

HOUSE BILL REPORT

HB 1998

As Reported by House Committee On:
Local Government

Title: An act relating to growth in rural areas.

Brief Description: Providing for rural villages as a new strategy for growth in rural areas.

Sponsors: Representatives McCoy, B. Sullivan, Strow, Dunshee, Priest, Wood, Springer and Linville.

Brief History:

Committee Activity:

Local Government: 2/13/07, 2/26/07 [DPS].

Brief Summary of Substitute Bill

- Authorizes the development of "rural villages" in accordance with the Growth Management Act rural development requirements and which are created using transfers of development rights.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Simpson, Chair; Eddy, Vice Chair; Curtis, Ranking Minority Member; B. Sullivan and Takko.

Minority Report: Without recommendation. Signed by 2 members: Representatives Schindler, Assistant Ranking Minority Member and Ross.

Staff: Thamas Osborn (786-7129).

Background:

Overview of the Growth Management Act

The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-

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nine of 39 counties, and the cities within those 29 counties, are required to or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

Rural Development Provisions in Comprehensive Land Use Plans

Among numerous planning requirements, GMA jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Each comprehensive plan must include certain elements, including land use, housing, and transportation elements. Counties fully planning under the GMA must also include a *rural element* within their comprehensive plan.

The *rural element* must specify provisions for lands not designated for urban growth, agriculture, forest, or mineral resources. Such provisions include:

- *permitting limited areas of more intensive rural development*, including necessary public facilities and public services to serve these areas;
- allowing counties to consider local circumstances when establishing patterns or rural densities and uses;
- permitting specific development, varieties of densities, uses, essential public facilities, and rural government services; and
- requiring measures governing rural development, including measures to protect an area's rural character.

To achieve a variety of rural densities and uses, counties may provide for clustering, *density transfer*, design guidelines, *conservation easements*, and other innovative techniques that will accommodate appropriate urban densities and uses that are not characterized by urban growth and that are consistent with the character of rural lands.

Limited Areas of More Intensive Rural Development (LAMIRDs)

In planning for the *rural element*, counties may permit the creation of LAMIRDs in rural areas, including necessary public facilities and public services. Three types of LAMIRDs are permitted:

- Rural development - allowing the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas;
- Recreational and tourist uses - allowing intensification of development on lots containing, or new development of, small-scale recreational or tourist uses; and
- Nonresidential/cottage industry - allowing intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses.

"Public facilities" are defined in the GMA to include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities and schools. "Public services" are defined to include fire protection, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

Transfers of Development Rights (TDRs)

A "transfers of development rights" (TDR) is a market-based technique that encourages the voluntary transfer of growth from a place where a community would like to encourage less development, referred to as a *sending area*, to a place where a community would like to encourage more development, referred to as a *receiving area*. In a typical TDR transaction, conservation-oriented, permanent deed restrictions are placed on sending area properties to ensure that the land will be used only for approved activities such as farming, forest management, conservation, or passive recreation. Under this technique, the costs of purchasing the recorded development restrictions are borne by the developers who receive a "building credit" or "bonus." In return, developers may use this building credit or bonus to obtain or enhance development rights in the receiving area. Typically, the end result of this process is that a rural or natural area (e.g., agricultural, forest, or open space land) is preserved through permanent restrictions on development, while the receiving area is subject to increased development and/or population density as the result of changes in zoning requirements.

Summary of Substitute Bill:

Introduction and Overview of the Act:

The act authorizes the creation of a maximum of three "rural village" demonstration projects in certain GMA planning counties. A "rural village" is defined as a "compact, environmentally-friendly rural development created using a transfer of development rights." A rural village must be located in a designated rural area outside of a LAMIRD and must coexist with farming and other traditional, non-urban land uses. An eligible county is limited to designating no more than one rural village within its jurisdiction.

For the purposes of GMA planning requirements, rural villages do not constitute "urban growth" nor are they lands "characterized by urban growth."

