

SB 5636 - S AMD 207

By Senator Hasegawa

NOT CONSIDERED

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 36.70A.040 and 2000 c 36 s 1 are each amended to read
4 as follows:

5 (1) Each county that has both a population of fifty thousand or
6 more and, until May 16, 1995, has had its population increase by more
7 than ten percent in the previous ten years or, on or after May 16,
8 1995, has had its population increase by more than seventeen percent in
9 the previous ten years, and the cities located within such county, and
10 any other county regardless of its population that has had its
11 population increase by more than twenty percent in the previous ten
12 years, and the cities located within such county, shall conform with
13 all of the requirements of this chapter. However, the county
14 legislative authority of such a county with a population of less than
15 fifty thousand population may adopt a resolution removing the county,
16 and the cities located within the county, from the requirements of
17 adopting comprehensive land use plans and development regulations under
18 this chapter if this resolution is adopted and filed with the
19 department by December 31, 1990, for counties initially meeting this
20 set of criteria, or within sixty days of the date the office of
21 financial management certifies that a county meets this set of criteria
22 under subsection (5) of this section. For the purposes of this
23 subsection, a county not currently planning under this chapter is not
24 required to include in its population count those persons confined in
25 a correctional facility under the jurisdiction of the department of
26 corrections that is located in the county.

27 Once a county meets either of these sets of criteria, the
28 requirement to conform with all of the requirements of this chapter
29 remains in effect, even if the county no longer meets one of these sets
30 of criteria.

1 (2)(a) The county legislative authority of any county that does not
2 meet either of the sets of criteria established under subsection (1) of
3 this section may adopt a resolution indicating its intention to have
4 subsection (1) of this section apply to the county. Each city, located
5 in a county that chooses to plan under this subsection, shall conform
6 with all of the requirements of this chapter. Once such a resolution
7 has been adopted, the county and the cities located within the county,
8 except as provided otherwise by this section, remain subject to all
9 (~~of the~~) requirements of this chapter.

10 (b) Until December 31, 2014, the legislative authority of a county
11 may adopt a withdrawal resolution exempting the county and the cities
12 located within the county from requirements to adopt comprehensive land
13 use plans and development regulations under this section if:

14 (i) The county has a population of twenty thousand or fewer
15 inhabitants at any time between January 1, 2010, and December 31, 2014;

16 (ii) The county previously adopted a resolution indicating its
17 intention to have subsection (1) of this section apply to the county;

18 (iii) At least sixty days prior to adopting the withdrawal
19 resolution, the county provides written notification to the legislative
20 body of each city within the county of its intent to consider adopting
21 the resolution; and

22 (iv) Before the county legislative authority adopts the withdrawal
23 resolution, the legislative bodies of at least sixty percent of those
24 cities having an aggregate population of at least seventy-five percent
25 of the incorporated county population adopt resolutions supporting the
26 withdrawal action by the county and provide written notification of
27 this support to the county.

28 (c) The effective date of the withdrawal resolution under (b) of
29 this subsection is the date of its adoption or a later date established
30 in the resolution. As of the effective date of a withdrawal
31 resolution, the county and the cities within the county shall not be
32 considered as planning under this section, and, except as provided
33 otherwise by RCW 36.70A.060, are obligated only to comply with the
34 requirements of this chapter that apply to all counties and cities.
35 However, if a county meets the population criteria for mandatory
36 planning under subsection (1) of this section as of January 1, 2010, or
37 on any subsequent date, the withdrawal resolution is invalid and the

1 county and each city located within the county must comply with all
2 requirements of this chapter.

3 (d) The legislative authority of a county that adopted a withdrawal
4 resolution under (b) of this subsection may, at any subsequent date,
5 adopt a resolution indicating its intention to have subsection (1) of
6 this section apply to the county.

