

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1717

Chapter 252, Laws of 2022

67th Legislature
2022 Regular Session

GROWTH MANAGEMENT ACT PLANNING—TRIBAL PARTICIPATION

EFFECTIVE DATE: June 9, 2022

Passed by the House February 11, 2022
Yeas 92 Nays 6

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 3, 2022
Yeas 46 Nays 0

DENNY HECK

President of the Senate

Approved March 31, 2022 12:33 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1717** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 1, 2022

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1717

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By House Local Government (originally sponsored by Representatives Pollet, Goehner, Fitzgibbon, Ryu, Leavitt, Berg, Taylor, Robertson, Bateman, Valdez, Duerr, Fey, Ramel, Shewmake, Simmons, Dolan, Macri, and Young)

READ FIRST TIME 01/18/22.

1 AN ACT Relating to tribal participation in planning under the
2 growth management act; and amending RCW 36.70A.040, 36.70A.085,
3 36.70A.106, 36.70A.110, 36.70A.190, and 36.70A.210.

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

5 **Sec. 1.** RCW 36.70A.040 and 2014 c 147 s 1 are each amended to
6 read as follows:

7 (1) Each county that has both a population of fifty thousand or
8 more and, until May 16, 1995, has had its population increase by more
9 than ten percent in the previous ten years or, on or after May 16,
10 1995, has had its population increase by more than seventeen percent
11 in the previous ten years, and the cities located within such county,
12 and any other county regardless of its population that has had its
13 population increase by more than twenty percent in the previous ten
14 years, and the cities located within such county, shall conform with
15 all of the requirements of this chapter. However, the county
16 legislative authority of such a county with a population of less than
17 fifty thousand population may adopt a resolution removing the county,
18 and the cities located within the county, from the requirements of
19 adopting comprehensive land use plans and development regulations
20 under this chapter if this resolution is adopted and filed with the
21 department by December 31, 1990, for counties initially meeting this

1 set of criteria, or within sixty days of the date the office of
2 financial management certifies that a county meets this set of
3 criteria under subsection (5) of this section. For the purposes of
4 this subsection, a county not currently planning under this chapter
5 is not required to include in its population count those persons
6 confined in a correctional facility under the jurisdiction of the
7 department of corrections that is located in the county.

8 Once a county meets either of these sets of criteria, the
9 requirement to conform with all of the requirements of this chapter
10 remains in effect, even if the county no longer meets one of these
11 sets of criteria.

12 (2)(a) The county legislative authority of any county that does
13 not meet either of the sets of criteria established under subsection
14 (1) of this section may adopt a resolution indicating its intention
15 to have subsection (1) of this section apply to the county. Each
16 city, located in a county that chooses to plan under this subsection,
17 shall conform with all of the requirements of this chapter. Once such
18 a resolution has been adopted, the county and the cities located
19 within the county remain subject to all of the requirements of this
20 chapter, unless the county subsequently adopts a withdrawal
21 resolution for partial planning pursuant to (b)(i) of this
22 subsection.

23 (b)(i) Until December 31, 2015, the legislative authority of a
24 county may adopt a resolution removing the county and the cities
25 located within the county from the requirements to plan under this
26 section if:

27 (A) The county has a population, as estimated by the office of
28 financial management, of twenty thousand or fewer inhabitants at any
29 time between April 1, 2010, and April 1, 2015;

30 (B) The county has previously adopted a resolution indicating its
31 intention to have subsection (1) of this section apply to the county;

32 (C) At least sixty days prior to adopting a resolution for
33 partial planning, the county provides written notification to the
34 legislative body of each city within the county of its intent to
35 consider adopting the resolution; and

36 (D) The legislative bodies of at least sixty percent of those
37 cities having an aggregate population of at least seventy-five
38 percent of the incorporated county population have not: Adopted
39 resolutions opposing the action by the county; and provided written
40 notification of the resolutions to the county.

1 (ii) Upon adoption of a resolution for partial planning under
2 (b)(i) of this subsection:

3 (A) The county and the cities within the county are, except as
4 provided otherwise, no longer obligated to plan under this section;
5 and

6 (B) The county may not, for a minimum of ten years from the date
7 of adoption of the resolution, adopt another resolution indicating
8 its intention to have subsection (1) of this section apply to the
9 county.

