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HOUSE BILL 1622

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Dunshee and Hope

Read first time 01/27/11. Referred to Committee on Local Government.

1            AN ACT Relating to the authorization of a sustainable development  
2 alternative for managing residential development in rural areas using  
3 transferable development rights; amending RCW 36.70A.011, 43.21C.031,  
4 36.145.020, and 36.145.100; reenacting and amending RCW 36.70A.030;  
5 adding a new section to chapter 36.70A RCW; and creating a new section.

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

7            NEW SECTION.    **Sec. 1.** The legislature recognizes that:

8            (1) A multifaceted approach to growth management is required to  
9 address the conversion of farms, forests, and rural areas to other  
10 uses, and to manage residential development in rural areas;

11           (2) Current provisions of chapter 36.70A RCW provide few  
12 alternatives for counties to manage growth in the rural areas outside  
13 of limited areas of more intense rural development under RCW  
14 36.70A.070(5)(d), and fully contained communities under RCW 36.70A.350,  
15 other than traditional large lot subdivisions (e.g. five-lot and ten-  
16 lot subdivisions) and "rural cluster" subdivisions;

17           (3) The legislature desires to create a mechanism on a  
18 demonstration basis to allow certain counties to authorize a  
19 sustainable development alternative for residential development in

1 rural areas as an alternative to limited areas of more intense rural  
2 development, fully contained communities and existing, traditional  
3 subdivision techniques in order to facilitate management of residential  
4 growth in rural areas, to promote preservation of open space, and to  
5 minimize and/or reduce the conversion of designated resource lands;

6 (4) The implementation of a local, region-wide and/or statewide  
7 transfer of development rights program can play a significant role in  
8 developing sustainable development options for residential development  
9 in the rural areas. The most important component in building a  
10 successful transfer of development rights program is creating adequate  
11 receiving area capacity. Increasing receiving area capacity will  
12 accommodate dramatic expected population growth while meeting resource  
13 conservation goals over the next one hundred years; and

14 (5) The demonstration projects authorized by this act are intended  
15 to explore the use of rural receiving areas to support strategies for  
16 transfer of development rights and to provide certain counties options  
17 for authorizing sustainable residential development in the rural areas.

18 **Sec. 2.** RCW 36.70A.011 and 2002 c 212 s 1 are each amended to read  
19 as follows:

20 The legislature finds that this chapter is intended to recognize  
21 the importance of rural lands and rural character to Washington's  
22 economy, its people, and its environment, while respecting regional  
23 differences. Rural lands and rural-based economies enhance the  
24 economic desirability of the state, help to preserve traditional  
25 economic activities, and contribute to the state's overall quality of  
26 life.

27 The legislature finds that to retain and enhance the job base in  
28 rural areas, rural counties must have flexibility to create  
29 opportunities for business development. Further, the legislature finds  
30 that rural counties must have the flexibility to retain existing  
31 businesses and allow them to expand. The legislature recognizes that  
32 not all business developments in rural counties require an urban level  
33 of services; and that many businesses in rural areas fit within the  
34 definition of rural character identified by the local planning unit.

35 ((Finally,)) The legislature finds that in defining its rural  
36 element under RCW 36.70A.070(5), a county should foster land use  
37 patterns and develop a local vision of rural character that will: Help

1 preserve rural-based economies and traditional rural lifestyles;  
2 encourage the economic prosperity of rural residents; foster  
3 opportunities for small-scale, rural-based employment and  
4 self-employment; permit the operation of rural-based agricultural,  
5 commercial, recreational, and tourist businesses that are consistent  
6 with existing and planned land use patterns; be compatible with the use  
7 of the land by wildlife and for fish and wildlife habitat; foster the  
8 private stewardship of the land and preservation of open space; and  
9 enhance the rural sense of community and quality of life.

10 The legislature further finds that rural conservation development  
11 demonstration projects as authorized by section 4 of this act are  
12 consistent with the findings of this section and will promote  
13 sustainable residential development as a means of managing residential  
14 growth in the rural areas and protecting designated resource lands of  
15 long-term commercial significance.

16 **Sec. 3.** RCW 36.70A.030 and 2009 c 565 s 22 are each reenacted and  
17 amended to read as follows:

18 Unless the context clearly requires otherwise, the definitions in  
19 this section apply throughout this chapter.

20 (1) "Adopt a comprehensive land use plan" means to enact a new  
21 comprehensive land use plan or to update an existing comprehensive land  
22 use plan.