7 (3) Any county or city that is initially required to conform with
8 all of the requirements of this chapter under subsection (1) of this
9 section shall take actions under this chapter as follows: (a) The
10 county legislative authority shall adopt a countywide planning policy
11 under RCW 36.70A.210; (b) the county and each city located within the
12 county shall designate critical areas, agricultural lands, forest
13 lands, and mineral resource lands, and adopt development regulations
14 conserving these designated agricultural lands, forest lands, and
15 mineral resource lands and protecting these designated critical areas,
16 under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and
17 take other actions related to urban growth areas under RCW 36.70A.110;
18 (d) if the county has a population of fifty thousand or more, the
19 county and each city located within the county shall adopt a
20 comprehensive plan under this chapter and development regulations that
21 are consistent with and implement the comprehensive plan on or before
22 July 1, 1994, and if the county has a population of less than fifty
23 thousand, the county and each city located within the county shall
24 adopt a comprehensive plan under this chapter and development
25 regulations that are consistent with and implement the comprehensive
26 plan by January 1, 1995, but if the governor makes written findings
27 that a county with a population of less than fifty thousand or a city
28 located within such a county is not making reasonable progress toward
29 adopting a comprehensive plan and development regulations the governor
30 may reduce this deadline for such actions to be taken by no more than
31 one hundred eighty days. Any county or city subject to this subsection
32 may obtain an additional six months before it is required to have
33 adopted its development regulations by submitting a letter notifying
34 the department of ((community, trade, and economic development))
35 commerce of its need prior to the deadline for adopting both a
36 comprehensive plan and development regulations.

37 (4) Any county or city that is required to conform with all the
38 requirements of this chapter, as a result of the county legislative

1 authority adopting its resolution of intention under subsection (2) of
2 this section, shall take actions under this chapter as follows: (a)
3 The county legislative authority shall adopt a county-wide planning
4 policy under RCW 36.70A.210; (b) the county and each city that is
5 located within the county shall adopt development regulations
6 conserving agricultural lands, forest lands, and mineral resource lands
7 it designated under RCW 36.70A.060 within one year of the date the
8 county legislative authority adopts its resolution of intention; (c)
9 the county shall designate and take other actions related to urban
10 growth areas under RCW 36.70A.110; and (d) the county and each city
11 that is located within the county shall adopt a comprehensive plan and
12 development regulations that are consistent with and implement the
13 comprehensive plan not later than four years from the date the county
14 legislative authority adopts its resolution of intention, but a county
15 or city may obtain an additional six months before it is required to
16 have adopted its development regulations by submitting a letter
17 notifying the department of (~~community, trade, and economic~~
18 ~~development~~) commerce of its need prior to the deadline for adopting
19 both a comprehensive plan and development regulations.

20 (5) If the office of financial management certifies that the
21 population of a county that previously had not been required to plan
22 under subsection (1) or (2) of this section has changed sufficiently to
23 meet either of the sets of criteria specified under subsection (1) of
24 this section, and where applicable, the county legislative authority
25 has not adopted a resolution removing the county from these
26 requirements as provided in subsection (1) of this section, the county
27 and each city within such county shall take actions under this chapter
28 as follows: (a) The county legislative authority shall adopt a
29 countywide planning policy under RCW 36.70A.210; (b) the county and
30 each city located within the county shall adopt development regulations
31 under RCW 36.70A.060 conserving agricultural lands, forest lands, and
32 mineral resource lands it designated within one year of the
33 certification by the office of financial management; (c) the county
34 shall designate and take other actions related to urban growth areas
35 under RCW 36.70A.110; and (d) the county and each city located within
36 the county shall adopt a comprehensive land use plan and development
37 regulations that are consistent with and implement the comprehensive
38 plan within four years of the certification by the office of financial

1 management, but a county or city may obtain an additional six months
2 before it is required to have adopted its development regulations by
3 submitting a letter notifying the department of (~~community, trade, and~~
4 ~~economic development~~) commerce of its need prior to the deadline for
5 adopting both a comprehensive plan and development regulations.

6 (6) A copy of each document that is required under this section
7 shall be submitted to the department at the time of its adoption.

8 (7) Cities and counties planning under this chapter must amend the
9 transportation element of the comprehensive plan to be in compliance
10 with this chapter and chapter 47.80 RCW no later than December 31,
11 2000.

12 **Sec. 2.** RCW 36.70A.060 and 2005 c 423 s 3 are each amended to read
13 as follows:

14 (1)(a) (~~Except as provided in RCW 36.70A.1701,~~) Each county that
15 is required or chooses to plan under RCW 36.70A.040, and each city
16 within such county, shall adopt development regulations on or before
17 September 1, 1991, to assure the conservation of agricultural, forest,
18 and mineral resource lands designated under RCW 36.70A.170.
19 Regulations adopted under this subsection may not prohibit uses legally
20 existing on any parcel prior to their adoption and shall remain in
21 effect until the county or city adopts development regulations pursuant
22 to RCW 36.70A.040. Such regulations shall assure that the use of lands
23 adjacent to agricultural, forest, or mineral resource lands shall not
24 interfere with the continued use, in the accustomed manner and in
25 accordance with best management practices, of these designated lands
26 for the production of food, agricultural products, or timber, or for
27 the extraction of minerals.

