

CERTIFICATION OF ENROLLMENT

SENATE BILL 5820

69th Legislature
2026 Regular Session

Passed by the Senate February 10,
2026

Yeas 30 Nays 19

President of the Senate

Passed by the House March 3, 2026

Yeas 54 Nays 39

**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 **SENATE BILL 5820** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5820

Passed Legislature - 2026 Regular Session

State of Washington

69th Legislature

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By Senators Cortes, Nobles, and Shewmake

Prefiled 12/01/25. Read first time 01/12/26. Referred to Committee on Local Government.

1 AN ACT Relating to the responsibility of certain counties to
2 include freight rail dependent use overlay as part of the
3 transportation element of their comprehensive plan; and amending RCW
4 36.70A.060 and 36.70A.108.

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

6 **Sec. 1.** RCW 36.70A.060 and 2023 c 225 s 2 are each amended to
7 read as follows:

8 (1)(a) Each county that is required or chooses to plan under RCW
9 36.70A.040, and each city within such county, shall adopt development
10 regulations on or before September 1, 1991, to assure the
11 conservation of agricultural, forest, and mineral resource lands
12 designated under RCW 36.70A.170. Regulations adopted under this
13 subsection may not prohibit uses legally existing on any parcel prior
14 to their adoption and shall remain in effect until the county or city
15 adopts development regulations pursuant to RCW 36.70A.040. Such
16 regulations shall assure that the use of lands adjacent to
17 agricultural, forest, or mineral resource lands shall not interfere
18 with the continued use, in the accustomed manner and in accordance
19 with best management practices, of these designated lands for the
20 production of food, agricultural products, or timber, or for the
21 extraction of minerals. (~~Any county located to the west of the crest~~

1 ~~of the Cascade mountains that has both a population of at least four~~
2 ~~hundred thousand and a border that touches another state, and any~~
3 ~~city in such county, may adopt development regulations to assure that~~
4 ~~agriculture, forest, and mineral resource lands adjacent to short~~
5 ~~line railroads may be developed for freight rail dependent uses.)~~

6 (b) Counties and cities shall require that all plats, short
7 plats, development permits, and building permits issued for
8 development activities on, or within five hundred feet of, lands
9 designated as agricultural lands, forestlands, or mineral resource
10 lands, contain a notice that the subject property is within or near
11 designated agricultural lands, forestlands, or mineral resource lands
12 on which a variety of commercial activities may occur that are not
13 compatible with residential development for certain periods of
14 limited duration. The notice for mineral resource lands shall also
15 inform that an application might be made for mining-related
16 activities, including mining, extraction, washing, crushing,
17 stockpiling, blasting, transporting, and recycling of minerals.

18 (c) Each county that adopts a resolution of partial planning
19 under RCW 36.70A.040(2)(b), and each city within such county, shall
20 adopt development regulations within one year after the adoption of
21 the resolution of partial planning to assure the conservation of
22 agricultural, forest, and mineral resource lands designated under RCW
23 36.70A.170. Regulations adopted under this subsection (1)(c) must
24 comply with the requirements governing regulations adopted under (a)
25 of this subsection.

26 (d)(i) A county that adopts a resolution of partial planning
27 under RCW 36.70A.040(2)(b) and that is not in compliance with the
28 planning requirements of this section, RCW 36.70A.040(4),
29 36.70A.070(5), 36.70A.170, and 36.70A.172 at the time the resolution
30 is adopted must, by January 30, 2017, apply for a determination of
31 compliance from the department finding that the county's development
32 regulations, including development regulations adopted to protect
33 critical areas, and comprehensive plans are in compliance with the
34 requirements of this section, RCW 36.70A.040(4), 36.70A.070(5),
35 36.70A.170, and 36.70A.172. The department must approve or deny the
36 application for a determination of compliance within one hundred
37 twenty days of its receipt or by June 30, 2017, whichever date is
38 earlier.

39 (ii) If the department denies an application under (d)(i) of this
40 subsection, the county and each city within is obligated to comply

1 with all requirements of this chapter and the resolution for partial
2 planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

3 (iii) A petition for review of a determination of compliance
4 under (d)(i) of this subsection may only be appealed to the growth
5 management hearings board within 60 days of the issuance of the
6 decision by the department.

7 (iv) In the event of a filing of a petition in accordance with
8 (d)(iii) of this subsection, the county and the department must
9 equally share the costs incurred by the department for defending an
10 approval of determination of compliance that is before the growth
11 management hearings board.