10 (c) The adoption of a resolution for partial planning under
11 (b)(i) of this subsection does not nullify or otherwise modify the
12 requirements for counties and cities established in RCW 36.70A.060,
13 36.70A.070(5) and associated development regulations, 36.70A.170, and
14 36.70A.172.

15 (3) Any county or city that is initially required to conform with
16 all of the requirements of this chapter under subsection (1) of this
17 section shall take actions under this chapter as follows: (a) The
18 county legislative authority shall adopt a countywide planning policy
19 under RCW 36.70A.210; (b) the county and each city located within the
20 county shall designate critical areas, agricultural lands,
21 forestlands, and mineral resource lands, and adopt development
22 regulations conserving these designated agricultural lands,
23 forestlands, and mineral resource lands and protecting these
24 designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c)
25 the county shall designate and take other actions related to urban
26 growth areas under RCW 36.70A.110; (~~and~~) and (d) if the county
27 has a population of fifty thousand or more, the county and each city
28 located within the county shall adopt a comprehensive plan under this
29 chapter and development regulations that are consistent with and
30 implement the comprehensive plan on or before July 1, 1994, and if
31 the county has a population of less than fifty thousand, the county
32 and each city located within the county shall adopt a comprehensive
33 plan under this chapter and development regulations that are
34 consistent with and implement the comprehensive plan by January 1,
35 1995, but if the governor makes written findings that a county with a
36 population of less than fifty thousand or a city located within such
37 a county is not making reasonable progress toward adopting a
38 comprehensive plan and development regulations the governor may
39 reduce this deadline for such actions to be taken by no more than one
40 hundred eighty days. Any county or city subject to this subsection

1 may obtain an additional six months before it is required to have
2 adopted its development regulations by submitting a letter notifying
3 the department of its need prior to the deadline for adopting both a
4 comprehensive plan and development regulations.

5 (4) Any county or city that is required to conform with all the
6 requirements of this chapter, as a result of the county legislative
7 authority adopting its resolution of intention under subsection (2)
8 of this section, shall take actions under this chapter as follows:

9 (a) The county legislative authority shall adopt a countywide
10 planning policy under RCW 36.70A.210; (b) the county and each city
11 that is located within the county shall adopt development regulations
12 conserving agricultural lands, forestlands, and mineral resource
13 lands it designated under RCW 36.70A.060 within one year of the date
14 the county legislative authority adopts its resolution of intention;
15 (c) the county shall designate and take other actions related to
16 urban growth areas under RCW 36.70A.110; and (d) the county and each
17 city that is located within the county shall adopt a comprehensive
18 plan and development regulations that are consistent with and
19 implement the comprehensive plan not later than four years from the
20 date the county legislative authority adopts its resolution of
21 intention, but a county or city may obtain an additional six months
22 before it is required to have adopted its development regulations by
23 submitting a letter notifying the department of its need prior to the
24 deadline for adopting both a comprehensive plan and development
25 regulations.

26 (5) If the office of financial management certifies that the
27 population of a county that previously had not been required to plan
28 under subsection (1) or (2) of this section has changed sufficiently
29 to meet either of the sets of criteria specified under subsection (1)
30 of this section, and where applicable, the county legislative
31 authority has not adopted a resolution removing the county from these
32 requirements as provided in subsection (1) of this section, the
33 county and each city within such county shall take actions under this
34 chapter as follows: (a) The county legislative authority shall adopt
35 a countywide planning policy under RCW 36.70A.210; (b) the county and
36 each city located within the county shall adopt development
37 regulations under RCW 36.70A.060 conserving agricultural lands,
38 forestlands, and mineral resource lands it designated within one year
39 of the certification by the office of financial management; (c) the
40 county shall designate and take other actions related to urban growth

1 areas under RCW 36.70A.110; and (d) the county and each city located
2 within the county shall adopt a comprehensive land use plan and
3 development regulations that are consistent with and implement the
4 comprehensive plan within four years of the certification by the
5 office of financial management, but a county or city may obtain an
6 additional six months before it is required to have adopted its
7 development regulations by submitting a letter notifying the
8 department of its need prior to the deadline for adopting both a
9 comprehensive plan and development regulations.

