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**SUBSTITUTE SENATE BILL 6301**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** Senate Government Operations & Elections (originally sponsored by Senator Swecker)

READ FIRST TIME 02/05/10.

1        AN ACT Relating to designation of urban growth areas outside the  
2 one hundred year floodplain by counties; and reenacting and amending  
3 RCW 36.70A.110.

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

5        **Sec. 1.** RCW 36.70A.110 and 2009 c 342 s 1 and 2009 c 121 s 1 are  
6 each reenacted and amended to read as follows:

7        (1) Each county that is required or chooses to plan under RCW  
8 36.70A.040 shall designate an urban growth area or areas within which  
9 urban growth shall be encouraged and outside of which growth can occur  
10 only if it is not urban in nature. Each city that is located in such  
11 a county shall be included within an urban growth area. An urban  
12 growth area may include more than a single city. An urban growth area  
13 may include territory that is located outside of a city only if such  
14 territory already is characterized by urban growth whether or not the  
15 urban growth area includes a city, or is adjacent to territory already  
16 characterized by urban growth, or is a designated new fully contained  
17 community as defined by RCW 36.70A.350.

18        (2) Based upon the growth management population projection made for  
19 the county by the office of financial management, the county and each

1 city within the county shall include areas and densities sufficient to  
2 permit the urban growth that is projected to occur in the county or  
3 city for the succeeding twenty-year period, except for those urban  
4 growth areas contained totally within a national historical reserve.  
5 As part of this planning process, each city within the county must  
6 include areas sufficient to accommodate the broad range of needs and  
7 uses that will accompany the projected urban growth including, as  
8 appropriate, medical, governmental, institutional, commercial, service,  
9 retail, and other nonresidential uses.

10 Each urban growth area shall permit urban densities and shall  
11 include greenbelt and open space areas. In the case of urban growth  
12 areas contained totally within a national historical reserve, the city  
13 may restrict densities, intensities, and forms of urban growth as  
14 determined to be necessary and appropriate to protect the physical,  
15 cultural, or historic integrity of the reserve. An urban growth area  
16 determination may include a reasonable land market supply factor and  
17 shall permit a range of urban densities and uses. In determining this  
18 market factor, cities and counties may consider local circumstances.  
19 Cities and counties have discretion in their comprehensive plans to  
20 make many choices about accommodating growth.

21 Within one year of July 1, 1990, each county that as of June 1,  
22 1991, was required or chose to plan under RCW 36.70A.040, shall begin  
23 consulting with each city located within its boundaries and each city  
24 shall propose the location of an urban growth area. Within sixty days  
25 of the date the county legislative authority of a county adopts its  
26 resolution of intention or of certification by the office of financial  
27 management, all other counties that are required or choose to plan  
28 under RCW 36.70A.040 shall begin this consultation with each city  
29 located within its boundaries. The county shall attempt to reach  
30 agreement with each city on the location of an urban growth area within  
31 which the city is located. If such an agreement is not reached with  
32 each city located within the urban growth area, the county shall  
33 justify in writing why it so designated the area an urban growth area.  
34 A city may object formally with the department over the designation of  
35 the urban growth area within which it is located. Where appropriate,  
36 the department shall attempt to resolve the conflicts, including the  
37 use of mediation services.

1 (3) Urban growth should be located first in areas already  
2 characterized by urban growth that have adequate existing public  
3 facility and service capacities to serve such development, second in  
4 areas already characterized by urban growth that will be served  
5 adequately by a combination of both existing public facilities and  
6 services and any additional needed public facilities and services that  
7 are provided by either public or private sources, and third in the  
8 remaining portions of the urban growth areas. Urban growth may also be  
9 located in designated new fully contained communities as defined by RCW  
10 36.70A.350.

11 (4) In general, cities are the units of local government most  
12 appropriate to provide urban governmental services. In general, it is  
13 not appropriate that urban governmental services be extended to or  
14 expanded in rural areas except in those limited circumstances shown to  
15 be necessary to protect basic public health and safety and the  
16 environment and when such services are financially supportable at rural  
17 densities and do not permit urban development.