12 (v) The department may implement this subsection (1)(d) by
13 adopting rules related to determinations of compliance. The rules may
14 address, but are not limited to: The requirements for applications
15 for a determination of compliance; charging of costs under (d)(iv) of
16 this subsection; procedures for processing applications; criteria for
17 the evaluation of applications; issuance and notice of department
18 decisions; and applicable timelines.

19 (e) Any county that borders both the Cascade mountains and
20 another county and has a population of less than fifty thousand
21 people, and any city in such county, may adopt development
22 regulations to assure that agriculture, forest, and mineral resource
23 lands adjacent to short line railroads may be developed for freight
24 rail dependent uses.

25 (2) Each county and city shall adopt development regulations that
26 protect critical areas that are required to be designated under RCW
27 36.70A.170. For counties and cities that are required or choose to
28 plan under RCW 36.70A.040, such development regulations shall be
29 adopted on or before September 1, 1991. For the remainder of the
30 counties and cities, such development regulations shall be adopted on
31 or before March 1, 1992.

32 (3) Such counties and cities shall review these designations and
33 development regulations when adopting their comprehensive plans under
34 RCW 36.70A.040 and implementing development regulations under RCW
35 36.70A.120 and may alter such designations and development
36 regulations to ensure consistency.

37 (4)(a) A city with a population fewer than 25,000 may adopt the
38 county's critical areas regulations by reference to satisfy the
39 requirements under this section to designate and protect critical
40 areas; provided, that the county's critical areas regulations are not

1 subject to any outstanding administrative or judicial appeals at the
2 time of the city's adoption. Nothing in this subsection prohibits a
3 city from adopting its own critical areas regulations.

4 (b) The city legislative action adopting the county regulations
5 by reference must incorporate future amendments to the critical areas
6 policies and development regulations of the county.

7 (c) A city that adopts the county's critical areas regulations by
8 reference is not required to take legislative action to review and
9 update development regulations protecting critical areas under RCW
10 36.70A.130.

11 (d) If grant funding is available for a local jurisdiction's
12 periodic comprehensive planning updates as required in RCW
13 36.70A.070, and a city has adopted by reference the county's critical
14 areas regulations as allowed in (a) through (c) of this subsection,
15 the county in which the city is located shall be entitled to the
16 portion of the city's grant funding that would otherwise have been
17 utilized for updating the city's critical areas regulations. The
18 department is authorized to determine what portion of the available
19 grant funding the city would have received for the critical areas
20 regulations update the county is entitled to receive.

21 (5) Forestland and agricultural land located within urban growth
22 areas shall not be designated by a county or city as forestland or
23 agricultural land of long-term commercial significance under RCW
24 36.70A.170 unless the city or county has enacted a program
25 authorizing transfer or purchase of development rights.

26 **Sec. 2.** RCW 36.70A.108 and 2017 3rd sp.s. c 18 s 5 are each
27 amended to read as follows:

28 (1) The transportation element required by RCW 36.70A.070 may
29 include, in addition to improvements or strategies to accommodate the
30 impacts of development authorized under RCW 36.70A.070(6)(b),
31 multimodal transportation improvements or strategies that are made
32 concurrent with the development. These transportation improvements or
33 strategies may include, but are not limited to, measures implementing
34 or evaluating:

35 (a) Multiple modes of transportation with peak and nonpeak hour
36 capacity performance standards for locally owned transportation
37 facilities; and

38 (b) Modal performance standards meeting the peak and nonpeak hour
39 capacity performance standards.

1 (2) (~~Any county located to the west of the crest of the Cascade~~
2 ~~mountains that has both a population of at least four hundred~~
3 ~~thousand and a border that touches another state, and any city in~~
4 ~~such county, may include development of freight rail dependent uses~~
5 ~~on land adjacent to a short line railroad in the transportation~~
6 ~~element required by RCW 36.70A.070. Such counties and cities may also~~
7 ~~modify development regulations to include development of freight rail~~
8 ~~dependent uses that do not require urban governmental services in~~
9 ~~rural lands.~~

10 ~~(3))~~ Nothing in this section or RCW 36.70A.070(6)(b) shall be
11 construed as prohibiting a county or city planning under RCW
12 36.70A.040 from exercising existing authority to develop multimodal
13 improvements or strategies to satisfy the concurrency requirements of
14 this chapter.

15 ~~((4))~~ (3) Nothing in this section is intended to affect or
16 otherwise modify the authority of jurisdictions planning under RCW
17 36.70A.040.

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