23 (2) "Agricultural land" means land primarily devoted to the  
24 commercial production of horticultural, viticultural, floricultural,  
25 dairy, apiary, vegetable, or animal products or of berries, grain, hay,  
26 straw, turf, seed, Christmas trees not subject to the excise tax  
27 imposed by RCW 84.33.100 through 84.33.140, finfish in upland  
28 hatcheries, or livestock, and that has long-term commercial  
29 significance for agricultural production.

30 (3) "City" means any city or town, including a code city.

31 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"  
32 means a generalized coordinated land use policy statement of the  
33 governing body of a county or city that is adopted pursuant to this  
34 chapter.

35 (5) "Critical areas" include the following areas and ecosystems:

36 (a) Wetlands; (b) areas with a critical recharging effect on aquifers

1 used for potable water; (c) fish and wildlife habitat conservation  
2 areas; (d) frequently flooded areas; and (e) geologically hazardous  
3 areas.

4 (6) "Department" means the department of commerce.

5 (7) "Development regulations" or "regulation" means the controls  
6 placed on development or land use activities by a county or city,  
7 including, but not limited to, zoning ordinances, critical areas  
8 ordinances, shoreline master programs, official controls, planned unit  
9 development ordinances, subdivision ordinances, and binding site plan  
10 ordinances together with any amendments thereto. A development  
11 regulation does not include a decision to approve a project permit  
12 application, as defined in RCW 36.70B.020, even though the decision may  
13 be expressed in a resolution or ordinance of the legislative body of  
14 the county or city.

15 (8) "Forest land" means land primarily devoted to growing trees for  
16 long-term commercial timber production on land that can be economically  
17 and practically managed for such production, including Christmas trees  
18 subject to the excise tax imposed under RCW 84.33.100 through  
19 84.33.140, and that has long-term commercial significance. In  
20 determining whether forest land is primarily devoted to growing trees  
21 for long-term commercial timber production on land that can be  
22 economically and practically managed for such production, the following  
23 factors shall be considered: (a) The proximity of the land to urban,  
24 suburban, and rural settlements; (b) surrounding parcel size and the  
25 compatibility and intensity of adjacent and nearby land uses; (c) long-  
26 term local economic conditions that affect the ability to manage for  
27 timber production; and (d) the availability of public facilities and  
28 services conducive to conversion of forest land to other uses.

29 (9) "Geologically hazardous areas" means areas that because of  
30 their susceptibility to erosion, sliding, earthquake, or other  
31 geological events, are not suited to the siting of commercial,  
32 residential, or industrial development consistent with public health or  
33 safety concerns.

34 (10) "Long-term commercial significance" includes the growing  
35 capacity, productivity, and soil composition of the land for long-term  
36 commercial production, in consideration with the land's proximity to  
37 population areas, and the possibility of more intense uses of the land.

1 (11) "Minerals" include gravel, sand, and valuable metallic  
2 substances.

3 (12) "Public facilities" include streets, roads, highways,  
4 sidewalks, street and road lighting systems, traffic signals, domestic  
5 water systems, storm and sanitary sewer systems, parks and recreational  
6 facilities, and schools.

7 (13) "Public services" include fire protection and suppression, law  
8 enforcement, public health, education, recreation, environmental  
9 protection, and other governmental services.

10 (14) "Recreational land" means land so designated under RCW  
11 36.70A.1701 and that, immediately prior to this designation, was  
12 designated as agricultural land of long-term commercial significance  
13 under RCW 36.70A.170. Recreational land must have playing fields and  
14 supporting facilities existing before July 1, 2004, for sports played  
15 on grass playing fields.

16 (15) "Rural character" refers to the patterns of land use and  
17 development established by a county in the rural element of its  
18 comprehensive plan:

19 (a) In which open space, the natural landscape, and vegetation  
20 predominate over the built environment;

21 (b) That foster traditional rural lifestyles, rural-based  
22 economies, and opportunities to both live and work in rural areas;

23 (c) That provide visual landscapes that are traditionally found in  
24 rural areas and communities;

25 (d) That are compatible with the use of the land by wildlife and  
26 for fish and wildlife habitat;

27 (e) That reduce the inappropriate conversion of undeveloped land  
28 into sprawling, low-density development;

29 (f) That generally do not require the extension of urban  
30 governmental services; and

31 (g) That are consistent with the protection of natural surface  
32 water flows and groundwater and surface water recharge and discharge  
33 areas.

34 (16) "Rural development" refers to development outside the urban  
35 growth area and outside agricultural, forest, and mineral resource  
36 lands designated pursuant to RCW 36.70A.170. Rural development can  
37 consist of a variety of uses and residential densities, including  
38 clustered residential development, at levels that are consistent with

1 the preservation of rural character and the requirements of the rural  
2 element. Rural development does not refer to agriculture or forestry  
3 activities that may be conducted in rural areas. A rural conservation  
4 development demonstration project as provided under section 4 of this  
5 act is a permitted form of rural development.

