

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1305

Chapter 400, Laws of 1995

(partial veto)

54th Legislature
1995 Regular Session

GROWTH MANAGEMENT ACT--REVISIONS

EFFECTIVE DATE: 5/16/95

Passed by the House April 20, 1995
Yeas 85 Nays 10

CLYDE BALLARD

**Speaker of the
House of Representatives**

Passed by the Senate April 14, 1995
Yeas 35 Nays 13

JOEL PRITCHARD

President of the Senate

Approved May 16, 1995, with the
exception of section 5, which is
vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of
the House of Representatives of the
State of Washington, do hereby certify
that the attached is **ENGROSSED HOUSE
BILL 1305** as passed by the House of
Representatives and the Senate on the
dates hereon set forth.

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 16, 1995 - 9:31 p.m.

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1305

AS AMENDED BY THE SENATE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Representatives Johnson, Sheldon, Reams, Mastin, L. Thomas and Basich

Read first time 01/20/95. Referred to Committee on Government Operations.

1 AN ACT Relating to growth management; amending RCW 36.70A.040,
2 36.70A.110, and 36.70A.070; adding a new section to chapter 36.70A RCW;
3 creating a new section; and declaring an emergency.

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

5 **Sec. 1.** RCW 36.70A.040 and 1993 sp.s. c 6 s 1 are each amended to
6 read as follows:

7 (1) Each county that has both a population of fifty thousand or
8 more and, until the effective date of this section, has had its
9 population increase by more than ten percent in the previous ten years
10 or, on or after the effective date of this section, has had its
11 population increase by more than seventeen percent in the previous ten
12 years, and the cities located within such county, and any other county
13 regardless of its population that has had its population increase by
14 more than twenty percent in the previous ten years, and the cities
15 located within such county, shall conform with all of the requirements
16 of this chapter. However, the county legislative authority of such a
17 county with a population of less than fifty thousand population may
18 adopt a resolution removing the county, and the cities located within
19 the county, from the requirements of adopting comprehensive land use

1 plans and development regulations under this chapter if this resolution
2 is adopted and filed with the department by December 31, 1990, for
3 counties initially meeting this set of criteria, or within sixty days
4 of the date the office of financial management certifies that a county
5 meets this set of criteria under subsection (5) of this section.

6 Once a county meets either of these sets of criteria, the
7 requirement to conform with all of the requirements of this chapter
8 remains in effect, even if the county no longer meets one of these sets
9 of criteria.

10 (2) The county legislative authority of any county that does not
11 meet either of the sets of criteria established under subsection (1) of
12 this section may adopt a resolution indicating its intention to have
13 subsection (1) of this section apply to the county. Each city, located
14 in a county that chooses to plan under this subsection, shall conform
15 with all of the requirements of this chapter. Once such a resolution
16 has been adopted, the county and the cities located within the county
17 remain subject to all of the requirements of this chapter.

18 (3) Any county or city that is initially required to conform with
19 all of the requirements of this chapter under subsection (1) of this
20 section shall take actions under this chapter as follows: (a) The
21 county legislative authority shall adopt a county-wide planning policy
22 under RCW 36.70A.210; (b) the county and each city located within the
23 county shall designate critical areas, agricultural lands, forest
24 lands, and mineral resource lands, and adopt development regulations
25 conserving these designated agricultural lands, forest lands, and
26 mineral resource lands and protecting these designated critical areas,
27 under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and
28 take other actions related to urban growth areas under RCW 36.70A.110;
29 (d) if the county has a population of fifty thousand or more, the
30 county and each city located within the county shall adopt a
31 comprehensive plan under this chapter and development regulations that
32 are consistent with and implement the comprehensive plan on or before
33 July 1, 1994, and if the county has a population of less than fifty
34 thousand, the county and each city located within the county shall
35 adopt a comprehensive plan under this chapter and development
36 regulations that are consistent with and implement the comprehensive
37 plan by January 1, 1995, but if the governor makes written findings
38 that a county with a population of less than fifty thousand or a city
39 located within such a county is not making reasonable progress toward

1 adopting a comprehensive plan and development regulations the governor
2 may reduce this deadline for such actions to be taken by no more than
3 one hundred eighty days. Any county or city subject to this subsection
4 may obtain an additional six months before it is required to have
5 adopted its development regulations by submitting a letter notifying
6 the department of community, trade, and economic development of its
7 need prior to the deadline for adopting both a comprehensive plan and
8 development regulations.

