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**SUBSTITUTE SENATE BILL 5789**

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**State of Washington                      65th Legislature                      2017 Regular Session**

**By** Senate Agriculture, Water, Trade & Economic Development  
(originally sponsored by Senators Bailey, Pearson, and Ericksen)

READ FIRST TIME 02/17/17.

1            AN ACT Relating to considering the full hydrologic cycle in the  
2 review and approval process of new water uses; amending RCW 90.44.055  
3 and 36.70A.070; and adding a new section to chapter 90.03 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 90.03  
6 RCW to read as follows:

7            The legislature finds that development requiring new uses of  
8 groundwater is often associated with land use changes, such as the  
9 removal of trees, that return water to the aquifer, and current water  
10 impairment standards do not take this into consideration. The  
11 legislature intends to require entities responsible for reviewing and  
12 approving permit-exempt water uses and applications for water rights  
13 under this title and chapter 36.70A RCW to establish processes and  
14 procedures to fully account for the ways in which new uses of  
15 groundwater offset potential impairment by recharging water into an  
16 aquifer.

17            **Sec. 2.**    RCW 90.44.055 and 1997 c 360 s 3 are each amended to  
18 read as follows:

19            The department shall, when evaluating an application for a water  
20 right or an amendment filed pursuant to RCW 90.44.050 or 90.44.100

1 that includes provision for any water impoundment or other resource  
2 management technique, take into consideration the benefits and costs,  
3 including environmental effects, of any water impoundment or other  
4 resource management technique, or changes in land use that may result  
5 in any recharge of groundwater, that is included as a component of  
6 the application. The department's consideration shall extend to any  
7 increased water supply that results from the impoundment or other  
8 resource management technique, or changes in land use that may result  
9 in any recharge of groundwater, including but not limited to any  
10 recharge of groundwater that may occur, as a means of making water  
11 available or otherwise offsetting the impact of the withdrawal of  
12 groundwater proposed in the application for the water right or  
13 amendment in the same water resource inventory area. Provision for an  
14 impoundment or other resource management technique in an application  
15 shall be made solely at the discretion of the applicant and shall not  
16 be made by the department as a condition for approving an application  
17 that does not include such provision.

18 This section does not lessen, enlarge, or modify the rights of  
19 any riparian owner, or any existing water right acquired by  
20 appropriation or otherwise.

21 **Sec. 3.** RCW 36.70A.070 and 2015 c 241 s 2 are each amended to  
22 read as follows:

23 The comprehensive plan of a county or city that is required or  
24 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
25 and descriptive text covering objectives, principles, and standards  
26 used to develop the comprehensive plan. The plan shall be an  
27 internally consistent document and all elements shall be consistent  
28 with the future land use map. A comprehensive plan shall be adopted  
29 and amended with public participation as provided in RCW 36.70A.140.  
30 Each comprehensive plan shall include a plan, scheme, or design for  
31 each of the following:

32 (1) A land use element designating the proposed general  
33 distribution and general location and extent of the uses of land,  
34 where appropriate, for agriculture, timber production, housing,  
35 commerce, industry, recreation, open spaces, general aviation  
36 airports, public utilities, public facilities, and other land uses.

37 (a) The land use element shall include population densities,  
38 building intensities, and estimates of future population growth.

1       **(b)** The land use element shall provide for protection of the  
2 quality and quantity of groundwater used for public water supplies,  
3 and must take the full hydrologic cycle into account, including  
4 development and land use changes that may result in a recharge of  
5 groundwater.

6       **(c)** Wherever possible, the land use element should consider  
7 utilizing urban planning approaches that promote physical activity.

8       **(d)** Where applicable, the land use element shall review drainage,  
9 flooding, and storm water run-off in the area and nearby  
10 jurisdictions and provide guidance for corrective actions to mitigate  
11 or cleanse those discharges that pollute waters of the state,  
12 including Puget Sound or waters entering Puget Sound.

13       (2) A housing element ensuring the vitality and character of  
14 established residential neighborhoods that: (a) Includes an inventory  
15 and analysis of existing and projected housing needs that identifies  
16 the number of housing units necessary to manage projected growth; (b)  
17 includes a statement of goals, policies, objectives, and mandatory  
18 provisions for the preservation, improvement, and development of  
19 housing, including single-family residences; (c) identifies  
20 sufficient land for housing, including, but not limited to,  
21 government-assisted housing, housing for low-income families,  
22 manufactured housing, multifamily housing, and group homes and foster  
23 care facilities; and (d) makes adequate provisions for existing and  
24 projected needs of all economic segments of the community.