To be eligible, a county must be located in the Puget Sound Regional Council's planning area, which includes the following four central Puget Sound counties:

- King County;
- Pierce County;
- Snohomish County; and
- Kitsap County.

The rural village demonstration project will be monitored by the Department of Community, Trade, and Economic Development (Department). A county must notify the Department of its intent to initiate an urban village project or when it decides to withdraw a project. The act requires the Department to report to the Legislature regarding the rural village pilot project and creates specified reporting requirements.

The authority of an eligible county to designate a rural village in its development regulations terminates on December 31, 2009, unless a county has properly notified the Department of its intent to designate a rural village before that time.

Authorized Types of Development

Subject to specified requirements, a rural village may contain both residential and non-residential development. Residential development may consist of between 50 and 200 dwelling units of specified types. Lot sizes for single family homes are limited to a maximum of 7,000 square feet. Nonresidential development is allowed if it is designed to serve the village population and rural residents living in nearby areas.

Transfers of Development Rights

The development of a rural village is premised on the use of TDRs to conserve surrounding rural areas and natural resource lands (sending area) by transferring the development rights from those areas to the area designated for the rural village (receiving area). Village nonresidential development or proposed dwelling units that exceed base zoning in the receiving area can be developed only upon the transfer or purchase of development rights from a sending area.

The act provides a variety of recommendations and technical requirements regarding the mechanics of using TDRs for the creation of rural villages. Although counties are given some discretion in determining the ratio of development rights that must be transferred from rural and resource lands, the act requires that at least one-half of the development rights used in developing a rural village be transferred from rural lands, with any remainder coming from resource lands.

Creation and Enforcement of Conservation Easements

Development rights purchased or transferred from sending area properties must be extinguished with conservation easements held jointly by a nonprofit organization and the relevant local government. The conservation easement must permanently restrict development of the property, but must allow for typical rural land uses, including agriculture and working forestry.

Siting Requirements

The siting of a rural village must be included in a county's comprehensive plan, be determined in accordance with the requirements of the GMA, and must favor sites having:

- limited visual impacts;
- proximity to existing transportation networks;
- limited need for service improvements;
- affordable housing within the rural village; and
- appropriate environmental characteristics.

Public Facilities and Services

Public facilities and services may be financed through impact fees and are limited to those necessary to serve the rural village. Such facilities and services must be provided in a manner that does not permit low-density urban sprawl.

Transportation Requirements

Site planning must include multimodal transportation considerations and may include bicycle paths, park-and-ride facilities, community vanpools, and carshare parking spaces. Other transportation requirements and considerations include:

- pedestrian walkways;
- trail networks;
- road capacity sufficient to meet county standards and accommodate the projected needs of the rural village;
- necessary roadway improvements; and
- efforts to minimize impervious surfaces and storm water runoff.

Miscellaneous Planning Requirements and Recommendations

The act creates additional development requirements and recommendations pertaining to the following aspects of rural village planning:

- water rights consistent with environmental protection goals;
- innovative wastewater treatment techniques ;
- innovative storm water management approaches;
- open space preservation, emphasizing the creation of community gathering places;
- mandatory "green building" requirements;
- preservation and/or restoration of native vegetation;
- design standards emphasizing the preservation of the rural character of the area; and
- requirements for the preservation of buffers in delineating the boundaries of a rural village.

Rural villages are prohibited from being "gated communities" and must grant the general public specified, formal legal rights regarding access to roads, paths, and walkways.

Reporting Requirements for the Department of Community, Trade and Economic Development

The Department is required to report annually to the appropriate committees of the Legislature regarding the progress of the rural villages established under the act. In addition, the Department must prepare a final report, due no later than December 1, 2012, that addresses the success of the program in meeting the goals of the GMA regarding the preservation of rural lands and the fostering of compatible commercial, recreational, and tourist uses of rural areas. In preparing the report, the Department must consult with landowners, developers, local governments, and other pertinent entities and persons. The report must address specified subject-matter areas and contain recommendations regarding the authorization of additional rural villages and any necessary statutory changes.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- adds language stating that rural villages do not constitute "urban growth," nor are they lands "characterized by urban growth," for the purposes of GMA planning requirements;

