
SECOND SUBSTITUTE SENATE BILL 5368

State of Washington

67th Legislature

2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Short, Fortunato, and Wilson, L.)

READ FIRST TIME 02/22/21.

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
11 formation process must include procedures for public participation.
12 The procedures must provide for broad dissemination of proposals and
13 alternatives, opportunity for written comments, public meetings after
14 effective notice, and consideration of and response to public
15 comments. The interlocal agreement may only be executed after notice
16 of availability of the agreement is posted on the website of each
17 legislative body for four weeks and a public hearing by each
18 legislative body, separately or jointly. This method of annexation
19 shall be an alternative method and is additional to all other methods
20 provided for in this chapter.

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

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

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

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

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

10 (4) In addressing the items in subsection (3)(a) through (c) of
11 this section, the parties must also address the balancing of factors
12 and objectives for annexation review in RCW 36.93.170 and 36.93.180.

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

15 (1) For certain countywide planning policy, comprehensive plan,
16 and development regulations specified in this section, counties and
17 their cities may apply for a determination of compliance from the
18 department finding that the action is in compliance with the
19 requirements of this chapter and chapter 43.21C RCW and the
20 applicable rules.

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

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

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

26 (c) Development of or amendments to comprehensive plan or
27 development regulations to designate or assure the conservation of
28 resource lands;

29 (d) Development of or amendments to countywide planning policy,
30 comprehensive plan, or development regulation amendments that change
31 the urban growth area;

32 (e) Countywide planning policy, comprehensive plan, or
33 development regulation amendments that govern the siting of essential
34 public facilities;

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

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

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

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

10 (ii) In the department's discretion, conduct a public hearing
11 during the 30-day comment period in the jurisdiction proposing the
12 comprehensive plan, development regulation, or countywide planning
13 policy;

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

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

37 (b) If the department recommends changes to the proposed
38 comprehensive plan, development regulation, or countywide planning
39 policy, within 90 days after the department mails the written

1 findings and conclusions to the local government, the local
2 government may:

3 (i) Agree to the proposed changes by written notice to the
4 department; or

5 (ii) Submit an alternative comprehensive plan, development
6 regulation, or countywide planning policy. If, in the opinion of the
7 department, the alternative is consistent with the purpose and intent
8 of the changes originally submitted by the department and with this
9 chapter, it shall approve the changes and provide notice to all
10 recipients of the written findings and conclusions. If the department
11 determines the proposed comprehensive plan, development regulation,
12 or countywide planning policy is not consistent with the purpose and
13 intent of the changes proposed by the department, the department may
14 resubmit the proposed comprehensive plan, development regulation, or
15 countywide planning policy for public and agency review pursuant to
16 this section or reject the proposed comprehensive plan, development
17 regulation, or countywide planning policy.

18 (5) The department shall approve a proposed comprehensive plan,
19 development regulation, or countywide planning policy unless it
20 determines that the proposed comprehensive plan, development
21 regulation, or countywide planning policy is not consistent with the
22 goals and requirements of the growth management act and with
23 applicable guidelines and procedural criteria adopted by the
24 department.

25 (6) A comprehensive plan, development regulation, or countywide
26 planning policy takes effect when and in such form as approved or
27 adopted by the department. The effective date is 14 days from the
28 date of the department's written notice of final action to the local
29 government stating the department has approved or rejected the
30 proposed comprehensive plan, development regulation, or countywide
31 planning policy. The department's written notice to the local
32 government must conspicuously and plainly state that it is the
33 department's final decision and that there will be no further
34 modifications to the proposed comprehensive plan, development
35 regulation, or countywide planning policy. The department shall
36 maintain a record of each comprehensive plan, development regulation,
37 or countywide planning policy, the action taken on any proposed
38 comprehensive plan, development regulation, or countywide planning
39 policy, and any appeal of the department's action.

1 (7) Promptly after approval or disapproval of a comprehensive
2 plan, development regulation, or countywide planning policy, the
3 department shall publish a notice consistent in the Washington State
4 Register that the comprehensive plan, development regulation, or
5 countywide planning policy has been approved or disapproved.

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

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

14 (b) A decision of the growth management hearings board concerning
15 an appeal of the department's final decision to approve or reject a
16 proposed greenhouse gas emissions reduction subelement or amendment
17 must be based solely on whether or not the adopted comprehensive
18 plan, development regulation, or countywide planning policy complies
19 with the goals and requirements of the growth management act and with
20 applicable guidelines and procedural criteria adopted by the
21 department, or chapter 43.21C RCW.

22 (c) If approval of a determination of compliance by the
23 department under this section is appealed to the growth management
24 hearings board under RCW 36.70A.280, the city or county may not be
25 determined to be ineligible or otherwise penalized in the acceptance
26 of applications or the awarding of state agency grants or loans under
27 RCW 43.17.250 during the pendency of the appeal before the board or
28 subsequent judicial appeals.

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

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

37 (2) The board shall conduct a hearing and issue a finding of
38 compliance or noncompliance with the requirements of this chapter and
39 with any compliance schedule established by the board in its final

1 order. A person with standing to challenge the legislation enacted in
2 response to the board's final order may participate in the hearing
3 along with the petitioner and the state agency, county, or city. A
4 hearing under this subsection shall be given the highest priority of
5 business to be conducted by the board, and a finding shall be issued
6 within forty-five days of the filing of the motion under subsection
7 (1) of this section with the board. The board shall issue any order
8 necessary to make adjustments to the compliance schedule and set
9 additional hearings as provided in subsection (5) of this section.

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

13 (a) The board may refer a finding of noncompliance to the
14 department. The purpose of the referral is for the department to
15 provide technical assistance to facilitate speedy resolution of the
16 finding of noncompliance.

17 (b) Alternatively, the board may recommend to the governor that
18 the sanctions authorized by this chapter be imposed. The board shall
19 take into consideration the county's or city's efforts to meet its
20 compliance schedule in making the decision to recommend sanctions to
21 the governor.

22 (4) In a compliance hearing upon petition of a party, the board
23 shall also reconsider its final order and decide, if no determination
24 of invalidity has been made, whether one now should be made under RCW
25 36.70A.302.

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

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