
HOUSE BILL 1639

State of Washington 58th Legislature 2003 Regular Session

By Representatives Upthegrove, Priest, Schual-Berke, McDermott,
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Government.

1 AN ACT Relating to port district planning; amending RCW 36.70A.030,
2 36.70A.150, and 36.70A.210; adding a new section to chapter 36.70A RCW;
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that port
6 districts are unique special purpose districts with development,
7 operation, and maintenance responsibilities for transfer, terminal, and
8 commercial transportation facilities. The legislature also recognizes
9 that port districts, in fulfilling their responsibilities, may impact
10 city, county, and multiple jurisdiction public facilities.

11 The purpose of this act is to recognize that effective port
12 district facility planning is best achieved through coordinated
13 multiple jurisdiction efforts and to provide a method and timeline by
14 which such efforts shall occur.

15 **Sec. 2.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

1 (1) "Adopt a comprehensive land use plan" means to enact a new
2 comprehensive land use plan or to update an existing comprehensive land
3 use plan.

4 (2) "Agricultural land" means land primarily devoted to the
5 commercial production of horticultural, viticultural, floricultural,
6 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
7 straw, turf, seed, Christmas trees not subject to the excise tax
8 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
9 hatcheries, or livestock, and that has long-term commercial
10 significance for agricultural production.

11 (3) "City" means any city or town, including a code city.

12 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
13 means a generalized coordinated land use policy statement of the
14 governing body of a county or city that is adopted pursuant to this
15 chapter.

16 (5) "Critical areas" include the following areas and ecosystems:
17 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
18 used for potable water; (c) fish and wildlife habitat conservation
19 areas; (d) frequently flooded areas; and (e) geologically hazardous
20 areas.

21 (6) "Department" means the department of community, trade, and
22 economic development.

23 (7) "Development regulations" or "regulation" means the controls
24 placed on development or land use activities by a county or city,
25 including, but not limited to, zoning ordinances, critical areas
26 ordinances, shoreline master programs, official controls, planned unit
27 development ordinances, subdivision ordinances, and binding site plan
28 ordinances together with any amendments thereto. A development
29 regulation does not include a decision to approve a project permit
30 application, as defined in RCW 36.70B.020, even though the decision may
31 be expressed in a resolution or ordinance of the legislative body of
32 the county or city.

33 (8) "Forest land" means land primarily devoted to growing trees for
34 long-term commercial timber production on land that can be economically
35 and practically managed for such production, including Christmas trees
36 subject to the excise tax imposed under RCW 84.33.100 through
37 84.33.140, and that has long-term commercial significance. In
38 determining whether forest land is primarily devoted to growing trees

1 for long-term commercial timber production on land that can be
2 economically and practically managed for such production, the following
3 factors shall be considered: (a) The proximity of the land to urban,
4 suburban, and rural settlements; (b) surrounding parcel size and the
5 compatibility and intensity of adjacent and nearby land uses; (c) long-
6 term local economic conditions that affect the ability to manage for
7 timber production; and (d) the availability of public facilities and
8 services conducive to conversion of forest land to other uses.

9 (9) "Geologically hazardous areas" means areas that because of
10 their susceptibility to erosion, sliding, earthquake, or other
11 geological events, are not suited to the siting of commercial,
12 residential, or industrial development consistent with public health or
13 safety concerns.

14 (10) "Long-term commercial significance" includes the growing
15 capacity, productivity, and soil composition of the land for long-term
16 commercial production, in consideration with the land's proximity to
17 population areas, and the possibility of more intense uses of the land.

18 (11) "Minerals" include gravel, sand, and valuable metallic
19 substances.

20 (12) "Public facilities" include streets, roads, highways,
21 sidewalks, street and road lighting systems, traffic signals, domestic
22 water systems, storm and sanitary sewer systems, parks and recreational
23 facilities, ~~((and))~~ schools, and port district facilities in counties
24 greater than two hundred thousand in population that are located west
25 of the crest of the Cascade mountains.

26 (13) "Public services" include fire protection and suppression, law
27 enforcement, public health, education, recreation, environmental
28 protection, and other governmental services.

29 (14) "Rural character" refers to the patterns of land use and
30 development established by a county in the rural element of its
31 comprehensive plan:

32 (a) In which open space, the natural landscape, and vegetation
33 predominate over the built environment;

34 (b) That foster traditional rural lifestyles, rural-based
35 economies, and opportunities to both live and work in rural areas;

36 (c) That provide visual landscapes that are traditionally found in
37 rural areas and communities;

1 (d) That are compatible with the use of the land by wildlife and
2 for fish and wildlife habitat;

3 (e) That reduce the inappropriate conversion of undeveloped land
4 into sprawling, low-density development;

5 (f) That generally do not require the extension of urban
6 governmental services; and

7 (g) That are consistent with the protection of natural surface
8 water flows and ground water and surface water recharge and discharge
9 areas.