9 (4) Any county or city that is required to conform with all the
10 requirements of this chapter, as a result of the county legislative
11 authority adopting its resolution of intention under subsection (2) of
12 this section, shall take actions under this chapter as follows: (a)
13 The county legislative authority shall adopt a county-wide planning
14 policy under RCW 36.70A.210; (b) the county and each city that is
15 located within the county shall adopt development regulations
16 conserving agricultural lands, forest lands, and mineral resource lands
17 it designated under RCW 36.70A.060 within one year of the date the
18 county legislative authority adopts its resolution of intention; (c)
19 the county shall designate and take other actions related to urban
20 growth areas under RCW 36.70A.110; and (d) the county and each city
21 that is located within the county shall adopt a comprehensive plan and
22 development regulations that are consistent with and implement the
23 comprehensive plan not later than four years from the date the county
24 legislative authority adopts its resolution of intention, but a county
25 or city may obtain an additional six months before it is required to
26 have adopted its development regulations by submitting a letter
27 notifying the department of community, trade, and economic development
28 of its need prior to the deadline for adopting both a comprehensive
29 plan and development regulations.

30 (5) If the office of financial management certifies that the
31 population of a county that previously had not been required to plan
32 under subsection (1) or (2) of this section has changed sufficiently to
33 meet either of the sets of criteria specified under subsection (1) of
34 this section, and where applicable, the county legislative authority
35 has not adopted a resolution removing the county from these
36 requirements as provided in subsection (1) of this section, the county
37 and each city within such county shall take actions under this chapter
38 as follows: (a) The county legislative authority shall adopt a county-
39 wide planning policy under RCW 36.70A.210; (b) the county and each city

1 located within the county shall adopt development regulations under RCW
2 36.70A.060 conserving agricultural lands, forest lands, and mineral
3 resource lands it designated within one year of the certification by
4 the office of financial management; (c) the county shall designate and
5 take other actions related to urban growth areas under RCW 36.70A.110;
6 and (d) the county and each city located within the county shall adopt
7 a comprehensive land use plan and development regulations that are
8 consistent with and implement the comprehensive plan within four years
9 of the certification by the office of financial management, but a
10 county or city may obtain an additional six months before it is
11 required to have adopted its development regulations by submitting a
12 letter notifying the department of community, trade, and economic
13 development of its need prior to the deadline for adopting both a
14 comprehensive plan and development regulations.

15 (6) A copy of each document that is required under this section
16 shall be submitted to the department at the time of its adoption.

17 **Sec. 2.** RCW 36.70A.110 and 1994 c 249 s 27 are each amended to
18 read as follows:

19 (1) Each county that is required or chooses to plan under RCW
20 36.70A.040 shall designate an urban growth area or areas within which
21 urban growth shall be encouraged and outside of which growth can occur
22 only if it is not urban in nature. Each city that is located in such
23 a county shall be included within an urban growth area. An urban
24 growth area may include more than a single city. An urban growth area
25 may include territory that is located outside of a city only if such
26 territory already is characterized by urban growth whether or not the
27 urban growth area includes a city, or is adjacent to territory already
28 characterized by urban growth, or is a designated new fully contained
29 community as defined by RCW 36.70A.350.

30 (2) Based upon the ((population)) growth management ((planning))
31 population projection made for the county by the office of financial
32 management, the urban growth areas in the county shall include areas
33 and densities sufficient to permit the urban growth that is projected
34 to occur in the county for the succeeding twenty-year period. Each
35 urban growth area shall permit urban densities and shall include
36 greenbelt and open space areas. An urban growth area determination may
37 include a reasonable land market supply factor and shall permit a range
38 of urban densities and uses. In determining this market factor, cities

1 and counties may consider local circumstances. Cities and counties
2 have discretion in their comprehensive plans to make many choices about
3 accommodating growth.

