
SENATE BILL 6367

State of Washington

59th Legislature

2006 Regular Session

By Senators Haugen, Jacobsen and Berkey

Read first time 01/11/2006. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to voluntary measures to protect critical areas;
2 amending RCW 36.70A.070; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that there is a
5 broadly held ethic among the citizens of the state that includes
6 appreciation of nature and environmental values, and that citizens are
7 willing to voluntarily undertake activities to protect and enhance
8 environmental values at their homes and gardens, on land on which they
9 live or work, and in their communities. The legislature finds that
10 voluntary activities can be invaluable toward achieving the overall
11 goal of protecting and enhancing the environment and that such
12 activities should be given recognition as highly valued endeavors.

13 The legislature finds that there are successful programs that can
14 be used as models, such as the "Shore Stewards Guide for Shoreline
15 Living" jointly prepared by university extension faculty and local
16 governments, that provide information on a broad array of actions that
17 citizens can undertake that fits their unique conditions and interests.
18 The legislature finds that better enabling citizens to undertake

1 voluntary activities can in many circumstances be more advantageous and
2 with fewer unintended negative consequences than adopting prescriptive
3 rules affecting existing and nonconforming uses of land.

4 The legislature further finds that because the growth management
5 act does not contain specific provisions as to the applicability of
6 critical area protection requirements to existing and nonconforming
7 land uses, the courts are being requested to develop state policy on an
8 unequal and piecemeal basis and that legislatively established
9 direction is appropriate and needed.

10 The purpose of this act is to encourage counties and cities to
11 expand the availability and use of nonregulatory measures for existing
12 and nonconforming uses as a component of ordinances under RCW
13 36.70A.130 adopted after the effective date of this section and to
14 encourage an increase in the information and resources to the public to
15 foster voluntary activities by citizens to improve their environment.

16 **Sec. 2.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read
17 as follows:

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

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

27 (1) A land use element designating the proposed general
28 distribution and general location and extent of the uses of land, where
29 appropriate, for agriculture, timber production, housing, commerce,
30 industry, recreation, open spaces, general aviation airports, public
31 utilities, public facilities, and other land uses. The land use
32 element shall include population densities, building intensities, and
33 estimates of future population growth. The land use element shall
34 provide for protection of the quality and quantity of ground water used
35 for public water supplies. Wherever possible, the land use element
36 should consider utilizing urban planning approaches that promote
37 physical activity. Where applicable, the land use element shall review

1 drainage, flooding, and storm water run-off in the area and nearby
2 jurisdictions and provide guidance for corrective actions to mitigate
3 or cleanse those discharges that pollute waters of the state, including
4 Puget Sound or waters entering Puget Sound.

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

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

31 (4) A utilities element consisting of the general location,
32 proposed location, and capacity of all existing and proposed utilities,
33 including, but not limited to, electrical lines, telecommunication
34 lines, and natural gas lines.

35 (5) Rural element. Counties shall include a rural element
36 including lands that are not designated for urban growth, agriculture,
37 forest, or mineral resources. The following provisions shall apply to
38 the rural element:

1 (a) Growth management act goals and local circumstances. Because
2 circumstances vary from county to county, in establishing patterns of
3 rural densities and uses, a county may consider local circumstances,
4 but shall develop a written record explaining how the rural element
5 harmonizes the planning goals in RCW 36.70A.020 and meets the
6 requirements of this chapter.

7 (b) Rural development. The rural element shall permit rural
8 development, forestry, and agriculture in rural areas. The rural
9 element shall provide for a variety of rural densities, uses, essential
10 public facilities, and rural governmental services needed to serve the
11 permitted densities and uses. To achieve a variety of rural densities
12 and uses, counties may provide for clustering, density transfer, design
13 guidelines, conservation easements, and other innovative techniques
14 that will accommodate appropriate rural densities and uses that are not
15 characterized by urban growth and that are consistent with rural
16 character.

17 (c) Measures governing rural development. The rural element shall
18 include measures that apply to rural development and protect the rural
19 character of the area, as established by the county, by:

20 (i) Containing or otherwise controlling rural development;

21 (ii) Assuring visual compatibility of rural development with the
22 surrounding rural area;

23 (iii) Reducing the inappropriate conversion of undeveloped land
24 into sprawling, low-density development in the rural area;

25 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
26 surface water and ground water resources that includes regulatory
27 measures applicable to new development, and voluntary, nonregulatory
28 measures and programs for existing and nonconforming uses; and

29 (v) Protecting against conflicts with the use of agricultural,
30 forest, and mineral resource lands designated under RCW 36.70A.170.

31 (d) Limited areas of more intensive rural development. Subject to
32 the requirements of this subsection and except as otherwise
33 specifically provided in this subsection (5)(d), the rural element may
34 allow for limited areas of more intensive rural development, including
35 necessary public facilities and public services to serve the limited
36 area as follows:

37 (i) Rural development consisting of the infill, development, or

1 redevelopment of existing commercial, industrial, residential, or
2 mixed-use areas, whether characterized as shoreline development,
3 villages, hamlets, rural activity centers, or crossroads developments.

