

HOUSE BILL REPORT

SSB 5834

As Reported by House Committee On:
Local Government

Title: An act relating to urban growth areas.

Brief Description: Concerning urban growth areas.

Sponsors: Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Short, Lovelett, Billig, Gildon, Mullet, Padden and Torres).

Brief History:

Committee Activity:

Local Government: 2/14/24, 2/21/24 [DP].

Brief Summary of Substitute Bill

- Allows a county to revise an urban growth area during an annual comprehensive plan update, if certain conditions are met.
- Requires the county to meaningfully consult with a federally recognized Indian tribe that could be potentially affected by an urban growth area revision prior to making the revision.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg, Griffey and Riccelli.

Staff: Kellen Wright (786-7134).

Background:

The Growth Management Act (GMA) requires that certain counties, and the cities within

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those counties, engage in planning for future population growth. The central part of the planning process is the comprehensive plan. The Legislature has established 14 goals that act as the basis of all comprehensive plans. Examples of goals include reducing sprawl, providing for affordable housing, and protecting property rights. The comprehensive plan must address these goals and set out the policies and standards that are meant to guide the city or county's actions and decisions in the future.

Comprehensive plans are required to be updated every 10 years and must contain certain elements, such as a land use element, a housing element, and a capital facilities plan. These elements must satisfy the requirements for each individual element while fitting within the overall comprehensive plan. Updates, amendments, and revisions to a comprehensive plan can be made after the plan is adopted, but generally cannot be made more than once per year.

Within 14 months of a county initially becoming subject to the GMA's requirements, the county must adopt a countywide planning policy in consultation with the cities within the county. Countywide planning policies must address, among other things, designating urban growth areas (UGAs). When adopting countywide planning policies, federal agencies and Indian tribes with cede lands or a reservation within the county must be invited to participate in and cooperate with the countywide plan adoption process.

Additionally, counties or cities, whether planning under the GMA or not, are required to designate critical areas, including wetlands, fish and wildlife habitat, and other areas, and must also designate agricultural lands, forestlands, and mineral resource lands. Cities and counties must adopt development regulations protecting these areas.

One aspect of a comprehensive plan that must be reviewed every 10 years is the designation of UGAs. Urban growth is growth that makes such intensive use of land for buildings, structures, and impermeable surfaces that is unsuitable to be used primarily for agriculture, natural resource use and management, or for rural uses. A UGA is an area designated by a county planning under the GMA inside of which urban growth is encouraged, and outside of which urban growth is prohibited. Each city must be included in an urban growth area, and a UGA can include more than one city within its boundaries. Areas outside of a city can also be included within a UGA, if the areas are already characterized by urban growth.

The Office of Financial Management provides population projections to counties. Using these projections, each county must ensure that areas and densities within a UGA are sufficient to permit the urban growth that is projected to occur in the county or city over the next 20 years. Each UGA must permit urban densities and provide for greenbelts and open spaces. Each city must include areas sufficient to accommodate the broad range of needs and uses that will accompany the population growth, including government, medical, commercial, and other nonresidential uses.

In determining whether a UGA can accommodate growth over the succeeding 20-year period, counties and cities conduct a land capacity analysis. This is an analysis of the vacant, underused, and redevelopment potential of land within the UGA. Counties and cities use this information to try and ensure that there is sufficient land supply within the UGA to accommodate the projected future growth. In general, this analysis identifies vacant or underutilized lands within the UGA that could potentially accommodate future growth. In identifying these lands, counties and cities are authorized to consider unique local circumstances. Once the analysis is complete, counties and cities may apply a reasonable land market supply factor. A land market supply factor is a percentage deduction from the identified vacant or underutilized land to account for land that, though available for development, will not be developed within the 20-year planning horizon. These factors vary by jurisdiction. For example, as of 2016, Clark County applied a 10 percent vacant and a 30 percent underutilized market supply factor, while Kitsap County applied a 5 percent vacant and 15 percent underutilized factor.

Urban government services include those services that are typically provided in cities, including storm and sewer systems, domestic water systems, public transit, public safety, and other services associated with urban areas and not associated with rural areas. Urban government services are most appropriately provided by cities, and cannot generally be extended into rural areas. Urban growth should be located first in areas already characterized by urban growth that possess adequate public facilities and services to accommodate the growth, second in areas with urban growth that may need additional services to accommodate the growth, and finally in the remaining portions of a UGA.

When reviewing and revising its comprehensive plan every 10 years, a county must review its designated UGAs, the patterns of development within the UGA, and the densities permitted within each UGA. Together with this county review, cities must review the densities permitted within their boundaries, and the extent to which the urban growth that has occurred has been in each city or in unincorporated areas of the county. County and city comprehensive plans must be revised to accommodate the urban growth projected to occur in the next 20 years.

