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SENATE BILL 5013

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State of Washington

64th Legislature

2015 Regular Session

By Senator Honeyford

Prefiled 12/16/14. Read first time 01/12/15. Referred to Committee on Agriculture, Water & Rural Economic Development.

1 AN ACT Relating to the use of designated agricultural lands;  
2 amending RCW 36.70A.060; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature intends to clarify the  
5 provisions regarding the protection of designated agricultural land  
6 for future agricultural use.

7 **Sec. 2.** RCW 36.70A.060 and 2014 c 147 s 2 are each amended to  
8 read as follows:

9 (1)(a) Each county that is required or chooses to plan under RCW  
10 36.70A.040, and each city within such county, shall adopt development  
11 regulations on or before September 1, 1991, to assure the  
12 conservation of agricultural, forest, and mineral resource lands  
13 designated under RCW 36.70A.170. Regulations adopted under this  
14 subsection may not prohibit uses legally existing on any parcel prior  
15 to their adoption and shall remain in effect until the county or city  
16 adopts development regulations pursuant to RCW 36.70A.040. Such  
17 regulations shall assure that the use of lands adjacent to  
18 agricultural, forest, or mineral resource lands shall not interfere  
19 with the continued use, in the accustomed manner and in accordance  
20 with best management practices, of these designated lands for the

1 production of food, agricultural products, or timber, or for the  
2 extraction of minerals.

3 (b) Counties and cities shall require that all plats, short  
4 plats, development permits, and building permits issued for  
5 development activities on, or within five hundred feet of, lands  
6 designated as agricultural lands, forest lands, or mineral resource  
7 lands, contain a notice that the subject property is within or near  
8 designated agricultural lands, forest lands, or mineral resource  
9 lands on which a variety of commercial activities may occur that are  
10 not compatible with residential development for certain periods of  
11 limited duration. The notice for mineral resource lands shall also  
12 inform that an application might be made for mining-related  
13 activities, including mining, extraction, washing, crushing,  
14 stockpiling, blasting, transporting, and recycling of minerals.

15 (c) Each county that adopts a resolution of partial planning  
16 under RCW 36.70A.040(2)(b), and each city within such county, shall  
17 adopt development regulations within one year after the adoption of  
18 the resolution of partial planning to assure the conservation of  
19 agricultural, forest, and mineral resource lands designated under RCW  
20 36.70A.170. Regulations adopted under this subsection (1)(c) must  
21 comply with the requirements governing regulations adopted under (a)  
22 of this subsection.

23 (d)(i) A county that adopts a resolution of partial planning  
24 under RCW 36.70A.040(2)(b) and that is not in compliance with the  
25 planning requirements of this section, RCW 36.70A.040(4),  
26 36.70A.070(5), 36.70A.170, and 36.70A.172 at the time the resolution  
27 is adopted must, by January 30, 2017, apply for a determination of  
28 compliance from the department finding that the county's development  
29 regulations, including development regulations adopted to protect  
30 critical areas, and comprehensive plans are in compliance with the  
31 requirements of this section, RCW 36.70A.040(4), 36.70A.070(5),  
32 36.70A.170, and 36.70A.172. The department must approve or deny the  
33 application for a determination of compliance within one hundred  
34 twenty days of its receipt or by June 30, 2017, whichever date is  
35 earlier.

36 (ii) If the department denies an application under (d)(i) of this  
37 subsection, the county and each city within is obligated to comply  
38 with all requirements of this chapter and the resolution for partial  
39 planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

1 (iii) A petition for review of a determination of compliance  
2 under (d)(i) of this subsection may only be appealed to the growth  
3 management hearings board within sixty days of the issuance of the  
4 decision by the department.

5 (iv) In the event of a filing of a petition in accordance with  
6 (d)(iii) of this subsection, the county and the department must  
7 equally share the costs incurred by the department for defending an  
8 approval of determination of compliance that is before the growth  
9 management hearings board.

10 (v) The department may implement this subsection (~~((1))~~) (1)(d)  
11 by adopting rules related to determinations of compliance. The rules  
12 may address, but are not limited to: The requirements for  
13 applications for a determination of compliance; charging of costs  
14 under (d)(iv) of this subsection; procedures for processing  
15 applications; criteria for the evaluation of applications; issuance  
16 and notice of department decisions; and applicable timelines.

17 (e) Any city, county, or state agency owning land designated as  
18 agricultural land of long-term commercial significance by a  
19 comprehensive plan or development regulations adopted under this  
20 chapter must protect and maintain that land for future agricultural  
21 use and for uses compatible with agricultural uses allowed by the  
22 applicable development regulations. This subsection (1)(e) shall not  
23 be construed to prohibit uses compatible with future agricultural use  
24 or prohibit the exchange or sale of state forest lands or state lands  
25 as defined in RCW 79.02.010 at the highest and best value for use as  
26 allowed by applicable development regulations. This subsection (1)(e)  
27 shall not constrain the acquisition or use of lands necessary for  
28 construction, operation, and maintenance of highway facilities,  
29 however, siting of mitigation projects shall not take place on  
30 agricultural lands of long-term commercial significance.

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

38 (3) Such counties and cities shall review these designations and  
39 development regulations when adopting their comprehensive plans under  
40 RCW 36.70A.040 and implementing development regulations under RCW

1 36.70A.120 and may alter such designations and development  
2 regulations to insure consistency.

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

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