10 (6) A copy of each document that is required under this section
11 shall be submitted to the department at the time of its adoption.

12 (7) Cities and counties planning under this chapter must amend
13 the transportation element of the comprehensive plan to be in
14 compliance with this chapter and chapter 47.80 RCW no later than
15 December 31, 2000.

16 (8) A federally recognized Indian tribe may voluntarily choose to
17 participate in the county or regional planning process and coordinate
18 with the county and cities that are either required to comply with
19 the provisions of this chapter pursuant to subsection (1) of this
20 section or voluntarily choose to comply with the provisions of this
21 chapter pursuant to subsection (2) of this section. Collaboration and
22 participation is a nonexclusive exercise of coordination and
23 cooperation in the planning process and failure to exercise
24 discretionary collaboration and participation shall not limit a
25 party's standing for quasi-judicial or judicial review or appeal
26 under this chapter.

27 (a) Upon receipt of notice in the form of a tribal resolution
28 from a federally recognized Indian tribe whose reservation or ceded
29 lands lie within the county, which indicates the tribe has a planning
30 process or intends to initiate a parallel planning process, the
31 county, cities, and other local governments conducting the planning
32 under this chapter shall enter into good faith negotiations to
33 develop a mutually agreeable memorandum of agreement with such tribes
34 in regard to collaboration and participation in the planning process.
35 If a mutually agreeable memorandum of agreement cannot be reached
36 between the local government and such tribes, the local government
37 shall enter mediation with such tribes for a period not to exceed 30
38 days, which shall be arranged by the department using a suitable
39 expert to be paid by the department. If a mutually agreeable
40 memorandum of agreement is not reached at the conclusion of the

1 mediation period, the period shall be extended for one additional
2 period not to exceed 30 days, upon written notice to the department
3 by one or more parties. If a mutually agreeable memorandum of
4 agreement cannot be reached at the end of the mediation period or the
5 extended mediation period, the parties shall have no further
6 obligation to develop a memorandum of agreement. Inability to reach a
7 mutually agreeable memorandum of agreement shall not preclude a tribe
8 from providing notice as described in this subsection (8)(a) in
9 subsequent planning processes.

10 (b) Nothing in this subsection, any other provision in this
11 chapter, or a tribe's decision to become a participating tribe for
12 planning purposes, shall affect, alter, or limit in any way a tribe's
13 authority, jurisdiction, or any treaty or other rights it may have by
14 virtue of its status as a sovereign Indian tribe.

15 (c) Nothing in this subsection or any other provision in this
16 chapter shall affect, alter, or limit in any way a local government
17 legislative body's authority to adopt and amend comprehensive land
18 use plans and development regulations in accordance with this
19 chapter.

20 **Sec. 2.** RCW 36.70A.085 and 2009 c 514 s 2 are each amended to
21 read as follows:

22 (1) Comprehensive plans of cities that have a marine container
23 port with annual operating revenues in excess of sixty million
24 dollars within their jurisdiction must include a container port
25 element.

26 (2) Comprehensive plans of cities that include all or part of a
27 port district with annual operating revenues in excess of twenty
28 million dollars may include a marine industrial port element. Prior
29 to adopting a marine industrial port element under this subsection
30 (2), the commission of the applicable port district must adopt a
31 resolution in support of the proposed element.

32 (3) Port elements adopted under subsections (1) and (2) of this
33 section must be developed collaboratively between the city (~~and~~),
34 the applicable port, and the applicable tribe, which shall comply
35 with RCW 36.70A.040(8), and must establish policies and programs
36 that:

37 (a) Define and protect the core areas of port and port-related
38 industrial uses within the city;

1 (b) Provide reasonably efficient access to the core area through
2 freight corridors within the city limits; and

3 (c) Identify and resolve key land use conflicts along the edge of
4 the core area, and minimize and mitigate, to the extent practicable,
5 incompatible uses along the edge of the core area.

