
SENATE BILL 5449

State of Washington

60th Legislature

2007 Regular Session

By Senators Swecker, Rockefeller, Jacobsen, Kastama, Clements, Pflug, Haugen, Benton and Rasmussen

Read first time 01/19/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to authorizing voluntary environmental management
2 and incentive zone plans for subareas; amending RCW 36.70A.060; adding
3 a new section to chapter 36.70A RCW; creating a new section; and making
4 an appropriation.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that there is a
7 broadly held ethic among the citizens of the state that includes
8 appreciation of nature and environmental values, and that many citizens
9 are willing to voluntarily undertake activities to protect and enhance
10 environmental values on their own land and in their communities.

11 (2) The purposes of this act are to: Promote nonregulatory
12 measures, incentives, and educational programs; reduce conflict between
13 agencies, local governments, and stakeholders; alleviate adverse
14 consequences of prescriptive rules; and protect both property rights
15 and values and critical area functions and values.

16 (3) The legislature therefore intends that counties and cities
17 utilizing this act make voluntary solutions a planning priority, and
18 provide ample opportunities for citizens to understand and pursue
19 voluntary options to improve their own environment.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
2 to read as follows:

3 (1) Cities and counties may:

4 (a) Initiate or participate in environmental management and
5 incentive zone subarea planning partnerships;

6 (b) Adopt proposed environmental and incentive zone subarea plans
7 as an alternative means, within a subarea, of meeting the requirements
8 to protect the functions and values of critical areas under this
9 chapter, including critical areas defined in RCW 36.70A.030(5) (a)
10 through (d);

11 (c) Provide exceptions or individual waivers to critical area
12 requirements, within a subarea, including requirements contained in RCW
13 36.70A.060, 36.70A.170, and 36.70A.172; and

14 (d) Integrate voluntary and nonregulatory incentives and regulatory
15 programs to meet other requirements of this chapter, as well as other
16 state and federal requirements.

17 (2) Cities and counties choosing to initiate planning under this
18 section shall:

19 (a) Appoint a lead management entity; and

20 (b) Create a scoping document to identify: (i) The geographic
21 boundaries of the proposed planning subarea; and (ii) requirements and
22 responsibilities the environmental management incentive zone subarea
23 planning process is designed to meet.

24 (3) For the purposes of this section:

25 (a) "Lead management entity" means a lead subarea planning entity
26 appointed by a city or county, or jointly by participating cities and
27 counties, to coordinate and facilitate the use of nonregulatory
28 incentives under the environmental management incentive zone subarea
29 planning process. Cities, counties, public organizations, and private
30 nongovernmental organizations with authority to receive public funds
31 may serve as a lead management entity.

32 (b) "Planning partnership" means a city or county, or combination
33 of cities and counties, partnering with property owners, stakeholders,
34 and a lead management entity to create and implement an environmental
35 management incentive zone subarea plan.

36 (c) "Plan" means an environmental management incentive zone subarea
37 plan.

38 (4) An appointed lead management entity shall:

1 (a) Apply to the department for funding to plan under this section;
2 (b) Identify and apply for financial and technical assistance from
3 other appropriate public and private sources, including sources at the
4 federal, state, or local level; and
5 (c) Promote and facilitate voluntary contracts, projects, and
6 commitments, and assist partner communities and their constituents in
7 formalizing attendant financial and legal documents.
8 (5) The department shall:
9 (a) Prescribe the form and manner of applications for funding under
10 this section;
11 (b) Select and fund at least ten pilot planning efforts; and
12 (c) Rank applications for funding, giving preference to
13 applications with the greatest potential to: (i) Promote voluntary
14 measures, incentives, and educational programs that, when integrated
15 with regulatory measures authorized outside this chapter, will
16 contribute to both the protection of critical area functions and values
17 and the protection of property rights and values; (ii) promote
18 cooperation between multiple and diverse jurisdictions and stakeholders
19 in efforts to conserve contiguous landscapes and avoid uncoordinated
20 land use patterns; and (iii) support the economic viability of working
21 natural resource lands and industries.
22 (6) For the purpose of planning or implementing any element of an
23 environmental management and incentive zone subarea plan:
24 (a) Cities, counties, and other appropriate government
25 jurisdictions may enter into interlocal agreements with each other
26 under RCW 39.34.030 or adopt memorandums of agreement with each other
27 or with private entities and nongovernmental organizations;
28 (b) Planning partnerships are encouraged to invite participation
29 from appropriate federal, state, local, private, or tribal agencies,
30 authorities, and organizations with nonregulatory incentive programs or
31 regulatory jurisdiction related to environmental, fish, or wildlife
32 issues within the planning region; and
33 (c) Invited agencies, authorities, and organizations are encouraged
34 to broadly interpret their ability to collaborate as part of a
35 multiagency team and provide a unified assessment of regulatory
36 requirements and nonregulatory opportunities pertinent to planning
37 under this section.