6 (17) "Rural governmental services" or "rural services" include  
7 those public services and public facilities historically and typically  
8 delivered at an intensity usually found in rural areas, and may include  
9 domestic water systems, fire and police protection services,  
10 transportation and public transit services, and other public utilities  
11 associated with rural development and normally not associated with  
12 urban areas. Rural services do not include storm or sanitary sewers,  
13 except as otherwise authorized by RCW 36.70A.110(4).

14 (18) "Urban governmental services" or "urban services" include  
15 those public services and public facilities at an intensity  
16 historically and typically provided in cities, specifically including  
17 storm and sanitary sewer systems, domestic water systems, street  
18 cleaning services, fire and police protection services, public transit  
19 services, and other public utilities associated with urban areas and  
20 normally not associated with rural areas.

21 (19) "Urban growth" refers to growth that makes intensive use of  
22 land for the location of buildings, structures, and impermeable  
23 surfaces to such a degree as to be incompatible with the primary use of  
24 land for the production of food, other agricultural products, or fiber,  
25 or the extraction of mineral resources, rural uses, rural development,  
26 and natural resource lands designated pursuant to RCW 36.70A.170. A  
27 pattern of more intensive rural development, as provided in RCW  
28 36.70A.070(5)(d), is not urban growth. When allowed to spread over  
29 wide areas, urban growth typically requires urban governmental  
30 services. "Characterized by urban growth" refers to land having urban  
31 growth located on it, or to land located in relationship to an area  
32 with urban growth on it as to be appropriate for urban growth.

33 (20) "Urban growth areas" means those areas designated by a county  
34 pursuant to RCW 36.70A.110.

35 (21) "Wetland" or "wetlands" means areas that are inundated or  
36 saturated by surface water or groundwater at a frequency and duration  
37 sufficient to support, and that under normal circumstances do support,  
38 a prevalence of vegetation typically adapted for life in saturated soil

1 conditions. Wetlands generally include swamps, marshes, bogs, and  
2 similar areas. Wetlands do not include those artificial wetlands  
3 intentionally created from nonwetland sites, including, but not limited  
4 to, irrigation and drainage ditches, grass-lined swales, canals,  
5 detention facilities, wastewater treatment facilities, farm ponds, and  
6 landscape amenities, or those wetlands created after July 1, 1990, that  
7 were unintentionally created as a result of the construction of a road,  
8 street, or highway. Wetlands may include those artificial wetlands  
9 intentionally created from nonwetland areas created to mitigate  
10 conversion of wetlands.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW  
12 to read as follows:

13 (1) A county in the Puget Sound basin with a population between  
14 five hundred thousand and seven hundred fifty thousand, and which is  
15 required or choosing to plan under RCW 36.70A.040, may designate one  
16 rural conservation development demonstration project that meets the  
17 criteria set forth in this section. For the purposes of this section,  
18 "rural conservation development demonstration project" and  
19 "demonstration project" mean a compact rural development created using  
20 transfer of development rights as identified in this section, and  
21 established by the authorizing county's comprehensive plan policies and  
22 development regulations.

23 (2) A demonstration project shall be located in the rural area, and  
24 be designed as provided in this section to co-exist with traditional  
25 rural land uses such as farming and forestry. A demonstration project  
26 meeting the criteria of this section shall neither constitute "urban  
27 growth," nor lands "characterized by urban growth" for purposes of  
28 citing adjacent or nearby lands as new urban growth areas pursuant to  
29 RCW 36.70A.110(2), nor do they violate rural character provisions of  
30 RCW 36.70A.070(5)(c)(iii). A demonstration project meeting the  
31 requirements of this section, and meeting the comprehensive plan  
32 policies and development regulation of an authorizing county, shall  
33 constitute a permitted form of "rural development" under RCW  
34 36.70A.030(16).

35 (a) Location. A county may approve a demonstration project on a  
36 site in the rural area, outside of limited areas of more intensive  
37 rural development established pursuant to RCW 36.70A.070(5)(d), with a

1 minimum of seven hundred fifty contiguous acres. A portion of the  
2 proposed site of a demonstration project site must be located within  
3 three miles of a state or federal highway. The county's comprehensive  
4 plan policies and/or development regulations for a demonstration  
5 project should favor sites that are capable of limiting visual impacts  
6 of the development to the general public and adjoining uses, enjoy  
7 proximity to existing transportation networks that have capacity or can  
8 be made concurrent through the proposal, demonstrate limited need for  
9 public service improvements, and are outside areas identified as high  
10 priority for protection and restoration by the department of ecology's  
11 watershed characterization process. A demonstration project shall not  
12 be allowed on lands designated by a county pursuant to chapter 36.70A  
13 RCW as either agricultural, forest, or mineral lands of long-term  
14 commercial significance. A county may not simultaneously process a  
15 request to de-designate designated resource lands of long-term  
16 commercial significance and a proposal for those same lands to be  
17 considered for a demonstration project.

