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**SUBSTITUTE HOUSE BILL 2388**

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**State of Washington**

**69th Legislature**

**2026 Regular Session**

**By** House Local Government (originally sponsored by Representatives Hall, Doglio, Ramel, Reed, Parshley, Duerr, Kloba, Gregerson, and Bernbaum)

READ FIRST TIME 02/03/26.

1 AN ACT Relating to the siting of distributed energy generation  
2 resources on agricultural lands in a manner that does not interfere  
3 with the continued use of such lands for agricultural production; and  
4 amending RCW 43.21F.100 and 36.70A.177.

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

6 **Sec. 1.** RCW 43.21F.100 and 2025 c 265 s 2 are each amended to  
7 read as follows:

8 (1) The following categories of clean energy facilities and  
9 nonproject activities that reduce environmental impacts are  
10 determined to constitute distributed energy priorities:

11 (a) Solar energy generation and accompanying energy storage and  
12 electricity transmission and distribution, including vehicle charging  
13 equipment, when such facilities are located:

14 (i) Within the easement, right-of-way, or existing footprint of  
15 electrical transmission facilities or electric utility infrastructure  
16 sites;

17 (ii) Within the easement, right-of-way, or existing footprint of  
18 a state highway or city or county road;

19 (iii) On structures over or enclosing irrigation canals, drainage  
20 ditches, and irrigation, agricultural, livestock supply, stormwater,

1 or wastewater reservoirs or similar impoundments of state waters that  
2 do not host salmon or steelhead trout runs;

3 (iv) On elevated structures over parking lots;

4 (v) On lands within a transportation facility, including but not  
5 limited to airports and railroad facilities, or restricted from other  
6 developments by transportation facility operations;

7 (vi) On closed or capped portions of landfills;

8 (vii) On reclaimed or former surface mine lands or contaminated  
9 sites that have been remediated under chapter 70A.305 RCW or the  
10 federal comprehensive environmental response, compensation, and  
11 liability act (42 U.S.C. Sec. 9601 et seq.) in a manner that includes  
12 an asphalt or soil cap;

13 (viii) As an agrivoltaic facility; (~~and~~)

14 (ix) As a pivot corner facility; and

15 (x) On existing structures;

16 (b) Wind energy generation that is not a utility-scale wind  
17 energy facility as defined in RCW 70A.550.010, and accompanying  
18 energy storage and transmission and distribution equipment, including  
19 vehicle charging equipment;

20 (c) Energy storage, when such facilities are located:

21 (i) Within the easement, right-of-way, or existing footprint of  
22 electrical transmission facilities or electric utility infrastructure  
23 sites;

24 (ii) Within the easement, right-of-way, or existing footprint of  
25 a state highway or city or county road;

26 (iii) On lands within a transportation facility, including but  
27 not limited to airports and railroad facilities, or restricted from  
28 other developments by transportation facility operations;

29 (iv) On closed or capped portions of landfills;

30 (v) On reclaimed or former surface mine lands;

31 (vi) On contaminated sites that have been remediated under  
32 chapter 70A.305 RCW or the federal comprehensive environmental  
33 response, compensation, and liability act (42 U.S.C. Sec. 9601 et  
34 seq.) in a manner that includes an asphalt or soil cap; and

35 (vii) On or in existing structures;

36 (d) Microgrids. For purposes of this section, "microgrids" are a  
37 group of interconnected loads, energy generation, and other  
38 distributed energy resources that act as a single controllable entity  
39 with respect to the electric grid. A microgrid can operate both  
40 autonomously from and synchronous with the central electric grid;

1 (e) Programs that reduce electric demand, manage the level or  
2 timing of electricity consumption, or provide electricity storage,  
3 renewable or nonemitting electric energy, capacity, or ancillary  
4 services to an electric utility and that are located on the  
5 distribution system, any subsystem of the distribution system, or  
6 behind the customer meter, including conservation and energy  
7 efficiency; and

8 (f) Programs that reduce energy demand, manage the level or  
9 timing of energy consumption, or provide thermal energy storage.

10 (2) (a) The department must review and, when appropriate,  
11 periodically recommend to the legislature additional types of  
12 distributed energy priorities for inclusion on the list under  
13 subsection (1) of this section.

14 (b) The identification of distributed energy priorities in  
15 subsection (1) of this section applies to the maximum extent  
16 practical under state and federal law, but does not include any  
17 development sites or activities prohibited under other state or  
18 federal laws.

19 (3) (a) For purposes of this section, "agrivoltaic facility" means  
20 a ground-mounted photovoltaic solar energy system that is designed to  
21 be operated coincident with continued productive agricultural use of  
22 the land.

