciated. Extending services is sometimes a much better option than traditional rural services because of deficiencies in those services, and because extension may be better for the environment. Cities should be the primary provider of urban services, but extension sometimes makes sense. It is important to keep the bill permissive. There are some concerns about changing the definition of rural character in the bill. The State of Washington has the lowest number of houses per family of any state in the country. There is a need for houses and jobs in rural communities. Allowing greater access to public services is an important step. This bill would not change the urban growth areas or other regulations but would be responsible flexibility to allow jurisdictions to respond to local conditions and for community needs to be met. Rail use can be urban or rural, but local governments appreciate the explicit authorizations this bill would provide. The GMHB has been overly restrictive in allowing water and sewer hook-ups.

(Opposed) This bill would undermine one of the fundamental purposes of an urban growth area, which is to provide certainty about where services would be provided. This would allow piecemeal expansion of services, as those that are allowed now would cause others to follow later. These services are less cost effective, and allowing extensions would allow for poorly planned sprawl which will cost tax payers money. The GMA limits sprawl by directing growth into cities, which would be undermined by this bill. The vague definitions in this bill would allow utility expansion that would spur development in rural areas. The bill removes multiple current GMA provisions. The GMA already allows for the expansion of urban services in certain circumstances, so this bill is not necessary. Tribes are concerned about fish habitats in rural areas that could be impacted by this bill.

Persons Testifying: (In support) Representative Keith Goehner, prime sponsor; Josie Cummings, Building Industry Association of Washington; Paul Jewell, Washington State Association of Counties; Amber Carter, Portland Vancouver Junction Railroad; and Carl Schroeder, Association of Washington Cities.

(Opposed) Dave Andersen, Washington Department of Commerce; Bryce Yadon, Futurewise; and Julia Gold, Tulalip Tribes of Washington.

Persons Signed In To Testify But Not Testifying: None.