1 (7)(a) A plan adopted under this section must, to the maximum
2 extent practicable, promote and include voluntary, nonregulatory
3 solutions as a first priority.

4 (b) Development policies, rules, or conditions may also be included
5 in a plan as necessary, in accordance with nexus and rough
6 proportionality requirements, to provide adequate protection of
7 critical area functions and values.

8 (c) Regulatory action under this section may not prohibit uses
9 legally existing on any parcel prior to plan adoption.

10 (d) This chapter is not construed to preclude a landowner from
11 qualifying for voluntary incentive programs, such as the conservation
12 reserve enhancement program, that provide for the restoration of fish
13 and wildlife habitat or the improvement of water quality.

14 (8) The legislature intends that cities and counties be given broad
15 deference and discretion under this section to prioritize and balance
16 the goals of this chapter and critical area requirements under RCW
17 36.70A.060 and 36.70A.172. Growth management hearings boards and
18 reviewing courts shall not find an adopted plan to be out of compliance
19 with this chapter if the adopted plan as a whole satisfies the
20 requirements of this section.

21 (9) A joint legislative oversight committee, consisting of two
22 members from each caucus of the house of representatives and two
23 members from each caucus of the senate, is created. The committee
24 shall appoint a nonvoting advisory counsel, composed of a broad and
25 balanced range of stakeholders, to advise and consult with the
26 committee. Within one year after the effective date of this act, the
27 committee shall review progress of planning efforts initiated under
28 this section and provide the department written comments, if any, on
29 proposed or adopted plans. The department shall cooperate by providing
30 information as requested by the committee. By December 1, 2009, the
31 committee shall provide a joint report to the appropriate committees of
32 the legislature, with recommendations for statutory changes that would
33 provide better integration of voluntary incentives and regulatory
34 programs and promote more effective protection of both property rights
35 and values and critical area functions and values.

36 **Sec. 3.** RCW 36.70A.060 and 2005 c 423 s 3 are each amended to read
37 as follows:

1 (1)(a) (~~Except as provided in RCW 36.70A.1701,~~) Each county that
2 is required or chooses to plan under RCW 36.70A.040, and each city
3 within such county, shall adopt development regulations on or before
4 September 1, 1991, to assure the conservation of agricultural, forest,
5 and mineral resource lands designated under RCW 36.70A.170.
6 Regulations adopted under this subsection may not prohibit uses legally
7 existing on any parcel prior to their adoption and shall remain in
8 effect until the county or city adopts development regulations pursuant
9 to RCW 36.70A.040. Such regulations shall assure that the use of lands
10 adjacent to agricultural, forest, or mineral resource lands shall not
11 interfere with the continued use, in the accustomed manner and in
12 accordance with best management practices, of these designated lands
13 for the production of food, agricultural products, or timber, or for
14 the extraction of minerals.

15 (b) Counties and cities shall require that all plats, short plats,
16 development permits, and building permits issued for development
17 activities on, or within five hundred feet of, lands designated as
18 agricultural lands, forest lands, or mineral resource lands, contain a
19 notice that the subject property is within or near designated
20 agricultural lands, forest lands, or mineral resource lands on which a
21 variety of commercial activities may occur that are not compatible with
22 residential development for certain periods of limited duration. The
23 notice for mineral resource lands shall also inform that an application
24 might be made for mining-related activities, including mining,
25 extraction, washing, crushing, stockpiling, blasting, transporting, and
26 recycling of minerals.

27 (2) Each county and city shall adopt development regulations that
28 protect critical areas that are required to be designated under RCW
29 36.70A.170. For counties and cities that are required or choose to
30 plan under RCW 36.70A.040, such development regulations shall be
31 adopted on or before September 1, 1991. For the remainder of the
32 counties and cities, such development regulations shall be adopted on
33 or before March 1, 1992.

34 (3) Such counties and cities shall review these designations and
35 development regulations when adopting their comprehensive plans under
36 RCW 36.70A.040 and implementing development regulations under RCW
37 36.70A.120 and may alter such designations and development regulations

1 to insure consistency or to include provisions related to an
2 environmental management and incentive zone subarea plan adopted under
3 section 2 of this act.

4 (4) Forest land and agricultural land located within urban growth
5 areas shall not be designated by a county or city as forest land or
6 agricultural land of long-term commercial significance under RCW
7 36.70A.170 unless the city or county has enacted a program authorizing
8 transfer or purchase of development rights.

9 NEW SECTION. **Sec. 4.** The sum of one million dollars, or as much
10 thereof as may be necessary, is appropriated for the fiscal year ending
11 June 30, 2008, from the general fund to the department of community,
12 trade, and economic development for the purposes of environmental
13 management incentive zone subarea planning under this act.

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