**1420-S.E AMH TAYL H4763.1 - NOT FOR FLOOR USE**

**ESHB 1420** - H AMD **979**

By Representative Taylor

Strike everything after the enacting clause and insert the following:

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

(1) Any county that is planning under RCW 36.70A.040 may identify schools as essential public facilities under RCW 36.70A.200 and site the schools outside of urban growth areas based on the criteria set forth in this section.

(2) As an alternative to identifying and siting schools as essential public facilities under subsection (1) of this section, a county that is planning under RCW 36.70A.040 must establish, in consultation with affected school districts and affected cities, a process for approving schools outside of urban growth areas based on the criteria set forth in this section.

(3)(a) By July 1, 2017, any county siting schools under this section must amend, if necessary, its process for siting schools outside of the urban growth area in accordance with subsection (1) or (2) of this section. An amendment to the county's process for siting schools under this section shall not be considered an amendment to the comprehensive plan for the purposes of RCW 36.70A.130(2) and may be considered at any time.

(b) Any comprehensive plan or development regulation adopted to implement school siting under this section is not subject to the requirement for compliance with any applicable multicounty planning policies and countywide planning policies.

(4) Any school sited under this section may not be sited on land designated or zoned as agricultural land, forest land, or mineral resource land.

(5) A county may authorize a school to be sited outside of the urban growth area under this section when:

(a) The school is needed to meet student capacity needs in an identified service area that serves students residing in whole or in part outside of an urban growth area, as demonstrated by a capital facilities plan adopted by a locally elected school board of directors;

(b) The school district determines through preparation of a written report, as provided in subsection (8) of this section, that the school district needs to site the school outside of the urban growth area;

(c) New infrastructure is provided for, and the cost of providing new infrastructure is paid for by the school district based on a reasonable nexus to the impact of the school on infrastructure needs. On-site and off-site infrastructure and service impacts on the county and the affected city must be fully considered and mitigated. If applicable, impact fees must be imposed based on the requirements of chapter 82.02 RCW;

(d) Any utility extensions are solely dedicated to the school and are provided for, and the cost of providing utility extensions is paid for by the school district. Any urban public facility necessary and appropriate to serve a school outside of the urban growth area is provided for, and the cost of providing urban public facilities is paid for by the school district based on a reasonable nexus to the impacts of the school;

(e) Environmental protection, including air and water quality, has been addressed and provided for;

(f) The plan for the school is consistent with the development regulations established for the protection of critical areas by the county pursuant to RCW 36.70A.170; and

(g) If deemed necessary by the county legislative authority:

(i) Transit-oriented site planning and traffic demand management programs required by the county, in consultation with the affected city, are provided by the school district;

(ii) Buffers are provided on district-owned property, on property owned by other public agencies, or through easements, between the school and adjacent nonurban uses;

(iii) The school complies with the applicable development regulations for the property; or

(iv) Provisions are made to mitigate significant adverse impacts on designated agricultural lands, forest lands, and mineral resource lands, if the school is located adjacent to such lands.

(6) Cities or public agencies may extend public facilities to a school sited in accordance with this section. Public facilities include water systems and sanitary sewer systems sufficient to meet the facility needs of the school. If any public facility is extended beyond the urban growth area to serve a school, the public facility shall only be available to and serve the school.

(7) Any county that authorizes a school to be sited pursuant to this section shall determine, prior to or concurrent with review of an application for a proposed school, that the comprehensive plan includes policies, consistent with this section, to permit the school to be sited outside of the urban growth area.

(8) Prior to submitting an application to site a school under this section, a school district must prepare a written report setting forth a determination of need. A determination of need must include:

(a) An inventory of developable land within the urban growth area and relevant service area for the school, taking into consideration locally adopted educational program requirements;

(b) A review of the extent to which land is available within the urban growth area and the relevant service area, current zoning, site characteristics, and the financial feasibility of using public dollars to secure such a school site; and

(c) Findings that set forth the siting criteria of the school district and apply them to the question of whether it is feasible for the school district to acquire land suitable to site the school within the urban growth area and relevant service area.

(9) In reviewing an application for a proposed school, a county may review a determination of need made by a school district under subsection (8) of this section, but the findings of the school district are presumed to be correct. The county may overturn the school district's determination of need only if the determination is clearly erroneous. If a county overturns a determination of need, the county must identify other reasonable sites that meet the siting criteria of the school district set forth in the determination of need.

