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SENATE BILL 5852

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Kline, Poulsen, Jacobsen and Rasmussen

Read first time 02/05/2007.      Referred to Committee on Government Operations & Elections.

1            AN ACT Relating to growth in rural areas; adding a new section to  
2 chapter 36.70A RCW; and creating a new section.

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

4            NEW SECTION.    **Sec. 1.** (1) Population in western Washington is  
5 growing and will continue to grow. Models indicate that the central  
6 Cascades region can expect a doubling of the population within the next  
7 one hundred years.

8            (2) The growth management act has used large lot zoning to  
9 discourage residential development of rural and resource lands.  
10 However, historical entitlement of smaller lots coupled with rapidly  
11 increasing real estate values have led to widespread development of  
12 nonurban lots of a variety of sizes, locations, and zoning categories.  
13 This problem is exacerbated by recent trends in the timber industry,  
14 resulting in ownership changes, accelerated harvesting regimes, and  
15 likely conversion of many properties to residential development in the  
16 near term. It is reasonable to assume that under a one hundred-year  
17 timeframe all nonurban lots are likely to be developed.

18            (3) The increase in nonurban development has disproportionate

1 undesirable impacts to landscape and watershed integrity, environmental  
2 functions, economic viability of resource lands, and public costs.

3 (4) Additional approaches to managing rural growth are needed.  
4 Success will likely not come from a single strategy; rather, a  
5 multifaceted approach is required. Implementation of a region-wide or  
6 statewide transfer of development rights program could play a major  
7 role in finding a solution.

8 (5) The most important component in building a successful transfer  
9 of development rights program is creating adequate receiving area  
10 capacity. Accommodating dramatic population growth while meeting  
11 resource conservation goals over the next one hundred years will  
12 require greatly increasing receiving area capacity. It is a regional  
13 goal to direct growth to urban areas, and therefore it is a priority to  
14 develop this receiving capacity primarily in urban areas. In addition,  
15 the potential for additional receiving areas in appropriate nonurban  
16 areas is being explored concurrently.

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

19 (1) A county planning under RCW 36.70A.040 that meets the criteria  
20 in subsection (2) of this section may designate no more than one rural  
21 village in the rural area outside of limited areas of more intensive  
22 rural development established pursuant to RCW 36.70A.070(5)(d). For  
23 the purposes of this section, "rural village" is defined as a compact,  
24 environmentally friendly rural development created using transfer of  
25 development rights. Rural villages will be located in the rural area,  
26 and shall coexist with traditional rural land uses such as farming and  
27 forestry.

28 (2) Under this chapter, a county may designate a rural village in  
29 the rural area outside of limited areas of more intensive rural  
30 development established pursuant to RCW 36.70A.070(5)(d) as follows:

31 (a) Residential Development. The rural village may contain fifty  
32 to two hundred dwelling units and may include single-family detached or  
33 attached housing, multifamily housing, and accessory dwelling units.  
34 The maximum allowable lot size for single-family detached units is  
35 seven thousand square feet within a rural village.

36 (b) Nonresidential Development. The rural village may include

1 nonresidential development that is designed to serve the village  
2 population and nearby existing and projected rural residents.

3 (c) Development Right Transfers. All rural village nonresidential  
4 square footage or dwelling units that exceed base zoning shall require  
5 the transfer or purchase of development rights from designated land  
6 within the rural area or natural resource lands ("sending areas") as  
7 follows:

8 (i) For the purposes of this section, one transferable development  
9 right shall be allocated for each unrealized dwelling unit permitted by  
10 applicable development regulations, as calculated on a gross basis  
11 (allowed density x gross acreage of the property). In determining how  
12 these development rights transfer to the rural village, the county may  
13 consider local circumstances, but is encouraged to provide incentives  
14 to transfer or purchase development rights from existing nonconforming  
15 lots and authorize the transfer or purchase of development rights from  
16 larger properties that will provide landscape scale conservation  
17 benefits consistent with RCW 36.70A.011 and reduce transactions and  
18 acquisition costs helping to make the end product more affordable.

19 (ii) At least one-half of the development rights included in a  
20 rural village shall be transferred from the rural area, with any  
21 remainder coming from resource lands. The county shall determine the  
22 appropriate ratio of rural and resource development rights.

23 (iii) Each development right transferred from an existing rural lot  
24 nonconforming as to minimum lot size or density shall be given a 0.25  
25 development rights bonus when used within a rural village.

