

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5834

68th Legislature
2024 Regular Session

Passed by the Senate February 6, 2024
Yeas 49 Nays 0

President of the Senate

Passed by the House February 27, 2024
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5834** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5834

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senate Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Short, Lovelett, Billig, Gildon, Mullet, Padden, and Torres)

READ FIRST TIME 01/26/24.

1 AN ACT Relating to urban growth areas; and amending RCW
2 36.70A.110.

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

4 **Sec. 1.** RCW 36.70A.110 and 2022 c 252 s 4 are each amended to
5 read as follows:

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

1 planned for urban growth consistent with the terms outlined in the
2 memorandum of agreement provided for in RCW 36.70A.040(8).

3 (2) Based upon the growth management population projection made
4 for the county by the office of financial management, the county and
5 each city within the county shall include areas and densities
6 sufficient to permit the urban growth that is projected to occur in
7 the county or city for the succeeding twenty-year period, except for
8 those urban growth areas contained totally within a national
9 historical reserve. As part of this planning process, each city
10 within the county must include areas sufficient to accommodate the
11 broad range of needs and uses that will accompany the projected urban
12 growth including, as appropriate, medical, governmental,
13 institutional, commercial, service, retail, and other nonresidential
14 uses.

15 Each urban growth area shall permit urban densities and shall
16 include greenbelt and open space areas. In the case of urban growth
17 areas contained totally within a national historical reserve, the
18 city may restrict densities, intensities, and forms of urban growth
19 as determined to be necessary and appropriate to protect the
20 physical, cultural, or historic integrity of the reserve. An urban
21 growth area determination may include a reasonable land market supply
22 factor and shall permit a range of urban densities and uses. In
23 determining this market factor, cities and counties may consider
24 local circumstances. Cities and counties have discretion in their
25 comprehensive plans to make many choices about accommodating growth.

26 Within one year of July 1, 1990, each county that as of June 1,
27 1991, was required or chose to plan under RCW 36.70A.040, shall begin
28 consulting with each city located within its boundaries and each city
29 shall propose the location of an urban growth area. Within sixty days
30 of the date the county legislative authority of a county adopts its
31 resolution of intention or of certification by the office of
32 financial management, all other counties that are required or choose
33 to plan under RCW 36.70A.040 shall begin this consultation with each
34 city located within its boundaries. The county shall attempt to reach
35 agreement with each city on the location of an urban growth area
36 within which the city is located. If such an agreement is not reached
37 with each city located within the urban growth area, the county shall
38 justify in writing why it so designated the area an urban growth
39 area. A city may object formally with the department over the
40 designation of the urban growth area within which it is located.

1 Where appropriate, the department shall attempt to resolve the
2 conflicts, including the use of mediation services.

3 (3) Urban growth should be located first in areas already
4 characterized by urban growth that have adequate existing public
5 facility and service capacities to serve such development, second in
6 areas already characterized by urban growth that will be served
7 adequately by a combination of both existing public facilities and
8 services and any additional needed public facilities and services
9 that are provided by either public or private sources, and third in
10 the remaining portions of the urban growth areas. Urban growth may
11 also be located in designated new fully contained communities as
12 defined by RCW 36.70A.350.

13 (4) In general, cities are the units of local government most
14 appropriate to provide urban governmental services. In general, it is
15 not appropriate that urban governmental services be extended to or
16 expanded in rural areas except in those limited circumstances shown
17 to be necessary to protect basic public health and safety and the
18 environment and when such services are financially supportable at
19 rural densities and do not permit urban development.

20 (5) On or before October 1, 1993, each county that was initially
21 required to plan under RCW 36.70A.040(1) shall adopt development
22 regulations designating interim urban growth areas under this
23 chapter. Within three years and three months of the date the county
24 legislative authority of a county adopts its resolution of intention
25 or of certification by the office of financial management, all other
26 counties that are required or choose to plan under RCW 36.70A.040
27 shall adopt development regulations designating interim urban growth
28 areas under this chapter. Adoption of the interim urban growth areas
29 may only occur after public notice; public hearing; and compliance
30 with the state environmental policy act, chapter 43.21C RCW, and
31 under this section. Such action may be appealed to the growth
32 management hearings board under RCW 36.70A.280. Final urban growth
33 areas shall be adopted at the time of comprehensive plan adoption
34 under this chapter.

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

37 (7) An urban growth area designated in accordance with this
38 section may include within its boundaries urban service areas or
39 potential annexation areas designated for specific cities or towns
40 within the county.