10 (15) "Rural development" refers to development outside the urban
11 growth area and outside agricultural, forest, and mineral resource
12 lands designated pursuant to RCW 36.70A.170. Rural development can
13 consist of a variety of uses and residential densities, including
14 clustered residential development, at levels that are consistent with
15 the preservation of rural character and the requirements of the rural
16 element. Rural development does not refer to agriculture or forestry
17 activities that may be conducted in rural areas.

18 (16) "Rural governmental services" or "rural services" include
19 those public services and public facilities historically and typically
20 delivered at an intensity usually found in rural areas, and may include
21 domestic water systems, fire and police protection services,
22 transportation and public transit services, and other public utilities
23 associated with rural development and normally not associated with
24 urban areas. Rural services do not include storm or sanitary sewers,
25 except as otherwise authorized by RCW 36.70A.110(4).

26 (17) "Urban growth" refers to growth that makes intensive use of
27 land for the location of buildings, structures, and impermeable
28 surfaces to such a degree as to be incompatible with the primary use of
29 land for the production of food, other agricultural products, or fiber,
30 or the extraction of mineral resources, rural uses, rural development,
31 and natural resource lands designated pursuant to RCW 36.70A.170. A
32 pattern of more intensive rural development, as provided in RCW
33 36.70A.070(5)(d), is not urban growth. When allowed to spread over
34 wide areas, urban growth typically requires urban governmental
35 services. "Characterized by urban growth" refers to land having urban
36 growth located on it, or to land located in relationship to an area
37 with urban growth on it as to be appropriate for urban growth.

1 (18) "Urban growth areas" means those areas designated by a county
2 pursuant to RCW 36.70A.110.

3 (19) "Urban governmental services" or "urban services" include
4 those public services and public facilities at an intensity
5 historically and typically provided in cities, specifically including
6 storm and sanitary sewer systems, domestic water systems, street
7 cleaning services, fire and police protection services, public transit
8 services, and other public utilities associated with urban areas and
9 normally not associated with rural areas.

10 (20) "Wetland" or "wetlands" means areas that are inundated or
11 saturated by surface water or ground water at a frequency and duration
12 sufficient to support, and that under normal circumstances do support,
13 a prevalence of vegetation typically adapted for life in saturated soil
14 conditions. Wetlands generally include swamps, marshes, bogs, and
15 similar areas. Wetlands do not include those artificial wetlands
16 intentionally created from nonwetland sites, including, but not limited
17 to, irrigation and drainage ditches, grass-lined swales, canals,
18 detention facilities, wastewater treatment facilities, farm ponds, and
19 landscape amenities, or those wetlands created after July 1, 1990, that
20 were unintentionally created as a result of the construction of a road,
21 street, or highway. Wetlands may include those artificial wetlands
22 intentionally created from nonwetland areas created to mitigate
23 conversion of wetlands.

24 **Sec. 3.** RCW 36.70A.150 and 1991 c 322 s 23 are each amended to
25 read as follows:

26 Each county and city that is required or chooses to prepare a
27 comprehensive land use plan under RCW 36.70A.040 shall identify lands
28 useful for public purposes such as utility corridors, transportation
29 corridors, landfills, sewage treatment facilities, storm water
30 management facilities, recreation, schools, port district facilities,
31 and other public uses. The county shall work with the state and the
32 cities within its borders to identify areas of shared need for public
33 facilities. The jurisdictions within the county shall prepare a
34 prioritized list of lands necessary for the identified public uses
35 including an estimated date by which the acquisition will be needed.

36 The respective capital acquisition budgets for each jurisdiction
37 shall reflect the jointly agreed upon priorities and time schedule.

1 **Sec. 4.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to read
2 as follows:

3 (1) The legislature recognizes that counties are regional
4 governments within their boundaries, and cities are primary providers
5 of urban governmental services within urban growth areas. For the
6 purposes of this section, a "county-wide planning policy" is a written
7 policy statement or statements used solely for establishing a county-
8 wide framework from which county and city comprehensive plans are
9 developed and adopted pursuant to this chapter. This framework shall
10 ensure that city and county comprehensive plans are consistent as
11 required in RCW 36.70A.100. Nothing in this section shall be construed
12 to alter the land-use powers of cities.

13 (2) The legislative authority of a county that plans under RCW
14 36.70A.040 shall adopt a county-wide planning policy in cooperation
15 with the cities located in whole or in part within the county as
16 follows:

17 (a) No later than sixty calendar days from July 16, 1991, the
18 legislative authority of each county that as of June 1, 1991, was
19 required or chose to plan under RCW 36.70A.040 shall convene a meeting
20 with representatives of each city located within the county for the
21 purpose of establishing a collaborative process that will provide a
22 framework for the adoption of a county-wide planning policy. In other
23 counties that are required or choose to plan under RCW 36.70A.040, this
24 meeting shall be convened no later than sixty days after the date the
25 county adopts its resolution of intention or was certified by the
26 office of financial management.

