
Local Government Committee

HB 1723

Brief Description: Concerning equity and environmental justice in the growth management act.

Sponsors: Representatives Duerr, Taylor, Morgan, Gregerson, Ramel, Reed, Santos, Pollet and Macri.

Brief Summary of Bill

- Adds environmental justice as a planning goal in the Growth Management Act.
- Adds an environmental justice element for inclusion in comprehensive plans.
- Requires the Department of Commerce to prepare best practices for achieving equitable and inclusive public engagement in the Growth Management Act's planning process, and requires counties and cities to identify the best practices they will incorporate by June 30, 2024.

Hearing Date: 2/14/23

Staff: Kellen Wright (786-7134).

Background:

The Growth Management Act.

The Growth Management Act (GMA) requires that certain counties, and the cities within those counties, engage in planning for future population growth. Counties that have a population of 50,000 or more and, prior to May 16, 1995, had their population grow by 10 percent or more in the proceeding 10 years, or, after May 16, 1995, by 17 percent or more in a 10-year period are covered by the GMA. So too is any county that experiences population growth of 20 percent or more over ten years. Counties with populations under 50,000, that would otherwise be required

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.

to plan, can remove themselves from the GMA's comprehensive planning requirements. Conversely, counties that do not meet the standards for automatic inclusion in the GMA may choose to be included. Currently, 18 counties are required to plan, 10 have chosen to plan, and 11 are not subject to the full GMA planning requirements.

Whether a county is automatically required to plan under the GMA or voluntarily chooses to, the planning requirements are largely the same. The county must develop a countywide planning policy to provide a framework in which the county and the cities within the county can develop consistent comprehensive plans. The county and cities must adopt development regulations to conserve agricultural lands, forestlands, and mineral resource lands. The county and cities must also adopt urban growth area regulations. Finally, the county and cities must adopt a comprehensive land use plan and adopt development regulations consistent with the plan.

Planning Goals.

The comprehensive plan is the central part of the whole planning process. The Legislature has established 14 goals to act as the basis of all comprehensive plans. One such goal concerns the retention of open space and enhancement of recreational opportunities, including by conserving fish and wildlife habitats, increasing access to natural resource lands and water, and the development of parks and recreation facilities. Another goal is the protection of the environment and enhancement of quality of life, including air and water quality and the availability of water. A third goal is the encouragement of citizen participation in the planning process and the coordination between communities to reconcile conflicts.

The comprehensive plan must address the goals and set out the policies and standards that are meant to guide the county's or city's actions and decisions in the future. Comprehensive plans must contain certain elements, such as a land use element, a transportation element, and a capital facilities plan element. These elements must satisfy the requirements for each individual element while fitting within the overall comprehensive plan.

Public Participation.

When adopting or reviewing a comprehensive plan, counties and cities must provide for public participation. Counties and cities must disseminate a public participation program that identifies procedures and schedules for updates, amendments, and revisions to a comprehensive plan and that provides for consideration of such comprehensive plan changes no more than once a year outside of certain limited circumstances.

The public participation program must provide for early and continuous public participation in the development and amendment of comprehensive plans and development regulations. The public participation program must include notice provisions that are reasonably calculated to give notice to property owners and other interested or affected individuals, tribes, government agencies, school districts, public water systems, or organizations. Proposals and alternatives should be broadly disseminated, and written comments, public meetings, open discussions, and consideration and response to public meetings should be provided for. If a county or city considers an amendment to a comprehensive plan or development regulation that is proposed

after the public comment period has ended, the proposed change cannot be adopted without an additional comment period, with limited exceptions.

Federally recognized Indian tribes can also enter into memorandums of agreement with counties within which the tribe's reservation or ceded lands lie, in order to participate in the GMA planning process with the county.

Implementation Progress Reports.

Comprehensive plans are required to be reviewed and, if necessary, revised every 10 years. The review and revision deadlines are staggered for different counties. The next deadlines are December 31, 2024, for King, Kitsap, Pierce, and Snohomish counties, and the cities within those counties, followed by June 30, 2025, for Clark, Lewis, Thurston, Mason, Jefferson, Island, San Juan, Skagit, Whatcom, and Clallam counties, and the cities within those counties.

Certain counties and cities are also required to submit an implementation progress report to the Department of Commerce five years after the review and revision of a comprehensive plan. The report is required from counties that have either or both: (1) a population of 200,000 and a population density of at least 100 people per square mile on or after April 1, 2021; or (2) growth at an annual rate of 1.75 percent or more and a population density of at least 75 people per square mile on or after April 1, 2021. Cities with more than 6,000 people on April 1, 2021, within counties that satisfy either or both criteria also must submit the report.

The implementation progress report must cover certain topics, including the implementation of previously adopted changes to the housing element of the comprehensive plan, information about permit processing timelines, and the identification of any changes in the county's or city's most recent comprehensive plan that have yet to be implemented.

