

SENATE BILL REPORT

SB 5042

As Reported by Senate Committee On:
Housing & Local Government, January 28, 2021

Title: An act relating to the effective date of certain actions taken under the growth management act.

Brief Description: Concerning the effective date of certain actions taken under the growth management act.

Sponsors: Senators Salomon, Billig, Kuderer, Lias and Wilson, C..

Brief History:

Committee Activity: Housing & Local Government: 1/12/21, 1/28/21 [DP, DNP].

Brief Summary of Bill

- Sets an effective date for actions relating to urban growth areas; agricultural, forest, or mineral resource lands; limited areas of more intensive rural development; new fully contained communities; or master planned resorts.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: Do pass.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Cleveland, Lovelett and Salomon.

Minority Report: Do not pass.

Signed by Senators Fortunato, Ranking Member; Gildon, Assistant Ranking Member; Short, Assistant Ranking Member; Warnick.

Staff: Bonnie Kim (786-7316)

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

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA sets forth three broad planning obligations for those counties and cities who plan fully under the GMA:

- the county legislative authority must adopt a countywide planning policy;
- the county and cities within the county must adopt comprehensive plans and designate critical areas, agricultural lands, forestlands, and mineral resource lands, and adopt development regulations accordingly; and
- the county and cities within the county must designate and take other actions related to urban growth areas (UGAs).

Urban Growth Areas. Counties fully planning under the GMA must designate UGAs, within which urban growth must be encouraged, and outside of which growth may 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. 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.

Natural Resource Lands and Critical Areas Designations. 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:

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

Limited Areas of More Intensive Rural Development. The rural element of county comprehensive plans allows for designation of limited areas of more intensive rural development (LAMIRDs), including public facilities and services for LAMIRDs. Counties are authorized to designate three types of LAMIRDs.

Type I LAMIRDs consist of infill, development, or redevelopment of commercial, industrial, residential, or mixed-use areas that existed as of July 1, 1990, at the time a county became required to plan under the GMA, or at the time a county chose to plan under the GMA. Type II LAMIRDs consist of intensification or new development of small-scale recreational or tourist uses not including new residential development. Type III LAMIRDs consist of isolated intensified development of nonresidential uses or of new development of isolated cottage industries and small-scale businesses.

Counties must adopt measures to minimize and contain existing areas subject to LAMIRDs. Counties must establish a logical outer boundary for LAMIRD lands, beyond which LAMIRDs may not extend. In establishing the logical outer boundary, the county shall address:

- the need to preserve the character of existing natural neighborhoods and communities;
- physical boundaries, such as bodies of water, streets and highways, and land forms and contours;
- the prevention of abnormally irregular boundaries; and
- the ability to provide public facilities and public services in a manner not permitting low-density sprawl.

New Fully Contained Communities. GMA-planning counties may establish a process, as part of its UGAs, for reviewing proposals to authorize new fully contained communities located outside of the initially designated UGAs. A new fully contained community may be approved by a county if certain criteria are met, such as new infrastructure and impact fees, transit-oriented planning, and provisions limiting urban growth and protecting the environment and critical areas.

Counties must also reserve a portion of the 20-year population projection and offset the UGA for allocation to new fully contained communities. Any county electing to establish a new community reserve must do so no more than once every five years as part of the designation or review of UGAs. Final approval of an application for a new fully contained community must be considered an adopted amendment to the comprehensive plan, designating the new fully contained community as a UGA.

Master-Planned Resorts. Master-Planned Resorts (MPRs) are self-contained and fully integrated planned unit developments, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreation facilities. GMA-planning counties may permit MPRs which may constitute UGAs, subject to certain limitations. Capital facilities, utilities, and services, including those related to sewer, water, stormwater, security, fire suppression, and emergency medical, provided on-site must be limited to meeting the needs of the MPR. An MPR may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

Growth Management Hearings Board. A seven-member board established under the GMA is charged with hearing and determining petitions alleging noncompliance with the GMA by state agencies, counties, or cities. Petitions that relate to whether an adopted comprehensive plan or development regulation complies with the GMA must be filed within 60 days after publication of the action. For counties, the date of publication is the date the county publishes notice that it has adopted the comprehensive plan or development regulations.

For cities, the date of publication is the date the city publishes the ordinance adopting the comprehensive plan or development regulations.

The board must issue its final decision and order within 180 days, with limited exceptions. In the final order, the board must either find the agency, county, or city in compliance or not in compliance. If found not in compliance, the matter is remanded back to the agency, county, or city and it has 180 days to come into compliance.

Summary of Bill: The effective date of an action that expands a UGA; removes the designation of agricultural, forest, or mineral resource lands; creates or expands a LAMIRD; establishes a new fully contained community; or creates or expands an MPR is the later of the following dates:

- 60 days after the date of publication of notice of adoption of the comprehensive plan, development regulation, or amendment to the plan or regulation, implementing the action; or
- if a petition for review to the Growth Management Hearings Board is timely filed, upon issuance of the board's final order.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: Under current law, permits vested under laws later determined to be invalid under the GMA remain valid. This is a loophole. This bill applies to a small number of permitting activities. This is a critical reform to the GMA. This bill will close a critical loophole in the current enforcement system. Once a project is vested, jurisdictions cannot reverse their decisions to come into compliance and are stuck with requirements to provide infrastructure. This bill closes a loophole that allows development deemed invalid under the GMA to continue. Early vesting has led to the unnecessary conversion of agricultural land in Clark County. Farmers need certainty regarding future land use. The cost to cities to provide urban services to areas that are not planned for, puts stress on other services. There is a loophole allowing counties to expand their urban growth areas and cities to annex that land preventing board review of the initial invalid UGA expansion.

CON: Assuming a law is valid is not a loophole, it is imperative. This bill undermines legislative decisions made by duly elected officials. There are many benefits to the concept of vesting—it builds certainty and predictability in planning. I encourage lawmakers to reconvene a workgroup to reach agreement on vesting issues. Presumption of validity is provided to the local government after the actions listed in this bill under the GMA.

Presumption of validity is a benefit to local governments.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Dave Andersen, Washington Department of Commerce; Bryce Yadon, Futurewise; Sue Marshall, Friends of Clark County; Patrick Paulson, citizen; Councilwoman Candace Mumm.

CON: Mike Ennis, Association of Washington Business; Jan Himebaugh, Building Industry Association of Washington; Paul Jewell, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: No one.