4 (A) A commercial, industrial, residential, shoreline, or mixed-use
5 area shall be subject to the requirements of (d)(iv) of this
6 subsection, but shall not be subject to the requirements of (c)(ii) and
7 (iii) of this subsection.

8 (B) Any development or redevelopment other than an industrial area
9 or an industrial use within a mixed-use area or an industrial area
10 under this subsection (5)(d)(i) must be principally designed to serve
11 the existing and projected rural population.

12 (C) Any development or redevelopment in terms of building size,
13 scale, use, or intensity shall be consistent with the character of the
14 existing areas. Development and redevelopment may include changes in
15 use from vacant land or a previously existing use so long as the new
16 use conforms to the requirements of this subsection (5);

17 (ii) The intensification of development on lots containing, or new
18 development of, small-scale recreational or tourist uses, including
19 commercial facilities to serve those recreational or tourist uses, that
20 rely on a rural location and setting, but that do not include new
21 residential development. A small-scale recreation or tourist use is
22 not required to be principally designed to serve the existing and
23 projected rural population. Public services and public facilities
24 shall be limited to those necessary to serve the recreation or tourist
25 use and shall be provided in a manner that does not permit low-density
26 sprawl;

27 (iii) The intensification of development on lots containing
28 isolated nonresidential uses or new development of isolated cottage
29 industries and isolated small-scale businesses that are not principally
30 designed to serve the existing and projected rural population and
31 nonresidential uses, but do provide job opportunities for rural
32 residents. Rural counties may allow the expansion of small-scale
33 businesses as long as those small-scale businesses conform with the
34 rural character of the area as defined by the local government
35 according to RCW 36.70A.030(~~((+14))~~) (15). Rural counties may also
36 allow new small-scale businesses to utilize a site previously occupied
37 by an existing business as long as the new small-scale business
38 conforms to the rural character of the area as defined by the local

1 government according to RCW 36.70A.030(~~(14)~~) (15). Public services
2 and public facilities shall be limited to those necessary to serve the
3 isolated nonresidential use and shall be provided in a manner that does
4 not permit low-density sprawl;

5 (iv) A county shall adopt measures to minimize and contain the
6 existing areas or uses of more intensive rural development, as
7 appropriate, authorized under this subsection. Lands included in such
8 existing areas or uses shall not extend beyond the logical outer
9 boundary of the existing area or use, thereby allowing a new pattern of
10 low-density sprawl. Existing areas are those that are clearly
11 identifiable and contained and where there is a logical boundary
12 delineated predominately by the built environment, but that may also
13 include undeveloped lands if limited as provided in this subsection.
14 The county shall establish the logical outer boundary of an area of
15 more intensive rural development. In establishing the logical outer
16 boundary the county shall address (A) the need to preserve the
17 character of existing natural neighborhoods and communities, (B)
18 physical boundaries such as bodies of water, streets and highways, and
19 land forms and contours, (C) the prevention of abnormally irregular
20 boundaries, and (D) the ability to provide public facilities and public
21 services in a manner that does not permit low-density sprawl;

22 (v) For purposes of (d) of this subsection, an existing area or
23 existing use is one that was in existence:

24 (A) On July 1, 1990, in a county that was initially required to
25 plan under all of the provisions of this chapter;

26 (B) On the date the county adopted a resolution under RCW
27 36.70A.040(2), in a county that is planning under all of the provisions
28 of this chapter under RCW 36.70A.040(2); or

29 (C) On the date the office of financial management certifies the
30 county's population as provided in RCW 36.70A.040(5), in a county that
31 is planning under all of the provisions of this chapter pursuant to RCW
32 36.70A.040(5).

33 (e) Exception. This subsection shall not be interpreted to permit
34 in the rural area a major industrial development or a master planned
35 resort unless otherwise specifically permitted under RCW 36.70A.360 and
36 36.70A.365.

37 (6) A transportation element that implements, and is consistent
38 with, the land use element.

1 (a) The transportation element shall include the following
2 subelements:

3 (i) Land use assumptions used in estimating travel;

4 (ii) Estimated traffic impacts to state-owned transportation
5 facilities resulting from land use assumptions to assist the department
6 of transportation in monitoring the performance of state facilities, to
7 plan improvements for the facilities, and to assess the impact of land-
8 use decisions on state-owned transportation facilities;

9 (iii) Facilities and services needs, including:

10 (A) An inventory of air, water, and ground transportation
11 facilities and services, including transit alignments and general
12 aviation airport facilities, to define existing capital facilities and
13 travel levels as a basis for future planning. This inventory must
14 include state-owned transportation facilities within the city or
15 county's jurisdictional boundaries;

