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**SUBSTITUTE SENATE BILL 5368**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Housing & Local Government (originally sponsored by Senators Short, Fortunato, and Wilson, L.)

READ FIRST TIME 02/12/21.

1 AN ACT Relating to encouraging rural economic development;  
2 amending RCW 36.70A.330; adding a new section to chapter 35A.14 RCW;  
3 and adding a new section to chapter 36.70A RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 35A.14  
6 RCW to read as follows:

7 (1) A code city as provided in RCW 35A.14.296(2) may collaborate  
8 with the county or counties where the code city is located to form an  
9 interlocal agreement regarding annexation of unincorporated territory  
10 within the urban growth area boundary. The interlocal agreement must  
11 be formed consistent with the planning requirements of chapter 36.70A  
12 RCW. This method of annexation shall be an alternative method and is  
13 additional to all other methods provided for in this chapter.

14 (2) An interlocal agreement under this section will qualify the  
15 city for the annexation sales tax credit.

16 (3) The agreement or plan under this section must address the  
17 following:

18 (a) A balancing of annexations of commercial, industrial, and  
19 residential properties so that any potential loss or gain is  
20 considered and distributed fairly as determined by tax revenue;

21 (b) Development, ownership, and maintenance of infrastructure;

1 (c) The potential for revenue-sharing agreements.

2 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A  
3 RCW to read as follows:

4 (1) For certain countywide planning policy, comprehensive plan,  
5 and development regulations specified in this section, counties and  
6 their cities may apply for a determination of compliance from the  
7 department finding that the action is in compliance with the  
8 requirements of this chapter and chapter 43.21C RCW and the  
9 applicable rules.

10 (2) Counties and cities may submit the following actions to the  
11 department for approval under this subsection:

12 (a) Development of or amendments to the housing element;

13 (b) Development of or amendments to comprehensive plan or  
14 development regulations designating or protecting critical areas;

15 (c) Development of or amendments to comprehensive plan or  
16 development regulations to designate or assure the conservation of  
17 resource lands;

18 (d) Development of or amendments to countywide planning policy,  
19 comprehensive plan, or development regulation amendments that change  
20 the urban growth area;

21 (e) Countywide planning policy, comprehensive plan, or  
22 development regulation amendments that govern the siting of essential  
23 public facilities;

24 (f) Findings of noncompliance referred to the department by the  
25 growth management hearings board under RCW 36.70A.330.

26 (3) Matters submitted to the department for approval become  
27 effective when approved by the department as provided in subsection  
28 (5) of this section.

29 (4) (a) Upon receipt of a proposed comprehensive plan, development  
30 regulation, or countywide planning policy, the department shall:

31 (i) Provide notice to and opportunity for written comment by all  
32 interested parties of record as a part of the local government review  
33 process for the proposal and to all persons, groups, and agencies  
34 that have requested in writing notice of the proposed action. The  
35 comment period shall be at least 30 days, unless the department  
36 determines that the level of complexity or controversy involved  
37 supports a shorter period;

38 (ii) In the department's discretion, conduct a public hearing  
39 during the 30-day comment period in the jurisdiction proposing the

1 comprehensive plan, development regulation, or countywide planning  
2 policy;

3 (iii) Within 15 days after the close of public comment, request  
4 the local government to review the issues identified by the public,  
5 interested parties, groups, and agencies and provide a written  
6 response as to how the proposal addresses the identified issues;

7 (iv) Within 30 days after receipt of the local government  
8 response pursuant to (a)(iii) of this subsection, make written  
9 findings and conclusions regarding the consistency of the proposal  
10 with the goals and requirements of the growth management act and with  
11 applicable guidelines and procedural criteria adopted by the  
12 department, provide a response to the issues identified in (a)(iii)  
13 of this subsection, and either approve the comprehensive plan,  
14 development regulation, or countywide planning policy as submitted,  
15 recommend specific changes necessary to make the comprehensive plan,  
16 development regulation, or countywide planning policy approvable, or  
17 deny approval of the comprehensive plan, development regulation, or  
18 countywide planning policy in those instances where no alternative  
19 comprehensive plan, development regulation, or countywide planning  
20 policy appears likely to be consistent with the goals and  
21 requirements of the growth management act and with applicable  
22 guidelines and procedural criteria adopted by the department. The  
23 written findings and conclusions shall be provided to the local  
24 government, and made available to all interested persons, parties,  
25 groups, and agencies of record on the proposal.

26 (b) If the department recommends changes to the proposed  
27 comprehensive plan, development regulation, or countywide planning  
28 policy, within 90 days after the department mails the written  
29 findings and conclusions to the local government, the local  
30 government may:

31 (i) Agree to the proposed changes by written notice to the  
32 department; or

33 (ii) Submit an alternative comprehensive plan, development  
34 regulation, or countywide planning policy. If, in the opinion of the  
35 department, the alternative is consistent with the purpose and intent  
36 of the changes originally submitted by the department and with this  
37 chapter, it shall approve the changes and provide notice to all  
38 recipients of the written findings and conclusions. If the department  
39 determines the proposed comprehensive plan, development regulation,  
40 or countywide planning policy is not consistent with the purpose and

1 intent of the changes proposed by the department, the department may  
2 resubmit the proposed comprehensive plan, development regulation, or  
3 countywide planning policy for public and agency review pursuant to  
4 this section or reject the proposed comprehensive plan, development  
5 regulation, or countywide planning policy.