1 (8) If, during the county's annual review under RCW
2 36.70A.130(2)(a), the county determines revision of the urban growth
3 area is not required to accommodate the population projection for the
4 county made by the office of financial management for the succeeding
5 20-year period, but does determine that patterns of development have
6 created pressure for development in areas exceeding the amount of
7 available developable lands within the urban growth area, then the
8 county may revise the urban growth area or areas based on identified
9 patterns of development and likely future development pressure if the
10 following requirements are met:

11 (a) The revised urban growth area would not result in a net
12 increase in the total acreage or development capacity of the urban
13 growth area or areas;

14 (b) The areas added to the urban growth area are not designated
15 by the county as agricultural, forest, or mineral resource lands of
16 long-term commercial significance;

17 (c) If the areas added to the urban growth area have previously
18 been designated as agricultural, forest, or mineral resource lands of
19 long-term commercial significance, either an equivalent amount of
20 agricultural, forest, or mineral resource lands of long-term
21 commercial significance must be added to the area outside of the
22 urban growth area, or the county must wait a minimum of two years
23 before another swap may occur;

24 (d) Less than 15 percent of the areas added to the urban growth
25 area are critical areas other than critical aquifer recharge areas.
26 Critical aquifer recharge areas must have been previously designated
27 by the county and be maintained per county development regulations
28 within the expanded urban growth area and the revised urban growth
29 area must not result in a net increase in critical aquifer recharge
30 areas within the urban growth area;

31 (e) The areas added to the urban growth areas are suitable for
32 urban growth;

33 (f) The transportation element and capital facility plan element
34 of the county's comprehensive plan have identified the transportation
35 facilities and public facilities and services needed to serve the
36 urban growth area and the funding to provide the transportation
37 facilities and public facilities and services;

38 (g) The areas removed from the urban growth area are not
39 characterized by urban growth or urban densities;

1 (h) The revised urban growth area is contiguous, does not include
2 holes or gaps, and will not increase pressures to urbanize rural or
3 natural resource lands;

4 (i) The county's proposed urban growth area revision has been
5 reviewed according to the process and procedure in the countywide
6 planning policies adopted and approved according to RCW 36.70A.210;
7 and

8 (j) The revised urban growth area meets all other requirements of
9 this section.

10 (9) (a) At the earliest possible date prior to the revision of the
11 county's urban growth area authorized under subsection (8) of this
12 section, the county must engage in meaningful consultation with any
13 federally recognized Indian tribe that may be potentially affected by
14 the proposed revision. Meaningful consultation must include
15 discussion of the potential impacts to cultural resources and tribal
16 treaty rights.

17 (b) A county must notify the affected federally recognized Indian
18 tribe of the proposed revision using at least two methods, including
19 by mail. Upon receiving a notice, the federally recognized Indian
20 tribe may request a consultation to determine whether an agreement
21 can be reached related to the revision of the county's urban growth
22 area. If an agreement is not reached, the parties must enter
23 mediation pursuant to RCW 36.70A.040.

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

30 (b) Subsection (~~((8))~~) (10) (a) of this section does not apply to:

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

33 (ii) Urban growth areas where expansions are precluded outside
34 floodplains because:

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

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

39 (iii) Urban growth area expansions where:

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

5 (B) Urban development already exists within a floodplain as of
6 July 26, 2009, and is adjacent to, but outside of, the urban growth
7 area, and the expansion of the urban growth area is necessary to
8 include such urban development within the urban growth area; or

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

12 (I) The permissible use of the land is limited to one of the
13 following: Outdoor recreation; environmentally beneficial projects,
14 including but not limited to habitat enhancement or environmental
15 restoration; stormwater facilities; flood control facilities; or
16 underground conveyances; and

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

21 (c) For the purposes of this subsection (~~((8))~~) (10), "one
22 hundred year floodplain" means the same as "special flood hazard
23 area" as set forth in WAC 173-158-040 as it exists on July 26, 2009.

24 (~~((9))~~) (11) If a county, city, or utility has adopted a capital
25 facility plan or utilities element to provide sewer service within
26 the urban growth areas during the twenty-year planning period,
27 nothing in this chapter obligates counties, cities, or utilities to
28 install sanitary sewer systems to properties within urban growth
29 areas designated under subsection (2) of this section by the end of
30 the twenty-year planning period when those properties:

31 (a)(i) Have existing, functioning, nonpolluting on-site sewage
32 systems;

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

36 (iii) Have no redevelopment capacity; or

1 (b) Do not require sewer service because development densities
2 are limited due to wetlands, floodplains, fish and wildlife habitats,
3 or geological hazards.

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