4 Within one year of July 1, 1990, each county that as of June 1,
5 1991, was required or chose to plan under RCW 36.70A.040, shall begin
6 consulting with each city located within its boundaries and each city
7 shall propose the location of an urban growth area. Within sixty days
8 of the date the county legislative authority of a county adopts its
9 resolution of intention or of certification by the office of financial
10 management, all other counties that are required or choose to plan
11 under RCW 36.70A.040 shall begin this consultation with each city
12 located within its boundaries. The county shall attempt to reach
13 agreement with each city on the location of an urban growth area within
14 which the city is located. If such an agreement is not reached with
15 each city located within the urban growth area, the county shall
16 justify in writing why it so designated the area an urban growth area.
17 A city may object formally with the department over the designation of
18 the urban growth area within which it is located. Where appropriate,
19 the department shall attempt to resolve the conflicts, including the
20 use of mediation services.

21 (3) Urban growth should be located first in areas already
22 characterized by urban growth that have adequate existing public
23 facility and service capacities to serve such development, ~~((and))~~
24 second in areas already characterized by urban growth that will be
25 served adequately by a combination of both existing public facilities
26 and services and any additional needed public facilities and services
27 that are provided by either public or private sources, and third in the
28 remaining portions of the urban growth areas. Urban growth may also be
29 located in designated new fully contained communities as defined by RCW
30 36.70A.350. ~~((Further, it is))~~

31 (4) In general, cities are the units of local government most
32 appropriate ~~((that))~~ to provide urban ~~((government))~~ governmental
33 services ~~((be provided by cities, and))~~. In general, it is not
34 appropriate that urban ~~((government))~~ governmental services ~~((should~~
35 ~~not))~~ be ~~((provided))~~ extended to or expanded in rural areas except in
36 those limited circumstances shown to be necessary to protect basic
37 public health and safety and the environment and when such services are
38 financially supportable at rural densities and do not permit urban
39 development.

1 (~~(4)~~) (5) On or before October 1, 1993, each county that was
2 initially required to plan under RCW 36.70A.040(1) shall adopt
3 development regulations designating interim urban growth areas under
4 this chapter. Within three years and three months of the date the
5 county legislative authority of a county adopts its resolution of
6 intention or of certification by the office of financial management,
7 all other counties that are required or choose to plan under RCW
8 36.70A.040 shall adopt development regulations designating interim
9 urban growth areas under this chapter. Adoption of the interim urban
10 growth areas may only occur after public notice; public hearing; and
11 compliance with the state environmental policy act, chapter 43.21C RCW,
12 and RCW 36.70A.110. Such action may be appealed to the appropriate
13 growth management hearings board under RCW 36.70A.280. Final urban
14 growth areas shall be adopted at the time of comprehensive plan
15 adoption under this chapter.

16 (~~(5)~~) (6) Each county shall include designations of urban growth
17 areas in its comprehensive plan.

18 **Sec. 3.** RCW 36.70A.070 and 1990 1st ex.s. c 17 s 7 are each
19 amended to read as follows:

20 The comprehensive plan of a county or city that is required or
21 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
22 and descriptive text covering objectives, principles, and standards
23 used to develop the comprehensive plan. The plan shall be an
24 internally consistent document and all elements shall be consistent
25 with the future land use map. A comprehensive plan shall be adopted
26 and amended with public participation as provided in RCW 36.70A.140.

27 Each comprehensive plan shall include a plan, scheme, or design for
28 each of the following:

29 (1) A land use element designating the proposed general
30 distribution and general location and extent of the uses of land, where
31 appropriate, for agriculture, timber production, housing, commerce,
32 industry, recreation, open spaces, public utilities, public facilities,
33 and other land uses. The land use element shall include population
34 densities, building intensities, and estimates of future population
35 growth. The land use element shall provide for protection of the
36 quality and quantity of ground water used for public water supplies.
37 Where applicable, the land use element shall review drainage, flooding,
38 and storm water run-off in the area and nearby jurisdictions and

1 provide guidance for corrective actions to mitigate or cleanse those
2 discharges that pollute waters of the state, including Puget Sound or
3 waters entering Puget Sound.