6 (4) Port elements adopted under subsections (1) and (2) of this
7 section must be:

8 (a) Completed and approved by the city according to the schedule
9 specified in RCW 36.70A.130; and

10 (b) Consistent with the economic development, transportation, and
11 land use elements of the city's comprehensive plan, and consistent
12 with the city's capital facilities plan.

13 (5) In adopting port elements under subsections (1) and (2) of
14 this section, cities and ports must: Ensure that there is consistency
15 between the port elements and the port comprehensive scheme required
16 under chapters 53.20 and 53.25 RCW; and retain sufficient planning
17 flexibility to secure emerging economic opportunities.

18 (6) In developing port elements under subsections (1) and (2) of
19 this section, a city may utilize one or more of the following
20 approaches:

21 (a) Creation of a port overlay district that protects container
22 port uses;

23 (b) Use of industrial land banks;

24 (c) Use of buffers and transition zones between incompatible
25 uses;

26 (d) Use of joint transportation funding agreements;

27 (e) Use of policies to encourage the retention of valuable
28 warehouse and storage facilities;

29 (f) Use of limitations on the location or size, or both, of
30 nonindustrial uses in the core area and surrounding areas; and

31 (g) Use of other approaches by agreement between the city and the
32 port.

33 (7) The department of community, trade, and economic development
34 must provide matching grant funds to cities meeting the requirements
35 of subsection (1) of this section to support development of the
36 required container port element.

37 (8) Any planned improvements identified in port elements adopted
38 under subsections (1) and (2) of this section must be transmitted by
39 the city to the transportation commission for consideration of

1 inclusion in the statewide transportation plan required under RCW
2 47.01.071.

3 **Sec. 3.** RCW 36.70A.106 and 2004 c 197 s 1 are each amended to
4 read as follows:

5 (1) Each county and city proposing adoption of a comprehensive
6 plan or development regulations under this chapter shall notify the
7 department of its intent to adopt such plan or regulations at least
8 sixty days prior to final adoption. State agencies including the
9 department may provide comments to the county or city on the proposed
10 comprehensive plan, or proposed development regulations, during the
11 public review process prior to adoption.

12 (2) Each county and city planning under this chapter shall
13 transmit a complete and accurate copy of its comprehensive plan or
14 development regulations to the department within ten days after final
15 adoption.

16 (3) (a) Any amendments for permanent changes to a comprehensive
17 plan or development regulation that are proposed by a county or city
18 to its adopted plan or regulations shall be submitted to the
19 department in the same manner as initial plans and development
20 regulations under this section. Any amendments to a comprehensive
21 plan or development regulations that are adopted by a county or city
22 shall be transmitted to the department in the same manner as the
23 initial plans and regulations under this section.

24 (b) Each county and city planning under this chapter may request
25 expedited review for any amendments for permanent changes to a
26 development regulation. Upon receiving a request for expedited
27 review, and after consultation with other state agencies, the
28 department may grant expedited review if the department determines
29 that expedited review does not compromise the state's ability to
30 provide timely comments related to compliance with the goals and
31 requirements of this chapter or on other matters of state interest.
32 Cities and counties may adopt amendments for permanent changes to a
33 development regulation immediately following the granting of the
34 request for expedited review by the department.

35 (c) A federally recognized Indian tribe may request to receive
36 from the department copies of notices received from cities or
37 counties under this section. Upon receipt of a submittal from a city
38 or county under this section, the department shall forward the
39 submittal to any tribe that has requested notification.

1 **Sec. 4.** RCW 36.70A.110 and 2017 c 305 s 1 are each amended to
2 read as follows:

3 (1) Each county that is required or chooses to plan under RCW
4 36.70A.040 shall designate an urban growth area or areas within which
5 urban growth shall be encouraged and outside of which growth can
6 occur only if it is not urban in nature. Each city that is located in
7 such a county shall be included within an urban growth area. An urban
8 growth area may include more than a single city. An urban growth area
9 may include territory that is located outside of a city only if such
10 territory already is characterized by urban growth whether or not the
11 urban growth area includes a city, or is adjacent to territory
12 already characterized by urban growth, or is a designated new fully
13 contained community as defined by RCW 36.70A.350. When a federally
14 recognized Indian tribe whose reservation or ceded lands lie within
15 the county or city has voluntarily chosen to participate in the
16 planning process pursuant to RCW 36.70A.040, the county or city and
17 the tribe shall coordinate their planning efforts for any areas
18 planned for urban growth consistent with the terms outlined in the
19 memorandum of agreement provided for in RCW 36.70A.040(8).

