

SENATE BILL REPORT

SB 5834

As Reported by Senate Committee On:
Local Government, Land Use & Tribal Affairs, January 25, 2024

Title: An act relating to urban growth areas.

Brief Description: Concerning urban growth areas.

Sponsors: Senators Short, Lovelett, Billig, Gildon, Mullet, Padden and Torres.

Brief History:

Committee Activity: Local Government, Land Use & Tribal Affairs: 1/09/24, 1/25/24 [DPS].

Brief Summary of First Substitute Bill

- Authorizes a county to revise its urban growth area (UGA) or areas during its annual review of proposed amendments to its comprehensive plan if the revised UGA meets certain criteria.
- Requires a county to engage in meaningful consultation with any federally recognized Indian tribe that may be potentially affected by the proposed UGA revision.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

Majority Report: That Substitute Senate Bill No. 5834 be substituted therefor, and the substitute bill do pass.

Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Torres, Ranking Member; Kauffman and Short.

Staff: Maggie Douglas (786-7279)

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.

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. 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. These jurisdictions are sometimes said to be fully planning under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. Comprehensive plans must be reviewed and, if necessary, revised every ten years to ensure it complies with the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Urban Growth Areas. Counties that fully plan under the GMA must designate Urban Growth Areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. UGAs must contain sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period. Fully planning counties must review the designated UGAs, patterns of development within the UGAs, and the densities permitted within the incorporated and unincorporated portions of each UGA during the regularly scheduled comprehensive review update cycle.

If, during the jurisdiction's review, the county determines the patterns of development have created pressure in areas that exceed the available and developable lands within the UGA, the county may revise the UGA to accommodate identified patterns of development and future development pressure for the succeeding 20-year period if the revised UGA meets certain criteria, including but not limited to:

- the revised UGA does not result in an increase in the total surface areas of any UGA;
- the areas added to the UGA are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance; and
- less than 15 percent of the areas added to the UGA are critical areas.

Summary of Bill (First Substitute): A fully planning county may, as part of its annual review of proposed amendments, updates, or revisions of its comprehensive plan, review its designated UGAs and the patterns of development and densities permitted within each UGA.

If, during the county's regularly scheduled annual review, the county determines the patterns of development have created pressure in areas that exceed the available and developable lands within the UGA, the county may revise the UGA to accommodate identified patterns of development and future development pressure for the succeeding 20-year period if:

- the revised UGA does not result in an increase in the total surface acreage or development capacity of the UGA;
- the areas added to the UGA are not designated as agricultural, forest, or mineral resource lands of long-term commercial significance;
- if the areas added to the UGA have previously been designated as agricultural, forest, or mineral resource lands of long-term significance, either:
 1. an equivalent amount of agricultural, forest, or mineral resource lands of long-term commercial significance must be added to the area outside the UGA; or
 2. the county must wait a minimum of two years before another swap may occur;
- less than 15 percent of the areas added to the UGA are critical areas other than critical aquifer recharge areas. Critical aquifer recharge areas must have been previously designated by the county and the revised UGA must not result in a net loss of critical aquifer recharge areas;
- the areas added to the UGA are suitable for urban growth;
- the county's transportation element and capital facility plan element of the county's comprehensive plan have identified the transportation facilities and public facilities and services needed to serve the UGA and the funding to provide the transportation facilities and public facilities and services;
- the areas removed from the UGA are not characterized by urban growth or urban densities;
- the revised UGA is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands;
- the county's proposed UGA revision must also be reviewed according to the process and procedures in the countywide planning policies; and
- the revised UGA meets all other statutory requirements.

At the earliest possible date prior to the revision of the county's UGA, the county must engage in meaningful consultation with any federally recognized Indian tribe that may be potentially affected by the proposed revision. Meaningful consultation must include discussion of the potential impacts to cultural resources and tribal treaty rights.

A county must notify the affected federally recognized Indian tribe of the proposed revision using at least two methods, including by mail. Upon receiving notice, the tribe may request a consultation to determine whether an agreement can be reached related to the revision of the UGA. If an agreement is not reached, the parties must enter mediation.

EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS COMMITTEE (First Substitute):

- Clarifies that a county may revise a UGA during its annual review of amendments to its comprehensive plan if:
 1. the revised UGA would not result in a net increase in the total acreage or development capacity of the UGA, rather than increase in total surface area;
 2. less than 15 percent of the areas added are critical areas other than critical

aquifer recharge areas. Critical aquifer recharge areas must have been previously designated by the county and maintained per county development regulations, and the revised UGA must not result in a net increase in critical aquifer recharge areas within the UGA;

3. the revised area must be reviewed according to the countywide planning policies process and procedure; and
 4. the revised area meets all other requirements of RCW 36.70A.110.
- Provides that if the areas added to the UGA have previously been designated as agricultural, forest, or mineral resource lands of long-term commercial significance, either an equivalent amount of agricultural, forest, or mineral resource lands of long-term commercial significance must be added to the area outside the UGA, or the county must wait a minimum of two years before another swap may occur.
 - Requires a county to engage in meaningful consultation with any federally recognized Indian tribe that may be potentially affected by the proposed urban growth area boundary revision. Meaningful consultation must include discussion of the potential impacts to cultural resources and tribal treaty rights.
 - Requires a county to notify the affected tribe of the proposed revision using at least two methods, including by mail. Upon receiving the notice, the tribe may request consultation to determine whether an agreement can be reached related to the proposed revision to an urban growth area boundary. If agreement is not reached, the parties must enter mediation as described under the GMA.
 - Makes other technical changes.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill grants flexibility for minor UGA adjustments and allows counties to be more reactive to the market and where the growth needs to go rather than waiting for this adjustment until the ten year comprehensive plan review cycle. This bill would help reduce development pressure near some critical areas by allowing those areas to be moved out of UGA so that other areas may be development. The bill could be improved by adding a provision that requires a county to first consult with its affected cities before conducting a UGA revision.

CON: It is concerning to make this an annual review process, as counties would be able to revise UGA without consulting cities. The bill could be improved by adding language that states that any land added to the UGA as a part of this revision cannot be de-designated agricultural lands.

OTHER: The bill needs to be amended that clarify UGA revisions should include consultation with tribes. Additionally, the amended version of RCW 36.70A.110 should mirror RCW 36.70A.130.

Persons Testifying: PRO: Senator Shelly Short, Prime Sponsor; Brett Lucas, City of Cheney; Rod Higgins, Councilmember, City of Spokane Valley; Paul Jewell, Washington State Association of Counties; Jan Himebaugh, Building Industry Association of Washington.

CON: Bryce Yadon, Futurewise ; John Worthington.

OTHER: Joe Tovar, Washington Chapter of the American Planning Association.

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