(10) Approval of an application for a school under this section shall not be considered an amendment to the comprehensive plan of the county for the purposes of RCW 36.70A.130(2) and may be considered at any time.

(11) Only the state courts have authority to review causes of action arising from the provisions of this section, and the state courts shall give substantial deference to the actions of the county.

(12)(a) This section applies only to any county that is required or chooses to plan under RCW 36.70A.040 with a population of at least eight hundred thousand and no more than one million one hundred thousand that abuts at least five other counties.

(b) This section applies only to any county that is required or chooses to plan under RCW 36.70A.040 with a population of at least one hundred fifty thousand and no more than two hundred thousand that abuts at least five other counties.

(c) This section applies only to any county that is required or chooses to plan under RCW 36.70A.040 with a population of at least one hundred fifteen thousand and no more than one hundred fifty thousand that abuts at least four other counties.

(d) This section applies only to any county that is required or chooses to plan under RCW 36.70A.040 with a population of at least ninety thousand and no more than one hundred thousand that abuts at least six other counties.

(13) A county may authorize no more than five school sites outside of urban growth areas under this section.

(14) This section expires July 1, 2026.

**Sec.**  RCW 36.70A.280 and 2014 c 147 s 3 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance ((~~with RCW 36.70A.5801~~)) for siting a school outside of an urban growth area in accordance with section 1 of this act;

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction;

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous; or

(f) That a department determination under RCW 36.70A.060(1)(d) is erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

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

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

**Sec.**  RCW 36.70A.280 and 2011 c 360 s 17 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance ((~~with RCW 36.70A.5801~~)) for siting a school outside of an urban growth area in accordance with section 1 of this act;

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; or

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

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

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Except for section 3 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  Section 2 of this act expires December 31, 2020.

NEW SECTION. **Sec.**  Section 3 of this act takes effect December 31, 2020."

Correct the title.

EFFECT: Strikes all provisions of the underlying engrossed substitute bill and inserts provisions that do the following:

(1) Authorize, until July 1, 2026, certain counties to designate schools as essential public facilities and site the schools outside of urban growth areas (UGA). In the alternative, require counties to establish, in consultation with affected school districts and affected cities, an alternative process for approving schools to be sited outside of UGAs.

(2) Require certain counties, by July 1, 2017, to amend their process for siting schools outside the UGA in accordance with provisions of the bill. Provides that any comprehensive plan or development regulation adopted to implement school siting is not required to be in compliance with any applicable multicounty planning policies and countywide planning policies.

(3) Allow, until July 1, 2026, siting of schools authorized by the bill outside of UGAs when certain criteria are met.

(4) Authorize cities and public agencies to extend public facilities outside of UGAs to a school sited under the bill if the public facilities are only available to and serve the school.

(5) Require a school district, prior to submitting an application for a school, to prepare a written report setting forth a Determination of Need that includes: (a) An inventory of developable land within the UGA and relevant service area; (b) a review of available land, zoning, site characteristics, and financial feasibility; and (c) siting criteria and whether it is feasible to acquire suitable land for the school within the UGA and relevant service area.

(6) Establish that findings of a school district in a Determination of Need are presumed correct, and allow a county to overturn a determination of need only if it is clearly erroneous. Require a county that overturns a determination of need to identify other reasonable sites meeting the school district's siting criteria.

(7) Establish that only state courts have authority to review causes of action arising from provisions of the bill, and that state courts must give substantial deference to counties in siting schools in accordance with the bill.

(8) Require counties, prior to or concurrent with review of an application for a proposed school, to determine that the comprehensive plan includes policies that permit the school to be sited outside of the UGA.

(9) Make provisions of the bill applicable only to the following counties that are required or choose to plan under the Growth Management Act (GMA): (a) Any county with a population between 700,000 and 1.1 million residents that abuts at least five other counties; (b) any county that has a population between 150,000 and 200,000 residents that abuts at least five other counties; (c) any county that has a population between 115,000 and 150,000 residents that abuts at least four other counties; and (d) any county that has a population between 90,000 and 100,000 residents that abuts at least six other counties.

(10) Establish that the Growth Management Hearings Board does not have jurisdiction to hear petitions alleging noncompliance with the GMA for siting a school project outside of a UGA in accordance with the bill.

(11) Adds an emergency clause to the bill.

(12) Adds a severability clause to the bill.