20 (2) Based upon the growth management population projection made
21 for the county by the office of financial management, the county and
22 each city within the county shall include areas and densities
23 sufficient to permit the urban growth that is projected to occur in
24 the county or city for the succeeding twenty-year period, except for
25 those urban growth areas contained totally within a national
26 historical reserve. As part of this planning process, each city
27 within the county must include areas sufficient to accommodate the
28 broad range of needs and uses that will accompany the projected urban
29 growth including, as appropriate, medical, governmental,
30 institutional, commercial, service, retail, and other nonresidential
31 uses.

32 Each urban growth area shall permit urban densities and shall
33 include greenbelt and open space areas. In the case of urban growth
34 areas contained totally within a national historical reserve, the
35 city may restrict densities, intensities, and forms of urban growth
36 as determined to be necessary and appropriate to protect the
37 physical, cultural, or historic integrity of the reserve. An urban
38 growth area determination may include a reasonable land market supply
39 factor and shall permit a range of urban densities and uses. In
40 determining this market factor, cities and counties may consider

1 local circumstances. Cities and counties have discretion in their
2 comprehensive plans to make many choices about accommodating growth.

3 Within one year of July 1, 1990, each county that as of June 1,
4 1991, was required or chose to plan under RCW 36.70A.040, shall begin
5 consulting with each city located within its boundaries and each city
6 shall propose the location of an urban growth area. Within sixty days
7 of the date the county legislative authority of a county adopts its
8 resolution of intention or of certification by the office of
9 financial management, all other counties that are required or choose
10 to plan under RCW 36.70A.040 shall begin this consultation with each
11 city located within its boundaries. The county shall attempt to reach
12 agreement with each city on the location of an urban growth area
13 within which the city is located. If such an agreement is not reached
14 with each city located within the urban growth area, the county shall
15 justify in writing why it so designated the area an urban growth
16 area. A city may object formally with the department over the
17 designation of the urban growth area within which it is located.
18 Where appropriate, the department shall attempt to resolve the
19 conflicts, including the use of mediation services.

20 (3) Urban growth should be located first in areas already
21 characterized by urban growth that have adequate existing public
22 facility and service capacities to serve such development, second in
23 areas already characterized by urban growth that will be served
24 adequately by a combination of both existing public facilities and
25 services and any additional needed public facilities and services
26 that are provided by either public or private sources, and third in
27 the remaining portions of the urban growth areas. Urban growth may
28 also be located in designated new fully contained communities as
29 defined by RCW 36.70A.350.

30 (4) In general, cities are the units of local government most
31 appropriate to provide urban governmental services. In general, it is
32 not appropriate that urban governmental services be extended to or
33 expanded in rural areas except in those limited circumstances shown
34 to be necessary to protect basic public health and safety and the
35 environment and when such services are financially supportable at
36 rural densities and do not permit urban development.

37 (5) On or before October 1, 1993, each county that was initially
38 required to plan under RCW 36.70A.040(1) shall adopt development
39 regulations designating interim urban growth areas under this
40 chapter. Within three years and three months of the date the county

1 legislative authority of a county adopts its resolution of intention
2 or of certification by the office of financial management, all other
3 counties that are required or choose to plan under RCW 36.70A.040
4 shall adopt development regulations designating interim urban growth
5 areas under this chapter. Adoption of the interim urban growth areas
6 may only occur after public notice; public hearing; and compliance
7 with the state environmental policy act, chapter 43.21C RCW, and
8 under this section. Such action may be appealed to the growth
9 management hearings board under RCW 36.70A.280. Final urban growth
10 areas shall be adopted at the time of comprehensive plan adoption
11 under this chapter.

12 (6) Each county shall include designations of urban growth areas
13 in its comprehensive plan.

14 (7) An urban growth area designated in accordance with this
15 section may include within its boundaries urban service areas or
16 potential annexation areas designated for specific cities or towns
17 within the county.