28 (b) Counties and cities shall require that all plats, short plats,
29 development permits, and building permits issued for development
30 activities on, or within five hundred feet of, lands designated as
31 agricultural lands, forest lands, or mineral resource lands, contain a
32 notice that the subject property is within or near designated
33 agricultural lands, forest lands, or mineral resource lands on which a
34 variety of commercial activities may occur that are not compatible with
35 residential development for certain periods of limited duration. The
36 notice for mineral resource lands shall also inform that an application

1 might be made for mining-related activities, including mining,
2 extraction, washing, crushing, stockpiling, blasting, transporting, and
3 recycling of minerals.

4 (c)(i) A county that adopts a withdrawal resolution under RCW
5 36.70A.040(2)(b), and each city within that county, shall adopt
6 development regulations within one year of the effective date of the
7 resolution to assure the conservation of agricultural, forest, and
8 mineral resource lands designated under RCW 36.70A.170.

9 (ii) Development regulations adopted under (c)(i) of this
10 subsection:

11 (A) May not prohibit uses legally existing on any parcel prior to
12 their adoption; and

13 (B) Must assure that the use of lands adjacent to the designated
14 agricultural, forest, or mineral resource lands do not interfere with
15 the continued use, in the accustomed manner and in accordance with best
16 management practices, of these designated lands for the production of
17 food, agricultural products, or timber, or for the extraction of
18 minerals.

19 (2) Each county and city shall adopt development regulations that
20 protect critical areas that are required to be designated under RCW
21 36.70A.170. For counties and cities that are required or choose to
22 plan under RCW 36.70A.040, such development regulations shall be
23 adopted on or before September 1, 1991. For the remainder of the
24 counties and cities, such development regulations shall be adopted on
25 or before March 1, 1992.

26 (3) Such counties and cities shall review these designations and
27 development regulations when adopting their comprehensive plans under
28 RCW 36.70A.040 and implementing development regulations under RCW
29 36.70A.120 and may alter such designations and development regulations
30 to insure consistency.

31 (4) Forest land and agricultural land located within urban growth
32 areas shall not be designated by a county or city as forest land or
33 agricultural land of long-term commercial significance under RCW
34 36.70A.170 unless the city or county has enacted a program authorizing
35 transfer or purchase of development rights.

36 NEW SECTION. Sec. 3. A new section is added to chapter 36.70A RCW
37 to read as follows:

1 (1) A county that has adopted a withdrawal resolution under RCW
2 36.70A.040(2)(b) and each city within the county must, within one year
3 of the effective date of the resolution, submit to the department
4 adopted ordinances or other written materials demonstrating compliance
5 with:

6 (a) The requirements of RCW 36.70A.170(1) mandating the designation
7 of:

8 (i) Agricultural lands that are not already characterized by urban
9 growth and that have long-term significance for the commercial
10 production of food or other agricultural products;

11 (ii) Forest lands that are not already characterized by urban
12 growth and that have long-term significance for the commercial
13 production of timber;

14 (iii) Mineral resource lands that are not already characterized by
15 urban growth and that have long-term significance for the extraction of
16 minerals; and

17 (iv) Critical areas;

18 (b) The requirements of RCW 36.70A.060(2) mandating the adoption of
19 development regulations to protect designated critical areas;

20 (c) The requirements of RCW 36.70A.060(1)(c) mandating the
21 conservation of designated natural resource lands; and

22 (d) The other requirements applicable to counties or cities that do
23 not fully plan under RCW 36.70A.040.

24 (2) If a county or city fails to comply with subsection (1) of this
25 section, the withdrawal resolution adopted by the county under RCW
26 36.70A.040(2)(b) is not applicable for that county or city.

27 (3) Failure by a county to comply with subsection (1) of this
28 section does not nullify or otherwise affect the withdrawal resolution
29 as it applies to cities within the county. Failure by a city to comply
30 with subsection (1) of this section does not nullify or otherwise
31 affect the withdrawal resolution as it applies to the county within
32 which the city is located.

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW
34 to read as follows:

35 (1) A petition for judicial review of county or city actions
36 required by section 3 of this act may be filed in superior court under
37 RCW 36.01.050 one hundred eighty or fewer days after the date the

1 county or city is required to comply with section 3(1) of this act.
2 Failure to submit a petition in accordance with this subsection bars
3 subsequent challenges under this section to county or city actions that
4 must be taken in accordance with section 3(1) of this act, but does not
5 preclude judicial reviews on matters unrelated to a withdrawal
6 resolution adopted under RCW 36.70A.040(2).