6 (5) The department shall approve a proposed comprehensive plan,  
7 development regulation, or countywide planning policy unless it  
8 determines that the proposed comprehensive plan, development  
9 regulation, or countywide planning policy is not consistent with the  
10 goals and requirements of the growth management act and with  
11 applicable guidelines and procedural criteria adopted by the  
12 department.

13 (6) A comprehensive plan, development regulation, or countywide  
14 planning policy takes effect when and in such form as approved or  
15 adopted by the department. The effective date is 14 days from the  
16 date of the department's written notice of final action to the local  
17 government stating the department has approved or rejected the  
18 proposed comprehensive plan, development regulation, or countywide  
19 planning policy. The department's written notice to the local  
20 government must conspicuously and plainly state that it is the  
21 department's final decision and that there will be no further  
22 modifications to the proposed comprehensive plan, development  
23 regulation, or countywide planning policy. The department shall  
24 maintain a record of each comprehensive plan, development regulation,  
25 or countywide planning policy, the action taken on any proposed  
26 comprehensive plan, development regulation, or countywide planning  
27 policy, and any appeal of the department's action.

28 (7) Promptly after approval or disapproval of a comprehensive  
29 plan, development regulation, or countywide planning policy, the  
30 department shall publish a notice consistent in the Washington State  
31 Register that the comprehensive plan, development regulation, or  
32 countywide planning policy has been approved or disapproved.

33 (8) The department's final decision to approve or reject a  
34 proposed comprehensive plan, development regulation, or countywide  
35 planning policy may be appealed according to the following  
36 provisions:

37 (a) The department's final decision to approve or reject a  
38 comprehensive plan, development regulation, or countywide planning  
39 policy may be appealed to the growth management hearings board by  
40 filing a petition as provided in RCW 36.70A.290.

1 (b) A decision of the growth management hearings board concerning  
2 an appeal of the department's final decision to approve or reject a  
3 proposed greenhouse gas emissions reduction subelement or amendment  
4 must be based solely on whether or not the adopted comprehensive  
5 plan, development regulation, or countywide planning policy complies  
6 with the goals and requirements of the growth management act and with  
7 applicable guidelines and procedural criteria adopted by the  
8 department, or chapter 43.21C RCW.

9 (c) If approval of a determination of compliance by the  
10 department under this section is appealed to the growth management  
11 hearings board under RCW 36.70A.280, the city or county may not be  
12 determined to be ineligible or otherwise penalized in the acceptance  
13 of applications or the awarding of state agency grants or loans under  
14 RCW 43.17.250 during the pendency of the appeal before the board or  
15 subsequent judicial appeals.

16 **Sec. 3.** RCW 36.70A.330 and 1997 c 429 s 21 are each amended to  
17 read as follows:

18 (1) After the time set for complying with the requirements of  
19 this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier  
20 time upon the motion of a county or city subject to a determination  
21 of invalidity under RCW 36.70A.300, the board shall set a hearing for  
22 the purpose of determining whether the state agency, county, or city  
23 is in compliance with the requirements of this chapter.

24 (2) The board shall conduct a hearing and issue a finding of  
25 compliance or noncompliance with the requirements of this chapter and  
26 with any compliance schedule established by the board in its final  
27 order. A person with standing to challenge the legislation enacted in  
28 response to the board's final order may participate in the hearing  
29 along with the petitioner and the state agency, county, or city. A  
30 hearing under this subsection shall be given the highest priority of  
31 business to be conducted by the board, and a finding shall be issued  
32 within forty-five days of the filing of the motion under subsection  
33 (1) of this section with the board. The board shall issue any order  
34 necessary to make adjustments to the compliance schedule and set  
35 additional hearings as provided in subsection (5) of this section.

36 (3) If the board after a compliance hearing finds that the state  
37 agency, county, or city is not in compliance, the board shall  
38 transmit its finding to the governor. ((The))

1       (a) The board may refer a finding of noncompliance to the  
2 department. The purpose of the referral is for the department to  
3 provide technical assistance to facilitate speedy resolution of the  
4 finding of noncompliance.

5       (b) Alternatively, the board may recommend to the governor that  
6 the sanctions authorized by this chapter be imposed. The board shall  
7 take into consideration the county's or city's efforts to meet its  
8 compliance schedule in making the decision to recommend sanctions to  
9 the governor.

10       (4) In a compliance hearing upon petition of a party, the board  
11 shall also reconsider its final order and decide, if no determination  
12 of invalidity has been made, whether one now should be made under RCW  
13 36.70A.302.

14       (5) The board shall schedule additional hearings as appropriate  
15 pursuant to subsections (1) and (2) of this section.

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