16 (B) Level of service standards for all locally owned arterials and
17 transit routes to serve as a gauge to judge performance of the system.
18 These standards should be regionally coordinated;

19 (C) For state-owned transportation facilities, level of service
20 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
21 to gauge the performance of the system. The purposes of reflecting
22 level of service standards for state highways in the local
23 comprehensive plan are to monitor the performance of the system, to
24 evaluate improvement strategies, and to facilitate coordination between
25 the county's or city's six-year street, road, or transit program and
26 the department of transportation's six-year investment program. The
27 concurrency requirements of (b) of this subsection do not apply to
28 transportation facilities and services of statewide significance except
29 for counties consisting of islands whose only connection to the
30 mainland are state highways or ferry routes. In these island counties,
31 state highways and ferry route capacity must be a factor in meeting the
32 concurrency requirements in (b) of this subsection;

33 (D) Specific actions and requirements for bringing into compliance
34 locally owned transportation facilities or services that are below an
35 established level of service standard;

36 (E) Forecasts of traffic for at least ten years based on the
37 adopted land use plan to provide information on the location, timing,
38 and capacity needs of future growth;

1 (F) Identification of state and local system needs to meet current
2 and future demands. Identified needs on state-owned transportation
3 facilities must be consistent with the statewide multimodal
4 transportation plan required under chapter 47.06 RCW;

5 (iv) Finance, including:

6 (A) An analysis of funding capability to judge needs against
7 probable funding resources;

8 (B) A multiyear financing plan based on the needs identified in the
9 comprehensive plan, the appropriate parts of which shall serve as the
10 basis for the six-year street, road, or transit program required by RCW
11 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
12 for public transportation systems. The multiyear financing plan should
13 be coordinated with the six-year improvement program developed by the
14 department of transportation as required by RCW 47.05.030;

15 (C) If probable funding falls short of meeting identified needs, a
16 discussion of how additional funding will be raised, or how land use
17 assumptions will be reassessed to ensure that level of service
18 standards will be met;

19 (v) Intergovernmental coordination efforts, including an assessment
20 of the impacts of the transportation plan and land use assumptions on
21 the transportation systems of adjacent jurisdictions;

22 (vi) Demand-management strategies;

23 (vii) Pedestrian and bicycle component to include collaborative
24 efforts to identify and designate planned improvements for pedestrian
25 and bicycle facilities and corridors that address and encourage
26 enhanced community access and promote healthy lifestyles.

27 (b) After adoption of the comprehensive plan by jurisdictions
28 required to plan or who choose to plan under RCW 36.70A.040, local
29 jurisdictions must adopt and enforce ordinances which prohibit
30 development approval if the development causes the level of service on
31 a locally owned transportation facility to decline below the standards
32 adopted in the transportation element of the comprehensive plan, unless
33 transportation improvements or strategies to accommodate the impacts of
34 development are made concurrent with the development. These strategies
35 may include increased public transportation service, ride sharing
36 programs, demand management, and other transportation systems
37 management strategies. For the purposes of this subsection (6)
38 "concurrent with the development" shall mean that improvements or

1 strategies are in place at the time of development, or that a financial
2 commitment is in place to complete the improvements or strategies
3 within six years.

4 (c) The transportation element described in this subsection (6),
5 and the six-year plans required by RCW 35.77.010 for cities, RCW
6 36.81.121 for counties, RCW 35.58.2795 for public transportation
7 systems, and RCW 47.05.030 for the state, must be consistent.

8 (7) An economic development element establishing local goals,
9 policies, objectives, and provisions for economic growth and vitality
10 and a high quality of life. The element shall include: (a) A summary
11 of the local economy such as population, employment, payroll, sectors,
12 businesses, sales, and other information as appropriate; (b) a summary
13 of the strengths and weaknesses of the local economy defined as the
14 commercial and industrial sectors and supporting factors such as land
15 use, transportation, utilities, education, work force, housing, and
16 natural/cultural resources; and (c) an identification of policies,
17 programs, and projects to foster economic growth and development and to
18 address future needs. A city that has chosen to be a residential
19 community is exempt from the economic development element requirement
20 of this subsection.

21 (8) A park and recreation element that implements, and is
22 consistent with, the capital facilities plan element as it relates to
23 park and recreation facilities. The element shall include: (a)
24 Estimates of park and recreation demand for at least a ten-year period;
25 (b) an evaluation of facilities and service needs; and (c) an
26 evaluation of intergovernmental coordination opportunities to provide
27 regional approaches for meeting park and recreational demand.

28 (9) It is the intent that new or amended elements required after
29 January 1, 2002, be adopted concurrent with the scheduled update
30 provided in RCW 36.70A.130. Requirements to incorporate any such new
31 or amended elements shall be null and void until funds sufficient to
32 cover applicable local government costs are appropriated and
33 distributed by the state at least two years before local government
34 must update comprehensive plans as required in RCW 36.70A.130.

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