26 (d) Conservation Easements. Development rights purchased or  
27 transferred from sending area properties shall be extinguished with  
28 conservation easements held jointly by a nonprofit organization and the  
29 relevant local government. The conservation easement shall permanently  
30 restrict development of the property, but shall allow for typical rural  
31 land uses, including agriculture and working forestry. A stewardship  
32 fund established by endowment, contractually established annual  
33 homeowners association fees, or a perpetual resale fee shall be created  
34 for the sending area property to ensure capacity for stewardship and to  
35 monitor and enforce the conservation easement by the responsible  
36 parties.

37 (e) Siting Criteria. A county shall establish the criteria for  
38 siting a rural village in the rural element of its comprehensive plan.

1 The criteria shall be in keeping with local circumstances, RCW  
2 36.70A.070(5)(c), and favor sites with limited visual impacts,  
3 proximity to existing transportation networks, limited need for service  
4 improvements, affordability of housing in the rural village, and  
5 appropriate environmental characteristics.

6 (f) Designation. A rural village shall be designated in the rural  
7 element of the comprehensive plan. The regulations governing its  
8 development, including location of sending areas, shall be included in  
9 the county's development regulations. The rural village must comply  
10 with all relevant development regulations, including critical areas  
11 regulations and transportation concurrency requirements. The county  
12 may adopt level of service or concurrency standards to address the  
13 consolidation of traffic that will result from a rural village.

14 (g) Boundaries. Clear boundaries shall be delineated for each  
15 rural village and shall not be expanded. Boundaries shall be buffered  
16 from surrounding land uses by physical barriers (e.g., river or  
17 undeveloped bluff) or a swath of permanently conserved land at least  
18 two hundred fifty feet wide. A conservation easement restricting  
19 development in this buffer shall be held jointly by a nonprofit  
20 organization and the relevant local government.

21 (h) Public Services and Public Facilities.

22 (i) Public services and public facilities shall be limited to those  
23 necessary to serve the rural village and shall be provided in a manner  
24 that does not permit low-density sprawl.

25 (ii) New or improved infrastructure necessary to serve the rural  
26 village shall be provided or applicable impact fees paid. New or  
27 improved infrastructure may be provided by the applicant, the county,  
28 or by a public-private partnership.

29 (iii) Transportation.

30 (A) Multimodal site planning shall be implemented and may include,  
31 but is not limited to, neighborhood circulators; bicycle paths; and  
32 park and ride, community vanpool, and carshare parking spaces.

33 (B) A pedestrian or nonmotorized transportation network of trails  
34 or walkways should connect residences to services and open space within  
35 and adjacent to the rural village.

36 (C) Road capacity shall meet county standards and accommodate the  
37 projected needs of the rural village population, and necessary roadway

1 improvements may include safety enhancements, site access projects,  
2 signage revisions, and traffic facility flow and management tools.

3 (D) Counties shall develop innovative road standards for rural  
4 villages that are compatible with rural character and minimize  
5 impervious surfaces and storm water runoff.

6 (iv) Water rights.

7 (A) A community water system shall be appropriately sized to serve  
8 the rural village and shall rely on existing water law to obtain  
9 adequate water rights. Such water system shall incorporate efficiency  
10 and conservation measures designed to reduce water usage.

11 (B) At the time of sale or transfer of the development rights from  
12 the sending area properties, conservation easements or covenants shall  
13 include provisions to forego the development of groundwater wells in  
14 the sending area properties for watering of lawns or noncommercial  
15 gardens, for single or group domestic uses, and for nonagricultural  
16 industrial uses. However, groundwater wells may be developed for  
17 stock-watering or industrial uses related to agricultural production as  
18 allowed under RCW 90.44.050.

19 (v) Wastewater treatment. Counties are encouraged to authorize  
20 innovative techniques for wastewater treatment in rural villages,  
21 including, but not limited to, membrane bioreactor systems. Greywater  
22 reuse for flushing, irrigation, and other appropriate uses should be  
23 encouraged.

24 (vi) Storm water management. Counties are encouraged to authorize  
25 innovative techniques for storm water management, including, but not  
26 limited to, bioswales and other natural storm water management systems  
27 and alternative uses for storm water that encourage water reuse,  
28 groundwater infiltration, or both.

29 (i) Open Space. The rural village shall contain community open  
30 space. Uses of this open space may include, but are not limited to,  
31 community gathering space, village green, park, or rural resource use.  
32 A portion of the open space must function as a village green or  
33 gathering place able to accommodate the population of the rural  
34 village.