4 (2) A housing element recognizing the vitality and character of
5 established residential neighborhoods that: (a) Includes an inventory
6 and analysis of existing and projected housing needs; (b) includes a
7 statement of goals, policies, and objectives for the preservation,
8 improvement, and development of housing; (c) identifies sufficient land
9 for housing, including, but not limited to, government-assisted
10 housing, housing for low-income families, manufactured housing,
11 multifamily housing, and group homes and foster care facilities; and
12 (d) makes adequate provisions for existing and projected needs of all
13 economic segments of the community.

14 (3) A capital facilities plan element consisting of: (a) An
15 inventory of existing capital facilities owned by public entities,
16 showing the locations and capacities of the capital facilities; (b) a
17 forecast of the future needs for such capital facilities; (c) the
18 proposed locations and capacities of expanded or new capital
19 facilities; (d) at least a six-year plan that will finance such capital
20 facilities within projected funding capacities and clearly identifies
21 sources of public money for such purposes; and (e) a requirement to
22 reassess the land use element if probable funding falls short of
23 meeting existing needs and to ensure that the land use element, capital
24 facilities plan element, and financing plan within the capital
25 facilities plan element are coordinated and consistent.

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

30 (5) Counties shall include a rural element including lands that are
31 not designated for urban growth, agriculture, forest, or mineral
32 resources. The rural element shall permit appropriate land uses that
33 are compatible with the rural character of such lands and provide for
34 a variety of rural densities and uses and may also provide for
35 clustering, density transfer, design guidelines, conservation
36 easements, and other innovative techniques that will accommodate
37 appropriate rural uses not characterized by urban growth.

1 (6) A transportation element that implements, and is consistent
2 with, the land use element. The transportation element shall include
3 the following subelements:

4 (a) Land use assumptions used in estimating travel;

5 (b) Facilities and services needs, including:

6 (i) An inventory of air, water, and land transportation facilities
7 and services, including transit alignments, to define existing capital
8 facilities and travel levels as a basis for future planning;

9 (ii) Level of service standards for all arterials and transit
10 routes to serve as a gauge to judge performance of the system. These
11 standards should be regionally coordinated;

12 (iii) Specific actions and requirements for bringing into
13 compliance any facilities or services that are below an established
14 level of service standard;

15 (iv) Forecasts of traffic for at least ten years based on the
16 adopted land use plan to provide information on the location, timing,
17 and capacity needs of future growth;

18 (v) Identification of system expansion needs and transportation
19 system management needs to meet current and future demands;

20 (c) Finance, including:

21 (i) An analysis of funding capability to judge needs against
22 probable funding resources;

23 (ii) A multiyear financing plan based on the needs identified in
24 the comprehensive plan, the appropriate parts of which shall serve as
25 the basis for the six-year street, road, or transit program required by
26 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
27 35.58.2795 for public transportation systems;

28 (iii) If probable funding falls short of meeting identified needs,
29 a discussion of how additional funding will be raised, or how land use
30 assumptions will be reassessed to ensure that level of service
31 standards will be met;

32 (d) Intergovernmental coordination efforts, including an assessment
33 of the impacts of the transportation plan and land use assumptions on
34 the transportation systems of adjacent jurisdictions;

35 (e) Demand-management strategies.

36 After adoption of the comprehensive plan by jurisdictions required
37 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
38 must adopt and enforce ordinances which prohibit development approval
39 if the development causes the level of service on a transportation

1 facility to decline below the standards adopted in the transportation
2 element of the comprehensive plan, unless transportation improvements
3 or strategies to accommodate the impacts of development are made
4 concurrent with the development. These strategies may include
5 increased public transportation service, ride sharing programs, demand
6 management, and other transportation systems management strategies.
7 For the purposes of this subsection (6) "concurrent with the
8 development" shall mean that improvements or strategies are in place at
9 the time of development, or that a financial commitment is in place to
10 complete the improvements or strategies within six years.

11 The transportation element described in this subsection, and the
12 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
13 counties, and RCW 35.58.2795 for public transportation systems, must be
14 consistent.