18 (8)(a) Except as provided in (b) of this subsection, the
19 expansion of an urban growth area is prohibited into the one hundred
20 year floodplain of any river or river segment that: (i) Is located
21 west of the crest of the Cascade mountains; and (ii) has a mean
22 annual flow of one thousand or more cubic feet per second as
23 determined by the department of ecology.

24 (b) Subsection (8)(a) of this section does not apply to:

25 (i) Urban growth areas that are fully contained within a
26 floodplain and lack adjacent buildable areas outside the floodplain;

27 (ii) Urban growth areas where expansions are precluded outside
28 floodplains because:

29 (A) Urban governmental services cannot be physically provided to
30 serve areas outside the floodplain; or

31 (B) Expansions outside the floodplain would require a river or
32 estuary crossing to access the expansion; or

33 (iii) Urban growth area expansions where:

34 (A) Public facilities already exist within the floodplain and the
35 expansion of an existing public facility is only possible on the land
36 to be included in the urban growth area and located within the
37 floodplain; or

38 (B) Urban development already exists within a floodplain as of
39 July 26, 2009, and is adjacent to, but outside of, the urban growth

1 area, and the expansion of the urban growth area is necessary to
2 include such urban development within the urban growth area; or

3 (C) The land is owned by a jurisdiction planning under this
4 chapter or the rights to the development of the land have been
5 permanently extinguished, and the following criteria are met:

6 (I) The permissible use of the land is limited to one of the
7 following: Outdoor recreation; environmentally beneficial projects,
8 including but not limited to habitat enhancement or environmental
9 restoration; stormwater facilities; flood control facilities; or
10 underground conveyances; and

11 (II) The development and use of such facilities or projects will
12 not decrease flood storage, increase stormwater runoff, discharge
13 pollutants to fresh or salt waters during normal operations or
14 floods, or increase hazards to people and property.

15 (c) For the purposes of this subsection (8), "one hundred year
16 floodplain" means the same as "special flood hazard area" as set
17 forth in WAC 173-158-040 as it exists on July 26, 2009.

18 (9) If a county, city, or utility has adopted a capital facility
19 plan or utilities element to provide sewer service within the urban
20 growth areas during the twenty-year planning period, nothing in this
21 chapter obligates counties, cities, or utilities to install sanitary
22 sewer systems to properties within urban growth areas designated
23 under subsection (2) of this section by the end of the twenty-year
24 planning period when those properties:

25 (a)(i) Have existing, functioning, nonpolluting on-site sewage
26 systems;

27 (ii) Have a periodic inspection program by a public agency to
28 verify the on-site sewage systems function properly and do not
29 pollute surface or groundwater; and

30 (iii) Have no redevelopment capacity; or

31 (b) Do not require sewer service because development densities
32 are limited due to wetlands, flood plains, fish and wildlife
33 habitats, or geological hazards.

34 **Sec. 5.** RCW 36.70A.190 and 1991 sp.s. c 32 s 3 are each amended
35 to read as follows:

36 (1) The department shall establish a program of technical and
37 financial assistance and incentives to counties and cities to
38 encourage and facilitate the adoption and implementation of
39 comprehensive plans and development regulations throughout the state.

1 (2) The department shall develop a priority list and establish
2 funding levels for planning and technical assistance grants both for
3 counties and cities that plan under RCW 36.70A.040. Priority for
4 assistance shall be based on a county's or city's population growth
5 rates, commercial and industrial development rates, the existence and
6 quality of a comprehensive plan and development regulations, and
7 other relevant factors.

8 (3) The department shall develop and administer a grant program
9 to provide direct financial assistance to counties and cities for the
10 preparation of comprehensive plans under this chapter. The department
11 may establish provisions for county and city matching funds to
12 conduct activities under this subsection. Grants may be expended for
13 any purpose directly related to the preparation of a county or city
14 comprehensive plan as the county or city and the department may
15 agree, including, without limitation, the conducting of surveys,
16 inventories and other data gathering and management activities, the
17 retention of planning consultants, contracts with regional councils
18 for planning and related services, and other related purposes.