25       (3) A capital facilities plan element consisting of: (a) An  
26 inventory of existing capital facilities owned by public entities,  
27 showing the locations and capacities of the capital facilities; (b) a  
28 forecast of the future needs for such capital facilities; (c) the  
29 proposed locations and capacities of expanded or new capital  
30 facilities; (d) at least a six-year plan that will finance such  
31 capital facilities within projected funding capacities and clearly  
32 identifies sources of public money for such purposes; and (e) a  
33 requirement to reassess the land use element if probable funding  
34 falls short of meeting existing needs and to ensure that the land use  
35 element, capital facilities plan element, and financing plan within  
36 the capital facilities plan element are coordinated and consistent.  
37 Park and recreation facilities shall be included in the capital  
38 facilities plan element.

39       (4) A utilities element consisting of the general location,  
40 proposed location, and capacity of all existing and proposed

1 utilities, including, but not limited to, electrical lines,  
2 telecommunication lines, and natural gas lines.

3 (5) Rural element. Counties shall include a rural element  
4 including lands that are not designated for urban growth,  
5 agriculture, forest, or mineral resources. The following provisions  
6 shall apply to the rural element:

7 (a) Growth management act goals and local circumstances. Because  
8 circumstances vary from county to county, in establishing patterns of  
9 rural densities and uses, a county may consider local circumstances,  
10 but shall develop a written record explaining how the rural element  
11 harmonizes the planning goals in RCW 36.70A.020 and meets the  
12 requirements of this chapter.

13 (b) Rural development. The rural element shall permit rural  
14 development, forestry, and agriculture in rural areas. The rural  
15 element shall provide for a variety of rural densities, uses,  
16 essential public facilities, and rural governmental services needed  
17 to serve the permitted densities and uses. To achieve a variety of  
18 rural densities and uses, counties may provide for clustering,  
19 density transfer, design guidelines, conservation easements, and  
20 other innovative techniques that will accommodate appropriate rural  
21 densities and uses that are not characterized by urban growth and  
22 that are consistent with rural character.

23 (c) Measures governing rural development. The rural element shall  
24 include measures that apply to rural development and protect the  
25 rural character of the area, as established by the county, by:

26 (i) Containing or otherwise controlling rural development;

27 (ii) Assuring visual compatibility of rural development with the  
28 surrounding rural area;

29 (iii) Reducing the inappropriate conversion of undeveloped land  
30 into sprawling, low-density development in the rural area;

31 (iv) Protecting critical areas, as provided in RCW 36.70A.060,  
32 and surface water and groundwater resources, to the extent that such  
33 measures take into account the full hydrologic cycle, including  
34 development and land use changes that result in groundwater recharge;  
35 and

36 (v) Protecting against conflicts with the use of agricultural,  
37 forest, and mineral resource lands designated under RCW 36.70A.170.

38 (d) Limited areas of more intensive rural development. Subject to  
39 the requirements of this subsection and except as otherwise  
40 specifically provided in this subsection (5)(d), the rural element

1 may allow for limited areas of more intensive rural development,  
2 including necessary public facilities and public services to serve  
3 the limited area as follows:

4 (i) Rural development consisting of the infill, development, or  
5 redevelopment of existing commercial, industrial, residential, or  
6 mixed-use areas, whether characterized as shoreline development,  
7 villages, hamlets, rural activity centers, or crossroads  
8 developments.

9 (A) A commercial, industrial, residential, shoreline, or mixed-  
10 use area are subject to the requirements of (d)(iv) of this  
11 subsection, but are not subject to the requirements of (c)(ii) and  
12 (iii) of this subsection.

13 (B) Any development or redevelopment other than an industrial  
14 area or an industrial use within a mixed-use area or an industrial  
15 area under this subsection (5)(d)(i) must be principally designed to  
16 serve the existing and projected rural population.

17 (C) Any development or redevelopment in terms of building size,  
18 scale, use, or intensity shall be consistent with the character of  
19 the existing areas. Development and redevelopment may include changes  
20 in use from vacant land or a previously existing use so long as the  
21 new use conforms to the requirements of this subsection (5);

22 (ii) The intensification of development on lots containing, or  
23 new development of, small-scale recreational or tourist uses,  
24 including commercial facilities to serve those recreational or  
25 tourist uses, that rely on a rural location and setting, but that do  
26 not include new residential development. A small-scale recreation or  
27 tourist use is not required to be principally designed to serve the  
28 existing and projected rural population. Public services and public  
29 facilities shall be limited to those necessary to serve the  
30 recreation or tourist use and shall be provided in a manner that does  
31 not permit low-density sprawl;

