
SENATE BILL 6143

State of Washington

68th Legislature

2024 Regular Session

By Senators Salomon, Kauffman, Hasegawa, Nobles, and Saldaña

Read first time 01/10/24. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to local salmon habitat recovery planning in
2 critical areas; amending RCW 36.70A.050 and 36.70A.172; reenacting
3 and amending RCW 36.70A.130; adding a new section to chapter 36.70A
4 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that salmon recovery
7 efforts have been instrumental in helping some species turn the
8 corner towards recovery and have slowed the decline of several other
9 species. However, while great progress has been made in implementing
10 critical salmon recovery projects, more work is needed at the state,
11 but also, local level in order to further protect and restore
12 habitat.

13 The legislature further finds that the state's population has
14 continued to grow at a dramatic pace, growing by 1.6 million people
15 since 1999, when the statewide salmon recovery strategy was adopted.
16 A growing population needs housing, drinkable water, and other
17 resources, which can put a strain on habitat critical to salmon.
18 Development along shorelines can erode coastal areas, leaving beaches
19 inhospitable to salmon and the fish they eat. Development of land
20 along streams often removes the trees and bushes that provide shade,
21 filter pollution, and create beneficial salmon habitat with discarded

1 leaves and branches. Land development also increases paving and
2 impervious surfaces, which in turn increase the amount of pollution
3 and contaminated stormwater entering waterways. Finally, population
4 growth increases the need for water for drinking, for use in homes
5 and businesses, and for irrigation. More demand for water often
6 impacts the quality and the amount of water left in streams to
7 support salmon.

8 Moreover, since much of growth planning occurs at the local
9 level, the legislature finds that statewide salmon recovery and
10 conservation efforts could benefit further through strengthened
11 policies and regulations adopted by counties and cities. Therefore,
12 the legislature intends to enact guidelines for the preservation and
13 enhancement of anadromous fisheries in order to assist counties and
14 cities with the development of planning initiatives beneficial to
15 local and statewide salmon recovery.

16 **Sec. 2.** RCW 36.70A.050 and 1990 1st ex.s. c 17 s 5 are each
17 amended to read as follows:

18 (1) Subject to the definitions provided in RCW 36.70A.030, the
19 department shall adopt guidelines, under chapter 34.05 RCW, no later
20 than September 1, 1990, to guide the classification of: (a)
21 Agricultural lands; (b) forestlands; (c) mineral resource lands; and
22 (d) critical areas. The department shall consult with the department
23 of agriculture regarding guidelines for agricultural lands, the
24 department of natural resources regarding forestlands and mineral
25 resource lands, ~~((and))~~ the department of ecology regarding critical
26 areas, and the department of fish and wildlife regarding conservation
27 and protection of anadromous fisheries in critical areas, utilizing
28 the guidelines developed in RCW 36.70A.172.

29 (2) In carrying out its duties under this section, the department
30 shall consult with interested parties, including but not limited to:
31 (a) Representatives of cities; (b) representatives of counties; (c)
32 representatives of developers; (d) representatives of builders; (e)
33 representatives of owners of agricultural lands, forestlands, and
34 mining lands; (f) representatives of local economic development
35 officials; (g) representatives of environmental and conservation
36 organizations; (h) representatives of special districts; (i)
37 representatives of the governor's office and federal and state
38 agencies; and (j) representatives of Indian tribes. In addition to
39 the consultation required under this subsection, the department shall

1 conduct public hearings in the various regions of the state. The
2 department shall consider the public input obtained at such public
3 hearings when adopting the guidelines.

4 (3) The guidelines under subsection (1) of this section shall be
5 minimum guidelines that apply to all jurisdictions, but also shall
6 allow for regional differences that exist in Washington state. The
7 intent of these guidelines is to assist counties and cities in
8 designating the classification of agricultural lands, forestlands,
9 mineral resource lands, and critical areas under RCW 36.70A.170.

10 (4) The guidelines established by the department under this
11 section regarding classification of forestlands shall not be
12 inconsistent with guidelines adopted by the department of natural
13 resources.

14 **Sec. 3.** RCW 36.70A.172 and 2010 c 211 s 3 are each amended to
15 read as follows:

16 (1) (a) In designating and protecting critical areas under this
17 chapter, counties and cities shall include the best available science
18 in developing policies and development regulations to protect the
19 functions and values of critical areas.

20 (b) (i) In addition, counties and cities shall give special
21 consideration to conservation or protection measures necessary to
22 preserve (~~or~~) and enhance anadromous fisheries.