- deletes language requiring counties to determine the appropriate ratio of development rights to be transferred from rural lands and natural resource lands as part of the process of creating the rural village;
- requires that in creating the boundaries of a rural village, the boundary delineations must maintain and integrate buffers required under previous land use designations, or as required by existing critical areas designations, whichever is greater;
- clarifies that public schools and/or school facilities are not subject to specified limitations imposed on rural villages with respect to the provision of public services and facilities;
- provides a definition for the "walkways" recommended for inclusion within a rural village and provides specified guidelines as to their function and construction;
- prohibits rural villages from being "gated communities" and requires that the general public must be granted specified, formal legal rights regarding access to roads, paths, and walkways;
- deletes provisions relating to the use of groundwater within "sending area" properties;
- revises the "green building" standards so as to require that rural villages comply with the National Association of Home Builders Gold Level Green Building Guidelines; and
- extends the authority of a county to designate a rural village in its development regulations beyond the current deadline of December 31, 2009, provided the county has notified the Department by that date of its intent to so designate a rural village.

Appropriation: None.

Fiscal Note: Requested on February 12, 2007.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is needed to address GMA planning issues that will arise as populations begin to increase in rural areas. This is a well-crafted pilot project that provides a visionary approach for dealing with development issues that are increasingly problematic. Although it is vitally important to concentrate growth in urban areas, planning must be done to accommodate the development that is certain to occur outside of the urban growth boundaries. This bill addresses key long-term planning needs for residential development in rural areas and will provide counties with a needed tool for dealing with rural development. Furthermore, the bill is fully consistent with the goals of the GMA.

The bill provides a planning mechanism for the development of compact, high density, rural residential areas in order to preserve remaining rural lands. Encouraging higher density rural

residential development will better enable counties to control rural residential sprawl. The goal is to shrink the amount of land used for rural residential purposes and thus preserve existing agricultural and forest lands. Many European countries use a rural village model in order to better concentrate rural residential uses and thus preserve the natural integrity of rural and agricultural areas.

The current environmental trends in rural areas are negative, insofar as urban-style sprawl is beginning to occur as the result of "large lot" residential development. This type of development is quickly eliminating large, continuous areas of open areas and forest lands. This results in the creation of "fragmented landscapes" containing many scattered, large-lot residences sited on lands that were once rural in nature. Such piecemeal destruction of rural land is contrary to the goals of the GMA with respect to preserving the natural character of rural areas. This trend has very negative environmental consequences with respect to wildlife habitat, watershed protection, and the preservation of agricultural areas and working forest lands. The development of compact rural villages could reverse this trend while at the same time allow for the more efficient provision of services to residences. Allowing "rural residential sprawl" to continue will have negative impacts on farmers and the owners of working forests.

The bill is in need of some changes with respect to provisions regarding school siting.

(With concerns) The provisions of the bill pertaining to water law need fine tuning. The Puyallup Tribe and Yakama Nation would like to see the Department of Ecology involved regarding water and salmon issues.

(Opposed) None.

Persons Testifying: (In support) Larry Stout, Washington Realtors; Michelle Connor, Cascade Land Conservancy; Rod Brandon, King County; Joan Burlingame, Back Country Horseman; Kaleen Cottingham, Futurewise; J. Allen; Rick Dunning, Washington Farm Forestry Association; Scott Dahlman, Washington Grange; Heath Packard, Audubon; Eric Johnson, Washington Association of Counties; Patti Case, Green Diamond; Josh Weiss, Washington Forest Protection Association; Genesee Adkins, Transportation Choices; Gayle Broadbent, Adams Cove Group; Rod Brandon, King County; and Charlie Brown, Puget Sound School Coalition.

(With concerns) Dawn Vyvyan, Puyallup Tribe of Indians/Yakama Nation.

(Opposed) None.

Persons Signed In To Testify But Not Testifying: None.