
SENATE BILL 6401

State of Washington 58th Legislature 2004 Regular Session

By Senators Rasmussen, Roach, Kastama, Franklin, Doumit, Shin, Schmidt, Oke, Haugen and Murray

Read first time 01/19/2004. Referred to Committee on Land Use & Planning.

1 AN ACT Relating to encroachment of incompatible land uses around
2 military installations; amending RCW 36.70A.030 and 36.70A.210; adding
3 a new section to chapter 36.70A RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The United States military is a vital
6 component of the Washington state economy. Encroachment of
7 incompatible uses around military facilities reduces the ability of the
8 military to complete its mission or to undertake new missions, and
9 increases its cost of operating. The department of defense evaluates
10 military facilities based upon their operating costs, their ability to
11 complete missions, and their ability to undertake new missions. The
12 protection of military facilities from encroachment of incompatible
13 uses is essential to the health of Washington's economy and quality of
14 life.

15 **Sec. 2.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

1 (1) "Adopt a comprehensive land use plan" means to enact a new
2 comprehensive land use plan or to update an existing comprehensive land
3 use plan.

4 (2) "Agricultural land" means land primarily devoted to the
5 commercial production of horticultural, viticultural, floricultural,
6 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
7 straw, turf, seed, Christmas trees not subject to the excise tax
8 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
9 hatcheries, or livestock, and that has long-term commercial
10 significance for agricultural production.

11 (3) "City" means any city or town, including a code city.

12 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
13 means a generalized coordinated land use policy statement of the
14 governing body of a county or city that is adopted pursuant to this
15 chapter.

16 (5) "Critical areas" include the following areas and ecosystems:
17 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
18 used for potable water; (c) fish and wildlife habitat conservation
19 areas; (d) frequently flooded areas; and (e) geologically hazardous
20 areas.

21 (6) "Department" means the department of community, trade, and
22 economic development.

23 (7) "Development regulations" or "regulation" means the controls
24 placed on development or land use activities by a county or city,
25 including, but not limited to, zoning ordinances, critical areas
26 ordinances, shoreline master programs, official controls, planned unit
27 development ordinances, subdivision ordinances, and binding site plan
28 ordinances together with any amendments thereto. A development
29 regulation does not include a decision to approve a project permit
30 application, as defined in RCW 36.70B.020, even though the decision may
31 be expressed in a resolution or ordinance of the legislative body of
32 the county or city.

33 (8) "Encroachment," as used in the context of military
34 installations, means a pattern of development where, over time, land
35 uses incompatible with noise levels and the accident potential
36 associated with military installations are developed: (a) In
37 increasingly closer proximity to the installations; (b) at an

1 increasingly higher density and intensity of land use; and (c) in a
2 manner that decreases the ability of the installations to fulfill their
3 mission requirements.

4 (9) "Forest land" means land primarily devoted to growing trees for
5 long-term commercial timber production on land that can be economically
6 and practically managed for such production, including Christmas trees
7 subject to the excise tax imposed under RCW 84.33.100 through
8 84.33.140, and that has long-term commercial significance. In
9 determining whether forest land is primarily devoted to growing trees
10 for long-term commercial timber production on land that can be
11 economically and practically managed for such production, the following
12 factors shall be considered: (a) The proximity of the land to urban,
13 suburban, and rural settlements; (b) surrounding parcel size and the
14 compatibility and intensity of adjacent and nearby land uses; (c) long-
15 term local economic conditions that affect the ability to manage for
16 timber production; and (d) the availability of public facilities and
17 services conducive to conversion of forest land to other uses.

18 ~~((9))~~ (10) "Geologically hazardous areas" means areas that
19 because of their susceptibility to erosion, sliding, earthquake, or
20 other geological events, are not suited to the siting of commercial,
21 residential, or industrial development consistent with public health or
22 safety concerns.

23 ~~((10))~~ (11) "Long-term commercial significance" includes the
24 growing capacity, productivity, and soil composition of the land for
25 long-term commercial production, in consideration with the land's
26 proximity to population areas, and the possibility of more intense
27 uses of the land.

28 ~~((11))~~ (12) "Minerals" include gravel, sand, and valuable
29 metallic substances.

30 ~~((12))~~ (13) "Public facilities" include streets, roads, highways,
31 sidewalks, street and road lighting systems, traffic signals, domestic
32 water systems, storm and sanitary sewer systems, parks and recreational
33 facilities, and schools.

34 ~~((13))~~ (14) "Public services" include fire protection and
35 suppression, law enforcement, public health, education, recreation,
36 environmental protection, and other governmental services.

37 ~~((14))~~ (15) "Rural character" refers to the patterns of land use

1 and development established by a county in the rural element of its
2 comprehensive plan:

3 (a) In which open space, the natural landscape, and vegetation
4 predominate over the built environment;

5 (b) That foster traditional rural lifestyles, rural-based
6 economies, and opportunities to both live and work in rural areas;

7 (c) That provide visual landscapes that are traditionally found in
8 rural areas and communities;

9 (d) That are compatible with the use of the land by wildlife and
10 for fish and wildlife habitat;

11 (e) That reduce the inappropriate conversion of undeveloped land
12 into sprawling, low-density development;

13 (f) That generally do not require the extension of urban
14 governmental services; and

15 (g) That are consistent with the protection of natural surface
16 water flows and ground water and surface water recharge and discharge
17 areas.