18 (b) Residential development. A demonstration project may include  
19 a combination of two or more of the following types of residential  
20 dwelling units: Single-family detached housing; single-family attached  
21 housing; multifamily housing; and accessory dwelling units. A  
22 demonstration project may include age-restricted residential housing.  
23 The average lot size for single-family detached housing units within a  
24 demonstration project shall not exceed seven thousand square feet.

25 (c) Nonresidential development. The demonstration project may  
26 include nonresidential development that is designed and sized to serve  
27 only the projected population of the demonstration project and nearby  
28 existing and projected rural residential population.

29 (d) Authorized number of residential development units. A county  
30 may authorize a demonstration project containing up to one thousand six  
31 hundred residential dwelling units. The total number of authorized  
32 residential dwelling units shall include the number of development  
33 rights vested by the property owner under the applicable base zoning,  
34 approved prior plats, vested subdivision/permit applications, and/or  
35 existing legal subdivisions and shall be referred to as the "base  
36 number of units." Any additional residential units in a demonstration  
37 project above the base number of units and up to the total number of  
38 dwelling units approved by the authorizing county, not to exceed the



1 total residential units authorized for a demonstration project under  
2 this section, shall be allowed only through the transfer of development  
3 rights as provided in this section. At least one-third of the units  
4 authorized in a demonstration project must originate from rural-zoned  
5 property, which may include the base number of units associated with  
6 the demonstration project property.

7 (e) Transfer of development rights. For purposes of this section,  
8 the authorizing county's transfer of development rights program must  
9 identify rural-zoned lands or lands designated as natural resource  
10 lands of long-term commercial significance that are eligible as  
11 transfer of development rights sending sites. A demonstration project  
12 authorized under this section shall be an authorized receiving area for  
13 transfer of development rights from certified sending sites. For  
14 purposes of this section, each demonstration project residential unit  
15 that exceeds the base number of units as provided under this section  
16 shall require the transfer of one development right from a certified  
17 sending site.

18 (f) Conservation easements. Development rights transferred from  
19 sending sites shall be extinguished by a conservation easement recorded  
20 against the sending property. The conservation easement shall be held  
21 by either a nonprofit organization, the county authorizing the  
22 demonstration project, or jointly by a nonprofit organization and the  
23 authorizing county, as may be provided by the enabling county's  
24 transfer of development rights program. The conservation easement  
25 shall permanently restrict development of the sending property, but  
26 must allow for typical rural and resource land uses, including but not  
27 limited to agriculture and working forestry. A stewardship fund  
28 established by endowment or other mechanism established by the county  
29 authorizing a demonstration project shall be created to monitor and  
30 enforce the conservation easement or easements for all sending  
31 properties to ensure capacity for stewardship of such conservation  
32 easement lands.

33 (g) Process. A county authorized to approve a demonstration  
34 project shall adopt such comprehensive plan policies and development  
35 regulations to supplement the requirements of this act as the county  
36 deems necessary and appropriate. Any comprehensive plan policies  
37 and/or development regulations adopted by a county pursuant to this  
38 section may consider and reflect local circumstances for determining

1 how to implement this section in a manner that preserves existing rural  
2 character. A county authorized to approve a demonstration project  
3 under this act may designate a demonstration project receiving site  
4 either in the rural element of its comprehensive plan, through adoption  
5 of a subarea plan for the demonstration project, and/or through a  
6 development agreement, and it may enact and rely upon comprehensive  
7 plan policies, development regulations, and/or development agreements  
8 as provided under chapter 36.70B RCW, expressly for the purpose of  
9 approving a demonstration project. The demonstration project must  
10 comply with all relevant development regulations, including critical  
11 areas regulations and transportation concurrency requirements;  
12 provided, however, that the provisions of this section shall control  
13 over conflicting provisions of chapter 36.70A RCW, if any; provided,  
14 further, that through a development agreement a county may approve  
15 development standards particular to the demonstration project, and  
16 different from the county's existing development regulations, if the  
17 county finds that such regulations will facilitate preservation of  
18 rural character and will not adversely impact the public health,  
19 safety, and welfare.