23 (ii) The department of fish and wildlife must adopt conservation
24 and restoration guidelines in order to assist counties and cities in
25 the preservation and enhancement of anadromous fisheries. The
26 guidelines must identify:

27 (A) Priority marine nearshore habitat as well as stream segments
28 and riparian habitat that represent the most important habitat areas
29 to preserve through public acquisition or other conservation
30 measures, including core spawning areas as well as migratory and
31 rearing corridors for salmon species;

32 (B) Incompatible land uses with salmon recovery and habitat
33 preservation; and

34 (C) Methods for improving and preserving salmon habitat.

35 (iii) The department of fish and wildlife must consult with
36 tribal fisheries restoration experts and other interested parties as
37 required under RCW 36.70A.050(2) in developing the guidelines under
38 this subsection.

1 (iv) The department of fish and wildlife and the department may
2 exclude a county or city from elements of the guidelines if the
3 county or city has no or minimal areas of critical habitat for salmon
4 stocks.

5 (v) The department of fish and wildlife must complete the
6 guidelines by January 1, 2025, in order to allow cities and counties
7 to update critical areas policies and development regulations as part
8 of their next periodic review or implementation progress report
9 required under RCW 36.70A.130.

10 (2) If it determines that advice from scientific or other experts
11 is necessary or will be of substantial assistance in reaching its
12 decision, the growth management hearings board may retain scientific
13 or other expert advice to assist in reviewing a petition under RCW
14 36.70A.290 that involves critical areas.

15 **Sec. 4.** RCW 36.70A.130 and 2023 c 280 s 1 and 2023 c 228 s 15
16 are each reenacted and amended to read as follows:

17 (1)(a) Each comprehensive land use plan and development
18 regulations shall be subject to continuing review and evaluation by
19 the county or city that adopted them. Except as otherwise provided, a
20 county or city shall take legislative action to review and, if
21 needed, revise its comprehensive land use plan and development
22 regulations to ensure the plan and regulations comply with the
23 requirements of this chapter according to the deadlines in
24 subsections (4) and (5) of this section.

25 (b)(i) A city or town located within (~~fa~~) a county planning
26 under RCW 36.70A.040 may opt out of a full review and revisions of
27 its comprehensive plan established in this section if the city or
28 town meets the following criteria:

29 (A) Has a population fewer than 500;

30 (B) Is not located within 10 miles of a city with a population
31 over 100,000;

32 (C) Experienced a population growth rate of fewer than 10 percent
33 in the preceding 10 years; and

34 (D) Has provided the department with notice of its intent to
35 participate in a partial review and revision of its comprehensive
36 plan.

37 (ii) The department shall review the population growth rate for a
38 city or town participating in the partial review and revision of its
39 comprehensive plan process at least three years before the periodic

1 update is due as outlined in subsection (4) of this section and
2 notify cities of their eligibility.

3 (iii) A city or town that opts out of a full review and revision
4 of its comprehensive plan must update its critical areas regulations
5 and its capital facilities element and its transportation element.

6 (c) Except as otherwise provided, a county or city not planning
7 under RCW 36.70A.040 shall take action to review and, if needed,
8 revise its policies and development regulations regarding critical
9 areas and natural resource lands adopted according to this chapter to
10 ensure these policies and regulations comply with the requirements of
11 this chapter according to the deadlines in subsections (4) and (5) of
12 this section. Legislative action means the adoption of a resolution
13 or ordinance following notice and a public hearing indicating at a
14 minimum, a finding that a review and evaluation has occurred and
15 identifying the revisions made, or that a revision was not needed and
16 the reasons therefor.

17 (d) The review and evaluation required by this subsection shall
18 include, but is not limited to, consideration of critical area
19 ordinances and, if planning under RCW 36.70A.040, an analysis of the
20 population allocated to a city or county from the most recent 10-year
21 population forecast by the office of financial management.

22 (e) Any amendment of or revision to a comprehensive land use plan
23 shall conform to this chapter. Any amendment of or revision to
24 development regulations shall be consistent with and implement the
25 comprehensive plan.