23 (b) Eligible agricultural products and uses include any  
24 combination of:

25 (i) Crop production;

26 (ii) Grazing;

27 (iii) Animal husbandry; and

28 (iv) Apiaries with pollinator habitat that have been designed and  
29 installed to enable the agricultural producer the flexibility to  
30 change what products are produced, raised, or grown at any point  
31 throughout the life of the facility.

32 (c) An agrivoltaic facility must not permanently or significantly  
33 degrade the agricultural or ecological productivity of the land after  
34 the cessation of the operation of the facility or involve the sale of  
35 a water right associated with the land.

36 (d) An agrivoltaic facility must be constructed, installed, and  
37 operated to achieve integrated and simultaneous production of both  
38 solar energy and marketable agricultural products by an agricultural  
39 producer:

40 (i) On land beneath or between rows of solar panels, or both; and

1 (ii) As soon as agronomically feasible and optimal for the  
2 agricultural producer after the commercial solar operation date, and  
3 continuing until facility decommissioning.

4 (e) Solar panel arrays must be designed and installed in a manner  
5 that supports the continuation of a viable farm operation for the  
6 life of the array, and must consider, as appropriate, the  
7 availability of light, water infrastructure for crops or animals, and  
8 panel height and spacing relative to farm machinery needs.

9 (4) For purposes of this section, "pivot corner facility" means a  
10 ground-mounted photovoltaic solar energy system on noncultivated land  
11 immediately adjacent to and outside of a center-pivot irrigated  
12 cropland area but within the same agricultural field. A pivot corner  
13 facility is designed to be operated coincident with continued  
14 productive agricultural use of irrigated agricultural land adjacent  
15 to the pivot corner facility. A pivot corner facility must not  
16 involve the sale of a water right associated with the land.

17 **Sec. 2.** RCW 36.70A.177 and 2006 c 147 s 1 are each amended to  
18 read as follows:

19 (1) A county or a city may use a variety of innovative zoning  
20 techniques in areas designated as agricultural lands of long-term  
21 commercial significance under RCW 36.70A.170. The innovative zoning  
22 techniques should be designed to conserve agricultural lands and  
23 encourage the agricultural economy. Except as provided in subsection  
24 (3) of this section, a county or city should encourage  
25 nonagricultural uses to be limited to lands with poor soils or  
26 otherwise not suitable for agricultural purposes.

27 (2) Innovative zoning techniques a county or city may consider  
28 include, but are not limited to:

29 (a) Agricultural zoning, which limits the density of development  
30 and restricts or prohibits nonfarm uses of agricultural land and may  
31 allow accessory uses, including nonagricultural accessory uses and  
32 activities, that support, promote, or sustain agricultural operations  
33 and production, as provided in subsection (3) of this section;

34 (b) Cluster zoning, which allows new development on one portion  
35 of the land, leaving the remainder in agricultural or open space  
36 uses;

37 (c) Large lot zoning, which establishes as a minimum lot size the  
38 amount of land necessary to achieve a successful farming practice;

1 (d) Quarter/quarter zoning, which permits one residential  
2 dwelling on a one-acre minimum lot for each one-sixteenth of a  
3 section of land; and

4 (e) Sliding scale zoning, which allows the number of lots for  
5 single-family residential purposes with a minimum lot size of one  
6 acre to increase inversely as the size of the total acreage  
7 increases.

8 (3) Accessory uses allowed under subsection (2)(a) of this  
9 section shall comply with the following:

10 (a) Accessory uses shall be located, designed, and operated so as  
11 to not interfere with, and to support the continuation of, the  
12 overall agricultural use of the property and neighboring properties,  
13 and shall comply with the requirements of this chapter;

14 (b) Accessory uses may include:

15 (i) Agricultural accessory uses and activities, including but not  
16 limited to the storage, distribution, and marketing of regional  
17 agricultural products from one or more producers, agriculturally  
18 related experiences, or the production, marketing, and distribution  
19 of value-added agricultural products, including support services that  
20 facilitate these activities; (~~and~~)

21 (ii) Nonagricultural accessory uses and activities as long as  
22 they are consistent with the size, scale, and intensity of the  
23 existing agricultural use of the property and the existing buildings  
24 on the site. Nonagricultural accessory uses and activities, including  
25 new buildings, parking, or supportive uses, shall not be located  
26 outside the general area already developed for buildings and  
27 residential uses and shall not otherwise convert more than one acre  
28 of agricultural land to nonagricultural uses; and

29 (iii) Solar pivot corner facilities as described in RCW  
30 43.21F.100 in agricultural lands of long-term commercial significance  
31 under RCW 36.70A.170; and

32 (c) Counties and cities have the authority to limit or exclude  
33 accessory uses otherwise authorized in this subsection (3) in areas  
34 designated as agricultural lands of long-term commercial  
35 significance.

36 (4) This section shall not be interpreted to limit agricultural  
37 production on designated agricultural lands.

38 NEW SECTION. **Sec. 3.** If any provision of this act or its  
39 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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