18 ~~((+15))~~ (16) "Rural development" refers to development outside the
19 urban growth area and outside agricultural, forest, and mineral
20 resource lands designated pursuant to RCW 36.70A.170. Rural
21 development can consist of a variety of uses and residential densities,
22 including clustered residential development, at levels that are
23 consistent with the preservation of rural character and the
24 requirements of the rural element. Rural development does not refer to
25 agriculture or forestry activities that may be conducted in rural
26 areas.

27 ~~((+16))~~ (17) "Rural governmental services" or "rural services"
28 include those public services and public facilities historically and
29 typically delivered at an intensity usually found in rural areas, and
30 may include domestic water systems, fire and police protection
31 services, transportation and public transit services, and other public
32 utilities associated with rural development and normally not associated
33 with urban areas. Rural services do not include storm or sanitary
34 sewers, except as otherwise authorized by RCW 36.70A.110(4).

35 ~~((+17))~~ (18) "Urban growth" refers to growth that makes intensive
36 use of land for the location of buildings, structures, and impermeable
37 surfaces to such a degree as to be incompatible with the primary use of
38 land for the production of food, other agricultural products, or fiber,

1 or the extraction of mineral resources, rural uses, rural development,
2 and natural resource lands designated pursuant to RCW 36.70A.170. A
3 pattern of more intensive rural development, as provided in RCW
4 36.70A.070(5)(d), is not urban growth. When allowed to spread over
5 wide areas, urban growth typically requires urban governmental
6 services. "Characterized by urban growth" refers to land having urban
7 growth located on it, or to land located in relationship to an area
8 with urban growth on it as to be appropriate for urban growth.

9 ~~((+18+))~~ (19) "Urban growth areas" means those areas designated by
10 a county pursuant to RCW 36.70A.110.

11 ~~((+19+))~~ (20) "Urban governmental services" or "urban services"
12 include those public services and public facilities at an intensity
13 historically and typically provided in cities, specifically including
14 storm and sanitary sewer systems, domestic water systems, street
15 cleaning services, fire and police protection services, public transit
16 services, and other public utilities associated with urban areas and
17 normally not associated with rural areas.

18 ~~((+20+))~~ (21) "Wetland" or "wetlands" means areas that are
19 inundated or saturated by surface water or ground water at a frequency
20 and duration sufficient to support, and that under normal circumstances
21 do support, a prevalence of vegetation typically adapted for life in
22 saturated soil conditions. Wetlands generally include swamps, marshes,
23 bogs, and similar areas. Wetlands do not include those artificial
24 wetlands intentionally created from nonwetland sites, including, but
25 not limited to, irrigation and drainage ditches, grass-lined swales,
26 canals, detention facilities, wastewater treatment facilities, farm
27 ponds, and landscape amenities, or those wetlands created after July 1,
28 1990, that were unintentionally created as a result of the construction
29 of a road, street, or highway. Wetlands may include those artificial
30 wetlands intentionally created from nonwetland areas created to
31 mitigate conversion of wetlands.

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

34 (1) Military installations are of particular importance to the
35 economic health of the state of Washington and are a priority for
36 protection from encroachment of incompatible uses.

1 (2) Each county and city planning under RCW 36.70A.040 that has a
2 federal military installation that employs one hundred or more
3 personnel and is operated by the United States department of defense
4 within or adjacent to its border shall adopt strategies in its
5 comprehensive plan to identify lands adjacent to military
6 installations, and adopt policies to ensure that those lands are
7 protected from encroachment of incompatible uses.

8 (3) The process required by subsection (2) of this section shall
9 include a joint land use study conducted by the city or county working
10 cooperatively with the relevant military installation or installations
11 to examine issues of encroachment and compatible land use for the lands
12 adjacent to the installation or installations. The city or county
13 shall incorporate the joint recommendations of that study into its
14 plans to protect military installations from encroachment.

15 (4) It is the intent of the legislature that strategies and
16 policies adopted under this section shall be adopted and amended
17 concurrent with the scheduled update provided in RCW 36.70A.130, except
18 that counties and cities identified in RCW 36.70A.130(4)(a) shall
19 comply with this section on or before December 1, 2005. The joint land
20 use study required under subsection (3) of this section shall be
21 updated as part of each scheduled update provided in RCW 36.70A.130.

22 **Sec. 4.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to read
23 as follows:

24 (1) The legislature recognizes that counties are regional
25 governments within their boundaries, and cities are primary providers
26 of urban governmental services within urban growth areas. For the
27 purposes of this section, a "county-wide planning policy" is a written
28 policy statement or statements used solely for establishing a county-
29 wide framework from which county and city comprehensive plans are
30 developed and adopted pursuant to this chapter. This framework shall
31 ensure that city and county comprehensive plans are consistent as
32 required in RCW 36.70A.100. Nothing in this section shall be construed
33 to alter the land-use powers of cities.