During this review, if a county determines that revision of the UGA is not required to accommodate the projected urban growth in the succeeding 20 years, but that patterns of development have created pressure in areas that exceed the available developable lands within the UGA, then the UGA may be revised to accommodate these identified patterns of development if certain conditions are satisfied. Such a revision may only occur if:

- The revised UGA does not result in an increased total surface area for the UGA.
- The areas added to the UGA have never been designated as agricultural, forest, or mineral resources lands of long-term commercial significance.
- Less than 15 percent of the areas added to the UGA are critical resource areas.
- The areas added are suitable for urban growth.
- The transportation element and capital facilities plan element of the comprehensive plan have identified the facilities and services needed to serve the UGA and the

- funding to provide these facilities and services.
 - The areas that are removed from the UGA when the new areas are added are not characterized by urban growth or urban densities.
 - The revised UGA is contiguous, without holes or gaps, and will not increase pressure to urbanize rural or natural resource lands.
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Summary of Bill:

When considering an annual update, amendment, or revision to a comprehensive plan, a county may determine that patterns of development have created pressure in areas that exceed the available developable lands within the UGA. If the county does so then the UGA may be revised if certain conditions are satisfied. Such a revision may only occur if:

- The revised UGA would not result in a net increase in acreage or development capacity of the UGA or UGAs.
- The areas added to the UGA are not designated as agricultural, forest, or mineral resources lands of long-term commercial significance.
- The areas added to the UGA, if previously designated as agricultural, forest, or mineral resources lands of long-term commercial significance, are matched by an equivalent amount of such lands removed from the UGA, or the county waits at least two years before undertaking another UGA revision;
- Less than 15 percent of the areas added to the UGA are critical areas other than critical aquifer recharge areas.
- The areas added to the UGA will result in no net increase in critical aquifer recharge areas within the UGA, and any critical aquifer recharge areas must have been previously designated as such by the county and maintained pursuant to development regulations.
- The transportation element and capital facilities plan element of the comprehensive plan have identified the facilities and services needed to serve the UGA and the funding to provide these facilities and services.
- The areas that are removed from the UGA when the new areas are added are not characterized by urban growth or urban densities.
- The revised UGA is contiguous, without holes or gaps, and will not increase pressure to urbanize rural or natural resource lands.
- The UGA revision has been reviewed according to the procedure in the county's countywide planning policy.

At the earliest possible time prior to a revision to a UGA made during an annual update, amendment, or revision to a comprehensive plan, the county must meaningfully consult with any federally recognized Indian tribe that might be affected by the proposed UGA revision, and this must include discussions about potential impacts to treaty rights or cultural resources. The tribe must be notified of the proposed UGA revision in at least two ways, one of which must be by mail.

Upon receiving notice, a federally recognized tribe may request a consultation to determine whether an agreement for the proposed revision can be reached. If an agreement is not reached, the parties must enter into mediation for up to 30 days. The mediation must be arranged by the Department of Commerce, and the department must also provide a suitable specialist for the mediation. If no agreement is reached, then an additional 30 days of mediation may occur at the request of one or more of the parties.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) UGA boundaries are often set based on projections and best estimates about where growth will occur. Over time, growth can occur in different areas than projected. Currently, there is no way to adjust UGA boundaries unless the UGA is at capacity. This bill would allow flexibility for jurisdictions to allow UGA revisions on an annual basis if very specific conditions are met. This bill would allow jurisdictions to follow growth where it wants to go, while protecting the underlying goals of the GMA. This would allow a community to react to what is actually happening in the marketplace. There are specific protections in the bill, including for critical areas and aquifers. Boundaries could only be adjusted as long as there was no net increase to the area of the UGA. This bill has been well worked by stakeholders to make sure that it is within the spirit and intent of the GMA. This provides a good, flexible tool for some jurisdictions. It would allow more sensible use of UGA lands while making use of infrastructure investments. This would allow the best buildable land to be incorporated within a UGA, and less suitable land to be removed. This can help to reduce pressure on critical areas by removing them from the UGA. The purpose is not to allow constant tinkering with a UGA, but instead to address a situation where a UGA is significantly larger than is needed and, because of that, is essentially frozen in place. This would allow counties to reconfigure UGAs without making the problem worse, and help jurisdictions to correct historical missteps in planning. A prior bill provided a similar mechanism, but could only be used during a ten-year comprehensive plan update.

(Other) The current bill has addressed some of the concerns, and it is okay to move forward.

Persons Testifying: (In support) Senator Shelly Short, prime sponsor; Alex Hur, Master Builders Association of King and Snohomish Counties; Brett Lucas, City of Cheney; Dave Andersen, Washington Department of Commerce; Jan Himebaugh, Building Industry Association of Washington; Jessica Yaeger, City of Spokane Valley; and Paul Jewell, Washington State Association of Counties.

(Other) Bryce Yadon, Futurewise.

Persons Signed In To Testify But Not Testifying: None.