19 (4) The department shall establish a program of technical
20 assistance:

21 (a) Utilizing department staff, the staff of other state
22 agencies, and the technical resources of counties and cities to help
23 in the development of comprehensive plans required under this
24 chapter. The technical assistance may include, but not be limited to,
25 model land use ordinances, regional education and training programs,
26 and information for local and regional inventories; and

27 (b) Adopting by rule procedural criteria to assist counties and
28 cities in adopting comprehensive plans and development regulations
29 that meet the goals and requirements of this chapter. These criteria
30 shall reflect regional and local variations and the diversity that
31 exists among different counties and cities that plan under this
32 chapter.

33 (5) The department shall provide mediation services to resolve
34 disputes between counties and cities regarding, among other things,
35 coordination of regional issues and designation of urban growth
36 areas.

37 (6) The department shall provide services to facilitate the
38 timely resolution of disputes between a federally recognized Indian
39 tribe and a city or county.

1 (a) A federally recognized Indian tribe may request the
2 department to provide facilitation services to resolve issues of
3 concern with a proposed comprehensive plan and its development
4 regulations, or any amendment to the comprehensive plan and its
5 development regulations.

6 (b) Upon receipt of a request from a tribe, the department shall
7 notify the city or county of the request and offer to assist in
8 providing facilitation services to encourage resolution before
9 adoption of the proposed comprehensive plan. Upon receipt of the
10 notice from the department, the city or county must delay any final
11 action to adopt any comprehensive plan or any amendment or its
12 development regulations for at least 60 days. The tribe and the city
13 or county may jointly agree to extend this period by notifying the
14 department. A county or city must not be penalized for noncompliance
15 under this chapter due to any delays associated with this process.

16 (c) Upon receipt of a request, the department shall provide
17 comments to the county or city including a summary and supporting
18 materials regarding the tribe's concerns. The county or city may
19 either agree to amend the comprehensive plan as requested consistent
20 with the comments from the department, or enter into a facilitated
21 process with the tribe, which must be arranged by the department
22 using a suitable expert to be paid by the department. This
23 facilitated process may also extend the 60-day delay of adoption,
24 upon agreement of the tribe and the city or county.

25 (d) At the end of the 60-day period, unless by agreement there is
26 an extension of the 60-day period, the city or county may proceed
27 with adoption of the proposed comprehensive plan and development
28 regulations. The facilitator shall write a report of findings
29 describing the basis for agreements or disagreements that occurred
30 during the process that are allowed to be disclosed by the parties
31 and the resulting agreed upon elements of the plan to be amended.

32 (7) The department shall provide planning grants to enhance
33 citizen participation under RCW 36.70A.140.

34 **Sec. 6.** RCW 36.70A.210 and 2009 c 121 s 2 are each amended to
35 read as follows:

36 (1) The legislature recognizes that counties are regional
37 governments within their boundaries, and cities are primary providers
38 of urban governmental services within urban growth areas. For the
39 purposes of this section, a "countywide planning policy" is a written

1 policy statement or statements used solely for establishing a
2 countywide framework from which county and city comprehensive plans
3 are developed and adopted pursuant to this chapter. This framework
4 shall ensure that city and county comprehensive plans are consistent
5 as required in RCW 36.70A.100. Nothing in this section shall be
6 construed to alter the land-use powers of cities.

7 (2) The legislative authority of a county that plans under RCW
8 36.70A.040 shall adopt a countywide planning policy in cooperation
9 with the cities located in whole or in part within the county as
10 follows:

11 (a) No later than sixty calendar days from July 16, 1991, the
12 legislative authority of each county that as of June 1, 1991, was
13 required or chose to plan under RCW 36.70A.040 shall convene a
14 meeting with representatives of each city located within the county
15 for the purpose of establishing a collaborative process that will
16 provide a framework for the adoption of a countywide planning policy.
17 In other counties that are required or choose to plan under RCW
18 36.70A.040, this meeting shall be convened no later than sixty days
19 after the date the county adopts its resolution of intention or was
20 certified by the office of financial management.

21 (b) The process and framework for adoption of a countywide
22 planning policy specified in (a) of this subsection shall determine
23 the manner in which the county and the cities agree to all procedures
24 and provisions including but not limited to desired planning
25 policies, deadlines, ratification of final agreements and
26 demonstration thereof, and financing, if any, of all activities
27 associated therewith.

