

# SENATE BILL REPORT

## ESSB 6334

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As Passed Senate, February 17, 2016

**Title:** An act relating to rail dependent uses for purposes of the growth management act and related development regulations.

**Brief Description:** Concerning rail dependent uses for purposes of the growth management act and related development regulations.

**Sponsors:** Senate Committee on Government Operations & Security (originally sponsored by Senators Benton, Chase, Rivers, Cleveland, Warnick, Hobbs, King and Sheldon).

**Brief History:**

**Committee Activity:** Government Operations & Security: 1/25/16, 2/04/16 [DPS, DNP].  
Passed Senate: 2/17/16, 34-15.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

**Majority Report:** That Substitute Senate Bill No. 6334 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Dandel and Takko.

**Minority Report:** Do not pass.

Signed by Senators Habib and McCoy.

**Staff:** Karen Epps (786-7424)

**Background:** The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated by mandate or choice to satisfy all planning requirements of the GMA.

Under the GMA, all counties and cities are obligated to designate, where appropriate, natural resource lands of long-term commercial significance, and environmentally sensitive areas. These designation requirements apply to:

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- agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products;
- forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber;
- mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals; and
- environmentally sensitive areas known as "critical areas."

Jurisdictions that fully plan under the GMA must adopt development regulations to assure the conservation of designated natural resource lands of long-term commercial significance. These same jurisdictions must also adopt comprehensive land use plans to express the general land use policies of the county or city, and development regulations to implement those plans.

Comprehensive plans must include specific planning elements, each of which is a subset of the plan. The rural element of a comprehensive plan must include measures that apply to rural development and protect the rural character of the area by, in part, protecting against conflicts with the use of designated agricultural, forest, and mineral resource lands. The transportation element of a comprehensive plan must include sub-elements that address transportation mandates for forecasting, finance, coordination, and facilities and services needs.

**Summary of Engrossed Substitute Bill:** Counties and cities may adopt development regulations to assure that agricultural lands, forest lands, and mineral resource lands adjacent to railroads may be developed for freight rail dependent uses. The rural element of the comprehensive plan must permit freight rail dependent uses.

The transportation element may include development of freight rail dependent uses on land adjacent to a short line railroad. Development regulations may be modified to include development of freight rail dependent uses that do not require urban governmental services in rural lands. Freight rail dependent uses include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on, and makes use of, an adjacent short line railroad in a county that is bordered by the Columbia river, is west of the Cascade mountain range, borders another state to the south, and has a population greater than 350,000. These facilities are both urban and rural development under the GMA.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: Rail freight is an important way to build our economy, particularly in rural areas. Washington State needs ways to move

freight that will reduce the amount of carbon released into the atmosphere, and rail is one of the ways to do that. This bill will help with transportation and logistics issues. In order to grow the economy, people have to be able to get their product to the market. This bill is about jobs and rural diversification. This bill will allow for smart investment decisions along pre-existing transportation corridors to prevent sprawl. Jobs are being turned away in Clark County because the facility needs property contiguous to a railroad, and that land could not be developed. This will allow an agricultural community to diversify its economy. All of the protections that exist in the GMA remain untouched by this bill. This bill provides for an addition to accommodate freight rail development. A county would need to amend its comprehensive plan in order to designate land for freight-rail-dependent uses. Washington has over 1400 shortline railroad miles and this bill will give those railroads the ability to maintain and invest in the infrastructure for the next 100 years. This bill will resolve a GMA roadblock by allowing an intermodal transfer facility in Eastern Washington. This bill will encourage much-needed rural economic development. This bill will increase highway safety by removing trucks from our roadway infrastructure.

CON: Adding another designation under the GMA will increase intensive development in rural areas that might not be compatible with other uses. This bill facilitates more intense development in rural areas for anything that could be transported by rail. This development could create more stress on other infrastructure. There are concerns about the way this bill is drafted because the definition of "railroad-dependent uses" would allow anything that could be shipped on a railroad to qualify, and then be allowed, in rural areas. The bill establishes that counties must offer all governmental services to these areas serving railroad-dependent uses, which could include utilities, and that would put these areas into competition with industrial areas within city limits. Land is often more expensive in cities because it is more constrained and this bill potentially creates an unfair competitive environment.

OTHER: The bill establishes a definition of freight rail dependent uses that should allow for shortline operators to more easily attract new businesses and opportunities along their rail lines and also support the regional economic growth. There are concerns with the broad definition of "freight-rail-dependent uses" which could potentially allow for heavy industrial development in rural areas. Any development that would occur as a result of this bill should benefit the rail lines and it may make sense to incorporate additional language into the bill. The language in the bill would run contrary to the purposes of the GMA. If the intent is to secure the viability of these rail lines and to get products to market, the definition does not currently do that because the definition leaves it open to any commercial or industrial activity.

**Persons Testifying on Original Bill:** PRO: Senator Chase, sponsor; Amber Carter, Portland Vancouver Junction Railroad; Keva Guskowski, Washington Assn of Wheat Growers; Herb Krohn, SMART union Transportation Division-United Transportation Union.

CON: Bryce Yadon, Futurewise; Carl Schroeder, Assn of WA Cities.

OTHER: Chris Herman, Washington State Department of Transportation; Jeff Wilson, Department of Commerce.

**Persons Signed In To Testify But Not Testifying on Original Bill:** No one.