26 (2)(a) Each county and city shall establish and broadly
27 disseminate to the public a public participation program consistent
28 with RCW 36.70A.035 and 36.70A.140 that identifies procedures and
29 schedules whereby updates, proposed amendments, or revisions of the
30 comprehensive plan are considered by the governing body of the county
31 or city no more frequently than once every year. "Updates" means to
32 review and revise, if needed, according to subsection (1) of this
33 section, and the deadlines in subsections (4) and (5) of this section
34 or in accordance with the provisions of subsection (6) of this
35 section. Amendments may be considered more frequently than once per
36 year under the following circumstances:

37 (i) The initial adoption of a subarea plan. Subarea plans adopted
38 under this subsection (2)(a)(i) must clarify, supplement, or
39 implement jurisdiction-wide comprehensive plan policies, and may only
40 be adopted if the cumulative impacts of the proposed plan are

1 addressed by appropriate environmental review under chapter 43.21C
2 RCW;

3 (ii) The development of an initial subarea plan for economic
4 development located outside of the 100 year floodplain in a county
5 that has completed a state-funded pilot project that is based on
6 watershed characterization and local habitat assessment;

7 (iii) The adoption or amendment of a shoreline master program
8 under the procedures set forth in chapter 90.58 RCW;

9 (iv) The amendment of the capital facilities element of a
10 comprehensive plan that occurs concurrently with the adoption or
11 amendment of a county or city budget; or

12 (v) The adoption of comprehensive plan amendments necessary to
13 enact a planned action under RCW 43.21C.440, provided that amendments
14 are considered in accordance with the public participation program
15 established by the county or city under this subsection (2)(a) and
16 all persons who have requested notice of a comprehensive plan update
17 are given notice of the amendments and an opportunity to comment.

18 (b) Except as otherwise provided in (a) of this subsection, all
19 proposals shall be considered by the governing body concurrently so
20 the cumulative effect of the various proposals can be ascertained.
21 However, after appropriate public participation a county or city may
22 adopt amendments or revisions to its comprehensive plan that conform
23 with this chapter whenever an emergency exists or to resolve an
24 appeal of a comprehensive plan filed with the growth management
25 hearings board or with the court.

26 (3)(a) Each county that designates urban growth areas under RCW
27 36.70A.110 shall review, according to the schedules established in
28 subsections (4) and (5) of this section, its designated urban growth
29 area or areas, patterns of development occurring within the urban
30 growth area or areas, and the densities permitted within both the
31 incorporated and unincorporated portions of each urban growth area.
32 In conjunction with this review by the county, each city located
33 within an urban growth area shall review the densities permitted
34 within its boundaries, and the extent to which the urban growth
35 occurring within the county has located within each city and the
36 unincorporated portions of the urban growth areas.

37 (b) The county comprehensive plan designating urban growth areas,
38 and the densities permitted in the urban growth areas by the
39 comprehensive plans of the county and each city located within the
40 urban growth areas, shall be revised to accommodate the urban growth

1 projected to occur in the county for the succeeding 20-year period.
2 The review required by this subsection may be combined with the
3 review and evaluation required by RCW 36.70A.215.

4 (c) If, during the county's review under (a) of this subsection,
5 the county determines revision of the urban growth area is not
6 required to accommodate the urban growth projected to occur in the
7 county for the succeeding 20-year period, but does determine that
8 patterns of development have created pressure in areas that exceed
9 available, developable lands within the urban growth area, the urban
10 growth area or areas may be revised to accommodate identified
11 patterns of development and likely future development pressure for
12 the succeeding 20-year period if the following requirements are met:

13 (i) The revised urban growth area may not result in an increase
14 in the total surface areas of the urban growth area or areas;

15 (ii) The areas added to the urban growth area are not or have not
16 been designated as agricultural, forest, or mineral resource lands of
17 long-term commercial significance;

18 (iii) Less than 15 percent of the areas added to the urban growth
19 area are critical areas;

20 (iv) The areas added to the urban growth areas are suitable for
21 urban growth;

22 (v) The transportation element and capital facility plan element
23 have identified the transportation facilities, and public facilities
24 and services needed to serve the urban growth area and the funding to
25 provide the transportation facilities and public facilities and
26 services;

27 (vi) The urban growth area is not larger than needed to
28 accommodate the growth planned for the succeeding 20-year planning
29 period and a reasonable land market supply factor;

30 (vii) The areas removed from the urban growth area do not include
31 urban growth or urban densities; and

32 (viii) The revised urban growth area is contiguous, does not
33 include holes or gaps, and will not increase pressures to urbanize
34 rural or natural resource lands.

35 (4) Except as otherwise provided in subsections (6) and (8) of
36 this section, counties and cities shall take action to review and, if
37 needed, revise their comprehensive plans and development regulations
38 to ensure the plan and regulations comply with the requirements of
39 this chapter as follows:

1 (a) On or before June 30, 2015, for King, Pierce, and Snohomish
2 counties and the cities within those counties;

3 (b) On or before June 30, 2016, for Clallam, Clark, Island,
4 Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom
5 counties and the cities within those counties;

6 (c) On or before June 30, 2017, for Benton, Chelan, Cowlitz,
7 Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and
8 the cities within those counties; and

9 (d) On or before June 30, 2018, for Adams, Asotin, Columbia,
10 Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln,
11 Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and
12 Whitman counties and the cities within those counties.