28 (c) If a county fails for any reason to convene a meeting with
29 representatives of cities as required in (a) of this subsection, the
30 governor may immediately impose any appropriate sanction or sanctions
31 on the county from those specified under RCW 36.70A.340.

32 (d) If there is no agreement by October 1, 1991, in a county that
33 was required or chose to plan under RCW 36.70A.040 as of June 1,
34 1991, or if there is no agreement within one hundred twenty days of
35 the date the county adopted its resolution of intention or was
36 certified by the office of financial management in any other county
37 that is required or chooses to plan under RCW 36.70A.040, the
38 governor shall first inquire of the jurisdictions as to the reason or
39 reasons for failure to reach an agreement. If the governor deems it
40 appropriate, the governor may immediately request the assistance of

1 the department of (~~community, trade, and economic development~~)
2 commerce to mediate any disputes that preclude agreement. If
3 mediation is unsuccessful in resolving all disputes that will lead to
4 agreement, the governor may impose appropriate sanctions from those
5 specified under RCW 36.70A.340 on the county, city, or cities for
6 failure to reach an agreement as provided in this section. The
7 governor shall specify the reason or reasons for the imposition of
8 any sanction.

9 (e) No later than July 1, 1992, the legislative authority of each
10 county that was required or chose to plan under RCW 36.70A.040 as of
11 June 1, 1991, or no later than fourteen months after the date the
12 county adopted its resolution of intention or was certified by the
13 office of financial management the county legislative authority of
14 any other county that is required or chooses to plan under RCW
15 36.70A.040, shall adopt a countywide planning policy according to the
16 process provided under this section and that is consistent with the
17 agreement pursuant to (b) of this subsection, and after holding a
18 public hearing or hearings on the proposed countywide planning
19 policy.

20 (3) A countywide planning policy shall at a minimum, address the
21 following:

22 (a) Policies to implement RCW 36.70A.110;

23 (b) Policies for promotion of contiguous and orderly development
24 and provision of urban services to such development;

25 (c) Policies for siting public capital facilities of a countywide
26 or statewide nature, including transportation facilities of statewide
27 significance as defined in RCW 47.06.140;

28 (d) Policies for countywide transportation facilities and
29 strategies;

30 (e) Policies that consider the need for affordable housing, such
31 as housing for all economic segments of the population and parameters
32 for its distribution;

33 (f) Policies for joint county and city planning within urban
34 growth areas;

35 (g) Policies for countywide economic development and employment,
36 which must include consideration of the future development of
37 commercial and industrial facilities; (~~and~~)

38 (h) An analysis of the fiscal impact; and

39 (i) Policies that address the protection of tribal cultural
40 resources in collaboration with federally recognized Indian tribes

1 that are invited pursuant to subsection (4) of this section, provided
2 that a tribe, or more than one tribe, chooses to participate in the
3 process.

4 (4) Federal agencies and federally recognized Indian tribes
5 ~~((may))~~ whose reservation or ceded lands lie within the county shall
6 be invited to participate in and cooperate with the countywide
7 planning policy adoption process. Adopted countywide planning
8 policies shall be adhered to by state agencies.

9 (5) Failure to adopt a countywide planning policy that meets the
10 requirements of this section may result in the imposition of a
11 sanction or sanctions on a county or city within the county, as
12 specified in RCW 36.70A.340. In imposing a sanction or sanctions, the
13 governor shall specify the reasons for failure to adopt a countywide
14 planning policy in order that any imposed sanction or sanctions are
15 fairly and equitably related to the failure to adopt a countywide
16 planning policy.

17 (6) Cities and the governor may appeal an adopted countywide
18 planning policy to the growth management hearings board within sixty
19 days of the adoption of the countywide planning policy.

20 (7) Multicounty planning policies shall be adopted by two or more
21 counties, each with a population of four hundred fifty thousand or
22 more, with contiguous urban areas and may be adopted by other
23 counties, according to the process established under this section or
24 other processes agreed to among the counties and cities within the
25 affected counties throughout the multicounty region.

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