20 (h) External boundaries. Clear external boundaries shall be  
21 delineated for each demonstration project and shall not be expanded.  
22 The demonstration project shall provide a perimeter buffer within the  
23 boundaries of the demonstration project for the benefit of surrounding  
24 land uses along the external boundary, which buffer may consist of  
25 physical features upon or abutting the demonstration project site, such  
26 as a river or undeveloped bluff or ravine, or a designated corridor of  
27 undeveloped land that must be permanently conserved. The perimeter  
28 buffer around the demonstration project must average at least two  
29 hundred feet wide, and at no point may be less than one hundred feet  
30 wide; provided, however, that the authorizing county may approve a  
31 reduction in the minimum average buffer width in response to a buffer  
32 enhancement and stewardship plan demonstrating that the reduced buffers  
33 provide an equivalent buffer function and value to that of the standard  
34 buffer width. Nothing in this section obviates the need to comply with  
35 all applicable critical area regulations and preexisting riparian  
36 buffer requirements. Perimeter buffers shall be permanently conserved  
37 by conservation easement recorded as provided for in the same manner as  
38 conservation easements for transferred development rights.

1 (i) Public services and public facilities.

2 (i) Design and size--in general. Public services and public  
3 facilities shall be designed and sized for the demonstration project  
4 consistent with the definition of "rural governmental services" as  
5 provided in RCW 36.70A.030(17).

6 (ii) Provision for required infrastructure. The county's  
7 development regulations, or any development agreement authorizing a  
8 demonstration project, shall address how new and/or improved  
9 infrastructure necessary to serve the demonstration project shall be  
10 provided, which may include how such infrastructure is to be provided  
11 by either the applicant, the county, or by a public-private  
12 partnership.

13 (iii) Transportation. A demonstration project must comply with the  
14 county's applicable transportation concurrency requirements to ensure  
15 that the demonstration project will not result in roads operating below  
16 adopted levels of service. Legal instruments shall be recorded  
17 granting to the general public the right to access and utilize the  
18 transportation facilities described in (i)(iii) (A) through (C) of this  
19 subsection to the extent such facilities are included as part of a  
20 demonstration project. A covenant shall be recorded on title to land  
21 included within a demonstration project that prohibits an owner or  
22 owners from protesting annexation to a transit service district. A  
23 county's approval of a demonstration project should call for a  
24 transportation management plan to encourage the reduction in potential  
25 greenhouse gas emissions that addresses, at a minimum, the following  
26 components: (A) A multimodal implementation plan that may include, but  
27 is not necessarily limited to, neighborhood circulators; bicycle paths;  
28 electric vehicle charging stations; and park and ride, community  
29 vanpool, and car-share parking spaces; (B) a pedestrian and  
30 nonmotorized transportation network of trails and walkways that shall  
31 connect residences to public services and open spaces within and  
32 adjacent to the demonstration project. For the purposes of this  
33 section, walkways are lanes for pedestrians and nonmotorized vehicles  
34 that provide a space to travel within the public right-of-way or within  
35 easements/tracts that is separated from roadway vehicles; (C) road  
36 capacity that meet the county's applicable growth management act  
37 concurrency requirements; and (D) innovative road standards developed

1 by the county for a demonstration project that the county determines  
2 are compatible with rural character and minimize impervious surfaces  
3 and storm water runoff.

4 (iv) Water supply. A demonstration project must be served by an  
5 existing public water purveyor.

6 (v) Wastewater treatment. Counties are encouraged to authorize  
7 innovative techniques for wastewater treatment in a demonstration  
8 project, including, but not limited to, the use of membrane bioreactor  
9 systems. The demonstration project should encourage water conservation  
10 and grey water reuse for flushing, irrigation, and/or other appropriate  
11 uses.

12 (vi) Storm water management. The authorizing county shall include  
13 in its development regulations, or in a development agreement approving  
14 a demonstration project, storm water management standards that are  
15 consistent with the then most current department of ecology storm water  
16 manual or the equivalent standard adopted by the county. The  
17 authorizing county shall require "low impact development" techniques as  
18 appropriate and feasible for the site, which may include, but are not  
19 limited to, bio swales and other natural storm water management systems  
20 and alternative uses for storm water that encourage water reuse,  
21 groundwater infiltration, or both.

22 (vii) Critical areas regulations. A demonstration project shall be  
23 subject to the county's then current, adopted critical areas  
24 regulations adopted pursuant to chapter 36.70A RCW.

