

HOUSE BILL REPORT

HB 2243

As Passed House:
July 1, 2017

Title: An act relating to the siting of schools and school facilities.

Brief Description: Concerning the siting of schools and school facilities.

Sponsors: Representatives McCaslin and Barkis.

Brief History:

Committee Activity:

None.

Third Special Session

Floor Activity:

Passed House: 7/1/17, 78-15.

Brief Summary of Bill

- Provides that the Growth Management Act (GMA) does not prohibit a county planning fully under the GMA from authorizing the extension of public facilities and utilities to serve a school located in a rural area that serves students from a rural area and an urban area, so long as certain requirements are met.
- Authorizes certain properties to connect to public facilities and utilities extended to a school located outside an Urban Growth Area (UGA), so long as the county and any affected cities agree with the request, and so long as the property is located no further from the public facility or utility than the distance that, if the property were located within the UGA, the property would be required to connect to the public facility or utility.
- Provides that the GMA does not prohibit the expansion, modernization, or placement of portable classrooms at an existing school in a rural area.
- Directs the Department of Commerce to submit a report to the Legislature in 2023 that addresses the siting of schools in rural areas.

Staff: Jacob Lipson (786-7196).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Growth Management Act — Introduction.

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 Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. Such jurisdictions are sometimes said to be "fully planning" under the GMA.

Growth Management Act — Comprehensive Plans.

The GMA directs jurisdictions that are obligated to satisfy all planning requirements of the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to review and revision requirements prescribed in the GMA. Comprehensive plans under the GMA must contain a number of required elements, including a rural element that must protect the character of rural areas by guiding development in those areas. Counties and cities that plan under the GMA are required to adopt development regulations that assure the conservation of agricultural, forest, and mineral resource lands.

Growth Management Act — Planning Goals and Requirements.

For the purpose of guiding the development of comprehensive plans and development regulations, counties and cities must consider various goals set forth in statute. Several goals relate to "public facilities" and "public services," which are defined as including schools and education, respectively:

- *Urban Growth:* Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- *Economic Development:* Encourage economic development throughout the state, promote economic opportunity, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.
- *Public Facilities and Services:* Ensure that those public facilities and services necessary to support development are adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

Growth Management Act — Urban Growth Areas.

Counties that fully plan under the GMA must designate Urban Growth Areas (UGAs), areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period. In addition, cities must include sufficient areas to accommodate the broad range of needs and uses that will accompany the projected urban growth, including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

Growth Management Act — Urban Governmental Services.

The GMA defines urban governmental services as the provision of public services and public facilities, such as sanitary sewer systems and domestic water systems, at an intensity historically and typically provided in cities. The GMA provides that, in general, it is not appropriate for urban governmental services to be extended to or expanded outside of the UGA into rural areas. Extension or expansion may be permitted in limited circumstances where: (1) it is shown to be necessary to protect basic public health and safety and the environment; and (2) such services are financially supportable at rural densities and do not permit urban development.

Growth Management Act — Rural Element.

The rural element of a comprehensive plan must allow for rural development, forestry, and agriculture in rural areas, and must provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. "Rural development" is development that occurs outside a UGA, or designated agriculture, forest, or mineral resource land.

Growth Management Act — Enforcement Provisions.

The GMA includes enforcement and penalty provisions for public entities. A seven-member Growth Management Hearings Board (Board) established under the GMA is charged with hearing and determining petitions alleging noncompliance by state agencies, counties, or cities with the GMA and related statutory provisions. The Board must make findings of fact and prepare a written decision. Final decisions and orders of the Board may be appealed to superior court. Additionally, if all parties agree, the superior court may directly review a petition filed with the Board.

State Environmental Policy Act — Introduction.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that are identified as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS).

Under SEPA, a government agency is designated as the lead agency and in that role has responsibility for complying with SEPA's procedural requirements, including making a threshold determination as to whether an EIS is needed, and preparing the EIS when one is required. If the SEPA review process identifies significant adverse environmental impacts, the lead agency may deny a government decision or may condition a proposal by requiring mitigation for identified environmental impacts.

Partial Veto of House Bill 1017.

During the 2017 Legislative Session, the Legislature passed Engrossed Substitute House Bill (ESHB) 1017, which dealt with the topic of siting schools in rural areas under the GMA. Section 1 of ESHB 1017 provided that the GMA does not prohibit a county planning fully

under the GMA from authorizing, under certain conditions, the extension of utilities to a school sited in the rural area that serves students from a rural area and an urban area. Sections 2 and 3 of ESHB 1017 dealt with the siting of schools in Pierce County. Governor Inslee signed ESHB 1017 into law, but in so doing, vetoed section 1 of ESHB 1017.

Summary of Bill:

The Growth Management Act (GMA) does not prohibit a county planning fully under the GMA from authorizing the extension of capital facilities and utilities to a school in a rural area that serves students from an urban area and a rural area, if the five requirements listed below are met:

- The applicable school district has adopted a policy addressing educational program requirements and school service area and facility needs;
- The school district has made a finding, with the concurrence of the county legislative authority and the legislative authorities of any affected cities, that the school district's proposed site is suitable to site the school and any associated recreational facilities that the district has determined cannot be located on an existing school site. This finding must take into consideration the educational program requirement and school service area policy adopted by the school district, and the extent to which vacant or developable land within the growth area meets those requirements;
- The county and any affected cities agree to the extension of public facilities and utilities to serve the school;
- In general, any extensions of public facilities or utilities beyond a UGA must serve only the sited school, and the costs of extension are borne by the school district based on a reasonable nexus of the school's impacts. However, public facilities or utilities outside of a UGA may serve other properties upon the property owner's request and with reimbursement paid for up to 20 years to the school district, but only if the property is located within a distance from the public facility or utility where that property would be have been required to connect to the facility or utility if the property were instead located within a UGA; and
- Any impacts associated with the siting of the school are mitigated as required by the State Environmental Policy Act.

The GMA does not prohibit either the expansion, modernization or placement of portable classrooms at an existing school in the rural area.

By December 1, 2023, the Department of Commerce must report to the Governor and Legislature regarding the siting of schools outside of UGAs that have been built, or are planned or in the process of being built. This report must include the number, location, and characteristics of the school, the number of urban and rural students served, and a cost analysis of schools built outside of UGAs.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.