34 (2) The legislative authority of a county that plans under RCW
35 36.70A.040 shall adopt a county-wide planning policy in cooperation
36 with the cities located in whole or in part within the county as
37 follows:

1 (a) No later than sixty calendar days from July 16, 1991, the
2 legislative authority of each county that as of June 1, 1991, was
3 required or chose to plan under RCW 36.70A.040 shall convene a meeting
4 with representatives of each city located within the county for the
5 purpose of establishing a collaborative process that will provide a
6 framework for the adoption of a county-wide planning policy. In other
7 counties that are required or choose to plan under RCW 36.70A.040, this
8 meeting shall be convened no later than sixty days after the date the
9 county adopts its resolution of intention or was certified by the
10 office of financial management.

11 (b) The process and framework for adoption of a county-wide
12 planning policy specified in (a) of this subsection shall determine the
13 manner in which the county and the cities agree to all procedures and
14 provisions including but not limited to desired planning policies,
15 deadlines, ratification of final agreements and demonstration thereof,
16 and financing, if any, of all activities associated therewith.

17 (c) If a county fails for any reason to convene a meeting with
18 representatives of cities as required in (a) of this subsection, the
19 governor may immediately impose any appropriate sanction or sanctions
20 on the county from those specified under RCW 36.70A.340.

21 (d) If there is no agreement by October 1, 1991, in a county that
22 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,
23 or if there is no agreement within one hundred twenty days of the date
24 the county adopted its resolution of intention or was certified by the
25 office of financial management in any other county that is required or
26 chooses to plan under RCW 36.70A.040, the governor shall first inquire
27 of the jurisdictions as to the reason or reasons for failure to reach
28 an agreement. If the governor deems it appropriate, the governor may
29 immediately request the assistance of the department of community,
30 trade, and economic development to mediate any disputes that preclude
31 agreement. If mediation is unsuccessful in resolving all disputes that
32 will lead to agreement, the governor may impose appropriate sanctions
33 from those specified under RCW 36.70A.340 on the county, city, or
34 cities for failure to reach an agreement as provided in this section.
35 The governor shall specify the reason or reasons for the imposition of
36 any sanction.

37 (e) No later than July 1, 1992, the legislative authority of each
38 county that was required or chose to plan under RCW 36.70A.040 as of

1 June 1, 1991, or no later than fourteen months after the date the
2 county adopted its resolution of intention or was certified by the
3 office of financial management the county legislative authority of any
4 other county that is required or chooses to plan under RCW 36.70A.040,
5 shall adopt a county-wide planning policy according to the process
6 provided under this section and that is consistent with the agreement
7 pursuant to (b) of this subsection, and after holding a public hearing
8 or hearings on the proposed county-wide planning policy.

9 (3) A county-wide planning policy shall, at a minimum, address the
10 following:

11 (a) Policies to implement RCW 36.70A.110;

12 (b) Policies for promotion of contiguous and orderly development
13 and provision of urban services to such development;

14 (c) Policies for siting public capital facilities of a county-wide
15 or statewide nature, including transportation facilities of statewide
16 significance as defined in RCW 47.06.140;

17 (d) Policies for county-wide transportation facilities and
18 strategies;

19 (e) Policies that consider the need for affordable housing, such as
20 housing for all economic segments of the population and parameters for
21 its distribution;

22 (f) Policies for joint county and city planning within urban growth
23 areas;

24 (g) Policies for county-wide economic development and employment;
25 (~~and~~)

26 (h) For jurisdictions subject to section 3 of this act, policies
27 for the protection of military installations from encroachment of
28 incompatible uses; and

29 (i) An analysis of the fiscal impact.

30 (4) Federal agencies and Indian tribes may participate in and
31 cooperate with the county-wide planning policy adoption process.
32 Adopted county-wide planning policies shall be adhered to by state
33 agencies.

34 (5) Failure to adopt a county-wide planning policy that meets the
35 requirements of this section may result in the imposition of a sanction
36 or sanctions on a county or city within the county, as specified in RCW
37 36.70A.340. In imposing a sanction or sanctions, the governor shall
38 specify the reasons for failure to adopt a county-wide planning policy

1 in order that any imposed sanction or sanctions are fairly and
2 equitably related to the failure to adopt a county-wide planning
3 policy.

4 (6) Cities and the governor may appeal an adopted county-wide
5 planning policy to the growth management hearings board within sixty
6 days of the adoption of the county-wide planning policy.

7 (7) Multicounty planning policies shall be adopted by two or more
8 counties, each with a population of four hundred fifty thousand or
9 more, with contiguous urban areas and may be adopted by other counties,
10 according to the process established under this section or other
11 processes agreed to among the counties and cities within the affected
12 counties throughout the multicounty region.

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