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**SECOND SUBSTITUTE SENATE BILL 5368**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Short, Fortunato, and Wilson, L.)

AN ACT Relating to encouraging rural economic development; amending RCW 36.70A.330; adding a new section to chapter 35A.14 RCW; and adding a new section to chapter 36.70A RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 35A.14 RCW to read as follows:

(1) A code city as provided in RCW 35A.14.296(2) may collaborate with the county or counties where the code city is located to form an interlocal agreement regarding annexation of unincorporated territory within the urban growth area boundary. The interlocal agreement formation process must include procedures for public participation. The procedures must provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, and consideration of and response to public comments. The interlocal agreement may only be executed after notice of availability of the agreement is posted on the website of each legislative body for four weeks and a public hearing by each legislative body, separately or jointly. This method of annexation shall be an alternative method and is additional to all other methods provided for in this chapter.

(2) An interlocal agreement under this section will qualify the city for the annexation sales tax credit.

(3) The agreement or plan under this section must address the following:

(a) A balancing of annexations of commercial, industrial, and residential properties so that any potential loss or gain is considered and distributed fairly as determined by tax revenue;

(b) Development, ownership, and maintenance of infrastructure;

(c) The potential for revenue-sharing agreements.

(4) In addressing the items in subsection (3)(a) through (c) of this section, the parties must also address the balancing of factors and objectives for annexation review in RCW 36.93.170 and 36.93.180.

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

(1) For certain countywide planning policy, comprehensive plan, and development regulations specified in this section, counties and their cities may apply for a determination of compliance from the department finding that the action is in compliance with the requirements of this chapter and chapter 43.21C RCW and the applicable rules.

(2) Counties and cities may submit the following actions to the department for approval under this subsection:

(a) Development of or amendments to the housing element;

(b) Development of or amendments to comprehensive plan or development regulations designating or protecting critical areas;

(c) Development of or amendments to comprehensive plan or development regulations to designate or assure the conservation of resource lands;

(d) Development of or amendments to countywide planning policy, comprehensive plan, or development regulation amendments that change the urban growth area;

(e) Countywide planning policy, comprehensive plan, or development regulation amendments that govern the siting of essential public facilities;

(f) Findings of noncompliance referred to the department by the growth management hearings board under RCW 36.70A.330.

(3) Matters submitted to the department for approval become effective when approved by the department as provided in subsection (5) of this section.

(4)(a) Upon receipt of a proposed comprehensive plan, development regulation, or countywide planning policy, the department shall:

(i) Provide notice to and opportunity for written comment by all interested parties of record as a part of the local government review process for the proposal and to all persons, groups, and agencies that have requested in writing notice of the proposed action. The comment period shall be at least 30 days, unless the department determines that the level of complexity or controversy involved supports a shorter period;

(ii) In the department's discretion, conduct a public hearing during the 30-day comment period in the jurisdiction proposing the comprehensive plan, development regulation, or countywide planning policy;

(iii) Within 15 days after the close of public comment, request the local government to review the issues identified by the public, interested parties, groups, and agencies and provide a written response as to how the proposal addresses the identified issues;

(iv) Within 30 days after receipt of the local government response pursuant to (a)(iii) of this subsection, make written findings and conclusions regarding the consistency of the proposal with the goals and requirements of the growth management act and with applicable guidelines and procedural criteria adopted by the department, provide a response to the issues identified in (a)(iii) of this subsection, and either approve the comprehensive plan, development regulation, or countywide planning policy as submitted, recommend specific changes necessary to make the comprehensive plan, development regulation, or countywide planning policy approvable, or deny approval of the comprehensive plan, development regulation, or countywide planning policy in those instances where no alternative comprehensive plan, development regulation, or countywide planning policy appears likely to be consistent with the goals and requirements of the growth management act and with applicable guidelines and procedural criteria adopted by the department. The written findings and conclusions shall be provided to the local government, and made available to all interested persons, parties, groups, and agencies of record on the proposal.

