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SENATE BILL 5914

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State of Washington

60th Legislature

2007 Regular Session

By Senators Kline, Swecker, Jacobsen, Hatfield, Pflug, Clements, Tom, Kilmer, Marr, Delvin, Parlette, McCaslin, Benton, Franklin, Shin, Sheldon, Rasmussen and Holmquist

Read first time 02/07/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to performance measures in countywide planning  
2 policies for the purpose of growth management planning; and amending  
3 RCW 36.70A.030 and 36.70A.210.

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

5 **Sec. 1.** RCW 36.70A.030 and 2005 c 423 s 2 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Adopt a comprehensive land use plan" means to enact a new  
10 comprehensive land use plan or to update an existing comprehensive land  
11 use plan.

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

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

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

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

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

12 (7) "Development regulations" or "regulation" means the controls  
13 placed on development or land use activities by a county or city,  
14 including, but not limited to, zoning ordinances, critical areas  
15 ordinances, shoreline master programs, official controls, planned unit  
16 development ordinances, subdivision ordinances, and binding site plan  
17 ordinances together with any amendments thereto. A development  
18 regulation does not include a decision to approve a project permit  
19 application, as defined in RCW 36.70B.020, even though the decision may  
20 be expressed in a resolution or ordinance of the legislative body of  
21 the county or city.

22 (8) "Forest land" means land primarily devoted to growing trees for  
23 long-term commercial timber production on land that can be economically  
24 and practically managed for such production, including Christmas trees  
25 subject to the excise tax imposed under RCW 84.33.100 through  
26 84.33.140, and that has long-term commercial significance. In  
27 determining whether forest land is primarily devoted to growing trees  
28 for long-term commercial timber production on land that can be  
29 economically and practically managed for such production, the following  
30 factors shall be considered: (a) The proximity of the land to urban,  
31 suburban, and rural settlements; (b) surrounding parcel size and the  
32 compatibility and intensity of adjacent and nearby land uses; (c) long-  
33 term local economic conditions that affect the ability to manage for  
34 timber production; and (d) the availability of public facilities and  
35 services conducive to conversion of forest land to other uses.

36 (9) "Geologically hazardous areas" means areas that because of  
37 their susceptibility to erosion, sliding, earthquake, or other

1 geological events, are not suited to the siting of commercial,  
2 residential, or industrial development consistent with public health or  
3 safety concerns.

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

8 (11) "Minerals" include gravel, sand, and valuable metallic  
9 substances.

10 (12) "Performance measures" means an indicator providing consistent  
11 and reliable information over time to help gauge how a jurisdiction is  
12 achieving specified performance results. For purposes of this  
13 subsection, "indicator" means a quantifiable measurement or index.

14 (13) "Public facilities" include streets, roads, highways,  
15 sidewalks, street and road lighting systems, traffic signals, domestic  
16 water systems, storm and sanitary sewer systems, parks and recreational  
17 facilities, and schools.

18 ((+13+)) (14) "Public services" include fire protection and  
19 suppression, law enforcement, public health, education, recreation,  
20 environmental protection, and other governmental services.

21 ((+14+)) (15) "Reasonable measures" means comprehensive planning  
22 policies and development regulations that increase consistency with  
23 this chapter and the countywide planning policies and comprehensive  
24 plan.

25 (16) "Recreational land" means land so designated under RCW  
26 36.70A.1701 and that, immediately prior to this designation, was  
27 designated as agricultural land of long-term commercial significance  
28 under RCW 36.70A.170. Recreational land must have playing fields and  
29 supporting facilities existing before July 1, 2004, for sports played  
30 on grass playing fields.

31 ((+15+)) (17) "Rural character" refers to the patterns of land use  
32 and development established by a county in the rural element of its  
33 comprehensive plan:

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

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

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

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

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

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

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

12 (~~(16)~~) (18) "Rural development" refers to development outside the  
13 urban growth area and outside agricultural, forest, and mineral  
14 resource lands designated pursuant to RCW 36.70A.170. Rural  
15 development can consist of a variety of uses and residential densities,  
16 including clustered residential development, at levels that are  
17 consistent with the preservation of rural character and the  
18 requirements of the rural element. Rural development does not refer to  
19 agriculture or forestry activities that may be conducted in rural  
20 areas.

21 (~~(17)~~) (19) "Rural governmental services" or "rural services"  
22 include those public services and public facilities historically and  
23 typically delivered at an intensity usually found in rural areas, and  
24 may include domestic water systems, fire and police protection  
25 services, transportation and public transit services, and other public  
26 utilities associated with rural development and normally not associated  
27 with urban areas. Rural services do not include storm or sanitary  
28 sewers, except as otherwise authorized by RCW 36.70A.110(4).

29 (~~(18)~~) (20) "Urban growth" refers to growth that makes intensive  
30 use of land for the location of buildings, structures, and impermeable  
31 surfaces to such a degree as to be incompatible with the primary use of  
32 land for the production of food, other agricultural products, or fiber,  
33 or the extraction of mineral resources, rural uses, rural development,  
34 and natural resource lands designated pursuant to RCW 36.70A.170. A  
35 pattern of more intensive rural development, as provided in RCW  
36 36.70A.070(5)(d), is not urban growth. When allowed to spread over  
37 wide areas, urban growth typically requires urban governmental

1 services. "Characterized by urban growth" refers to land having urban  
2 growth located on it, or to land located in relationship to an area  
3 with urban growth on it as to be appropriate for urban growth.