32 (iii) The intensification of development on lots containing  
33 isolated nonresidential uses or new development of isolated cottage  
34 industries and isolated small-scale businesses that are not  
35 principally designed to serve the existing and projected rural  
36 population and nonresidential uses, but do provide job opportunities  
37 for rural residents. Rural counties may allow the expansion of small-  
38 scale businesses as long as those small-scale businesses conform with  
39 the rural character of the area as defined by the local government  
40 according to RCW 36.70A.030(15). Rural counties may also allow new

1 small-scale businesses to utilize a site previously occupied by an  
2 existing business as long as the new small-scale business conforms to  
3 the rural character of the area as defined by the local government  
4 according to RCW 36.70A.030(15). Public services and public  
5 facilities shall be limited to those necessary to serve the isolated  
6 nonresidential use and shall be provided in a manner that does not  
7 permit low-density sprawl;

8 (iv) A county shall adopt measures to minimize and contain the  
9 existing areas or uses of more intensive rural development, as  
10 appropriate, authorized under this subsection. Lands included in such  
11 existing areas or uses shall not extend beyond the logical outer  
12 boundary of the existing area or use, thereby allowing a new pattern  
13 of low-density sprawl. Existing areas are those that are clearly  
14 identifiable and contained and where there is a logical boundary  
15 delineated predominately by the built environment, but that may also  
16 include undeveloped lands if limited as provided in this subsection.  
17 The county shall establish the logical outer boundary of an area of  
18 more intensive rural development. In establishing the logical outer  
19 boundary, the county shall address (A) the need to preserve the  
20 character of existing natural neighborhoods and communities, (B)  
21 physical boundaries, such as bodies of water, streets and highways,  
22 and land forms and contours, (C) the prevention of abnormally  
23 irregular boundaries, and (D) the ability to provide public  
24 facilities and public services in a manner that does not permit low-  
25 density sprawl;

26 (v) For purposes of (d) of this subsection, an existing area or  
27 existing use is one that was in existence:

28 (A) On July 1, 1990, in a county that was initially required to  
29 plan under all of the provisions of this chapter;

30 (B) On the date the county adopted a resolution under RCW  
31 36.70A.040(2), in a county that is planning under all of the  
32 provisions of this chapter under RCW 36.70A.040(2); or

33 (C) On the date the office of financial management certifies the  
34 county's population as provided in RCW 36.70A.040(5), in a county  
35 that is planning under all of the provisions of this chapter pursuant  
36 to RCW 36.70A.040(5).

37 (e) Exception. This subsection shall not be interpreted to permit  
38 in the rural area a major industrial development or a master planned  
39 resort unless otherwise specifically permitted under RCW 36.70A.360  
40 and 36.70A.365.

1 (6) A transportation element that implements, and is consistent  
2 with, the land use element.

3 (a) The transportation element shall include the following  
4 subelements:

5 (i) Land use assumptions used in estimating travel;

6 (ii) Estimated traffic impacts to state-owned transportation  
7 facilities resulting from land use assumptions to assist the  
8 department of transportation in monitoring the performance of state  
9 facilities, to plan improvements for the facilities, and to assess  
10 the impact of land-use decisions on state-owned transportation  
11 facilities;

12 (iii) Facilities and services needs, including:

13 (A) An inventory of air, water, and ground transportation  
14 facilities and services, including transit alignments and general  
15 aviation airport facilities, to define existing capital facilities  
16 and travel levels as a basis for future planning. This inventory must  
17 include state-owned transportation facilities within the city or  
18 county's jurisdictional boundaries;

19 (B) Level of service standards for all locally owned arterials  
20 and transit routes to serve as a gauge to judge performance of the  
21 system. These standards should be regionally coordinated;

22 (C) For state-owned transportation facilities, level of service  
23 standards for highways, as prescribed in chapters 47.06 and 47.80  
24 RCW, to gauge the performance of the system. The purposes of  
25 reflecting level of service standards for state highways in the local  
26 comprehensive plan are to monitor the performance of the system, to  
27 evaluate improvement strategies, and to facilitate coordination  
28 between the county's or city's six-year street, road, or transit  
29 program and the office of financial management's ten-year investment  
30 program. The concurrency requirements of (b) of this subsection do  
31 not apply to transportation facilities and services of statewide  
32 significance except for counties consisting of islands whose only  
33 connection to the mainland are state highways or ferry routes. In  
34 these island counties, state highways and ferry route capacity must  
35 be a factor in meeting the concurrency requirements in (b) of this  
36 subsection;