13 (5) (a) Except as otherwise provided in subsections (6) and (8) of
14 this section, following the review of comprehensive plans and
15 development regulations required by subsection (4) of this section,
16 counties and cities shall take action to review and, if needed,
17 revise their comprehensive plans and development regulations to
18 ensure the plan and regulations comply with the requirements of this
19 chapter as follows:

20 ~~((a))~~ (i) Except as provided in subsection (10) of this
21 section, on or before December 31, 2024, with the following review
22 and, if needed, revision on or before June 30, 2034, and then every
23 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties
24 and the cities within those counties;

25 ~~((b))~~ (ii) On or before June 30, 2025, and every 10 years
26 thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San
27 Juan, Skagit, Thurston, and Whatcom counties and the cities within
28 those counties;

29 ~~((c))~~ (iii) On or before June 30, 2026, and every 10 years
30 thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas,
31 Skamania, Spokane, Walla Walla, and Yakima counties and the cities
32 within those counties; and

33 ~~((d))~~ (iv) On or before June 30, 2027, and every 10 years
34 thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant,
35 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,
36 Stevens, Wahkiakum, and Whitman counties and the cities within those
37 counties.

38 (b) (i) Following the adoption of department of fish and wildlife
39 guidelines for the preservation and enhancement of anadromous
40 fisheries under RCW 36.70A.172, counties and cities must review and

1 update critical areas policies and development regulations in order
2 to implement the guidelines.

3 (ii) Counties and cities must adopt land use regulations, enact
4 incentives, and establish other measures and policies in order to
5 implement the guidelines, and consider acquisition of critical
6 habitat lands.

7 (iii) Counties and cities within those counties under (a)(i) of
8 this subsection must begin implementing the guidelines on January 1,
9 2025, in order to include the update of critical areas policies and
10 development regulations as part of the next required implementation
11 progress report under subsection (9) of this section.

12 (iv) Counties and cities within those counties under (a)(ii)
13 through (iv) of this subsection must begin implementing the
14 guidelines on January 1, 2025, in order to include the update of
15 critical areas policies and development regulations as part of the
16 next required review and revision of comprehensive plans and
17 development regulations under this subsection.

18 (6) (a) Nothing in this section precludes a county or city from
19 conducting the review and evaluation required by this section before
20 the deadlines established in subsections (4) and (5) of this section.
21 Counties and cities may begin this process early and may be eligible
22 for grants from the department, subject to available funding, if they
23 elect to do so.

24 (b) A county that is subject to a deadline established in
25 subsection (5) (~~(b) through (d)~~) (a)(ii) through (iv) of this
26 section and meets the following criteria may comply with the
27 requirements of this section at any time within the 24 months
28 following the deadline established in subsection (5) of this section:
29 The county has a population of less than 50,000 and has had its
30 population increase by no more than 17 percent in the 10 years
31 preceding the deadline established in subsection (5) of this section
32 as of that date.

33 (c) A city that is subject to a deadline established in
34 subsection (5) (~~(b) through (d)~~) (a)(ii) through (iv) of this
35 section and meets the following criteria may comply with the
36 requirements of this section at any time within the 24 months
37 following the deadline established in subsection (5) of this section:
38 The city has a population of no more than 5,000 and has had its
39 population increase by the greater of either no more than 100 persons

1 or no more than 17 percent in the 10 years preceding the deadline
2 established in subsection (5) of this section as of that date.

3 (d) State agencies are encouraged to provide technical assistance
4 to the counties and cities in the review of critical area ordinances,
5 comprehensive plans, and development regulations.

6 (7) (a) The requirements imposed on counties and cities under this
7 section shall be considered "requirements of this chapter" under the
8 terms of RCW 36.70A.040(1). Only those counties and cities that meet
9 the following criteria may receive grants, loans, pledges, or
10 financial guarantees under chapter 43.155 or 70A.135 RCW:

11 (i) Complying with the deadlines in this section; or

12 (ii) Demonstrating substantial progress towards compliance with
13 the schedules in this section for development regulations that
14 protect critical areas.

15 (b) A county or city that is fewer than 12 months out of
16 compliance with the schedules in this section for development
17 regulations that protect critical areas is making substantial
18 progress towards compliance. Only those counties and cities in
19 compliance with the schedules in this section may receive preference
20 for grants or loans subject to the provisions of RCW 43.17.250.