4 ~~((+19+))~~ (21) "Urban growth areas" means those areas designated by  
5 a county pursuant to RCW 36.70A.110.

6 ~~((+20+))~~ (22) "Urban governmental services" or "urban services"  
7 include those public services and public facilities at an intensity  
8 historically and typically provided in cities, specifically including  
9 storm and sanitary sewer systems, domestic water systems, street  
10 cleaning services, fire and police protection services, public transit  
11 services, and other public utilities associated with urban areas and  
12 normally not associated with rural areas.

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

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

29 (1) The legislature recognizes that counties are regional  
30 governments within their boundaries, and cities are primary providers  
31 of urban governmental services within urban growth areas. For the  
32 purposes of this section, a "countywide planning policy" is a written  
33 policy statement or statements used solely for establishing a  
34 countywide framework from which county and city comprehensive plans are  
35 developed and adopted pursuant to this chapter. This framework shall  
36 ensure that city and county comprehensive plans are consistent as

1 required in RCW 36.70A.100. Nothing in this section shall be construed  
2 to alter the land-use powers of cities.

3 (2) The legislative authority of a county that plans under RCW  
4 36.70A.040 shall adopt a countywide planning policy in cooperation with  
5 the cities located in whole or in part within the county as follows:

6 (a) No later than sixty calendar days from July 16, 1991, the  
7 legislative authority of each county that as of June 1, 1991, was  
8 required or chose to plan under RCW 36.70A.040 shall convene a meeting  
9 with representatives of each city located within the county for the  
10 purpose of establishing a collaborative process that will provide a  
11 framework for the adoption of a countywide planning policy. In other  
12 counties that are required or choose to plan under RCW 36.70A.040, this  
13 meeting shall be convened no later than sixty days after the date the  
14 county adopts its resolution of intention or was certified by the  
15 office of financial management.

16 (b) The process and framework for adoption of a countywide planning  
17 policy specified in (a) of this subsection shall determine the manner  
18 in which the county and the cities agree to all procedures and  
19 provisions including but not limited to desired planning policies,  
20 deadlines, ratification of final agreements and demonstration thereof,  
21 and financing, if any, of all activities associated therewith.

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

26 (d) If there is no agreement by October 1, 1991, in a county that  
27 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,  
28 or if there is no agreement within one hundred twenty days of the date  
29 the county adopted its resolution of intention or was certified by the  
30 office of financial management in any other county that is required or  
31 chooses to plan under RCW 36.70A.040, the governor shall first inquire  
32 of the jurisdictions as to the reason or reasons for failure to reach  
33 an agreement. If the governor deems it appropriate, the governor may  
34 immediately request the assistance of the department of community,  
35 trade, and economic development to mediate any disputes that preclude  
36 agreement. If mediation is unsuccessful in resolving all disputes that  
37 will lead to agreement, the governor may impose appropriate sanctions  
38 from those specified under RCW 36.70A.340 on the county, city, or

1 cities for failure to reach an agreement as provided in this section.  
2 The governor shall specify the reason or reasons for the imposition of  
3 any sanction.

4 (e) No later than July 1, 1992, the legislative authority of each  
5 county that was required or chose to plan under RCW 36.70A.040 as of  
6 June 1, 1991, or no later than fourteen months after the date the  
7 county adopted its resolution of intention or was certified by the  
8 office of financial management the county legislative authority of any  
9 other county that is required or chooses to plan under RCW 36.70A.040,  
10 shall adopt a countywide planning policy according to the process  
11 provided under this section and that is consistent with the agreement  
12 pursuant to (b) of this subsection, and after holding a public hearing  
13 or hearings on the proposed countywide planning policy.

14 (3) A countywide planning policy shall at a minimum, address the  
15 following:

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

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

19 (c) Policies for siting public capital facilities of a countywide  
20 or statewide nature, including transportation facilities of statewide  
21 significance as defined in RCW 47.06.140;

22 (d) Policies for countywide transportation facilities and  
23 strategies;

24 (e) Policies that consider the need for affordable housing, such as  
25 housing for all economic segments of the population and parameters for  
26 its distribution;

27 (f) Policies for joint county and city planning within urban growth  
28 areas;

29 (g) Policies for countywide economic development and employment;  
30 ((and))

31 (h) Policies establishing performance measures that regularly  
32 review progress towards accommodating the twenty-year population and  
33 employment growth projections established in the countywide planning  
34 policies; and

35 (i) An analysis of the fiscal impact.

36 (4) Federal agencies and Indian tribes may participate in and  
37 cooperate with the countywide planning policy adoption process.

1 Adopted countywide planning policies shall be adhered to by state  
2 agencies.

3 (5) Failure to adopt a countywide planning policy that meets the  
4 requirements of this section may result in the imposition of a sanction  
5 or sanctions on a county or city within the county, as specified in RCW  
6 36.70A.340. In imposing a sanction or sanctions, the governor shall  
7 specify the reasons for failure to adopt a countywide planning policy  
8 in order that any imposed sanction or sanctions are fairly and  
9 equitably related to the failure to adopt a countywide planning policy.

10 (6) Cities and the governor may appeal an adopted countywide  
11 planning policy to the growth management hearings board within sixty  
12 days of the adoption of the countywide planning policy.

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

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