7 (2) Standing to bring a petition under this section is limited to:
8 (a) The state, or a county that adopted a withdrawal resolution under
9 RCW 36.70A.040(2) or the cities within; (b) a person who has
10 participated orally or in writing before the county or city regarding
11 the matter on which a review is being requested; or (c) a person who is
12 qualified under RCW 34.05.530.

13 (3) For purposes of this section, "person" means any individual,
14 partnership, corporation, association, state agency, governmental
15 subdivision or unit thereof, or public or private organization or
16 entity of any character.

17 (4) If a court determines that a county that adopted a withdrawal
18 resolution under RCW 36.70A.040(2), or a city within, has not complied
19 with section 3(1) of this act, the court must, as of the date of the
20 determination, declare the withdrawal resolution inapplicable for that
21 county or city, and order the county to comply with all requirements of
22 this chapter. Failure by a county or city to comply with section 3(1)
23 of this act does not nullify or otherwise affect the withdrawal
24 resolution as it applies to cities within the county. Failure by a
25 city to comply with section 3(1) of this act does not nullify or
26 otherwise affect the withdrawal resolution as it applies to the county
27 within which the city is located.

28 (5) An aggrieved party may secure appellate review of a final
29 judgment of the superior court under this section by the supreme court
30 or the court of appeals. The review must be secured in the manner
31 provided by law for review of superior court decisions in other civil
32 cases.

33 (6) The withdrawal resolution adopted under RCW 36.70A.040(2)(b)
34 remains in effect for the county, and the cities within, throughout the
35 judicial review process established in this section and during the
36 pendency of any associated appeals."

NOT CONSIDERED

1 On page 1, line 3 of the title, after "act;" strike the remainder
2 of the title and insert "amending RCW 36.70A.040 and 36.70A.060; and
3 adding new sections to chapter 36.70A RCW."

EFFECT: In comparison to SB 5636, the amendment: (1) Requires the legislative bodies of at least 60 percent of the cities in the county proposing to withdraw from the full requirements of the Growth Management Act (GMA) that have an aggregate population of at least 75 percent of the incorporated portion of the county to adopt resolutions supporting the withdrawal action by the county; (2) requires these same city legislative bodies to provide written notification of support of the withdrawal action to the county; (3) establishes that the effective date of the withdrawal resolution is the date of its adoption or a later date selected by the county; (4) specifies that, as of the effective date of the resolution, the county and the cities within the county are, except as provided otherwise, obligated only to comply with the requirements of the GMA that apply to all counties and cities; (5) establishes that counties that subsequently meet population criteria for mandatory planning under the GMA are required to comply with all requirements of the GMA, even if a withdrawal resolution has been adopted; (6) authorizes county legislative authorities that have adopted withdrawal resolutions to, at any subsequent date, pass a resolution to fully plan under the GMA; (7) requires counties adopting removal resolutions, and the cities within, to adopt development regulations to assure the conservation of designated natural resource lands; (8) requires counties that adopted a withdrawal resolution, and the cities within, to, within one year of the adoption, submit to the Department of Commerce (Commerce) adopted ordinances or other written materials demonstrating compliance with designation and protection requirements for natural resource lands and critical areas; (9) specifies that a failure to comply with the submission requirement makes the withdrawal resolution inapplicable for only that jurisdiction; (10) establishes a judicial review process for withdrawal materials submitted to Commerce and specifies the review petition may be filed in superior court 180 or fewer days after the date the county or city is required to submit materials to Commerce; (11) specifies that a failure to submit a timely petition bars subsequent court challenges to county or city actions that must be taken in accordance with a withdrawal resolution, but does not preclude judicial reviews on matters unrelated to a withdrawal resolution; (12) specifies that if a court determines that a county that adopted a withdrawal resolution, or a city within, has not complied with specified requirements, the court

must, as of the date of the determination, declare the withdrawal resolution inapplicable for that county or city and order the county to comply with all requirements of the GMA; (13) specifies that an aggrieved party may secure review of a final judgment of the superior court by the Supreme Court or the court of appeals; and (14) specifies that an adopted withdrawal resolution remains in effect for the county, and the cities within, throughout the judicial review process and during the pendency of any subsequent appeals.

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