15 NEW SECTION. **Sec. 4.** A comprehensive plan adopted or amended
16 before the effective date of this act shall be considered to be in
17 compliance with RCW 36.70A.070 or 36.70A.110, as in effect before their
18 amendment by this act, if the comprehensive plan is in compliance with
19 RCW 36.70A.070 and 36.70A.110 as amended by this act. This section
20 shall not be construed to alter the relationship between a county-wide
21 planning policy and comprehensive plans as specified under RCW
22 36.70A.210.

23 As to any appeal relating to compliance with RCW 36.70A.070 or
24 36.70A.110 pending before a growth management hearings board on the
25 effective date of this act, the board may take up to an additional
26 ninety days to resolve such appeal. By mutual agreement of all parties
27 to the appeal, this additional ninety-day period may be extended.

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

30 *Where the county has classified mineral lands pursuant to RCW*
31 *36.70A.050 and mineral resource lands of long-term commercial*
32 *significance exist, a county, city, or town shall designate sufficient*
33 *mineral resource lands in the comprehensive plans to meet the projected*
34 *twenty-year, county-wide need. Once designated, mineral resource uses,*
35 *including operations as defined in RCW 78.44.031, shall be established*
36 *as an allowed use in local development regulations.*

1 *The county, city, or town shall designate mineral resource*
2 *deposits, both active and inactive, in economically viable proximity to*
3 *locations where the deposits are likely to be used.*

4 *Through its comprehensive plan and development regulations, as*
5 *defined in RCW 36.70A.030, the county, city, or town shall discourage*
6 *the siting of incompatible uses adjacent to mineral resource*
7 *industries, deposits, and holdings.*

8 *The county-wide need and proximity provisions of this section do*
9 *not apply to metals mining and milling operations as defined in RCW*
10 *78.56.020.*

11 *For the purposes of this section, "long-term commercial*
12 *significance" includes the mineral composition of the land for long-*
13 *term economically viable commercial production, in consideration with*
14 *the mineral resource land's proximity to population areas, product*
15 *markets, and the possibility of more intense uses of the land.*

16 *Sec. 5 was vetoed. See message at end of chapter.

17 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and shall take
20 effect immediately.

 Passed the House April 20, 1995.

 Passed the Senate April 14, 1995.

 Approved by the Governor May 16, 1995, with the exception of
 certain items which were vetoed.

 Filed in Office of Secretary of State May 16, 1995.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 5,
3 Engrossed House Bill No. 1305 entitled:

4 "AN ACT Relating to growth management;"

5 Many of the provisions of Engrossed House Bill No. 1305 are the
6 product of long and difficult negotiations between affected parties.
7 I am impressed with these efforts to resolve a range of problems that
8 have developed since the implementation of the Growth Management Act
9 (GMA).

10 The GMA is an important foundation for land use planning in the
11 state. It is appropriate that the legislature fine-tune the GMA to
12 solve practical problems that develop as local communities work to
13 implement important guidelines.

14 Engrossed House Bill No. 1305 restates a key principle: local
15 governments have broad discretion and a wide variety of choices to make
16 in implementing growth management. However, local discretion is not
17 unlimited. Local governments must also address statewide planning
18 goals and provisions.

1 Section 5 of this bill presents difficult problems. This provision
2 responds to the growing shortage of sand and gravel and to land use
3 conflicts over surface mining. While I am mindful of the need for
4 local governments to make hard choices up front when siting needed
5 facilities, the language in this provision takes too much authority
6 from local governments. Most importantly, section 5 stands to impair
7 the ability of local governments to determine whether or not to permit
8 mining facilities and to impair the authority of local governments to
9 condition those permits.

10 This issue will continue to be a legislative and a court concern
11 until local governments and the industry again work to negotiate their
12 differences either on a statewide or regional basis. I strongly
13 encourage local governments and industry representatives to resolve
14 their differences in order to meet the need for additional facilities
15 without encroaching on the land use authority of local governments.

16 For these reasons, I have vetoed section 5 of Engrossed House Bill
17 No. 1305.

18 With the exception of section 5, Engrossed House Bill No. 1305 is
19 approved."