37 (D) Specific actions and requirements for bringing into  
38 compliance locally owned transportation facilities or services that  
39 are below an established level of service standard;

1 (E) Forecasts of traffic for at least ten years based on the  
2 adopted land use plan to provide information on the location, timing,  
3 and capacity needs of future growth;

4 (F) Identification of state and local system needs to meet  
5 current and future demands. Identified needs on state-owned  
6 transportation facilities must be consistent with the statewide  
7 multimodal transportation plan required under chapter 47.06 RCW;

8 (iv) Finance, including:

9 (A) An analysis of funding capability to judge needs against  
10 probable funding resources;

11 (B) A multiyear financing plan based on the needs identified in  
12 the comprehensive plan, the appropriate parts of which shall serve as  
13 the basis for the six-year street, road, or transit program required  
14 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
15 35.58.2795 for public transportation systems. The multiyear financing  
16 plan should be coordinated with the ten-year investment program  
17 developed by the office of financial management as required by RCW  
18 47.05.030;

19 (C) If probable funding falls short of meeting identified needs,  
20 a discussion of how additional funding will be raised, or how land  
21 use assumptions will be reassessed to ensure that level of service  
22 standards will be met;

23 (v) Intergovernmental coordination efforts, including an  
24 assessment of the impacts of the transportation plan and land use  
25 assumptions on the transportation systems of adjacent jurisdictions;

26 (vi) Demand-management strategies;

27 (vii) Pedestrian and bicycle component to include collaborative  
28 efforts to identify and designate planned improvements for pedestrian  
29 and bicycle facilities and corridors that address and encourage  
30 enhanced community access and promote healthy lifestyles.

31 (b) After adoption of the comprehensive plan by jurisdictions  
32 required to plan or who choose to plan under RCW 36.70A.040, local  
33 jurisdictions must adopt and enforce ordinances which prohibit  
34 development approval if the development causes the level of service  
35 on a locally owned transportation facility to decline below the  
36 standards adopted in the transportation element of the comprehensive  
37 plan, unless transportation improvements or strategies to accommodate  
38 the impacts of development are made concurrent with the development.  
39 These strategies may include increased public transportation service,  
40 ride-sharing programs, demand management, and other transportation



1 systems management strategies. For the purposes of this subsection  
2 (6), "concurrent with the development" means that improvements or  
3 strategies are in place at the time of development, or that a  
4 financial commitment is in place to complete the improvements or  
5 strategies within six years. If the collection of impact fees is  
6 delayed under RCW 82.02.050(3), the six-year period required by this  
7 subsection (6)(b) must begin after full payment of all impact fees is  
8 due to the county or city.

9 (c) The transportation element described in this subsection (6),  
10 the six-year plans required by RCW 35.77.010 for cities, RCW  
11 36.81.121 for counties, and RCW 35.58.2795 for public transportation  
12 systems, and the ten-year investment program required by RCW  
13 47.05.030 for the state, must be consistent.

14 (7) An economic development element establishing local goals,  
15 policies, objectives, and provisions for economic growth and vitality  
16 and a high quality of life. The element shall include: (a) A summary  
17 of the local economy such as population, employment, payroll,  
18 sectors, businesses, sales, and other information as appropriate; (b)  
19 a summary of the strengths and weaknesses of the local economy  
20 defined as the commercial and industrial sectors and supporting  
21 factors such as land use, transportation, utilities, education,  
22 workforce, housing, and natural/cultural resources; and (c) an  
23 identification of policies, programs, and projects to foster economic  
24 growth and development and to address future needs. A city that has  
25 chosen to be a residential community is exempt from the economic  
26 development element requirement of this subsection.

27 (8) A park and recreation element that implements, and is  
28 consistent with, the capital facilities plan element as it relates to  
29 park and recreation facilities. The element shall include: (a)  
30 Estimates of park and recreation demand for at least a ten-year  
31 period; (b) an evaluation of facilities and service needs; and (c) an  
32 evaluation of intergovernmental coordination opportunities to provide  
33 regional approaches for meeting park and recreational demand.

34 (9) It is the intent that new or amended elements required after  
35 January 1, 2002, be adopted concurrent with the scheduled update  
36 provided in RCW 36.70A.130. Requirements to incorporate any such new  
37 or amended elements shall be null and void until funds sufficient to  
38 cover applicable local government costs are appropriated and

1 distributed by the state at least two years before local government  
2 must update comprehensive plans as required in RCW 36.70A.130.

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