25 (j) Open space. The demonstration project shall contain community  
26 open space for public use, which may include community gathering space,  
27 village green, parks, trails, a community farm, a community forest,  
28 and/or a farmers' market space. A minimum of seventy percent of the  
29 gross site area of a demonstration project shall be set aside as  
30 designated open space. Instruments shall be recorded against the  
31 property as necessary to ensure that open space is retained in  
32 perpetuity, and must be open and accessible to the public. A  
33 stewardship fund established by endowment, homeowners' association  
34 fees, perpetual resale fees, or other mechanism as may be authorized by  
35 a county approving a demonstration project, shall be created to monitor  
36 and ensure capacity for stewardship of such publicly open and  
37 accessible open space within a demonstration project.

1 (k) Green building and energy. A county authorizing a  
2 demonstration project should encourage the incorporation of "green"  
3 building standards, such as the national association of home builders'  
4 gold-level green building guidelines or substantial equivalent. To the  
5 maximum extent practicable, a demonstration project shall use building  
6 materials sourced from Washington state. A county authorizing a  
7 demonstration project should also encourage the utilization of  
8 renewable on-site energy generation, renewable energy credits, and/or  
9 other means to reduce green house gas emissions, when compared to  
10 typical rural cluster developments.

11 (l) Native vegetation. The authorizing county shall include in its  
12 development regulations or in a development agreement authorizing a  
13 demonstration project, provisions to minimize and mitigate for the  
14 clearing of native vegetation within a demonstration project. Native  
15 plant species for landscaping of nonlawn areas of private residences  
16 shall be used. Public rights-of-way, street planting strips, and  
17 common areas shall be replanted with a regionally appropriate native  
18 plant community and structure, except in situations where native  
19 species conflict with power lines and other utilities, in which case  
20 noninvasive nonnative species shall be used as a substitute.

21 (m) Design standards. The authorizing county shall include in its  
22 development regulations or in a development agreement authorizing a  
23 demonstration project design standards to protect the rural character  
24 of the area and design standards to foster interaction among residents  
25 and a sense of place. At a minimum, design standards to protect rural  
26 character should address how to minimize and mitigate impacts from the  
27 following: (i) Utilities; (ii) roadways and transportation; (iii)  
28 visual impacts to sensitive viewsheds, such as roadways, ridgelines,  
29 hillsides, etc.; and (iv) lighting and the preservation of dark skies.  
30 Design standards to foster interaction and a sense of place may include  
31 elements to encourage multimodal transportation options, public  
32 gathering spaces, views of the surrounding landscape, use of local  
33 materials, and attention to historic features.

34 (n) Notice on title. A county designating a demonstration project  
35 shall require that all plats, short plats, site plans, development  
36 permits, building permits, and/or other permits/approvals issued or  
37 granted for development activities within a demonstration project  
38 contain a notice that the subject property is located in a rural area

1 where a variety of traditional rural activities may occur that may  
2 generate sights, sounds, and smells associated with farming, forestry,  
3 and other traditional rural uses. In addition, the notice for lands  
4 within a demonstration project shall advise that services in rural  
5 areas are often limited and consist of rural governmental services  
6 rather than urban governmental services. The notice shall run with the  
7 land.

8 (o) Environmental review. A county's review and approval of a  
9 demonstration project shall address and provide for environmental  
10 protection consistent with the provisions of the state environmental  
11 policy act, chapter 43.21C RCW. A county may process a demonstration  
12 project as a "planned action" under chapter 43.21C RCW as authorized by  
13 this section.

14 **Sec. 5.** RCW 43.21C.031 and 1995 c 347 s 203 are each amended to  
15 read as follows:

16 (1) An environmental impact statement (the detailed statement  
17 required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for  
18 legislation and other major actions having a probable significant,  
19 adverse environmental impact. The environmental impact statement may  
20 be combined with the recommendation or report on the proposal or issued  
21 as a separate document. The substantive decisions or recommendations  
22 shall be clearly identifiable in the combined document. Actions  
23 categorically exempt under RCW 43.21C.110(1)(a) do not require  
24 environmental review or the preparation of an environmental impact  
25 statement under this chapter. In a county, city, or town planning  
26 under RCW 36.70A.040, a planned action, as provided for in subsection  
27 (2) of this section, does not require a threshold determination or the  
28 preparation of an environmental impact statement under this chapter,  
29 but is subject to environmental review and mitigation as provided in  
30 this chapter.

31 An environmental impact statement is required to analyze only those  
32 probable adverse environmental impacts which are significant.  
33 Beneficial environmental impacts may be discussed. The responsible  
34 official shall consult with agencies and the public to identify such  
35 impacts and limit the scope of an environmental impact statement. The  
36 subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate  
37 sections of an environmental impact statement. Discussions of

1 significant short-term and long-term environmental impacts, significant  
2 irrevocable commitments of natural resources, significant alternatives  
3 including mitigation measures, and significant environmental impacts  
4 which cannot be mitigated should be consolidated or included, as  
5 applicable, in those sections of an environmental impact statement  
6 where the responsible official decides they logically belong.