(b) If the department recommends changes to the proposed comprehensive plan, development regulation, or countywide planning policy, within 90 days after the department mails the written findings and conclusions to the local government, the local government may:

(i) Agree to the proposed changes by written notice to the department; or

(ii) Submit an alternative comprehensive plan, development regulation, or countywide planning policy. If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally submitted by the department and with this chapter, it shall approve the changes and provide notice to all recipients of the written findings and conclusions. If the department determines the proposed comprehensive plan, development regulation, or countywide planning policy is not consistent with the purpose and intent of the changes proposed by the department, the department may resubmit the proposed comprehensive plan, development regulation, or countywide planning policy for public and agency review pursuant to this section or reject the proposed comprehensive plan, development regulation, or countywide planning policy.

(5) The department shall approve a proposed comprehensive plan, development regulation, or countywide planning policy unless it determines that the proposed comprehensive plan, development regulation, or countywide planning policy is not consistent with the goals and requirements of the growth management act and with applicable guidelines and procedural criteria adopted by the department.

(6) A comprehensive plan, development regulation, or countywide planning policy takes effect when and in such form as approved or adopted by the department. The effective date is 14 days from the date of the department's written notice of final action to the local government stating the department has approved or rejected the proposed comprehensive plan, development regulation, or countywide planning policy. The department's written notice to the local government must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications to the proposed comprehensive plan, development regulation, or countywide planning policy. The department shall maintain a record of each comprehensive plan, development regulation, or countywide planning policy, the action taken on any proposed comprehensive plan, development regulation, or countywide planning policy, and any appeal of the department's action.

(7) Promptly after approval or disapproval of a comprehensive plan, development regulation, or countywide planning policy, the department shall publish a notice consistent in the Washington State Register that the comprehensive plan, development regulation, or countywide planning policy has been approved or disapproved.

(8) The department's final decision to approve or reject a proposed comprehensive plan, development regulation, or countywide planning policy may be appealed according to the following provisions:

(a) The department's final decision to approve or reject a comprehensive plan, development regulation, or countywide planning policy may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(b) A decision of the growth management hearings board concerning an appeal of the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment must be based solely on whether or not the adopted comprehensive plan, development regulation, or countywide planning policy complies with the goals and requirements of the growth management act and with applicable guidelines and procedural criteria adopted by the department, or chapter 43.21C RCW.

(c) If approval of a determination of compliance by the department under this section is appealed to the growth management hearings board under RCW 36.70A.280, the city or county may not be determined to be ineligible or otherwise penalized in the acceptance of applications or the awarding of state agency grants or loans under RCW 43.17.250 during the pendency of the appeal before the board or subsequent judicial appeals.

**Sec.**  RCW 36.70A.330 and 1997 c 429 s 21 are each amended to read as follows:

(1) After the time set for complying with the requirements of this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier time upon the motion of a county or city subject to a determination of invalidity under RCW 36.70A.300, the board shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter and with any compliance schedule established by the board in its final order. A person with standing to challenge the legislation enacted in response to the board's final order may participate in the hearing along with the petitioner and the state agency, county, or city. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board. The board shall issue any order necessary to make adjustments to the compliance schedule and set additional hearings as provided in subsection (5) of this section.

(3) If the board after a compliance hearing finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor. ((~~The~~))

(a) The board may refer a finding of noncompliance to the department. The purpose of the referral is for the department to provide technical assistance to facilitate speedy resolution of the finding of noncompliance.

(b) Alternatively, the board may recommend to the governor that the sanctions authorized by this chapter be imposed. The board shall take into consideration the county's or city's efforts to meet its compliance schedule in making the decision to recommend sanctions to the governor.

(4) In a compliance hearing upon petition of a party, the board shall also reconsider its final order and decide, if no determination of invalidity has been made, whether one now should be made under RCW 36.70A.302.

(5) The board shall schedule additional hearings as appropriate pursuant to subsections (1) and (2) of this section.

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