35 (j) Green Building. All rural villages shall meet the master  
36 builders association of King and Snohomish counties built green - green  
37 communities three-star standard and the built green - homebuilder or  
38 multifamily (whichever is applicable) four-star standard. Equivalent

1 or more stringent green building standards may be substituted for this  
2 requirement (e.g., leadership in energy and environmental design, green  
3 globes, or other recognized green building standards).

4 (k) Native Vegetation. Disturbance of some native vegetation is  
5 likely unavoidable in the development of rural villages. However,  
6 maintaining forest cover and other native vegetation is important to  
7 the health of watersheds and the Puget Sound. Thus, to the maximum  
8 extent possible, clearing of native vegetation shall be avoided or  
9 mitigated.

10 (i) The disturbance of native plants and forest cover on the  
11 development site shall be minimized.

12 (ii) Disturbance of the development site shall be mitigated via on-  
13 site or off-site restoration or replanting of an area roughly  
14 equivalent in size to the cleared area via a fee paid to a qualified  
15 government or nonprofit land management organization.

16 (iii) Native plant species for landscaping of nonlawn areas of  
17 private residences shall be used. Public rights-of-way, street  
18 planting strips, and common areas shall be replanted with a regionally  
19 appropriate native plant community and structure.

20 (l) Design Standards. A county shall include in its development  
21 regulations design standards to protect the rural character of the  
22 area. At a minimum these design standards should address the  
23 following:

24 (i) Utilities;

25 (ii) Roadways and transportation;

26 (iii) Visual impacts (e.g., protecting view corridors along  
27 roadways, ridgelines, hillsides, etc.); and

28 (iv) Lighting and the preservation of dark skies.

29 (m) Notice on Title. Each county designating a rural village pilot  
30 project shall require that all plats, short plats, development permits,  
31 and building permits issued for development activities within a rural  
32 village demonstration project contain a notice that the subject  
33 property is located in a rural area where a variety of traditional  
34 rural activities may occur that may generate sights, sounds, and smells  
35 associated with farming, forestry, and other traditional rural uses.  
36 In addition, the notice for lands within a rural village demonstration  
37 project shall advise that services in rural areas are often limited and

1 consist of rural governmental services rather than urban governmental  
2 services. The notice shall run with the land.

3 (3) A county may not issue groundwater well permits for any  
4 groundwater uses except stock-watering purposes, or agricultural  
5 industrial purposes allowed under RCW 90.44.050 on properties from  
6 which development rights have been sold or transferred (sending sites).

7 (4) Any county intending to designate a rural village demonstration  
8 project shall notify the department. The department shall ensure that  
9 a maximum of three demonstration projects may be established under this  
10 section. Any county choosing to withdraw a demonstration project shall  
11 notify the department and the department may accept an alternate  
12 project.

13 (5) The department shall report to the appropriate committees of  
14 the legislature annually on the progress of any rural villages  
15 established under this section. Additionally, the department shall  
16 prepare a final report to be submitted no later than December 1, 2012,  
17 on the efficacy of this section in accomplishing the purposes of RCW  
18 36.70A.011. In preparing this report, the department shall consult  
19 with sending and receiving area landowners, project developers,  
20 builders, the county, and any other interested individuals or  
21 organizations. The report shall:

22 (a) Review the county adopted policies and regulations to enable  
23 rural village demonstration projects for consistency with the goals of  
24 section 1 of this act and RCW 36.70A.011;

25 (b) Provide pertinent information on the permitting and development  
26 of the rural village demonstration projects;

27 (c) Provide a project-specific analysis for each demonstration  
28 project looking at the effect of the rural village on the following:

29 (i) Rural population capacity including the impacts of the  
30 transfers from resource lands;

31 (ii) Land disturbance and impervious surfaces;

32 (iii) Water resources and watershed health; and

33 (iv) Wildlife habitat; and

34 (d) Recommend whether additional rural villages should be  
35 authorized and, if so, whether changes should be made to this section  
36 to foster the purposes of rural villages and rural lands as described  
37 in section 1 of this act, RCW 36.70A.011, and 36.70A.070(5).

1           (6) The authority of a county meeting the criteria of subsection  
2 (2) of this section to designate a rural village in its development  
3 regulations terminates on December 31, 2009. Any rural village  
4 designated under this authority shall be available for the approved  
5 uses as long as the rural village is in compliance with the conditions  
6 of approval adopted by the county.

7           (7) This section applies to counties that are located within the  
8 Puget Sound regional council's planning area.

9           (8) This section is intended to further the purposes of RCW  
10 36.70A.070(5)(c), and should in no way be interpreted to alter the  
11 requirements therein.

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