7 (2)(a) For purposes of this section, a planned action means one or  
8 more types of project action that:

9 (i) Are designated planned actions by an ordinance or resolution  
10 adopted by a county, city, or town planning under RCW 36.70A.040;

11 (ii) Have had the significant impacts adequately addressed in an  
12 environmental impact statement prepared in conjunction with (A) a  
13 comprehensive plan or subarea plan adopted under chapter 36.70A RCW,  
14 ~~((or))~~ (B) a fully contained community, a master planned resort, a  
15 master planned development, or a phased project, or (C) a rural  
16 conservation development demonstration project as authorized under  
17 section 4 of this act;

18 (iii) Are subsequent or implementing projects for the proposals  
19 listed in (a)(ii) of this subsection;

20 (iv) Are located within an urban growth area, as defined in RCW  
21 36.70A.030 except in the case of a rural conservation development  
22 demonstration project as authorized under section 4 of this act;

23 (v) Are not essential public facilities, as defined in RCW  
24 36.70A.200; and

25 (vi) Are consistent with a comprehensive plan adopted under chapter  
26 36.70A RCW.

27 (b) A county, city, or town shall limit planned actions to certain  
28 types of development or to specific geographical areas that are less  
29 extensive than the jurisdictional boundaries of the county, city, or  
30 town and may limit a planned action to a time period identified in the  
31 environmental impact statement or the ordinance or resolution adopted  
32 under this subsection.

33 **Sec. 6.** RCW 36.145.020 and 2010 c 7 s 201 are each amended to read  
34 as follows:

35 (1) Community facilities districts are authorized to be formed for  
36 the purposes authorized under this chapter. Community facilities  
37 districts may ~~((only))~~ include either (a) land within urban growth

1 areas designated under the state growth management act, located in  
2 portions of one or more cities, towns, or counties when created in  
3 accordance with this chapter. A district may include one or more  
4 noncontiguous tracts, lots, parcels, or other properties meeting the  
5 requirements of this chapter, or (b) land within counties that is  
6 outside of designated urban growth areas but which has been included  
7 within the boundaries of a rural conservation development demonstration  
8 project approved by a county pursuant to section 4 of this act when the  
9 district is created in accordance with this chapter.

10 ((+1)) (2) To form a community facilities district, a petition  
11 must be presented to the applicable legislative authorities. The  
12 petition must:

13 (a) Designate and describe the boundaries of the district by metes  
14 and bounds or reference to United States townships, ranges, and legal  
15 subdivisions;

16 (b) Be executed by one hundred percent of all owners of private  
17 property located within the boundaries of the proposed district. The  
18 property owners must include a request to subject their property to the  
19 assessments, up to the amount included in the petition and authorized  
20 under this chapter;

21 (c) Include a certification by the petitioners that they want to  
22 voluntarily submit their property to the authority of the district  
23 under this chapter to approve the petitioner's request to submit their  
24 property to the assessments, up to the amount included in the petition  
25 and authorized under this chapter;

26 (d) Include a general explanation of the objective and plan of the  
27 district and describe the specific facilities that the district  
28 anticipates financing;

29 (e) Declare the district will be conducive to public health,  
30 safety, and welfare;

31 (f) Assert that the purpose for forming the district will be a  
32 benefit to the land located in the district;

33 (g) Be accompanied by an "obligation" signed by at least two  
34 petitioners who agree to pay the costs of the formation process;

35 (h) Include a list of petitioners or representatives thereof who  
36 are willing and able to serve on the board of supervisors. All  
37 petitioners within a proposed district who are natural persons, or  
38 natural persons who are designated representatives of petitioners, are



1 eligible to include their name on the list of eligible supervisors.  
2 The petitioners may nominate qualified professions to serve on the  
3 board of supervisors in lieu of the petitioners or representatives of  
4 the petitioners;

5 (i) If it proposes a special assessment, include: (i) A diagram  
6 showing each separate lot, tract, parcel of land, or other property in  
7 the district; (ii) the acreage of the property; (iii) the name and  
8 address of the owner or reputed owner of each lot, tract, parcel of  
9 land, or other property as shown on the tax rolls of the county  
10 assessor; (iv) a preliminary assessment roll showing the special  
11 assessment proposed to be imposed on each lot, tract, parcel of land,  
12 or other property; and (v) a proposed method or combination of methods  
13 for computing special assessments, determining the benefit to assessed  
14 property or use from facilities or improvements funded directly or  
15 indirectly by special assessments under this chapter; and

16 (j) Include an explanation of what security will be provided to  
17 ensure the timely payment of assessments and the timely payment of  
18 bonds issued by the district.