27 (b) The process and framework for adoption of a county-wide
28 planning policy specified in (a) of this subsection shall determine the
29 manner in which the county and the cities agree to all procedures and
30 provisions including but not limited to desired planning policies,
31 deadlines, ratification of final agreements and demonstration thereof,
32 and financing, if any, of all activities associated therewith.

33 (c) If a county fails for any reason to convene a meeting with
34 representatives of cities as required in (a) of this subsection, the
35 governor may immediately impose any appropriate sanction or sanctions
36 on the county from those specified under RCW 36.70A.340.

37 (d) If there is no agreement by October 1, 1991, in a county that
38 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,

1 or if there is no agreement within one hundred twenty days of the date
2 the county adopted its resolution of intention or was certified by the
3 office of financial management in any other county that is required or
4 chooses to plan under RCW 36.70A.040, the governor shall first inquire
5 of the jurisdictions as to the reason or reasons for failure to reach
6 an agreement. If the governor deems it appropriate, the governor may
7 immediately request the assistance of the department of community,
8 trade, and economic development to mediate any disputes that preclude
9 agreement. If mediation is unsuccessful in resolving all disputes that
10 will lead to agreement, the governor may impose appropriate sanctions
11 from those specified under RCW 36.70A.340 on the county, city, or
12 cities for failure to reach an agreement as provided in this section.
13 The governor shall specify the reason or reasons for the imposition of
14 any sanction.

15 (e) No later than July 1, 1992, the legislative authority of each
16 county that was required or chose to plan under RCW 36.70A.040 as of
17 June 1, 1991, or no later than fourteen months after the date the
18 county adopted its resolution of intention or was certified by the
19 office of financial management the county legislative authority of any
20 other county that is required or chooses to plan under RCW 36.70A.040,
21 shall adopt a county-wide planning policy according to the process
22 provided under this section and that is consistent with the agreement
23 pursuant to (b) of this subsection, and after holding a public hearing
24 or hearings on the proposed county-wide planning policy.

25 (3) A county-wide planning policy shall at a minimum, address the
26 following:

27 (a) Policies to implement RCW 36.70A.110;

28 (b) Policies for promotion of contiguous and orderly development
29 and provision of urban services to such development;

30 (c) Policies for siting public capital facilities of a county-wide
31 or statewide nature, including transportation facilities of statewide
32 significance as defined in RCW 47.06.140;

33 (d) Policies for county-wide transportation facilities and
34 strategies;

35 (e) Policies for coordinated planning of port district facilities;

36 (f) Policies that consider the need for affordable housing, such as
37 housing for all economic segments of the population and parameters for
38 its distribution;

1 ~~((f))~~ (g) Policies for joint county and city planning within
2 urban growth areas;

3 ~~((g))~~ (h) Policies for county-wide economic development and
4 employment; and

5 ~~((h))~~ (i) An analysis of the fiscal impact.

6 (4) Federal agencies and Indian tribes may participate in and
7 cooperate with the county-wide planning policy adoption process.
8 Adopted county-wide planning policies shall be adhered to by state
9 agencies.

10 (5) Failure to adopt a county-wide planning policy that meets the
11 requirements of this section may result in the imposition of a sanction
12 or sanctions on a county or city within the county, as specified in RCW
13 36.70A.340. In imposing a sanction or sanctions, the governor shall
14 specify the reasons for failure to adopt a county-wide planning policy
15 in order that any imposed sanction or sanctions are fairly and
16 equitably related to the failure to adopt a county-wide planning
17 policy.

18 (6) Cities and the governor may appeal an adopted county-wide
19 planning policy to the growth management hearings board within sixty
20 days of the adoption of the county-wide planning policy.

21 (7) Multicounty planning policies shall be adopted by two or more
22 counties, each with a population of four hundred fifty thousand or
23 more, with contiguous urban areas and may be adopted by other counties,
24 according to the process established under this section or other
25 processes agreed to among the counties and cities within the affected
26 counties throughout the multicounty region.

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

29 (1) During the review process specified in RCW 36.70A.130, counties
30 greater than two hundred thousand in population that are located west
31 of the crest of the Cascade mountains and are planning under RCW
32 36.70A.040 shall initiate a process through the procedures of RCW
33 36.70A.210(2) for developing a county-wide planning policy for
34 coordinated planning of port district facilities.

35 (2) The policy shall be developed collaboratively among the county,
36 the cities located within the county in which port district facilities
37 are located, the cities within the county immediately adjacent to such

1 cities, and port districts, and shall address procedures for achieving
2 and maintaining consistency of public facility planning and development
3 with adopted comprehensive land use plans.

4 (3) The policy shall also address the proposed location of expanded
5 or new port district facilities and provide for at least a six-year
6 plan that will finance such facilities within projected funding
7 capacities, clearly identifying sources of public money for such
8 purposes.

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