
SECOND SUBSTITUTE HOUSE BILL 1740

State of Washington

65th Legislature

2018 Regular Session

By House Appropriations (originally sponsored by Representatives
McBride, Fey, and Jenkins)

1 AN ACT Relating to using the state environmental policy act to
2 encourage development that is consistent with forward-looking growth
3 plans; and amending RCW 43.21C.420 and 36.70A.490.

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

5 **Sec. 1.** RCW 43.21C.420 and 2010 c 153 s 2 are each amended to
6 read as follows:

7 (1) Cities with a population greater than five thousand, in
8 accordance with their existing comprehensive planning and development
9 regulation authority under chapter 36.70A RCW, and in accordance with
10 this section, may adopt optional elements of their comprehensive
11 plans and optional development regulations that apply within
12 specified subareas of the cities, that are either:

13 (a) Areas designated as mixed-use or urban centers in a land use
14 or transportation plan adopted by a regional transportation planning
15 organization; or

16 (b) Areas within one-half mile of a major transit stop that are
17 zoned to have an average minimum density of fifteen dwelling units or
18 more per gross acre.

19 (2) Cities located on the east side of the Cascade mountains and
20 located in a county with a population of two hundred thirty thousand
21 or less, in accordance with their existing comprehensive planning and

1 development regulation authority under chapter 36.70A RCW, and in
2 accordance with this section, may adopt optional elements of their
3 comprehensive plans and optional development regulations that apply
4 within the mixed-use or urban centers. The optional elements of their
5 comprehensive plans and optional development regulations must enhance
6 pedestrian, bicycle, transit, or other nonvehicular transportation
7 methods.

8 (3) A major transit stop is defined as:

9 (a) A stop on a high capacity transportation service funded or
10 expanded under the provisions of chapter 81.104 RCW;

11 (b) Commuter rail stops;

12 (c) Stops on rail or fixed guideway systems, including
13 transitways;

14 (d) Stops on bus rapid transit routes or routes that run on high
15 occupancy vehicle lanes; or

16 (e) Stops for a bus or other transit mode providing fixed route
17 service at intervals of at least thirty minutes during the peak hours
18 of operation.

19 (4)(a) A city that elects to adopt such an optional comprehensive
20 plan element and optional development regulations shall prepare a
21 nonproject environmental impact statement, pursuant to RCW
22 43.21C.030, assessing and disclosing the probable significant adverse
23 environmental impacts of the optional comprehensive plan element and
24 development regulations and of future development that is consistent
25 with the plan and regulations.

26 (b) At least one community meeting must be held on the proposed
27 subarea plan before the scoping notice for such a nonproject
28 environmental impact statement is issued. Notice of scoping for such
29 a nonproject environmental impact statement and notice of the
30 community meeting required by this section must be mailed to all
31 property owners of record within the subarea to be studied, to all
32 property owners within one hundred fifty feet of the boundaries of
33 such a subarea, to all affected federally recognized tribal
34 governments whose ceded area is within one-half mile of the
35 boundaries of the subarea, and to agencies with jurisdiction over the
36 future development anticipated within the subarea.

37 (c) In cities with over five hundred thousand residents, notice
38 of scoping for such a nonproject environmental impact statement and
39 notice of the community meeting required by this section must be
40 mailed to all small businesses as defined in RCW 19.85.020, and to

1 all community preservation and development authorities established
2 under chapter 43.167 RCW, located within the subarea to be studied or
3 within one hundred fifty feet of the boundaries of such subarea. The
4 process for community involvement must have the goal of fair
5 treatment and meaningful involvement of all people with respect to
6 the development and implementation of the subarea planning process.

7 (d) The notice of the community meeting must include general
8 illustrations and descriptions of buildings generally representative
9 of the maximum building envelope that will be allowed under the
10 proposed plan and indicate that future appeals of proposed
11 developments that are consistent with the plan will be limited.
12 Notice of the community meeting must include signs located on major
13 travel routes in the subarea. If the building envelope increases
14 during the process, another notice complying with the requirements of
15 this section must be issued before the next public involvement
16 opportunity.

17 (e) Any person that has standing to appeal the adoption of this
18 subarea plan or the implementing regulations under RCW 36.70A.280 has
19 standing to bring an appeal of the nonproject environmental impact
20 statement required by this subsection.

21 (f) Cities with over five hundred thousand residents shall
22 prepare a study that accompanies or is appended to the nonproject
23 environmental impact statement, but must not be part of that
24 statement, that analyzes the extent to which the proposed subarea
25 plan may result in the displacement or fragmentation of existing
26 businesses, existing residents, including people living with poverty,
27 families with children, and intergenerational households, or cultural
28 groups within the proposed subarea plan. The city shall also discuss
29 the results of the analysis at the community meeting.

30 (g) As an incentive for development authorized under this
31 section, a city shall consider establishing a transfer of development
32 rights program in consultation with the county where the city is
33 located, that conserves county-designated agricultural and forest
34 land of long-term commercial significance. If the city decides not to
35 establish a transfer of development rights program, the city must
36 state in the record the reasons for not adopting the program. The
37 city's decision not to establish a transfer of development rights
38 program is not subject to appeal. Nothing in this subsection (4)(g)
39 may be used as a basis to challenge the optional comprehensive plan
40 or subarea plan policies authorized under this section.