18 (5) On or before October 1, 1993, each county that was initially  
19 required to plan under RCW 36.70A.040(1) shall adopt development  
20 regulations designating interim urban growth areas under this chapter.  
21 Within three years and three months of the date the county legislative  
22 authority of a county adopts its resolution of intention or of  
23 certification by the office of financial management, all other counties  
24 that are required or choose to plan under RCW 36.70A.040 shall adopt  
25 development regulations designating interim urban growth areas under  
26 this chapter. Adoption of the interim urban growth areas may only  
27 occur after public notice; public hearing; and compliance with the  
28 state environmental policy act, chapter 43.21C RCW, and under this  
29 section. Such action may be appealed to the appropriate growth  
30 management hearings board under RCW 36.70A.280. Final urban growth  
31 areas shall be adopted at the time of comprehensive plan adoption under  
32 this chapter.

33 (6) Each county shall include designations of urban growth areas in  
34 its comprehensive plan.

35 (7) An urban growth area designated in accordance with this section  
36 may include within its boundaries urban service areas or potential  
37 annexation areas designated for specific cities or towns within the  
38 county.

1 (8)(a) Except as provided in (b) of this subsection, the expansion  
2 of an urban growth area is prohibited into the one hundred year  
3 floodplain of any river or river segment that: (i) Is located west of  
4 the crest of the Cascade mountains; and (ii) has a mean annual flow of  
5 one thousand or more cubic feet per second as determined by the  
6 department of ecology.

7 (b) Subsection (8)(a) of this section does not apply to:

8 (i) Urban growth areas that are fully contained within a floodplain  
9 and lack adjacent buildable areas outside the floodplain;

10 (ii) Urban growth areas where expansions are precluded outside  
11 floodplains because:

12 (A) Urban governmental services cannot be physically provided to  
13 serve areas outside the floodplain; or

14 (B) Expansions outside the floodplain would require a river or  
15 estuary crossing to access the expansion; or

16 (iii) Urban growth area expansions where:

17 (A) Public facilities already exist within the floodplain and the  
18 expansion of an existing public facility is only possible on the land  
19 to be included in the urban growth area and located within the  
20 floodplain; or

21 (B) Urban development already exists within a floodplain as of July  
22 26, 2009, and is adjacent to, but outside of, the urban growth area,  
23 and the expansion of the urban growth area is necessary to include such  
24 urban development within the urban growth area; or

25 (C) The land is owned by a jurisdiction planning under this chapter  
26 or the rights to the development of the land have been permanently  
27 extinguished, and the following criteria are met:

28 (I) The permissible use of the land is limited to one of the  
29 following: Outdoor recreation; environmentally beneficial projects,  
30 including but not limited to habitat enhancement or environmental  
31 restoration; storm water facilities; flood control facilities; or  
32 underground conveyances; and

33 (II) The development and use of such facilities or projects will  
34 not decrease flood storage, increase storm water runoff, discharge  
35 pollutants to fresh or salt waters during normal operations or floods,  
36 or increase hazards to people and property.

37 (c) For the purposes of this subsection (8), "one hundred year

1 floodplain" means the same as "special flood hazard area" as set forth  
2 in WAC 173-158-040 as it exists on July 26, 2009.

3 (d) A county that has completed a subarea plan through a state-  
4 funded pilot project that is based on a watershed characterization and  
5 local habitat assessment may designate new urban growth areas  
6 consistent with that subarea plan. Urban growth areas designated under  
7 this subsection (8)(d) may include territory not already characterized  
8 by urban growth nor adjacent to territory already characterized by  
9 urban growth only if:

10 (i) The entire newly designated urban growth area is outside the  
11 one hundred year floodplain;

12 (ii) Population is allocated for the urban growth areas in  
13 accordance with this section;

14 (iii) The necessary urban levels of service are identified in the  
15 subarea plan and can be provided, and provisions for the services are  
16 included within a capital facilities, utilities, or other comprehensive  
17 plan element adopted by the county;

18 (iv) The newly designated urban growth areas are otherwise  
19 consistent with the provisions of this chapter.

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