Growth Management Act State Funding Requirements.

New or amended comprehensive plan elements adopted by the Legislature must be included in local governments' next comprehensive plan review and revision, as long as funds sufficient to cover local government costs are appropriated and distributed at least two years before the comprehensive plan update. If this does not occur, then the requirement to incorporate the new or amended element is null and void.

Environmental Justice Obligations for State Agencies.

The Department of Ecology, Department of Health, Department of Natural Resources, Department of Transportation, and the Puget Sound Partnership are required to incorporate an environmental justice implementation plan into their strategic plans. These agencies, and any other agency that decides to participate, must comply with requirements related to environmental justice for strategic planning, when engaging in rulemaking, and when considering budgets and funding.

Summary of Bill:

The Environmental Justice Planning Goal.

Environmental justice is a goal of the GMA. This goal includes developing and applying fair land use and environmental policy based on respect and justice for all peoples; identifying and planning for the reduction and prevention of environmental and health disparities; and working toward the elimination of disparate harms and disproportional environmental and health impact by prioritizing vulnerable populations, overburdened communities, and the equitable distribution of resources and benefits.

The goal of citizen participation and coordination includes specific effort to involve and collaborate with vulnerable populations and overburdened communities.

The Environmental Justice Element.

Comprehensive plans must include an environmental justice element. This element includes goals, objectives, timelines, and policies, and their application in other appropriate GMA elements, that reduce environmental harms, create environmental benefits, work toward eliminating environmental health disparities, and promote public participation in decision-making by overburdened communities and vulnerable populations.

Using guidance from the Department of Commerce, local governments must identify overburdened communities and vulnerable populations within their planning area, and must address how each comprehensive plan element, individually and collectively, reflects considerations of environmental justice, addresses cumulative environmental health impacts faced by vulnerable populations or overburdened communities, and advances the equitable distribution of environmental benefits.

An environmental justice element may address subjects including, but not limited to, regulations, siting and permitting decisions, resource allocations, enforcement, and the monitoring and reporting of exposures to environmental health hazards.

Environmental Justice Element Adoption Timeline and State Funding Requirements.

The environmental justice element must be adopted at the time of a county's or city's next review and revision of its comprehensive plan, unless the review and revision is due on or before June 30, 2025. For those counties and cities, the environmental justice element must instead be adopted at the time of its first implementation progress report.

In order for the requirement to adopt the environmental justice element to be binding, funding sufficient to cover local government costs must be appropriated and distributed two years prior to the county's or city's next comprehensive plan update, or two years prior to the county's or city's implementation progress report if that is the point at which the county or city is required to adopt the environmental justice element.

Public Participation.

The Department of Commerce must prepare and disseminate to cities and counties planning under the GMA best practices to achieve equitable and inclusive public participation in order to

engage members of the public who have historically been underserved and underrepresented in the formation of policy. These best practices must emphasize and provide resources to support the participation of overburdened communities and vulnerable populations, including community organizations; and must provide special consideration for people with limited English-language proficiency, low incomes, or other barriers to participation.

Procedures should also support voluntary collaboration and coordination with any federally recognized Indian tribe that is participating in the planning process through a memorandum of agreement with a county.

Counties and cities must determine which practices to incorporate in updated public participation programs by June 30, 2024.

Definitions.

Environmental benefits are activities that prevent or reduce existing environmental harms or associated risks that contribute significantly to cumulative environmental health impact, or that prevent or mitigate impacts to overburdened communities or vulnerable populations from the impacts of environmental harm.

Environmental harms are the individual or cumulative environmental health impacts and risks to communities caused by historic, current, or projected exposure to pollution or environmental hazards, or other adverse environmental effects that increase the risk of adverse health outcomes or create vulnerabilities to the impacts of climate change; the loss or impairment of ecosystem functions, traditional food resources, or the ability to gather cultural resources or harvest traditional foods; or the health and economic impacts from climate change.

Equitable distribution means a fair and just, but not necessarily equal, allocation informed by cumulative environmental health impact analysis that is intended to mitigate disparities in benefits and burdens that are based on current conditions, legacy, and cumulative impacts.

Overburdened communities are geographic areas where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as designated by the Department of Health based on a cumulative impact analysis and communities that are on census tracts fully or partially on areas defined as "Indian country" in federal law.

Vulnerable populations are those communities that experience a disproportionate cumulative risk from environmental burdens due to adverse socioeconomic factors and sensitivity factors, such as low birth weight and higher rates of hospitalization. Vulnerable populations include, but are not limited to, racial or ethnic minorities, low-income populations, populations disproportionately impacted by environmental harms, and populations of workers experiencing environmental harms.

Appropriation: None.

Fiscal Note: Requested on February 7, 2023.

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