21 (8) (a) Except as otherwise provided in (c) of this subsection, if
22 a participating watershed is achieving benchmarks and goals for the
23 protection of critical areas functions and values, the county is not
24 required to update development regulations to protect critical areas
25 as they specifically apply to agricultural activities in that
26 watershed.

27 (b) A county that has made the election under RCW 36.70A.710(1)
28 may only adopt or amend development regulations to protect critical
29 areas as they specifically apply to agricultural activities in a
30 participating watershed if:

31 (i) A work plan has been approved for that watershed in
32 accordance with RCW 36.70A.725;

33 (ii) The local watershed group for that watershed has requested
34 the county to adopt or amend development regulations as part of a
35 work plan developed under RCW 36.70A.720;

36 (iii) The adoption or amendment of the development regulations is
37 necessary to enable the county to respond to an order of the growth
38 management hearings board or court;

39 (iv) The adoption or amendment of development regulations is
40 necessary to address a threat to human health or safety; or

1 (v) Three or more years have elapsed since the receipt of
2 funding.

3 (c) Beginning 10 years from the date of receipt of funding, a
4 county that has made the election under RCW 36.70A.710(1) must review
5 and, if necessary, revise development regulations to protect critical
6 areas as they specifically apply to agricultural activities in a
7 participating watershed in accordance with the review and revision
8 requirements and timeline in subsection (5) of this section. This
9 subsection (8)(c) does not apply to a participating watershed that
10 has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's
11 goals and benchmarks for protection have been met.

12 (9)(a) Counties subject to planning deadlines established in
13 subsection (5) of this section that are required or that choose to
14 plan under RCW 36.70A.040 and that meet either criteria of (a)(i) or
15 (ii) of this subsection, and cities with a population of more than
16 6,000 as of April 1, 2021, within those counties, must provide to the
17 department an implementation progress report detailing the progress
18 they have achieved in implementing their comprehensive plan five
19 years after the review and revision of their comprehensive plan. Once
20 a county meets the criteria in (a)(i) or (ii) of this subsection, the
21 implementation progress report requirements remain in effect
22 thereafter for that county and the cities therein with populations
23 greater than 6,000 as of April 1, 2021, even if the county later no
24 longer meets either or both criteria. A county is subject to the
25 implementation progress report requirement if it meets either of the
26 following criteria on or after April 1, 2021:

27 (i) The county has a population density of at least 100 people
28 per square mile and a population of at least 200,000; or

29 (ii) The county has a population density of at least 75 people
30 per square mile and an annual growth rate of at least 1.75 percent as
31 determined by the office of financial management.

32 (b) The department shall adopt guidelines for indicators,
33 measures, milestones, and criteria for use by counties and cities in
34 the implementation progress report that must cover:

35 (i) The implementation of previously adopted changes to the
36 housing element and any effect those changes have had on housing
37 affordability and availability within the jurisdiction;

38 (ii) Permit processing timelines; and

39 (iii) Progress toward implementing any actions required to
40 achieve reductions to meet greenhouse gas and vehicle miles traveled

1 requirements as provided for in any element of the comprehensive plan
2 under RCW 36.70A.070.

3 (c) If a city or county required to provide an implementation
4 progress report under this subsection (9) has not implemented any
5 specifically identified regulations, zoning and land use changes, or
6 taken other legislative or administrative action necessary to
7 implement any changes in the most recent periodic update in their
8 comprehensive plan by the due date for the implementation progress
9 report, the city or county must identify the need for such action in
10 the implementation progress report. Cities and counties must adopt a
11 work plan to implement any necessary regulations, zoning and land use
12 changes, or take other legislative or administrative action
13 identified in the implementation progress report and complete all
14 work necessary for implementation within two years of submission of
15 the implementation progress report.

16 (10) Any county or city that is required by RCW 36.70A.095 to
17 include in its comprehensive plan a climate change and resiliency
18 element and that is also required by subsection (5)(a)(i) of this
19 section to review and, if necessary, revise its comprehensive plan on
20 or before December 31, 2024, must update its transportation element
21 and incorporate a climate change and resiliency element into its
22 comprehensive plan as part of the first implementation progress
23 report required by subsection (9) of this section if funds are
24 appropriated and distributed by December 31, 2027, as required under
25 RCW 36.70A.070(10).

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A
27 RCW to read as follows:

28 By December 30, 2029, the department of fish and wildlife and the
29 department must review and report to the legislature in compliance
30 with RCW 43.01.036 on county and city adoption of critical areas
31 policies and development regulations that implement the guidelines
32 for the preservation and enhancement of anadromous fisheries under
33 RCW 36.70A.172.

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