1 (5)(a) Until July 1, ~~((2018))~~ 2028, a proposed development that
2 meets the criteria of (b) of this subsection may not be challenged in
3 administrative or judicial appeals for noncompliance with this
4 chapter as long as a complete application for such a development that
5 vests the application or would later lead to vested status under city
6 or state law is submitted to the city within a time frame established
7 by the city, but not to exceed the following time frames as follows:

8 (i) Eighteen years from the date of issuance of the final
9 environmental impact statement, for projects that are consistent with
10 an optional element adopted by a city as of the effective date of
11 this section; or

12 (ii) Ten years from the date of issuance of the final
13 environmental impact statement, for projects that are consistent with
14 an optional element adopted by a city after the effective date of
15 this section.

16 (b) A proposed development may not be challenged consistent with
17 (a) of this subsection as long as the development:

18 (i) Is consistent with the optional comprehensive plan or subarea
19 plan policies and development regulations adopted under subsection
20 (1) or (2) of this section;

21 (ii) Sets aside or requires the occupancy of at least ten percent
22 of the dwelling units, or a greater percentage as determined by city
23 development regulations, within the development for low-income
24 households at a sale price or rental amount that is considered
25 affordable by a city's housing programs. This subsection (5)(b)(ii)
26 only applies to projects that are consistent with an optional element
27 adopted by a city after the effective date of this section; and
28 ~~((that))~~

29 (iii) Is environmentally reviewed under subsection (4) of this
30 section ~~((may not be challenged in administrative or judicial appeals~~
31 for noncompliance with this chapter as long as a complete application
32 for such a development that vests the application or would later lead
33 to vested status under city or state law is submitted to the city
34 within a time frame established by the city, but not to exceed ten
35 years from the date of issuance of the final environmental impact
36 statement)).

37 ~~((b))~~ (c) After July 1, ~~((2018))~~ 2028, the immunity from
38 appeals under this chapter of any application that vests or will vest
39 under this subsection or the ability to vest under this subsection is
40 still valid, provided that the final subarea environmental impact

1 statement is issued by July 1, ((2018)) 2028. After July 1, ((2018))
2 2028, a city may continue to collect reimbursement fees under
3 subsection (6) of this section for the proportionate share of a
4 subarea environmental impact statement issued prior to July 1,
5 ((2018)) 2028.

6 (d) The immunity from appeals under (a) and (b) of this
7 subsection shall not apply to a city with a population greater than
8 seven hundred thousand.

9 (6) It is recognized that a city that prepares a nonproject
10 environmental impact statement under subsection (4) of this section
11 must endure a substantial financial burden. A city may recover or
12 apply for a grant or loan to prospectively cover its reasonable
13 expenses of preparation of a nonproject environmental impact
14 statement prepared under subsection (4) of this section through
15 access to financial assistance under RCW 36.70A.490 or funding from
16 private sources. In addition, a city is authorized to recover a
17 portion of its reasonable expenses of preparation of such a
18 nonproject environmental impact statement by the assessment of
19 reasonable and proportionate fees upon subsequent development that is
20 consistent with the plan and development regulations adopted under
21 subsection (5) of this section, as long as the development makes use
22 of and benefits ~~((from))~~ from, as described in subsection (5) of
23 this section, ~~((from))~~ the nonproject environmental impact statement
24 prepared by the city. Any assessment fees collected from subsequent
25 development may be used to reimburse funding received from private
26 sources. In order to collect such fees, the city must enact an
27 ordinance that sets forth objective standards for determining how the
28 fees to be imposed upon each development will be proportionate to the
29 impacts of each development and to the benefits accruing to each
30 development from the nonproject environmental impact statement. Any
31 disagreement about the reasonableness or amount of the fees imposed
32 upon a development may not be the basis for delay in issuance of a
33 project permit for that development. The fee assessed by the city may
34 be paid with the written stipulation "paid under protest" and if the
35 city provides for an administrative appeal of its decision on the
36 project for which the fees are imposed, any dispute about the amount
37 of the fees must be resolved in the same administrative appeal
38 process.

39 (7) If a proposed development is inconsistent with the optional
40 comprehensive plan or subarea plan policies and development

1 regulations adopted under subsection (1) of this section, the city
2 shall require additional environmental review in accordance with this
3 chapter.

4 **Sec. 2.** RCW 36.70A.490 and 2012 1st sp.s. c 1 s 309 are each
5 amended to read as follows:

6 The growth management planning and environmental review fund is
7 hereby established in the state treasury. Moneys may be placed in the
8 fund from the proceeds of bond sales, tax revenues, budget transfers,
9 federal appropriations, gifts, or any other lawful source. Moneys in
10 the fund may be spent only after appropriation. Moneys in the fund
11 shall be used to make grants or loans to local governments for the
12 purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500, and
13 to cover costs associated with the adoption of optional elements of
14 comprehensive plans consistent with RCW 43.21C.420. Any payment of
15 either principal or interest, or both, derived from loans made from
16 this fund must be deposited into the fund.

--- END ---