
SENATE BILL 5170

State of Washington 64th Legislature 2015 Regular Session

By Senators Warnick, Honeyford, Hobbs, Schoesler, and Hatfield

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

1 AN ACT Relating to the conversion of agricultural land to other
2 uses under the growth management act and shoreline management act;
3 and amending RCW 36.70A.060 and 90.58.065.

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

5 **Sec. 1.** RCW 36.70A.060 and 2014 c 147 s 2 are each amended to
6 read as follows:

7 (1)(a) Each county that is required or chooses to plan under RCW
8 36.70A.040, and each city within such county, shall adopt development
9 regulations on or before September 1, 1991, to assure the
10 conservation of agricultural, forest, and mineral resource lands
11 designated under RCW 36.70A.170. Regulations adopted under this
12 subsection may not prohibit uses legally existing on any parcel prior
13 to their adoption and shall remain in effect until the county or city
14 adopts development regulations pursuant to RCW 36.70A.040. Such
15 regulations shall assure that the use of lands adjacent to
16 agricultural, forest, or mineral resource lands shall not interfere
17 with the continued use, in the accustomed manner and in accordance
18 with best management practices, of these designated lands for the
19 production of food, agricultural products, or timber, or for the
20 extraction of minerals. Land designated agricultural under this

1 chapter shall not be converted to wetland or fish habitat, nor
2 subjected to tidal inundation.

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

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

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

34 **Sec. 2.** RCW 90.58.065 and 2002 c 298 s 1 are each amended to
35 read as follows:

36 (1) The guidelines adopted by the department and master programs
37 developed or amended by local governments according to RCW 90.58.080
38 shall not require modification of or limit agricultural activities
39 occurring on agricultural lands. In jurisdictions where agricultural

1 activities occur, master programs developed or amended after June 13,
2 2002, shall include provisions addressing new agricultural activities
3 on land not meeting the definition of agricultural land, conversion
4 of agricultural lands to other uses, and development not meeting the
5 definition of agricultural activities. Nothing in this section limits
6 or changes the terms of the current exception to the definition of
7 substantial development in RCW 90.58.030(3)(e)(iv). This section
8 applies only to this chapter, and shall not affect any other
9 authority of local governments.

10 (2) For the purposes of this section:

11 (a) "Agricultural activities" means agricultural uses and
12 practices including, but not limited to: Producing, breeding, or
13 increasing agricultural products; rotating and changing agricultural
14 crops; allowing land used for agricultural activities to lie fallow
15 in which it is plowed and tilled but left unseeded; allowing land
16 used for agricultural activities to lie dormant as a result of
17 adverse agricultural market conditions; allowing land used for
18 agricultural activities to lie dormant because the land is enrolled
19 in a local, state, or federal conservation program, or the land is
20 subject to a conservation easement; conducting agricultural
21 operations; maintaining, repairing, and replacing agricultural
22 equipment; maintaining, repairing, and replacing agricultural
23 facilities, provided that the replacement facility is no closer to
24 the shoreline than the original facility; and maintaining
25 agricultural lands under production or cultivation;

26 (b) "Agricultural products" includes but is not limited to
27 horticultural, viticultural, floricultural, vegetable, fruit, berry,
28 grain, hops, hay, straw, turf, sod, seed, and apiary products; feed
29 or forage for livestock; Christmas trees; hybrid cottonwood and
30 similar hardwood trees grown as crops and harvested within twenty
31 years of planting; and livestock including both the animals
32 themselves and animal products including but not limited to meat,
33 upland finfish, poultry and poultry products, and dairy products;

34 (c) "Agricultural equipment" and "agricultural facilities"
35 includes, but is not limited to: (i) The following used in
36 agricultural operations: Equipment; machinery; constructed shelters,
37 buildings, and ponds; fences; upland finfish rearing facilities;
38 water diversion, withdrawal, conveyance, and use equipment and
39 facilities including but not limited to pumps, pipes, tapes, canals,
40 ditches, and drains; (ii) corridors and facilities for transporting

1 personnel, livestock, and equipment to, from, and within agricultural
2 lands; (iii) farm residences and associated equipment, lands, and
3 facilities; and (iv) roadside stands and on-farm markets for
4 marketing fruit or vegetables; and

5 (d) "Agricultural land" means those specific land areas on which
6 agriculture activities are actually or potentially will be conducted.
7 Land qualifying as agricultural under this chapter shall not be
8 converted to wetland or fish habitat, nor subjected to tidal
9 inundation.

10 (3) The department and local governments shall assure that local
11 shoreline master programs use definitions consistent with the
12 definitions in this section.

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