

SENATE BILL REPORT

SB 5374

As Reported by Senate Committee On:
Local Government, Land Use & Tribal Affairs, January 26, 2023

Title: An act relating to the adoption of county critical area ordinances by cities.

Brief Description: Concerning the adoption of county critical area ordinances by cities.

Sponsors: Senators Short, Lovelett, Shewmake and Torres.

Brief History:

Committee Activity: Local Government, Land Use & Tribal Affairs: 1/24/23, 1/26/23 [DPS].

Brief Summary of First Substitute Bill

- Authorizes cities with a population fewer than 25,000 to adopt the county critical areas regulations by reference to satisfy the Growth Management Act critical areas requirements.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

Majority Report: That Substitute Senate Bill No. 5374 be substituted therefor, and the substitute bill do pass.

Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Torres, Ranking Member; Kauffman and Short.

Staff: Maggie Douglas (786-7279)

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land-use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of

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planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be fully planning under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. Comprehensive plans must be reviewed and, if necessary, revised every ten years to ensure that it complies with the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Critical Areas Ordinance. Fully planning jurisdictions must adopt development regulations protecting critical areas in an effort to preserve the following areas and ecosystems:

- wetlands;
- areas with a critical recharging effect on aquifers used for potable water;
- fish and wildlife habitat conservation areas;
- frequently flooded areas; and
- geologically hazardous areas.

All critical areas must be designated and their functions and values protected using the best available scientific information. Jurisdictions are required to review, evaluate, and if necessary, revise their critical areas ordinances every ten years according to an update schedule.

Summary of Bill (First Substitute): A fully planning city with a population fewer than 25,000 may adopt a county's critical areas regulations by reference to satisfy the critical areas requirements under the GMA, provided the county's critical areas regulations are not subject to any outstanding administrative or judicial appeals at the time of a city's adoption.

If a city chooses to adopt the county regulations by reference, the city must incorporate future amendments to critical areas policies and development regulations of the county.

A city that adopts the county's critical areas regulations by reference is not required to take legislative action to review and update development regulations protecting critical areas.

If grant funding is available for a local jurisdiction's periodic comprehensive planning update, and a city has adopted by reference the county's critical areas regulations, the county in which the city is located is entitled to receive a portion of the city's grant funding that would otherwise have been used for updating the city's critical areas regulations.

EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS COMMITTEE (First Substitute):

- Provides that a county is eligible to receive grant funding on behalf of the city if the city chooses to adopt the county's critical areas regulations by reference.
- Authorizes the Department of Commerce to determine what portion of available grant funding the county is eligible to receive if the city has adopted the county's critical areas regulations by reference.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Every ten years, cities must undergo the periodic update process. For the critical areas ordinance, part of this is reviewing and including best available science. This bill allows smaller cities to rely on the work being done by counties to avoid going through a redundant update process. This bill streamlines the work of local governments and doesn't compromise the critical areas protections that are so important to the state of Washington. It allows cities to tag on to a county's critical area ordinance only if the city chooses to do so. This is an important issue. This bill should add a section saying cities who decide to do this share their funding with counties.

CON: Adoption by reference is tricky. This will limit public participation.

Persons Testifying: PRO: Senator Shelly Short, Prime Sponsor; Paul Jewell, Washington State Association of Counties; Dave Andersen, Washington Department of Commerce.

CON: John Worthington.

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