19 ((+2)) (3) The petition must be filed with the auditor of each  
20 county in which property included within the proposed district is  
21 located. The auditor for the county in which the largest geographic  
22 portion of the proposed district is located must be the lead auditor  
23 for the purposes of this section. Within thirty days of the lead  
24 auditor's receipt of the petition, the lead auditor must confirm that  
25 the petition has been validly executed by one hundred percent of all  
26 owners of the property located within the proposed district, including  
27 confirmation by the auditors of all other counties with whom the  
28 petition was filed. Within ten days of the lead auditor's finding that  
29 the petition either does or does not contain the required signatures,  
30 the lead auditor must either (a) transmit the petition, together with  
31 a certificate of sufficiency attached thereto, to each legislative  
32 authority petitioned for formation of the district; or (b) return the  
33 petition to the petitioners with a list of property owners who must  
34 sign the petition in order to comply with this section. There are no  
35 restrictions on the number of petitions that may be submitted by one or  
36 more property owners.

37 ((+3)) (4) A petition may be amended for any reason if the

1 amendment is signed by one hundred percent of the owners of property  
2 located within the district proposed in the amended petition.

3 **Sec. 7.** RCW 36.145.100 and 2010 c 7 s 501 are each amended to read  
4 as follows:

5 (1) Through the use of district revenue derived through special  
6 assessments and bonds authorized under this chapter, and((7))  
7 consistent with the terms and conditions of a petition approved in  
8 accordance with this chapter, a community facilities district may  
9 finance all or a portion of the following costs, expenses, and  
10 facilities whether located inside or outside the boundaries of an  
11 approved district:

12 (a) The cost, or any portion thereof, of the purchase, finance,  
13 lease, sublease, construction, expansion, improvement, or  
14 rehabilitation of any facility with an estimated life of five years or  
15 longer;

16 (b) The planning and design work that is directly related to the  
17 purchase, construction, expansion, improvement, or rehabilitation of a  
18 facility, including engineering, architectural, planning, and  
19 inspection costs;

20 (c) Facilities listed in RCW 35.43.040 to the extent not specified  
21 in this section;

22 (d) Sanitary sewage systems, including collection, transport,  
23 storage, treatment, dispersal, effluent use, and discharge;

24 (e) Drainage and flood control systems, including collection,  
25 transport, diversion, storage, detention, retention, dispersal, use,  
26 and discharge;

27 (f) Water systems for domestic, industrial, irrigation, municipal,  
28 or community facilities purposes, including production, collection,  
29 storage, treatment, transport, delivery, connection, and dispersal;

30 (g) Highways, streets, roadways, and parking facilities, including  
31 all areas for vehicular use for travel, ingress, egress, and parking;

32 (h) Areas for pedestrian, equestrian, bicycle, or other nonmotor  
33 vehicle use for travel, ingress, egress, and parking;

34 (i) Pedestrian malls, parks, recreational facilities, and open-  
35 space facilities for the use of members of the public for  
36 entertainment, assembly, and recreation;

- 1 (j) Landscaping, including earthworks, structures, lakes, and other
- 2 water features, plants, trees, and related water delivery systems;
- 3 (k) Public buildings, public safety facilities, and community
- 4 facilities;
- 5 (l) Publicly owned natural gas transmission and distribution
- 6 facilities, facilities for the transmission or distribution of
- 7 electrical energy, and limited communications facilities, specifically
- 8 poles, trenches, and conduits, for use of any communications provider;
- 9 (m) Street lighting;
- 10 (n) Traffic control systems and devices, including signals,
- 11 controls, markings, and signage;
- 12 (o) Systems of surface, underground, or overhead railways,
- 13 tramways, buses, or any other means of mass transportation facilities,
- 14 including passenger, terminal, station parking, and related facilities
- 15 and areas for passenger and vehicular use for travel, ingress, egress,
- 16 and parking;
- 17 (p) Library, educational, and cultural facilities; (~~and~~)
- 18 (q) Facilities similar to those listed in this section; and
- 19 (r) Transferable development rights.
- 20 (2) The district may not finance public or private residential
- 21 dwellings, nonprofit facilities as defined in RCW 43.180.300, health
- 22 care facilities as defined in RCW 70.37.020, higher education
- 23 institutions as defined in RCW 28B.07.020, or economic development
- 24 activities as defined in RCW 43.163.010.

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