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## Local Government Committee

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### HB 1181

**Brief Description:** Improving the state's response to climate change by updating the state's planning framework.

**Sponsors:** Representatives Duerr, Fitzgibbon, Berry, Peterson, Ryu, Alvarado, Taylor, Reed, Walen, Bateman, Ramel, Goodman, Doglio, Macri, Callan, Simmons, Lekanoff, Gregerson, Bergquist, Stonier, Pollet, Davis, Kloba, Riccelli, Mena and Tharinger; by request of Office of the Governor.

#### Brief Summary of Bill

- Updates existing goals of the Growth Management Act (GMA) and adds a climate change and resiliency goal.
- Updates mandatory elements of the comprehensive plan to include various climate-related provisions.
- Adds a climate change and resiliency element to the list of elements that must be included within the comprehensive plans that certain counties and cities must adopt under the GMA.
- Requires certain counties and cities to address the adverse impacts of climate change on people, property, and ecological systems, and identify actions the jurisdiction will take to reduce greenhouse gas (GHG) emissions and vehicle miles traveled (VMT) under the climate change and resiliency element of their comprehensive plan.
- Specifies the process by which the GHG emissions reduction subelement of the climate change and resiliency element takes effect.
- Requires the Department of Commerce (Commerce), in consultation with other state agencies, to adopt guidance that creates a model climate change and resiliency element, and publish guidelines that specify a set of actions counties and cities have available to them to take related to

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GHG emissions reductions and per capita VMT.

- Requires Commerce to adopt guidance that creates a model climate change and resiliency element.
- Exempts certain actions related to the GHG emissions reductions element from appeals under the State Environmental Policy Act.
- Requires the Department of Transportation to annually publish a summary of per capita VMT.
- Requires the Department of Ecology to update its Shoreline Master Program guidelines to address the impact of sea level rise and increased storm severity.
- Adds consideration of climate change impacts to the list of elements that must be contained in optional comprehensive flood control management plans.

**Hearing Date:** 1/17/23

**Staff:** Elizabeth Allison (786-7129).

**Background:**

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes referred to as "fully planning" under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. Comprehensive plans must contain certain required elements, including a transportation element, land use element, utilities element, and capital facilities plan element, among others. In developing their comprehensive plans, counties and cities must consider various goals set forth in statute, including, for example, urban growth, housing, and economic development.

Growth Management Act-Comprehensive Plan Updates.

Counties and cities are required to review and, if needed, revise their comprehensive plans and development regulations every 10 years. Counties, and the cities within them, are grouped into

four different year classes for purposes of when the obligation to review and revise their comprehensive plans commences. The next round of required comprehensive plan updates begins with King, Kitsap, Snohomish, and Pierce counties, and the cities within those counties, in 2024.

#### Implementation Progress Report.

Counties and cities planning under the GMA that meet certain population criteria must provide the Department of Commerce (Commerce) with an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan. If a city or county has not implemented any specific actions identified in the most recent update to their comprehensive plan, the city or county must identify the need for such action in the implementation progress report. Cities and counties must adopt a work plan to implement any necessary regulations, zoning and land use changes, or take other legislative or administrative action identified in the implementation progress report and complete all work necessary for implementation within two years of submission of the implementation progress report.

#### Greenhouse Gas Emissions and Per Capita Vehicle Miles Traveled Reductions.

Washington first enacted legislation in 2008 that set a series of limits on the emission of greenhouse gases within the state. Those limits were modified by legislation enacted in 2020, such that Washington must limit anthropogenic emissions of greenhouse gases to achieve the following reductions for the state:

- by 2020, reduce overall emissions of greenhouse gases in the state to 1990 levels, or 90.5 million metric tons;
- by 2030, reduce greenhouse gas emissions to 45 percent below 1990 levels, or 50 million metric tons;
- by 2040, reduce overall emissions of greenhouse gases in the state to 70 percent below 1990 levels, or 27 million metric tons; and
- by 2050, reduce overall emissions of greenhouse gases in the state to 95 percent below 1990 levels, or 5 million metric tons, and achieve net-zero greenhouse gas emissions.

The legislation enacted in 2008 also required the Department of Transportation (DOT) to adopt statewide goals to reduce annual per capita vehicle miles traveled (VMT) by 2050. Using a statewide baseline of 75 billion VMT, Washington must achieve the following reductions for the state:

- by 2020, reduce the annual per capita VMT by 18 percent;
- by 2035, reduce the annual per capita VMT by 30 percent; and
- by 2050, reduce the annual per capita VMT by 50 percent.

#### Environmental Justice.

Legislation enacted in 2021 defined environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with the respect to the development, implementation, and enforcement of environmental laws, rules, and polices. Environmental justice includes addressing disproportionate environmental and health impacts in

all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm.

#### State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land-use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that the SEPA checklist process identifies as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an Environmental Impact Statement.

#### Comprehensive Flood Control Management Plans.

Counties may adopt comprehensive flood control management plans for any drainage basin that is located wholly or partially within the county. Whenever any river flows through two counties, the counties may contract with each other for purposes of flood control and settling disputes regarding flood control.

#### Shoreline Management Program.

The Shoreline Management Act (SMA) involves a cooperative regulatory approach between local governments and the state. The Department of Ecology and local governments are authorized to adopt necessary and appropriate rules for implementing the provisions of the SMA. At the local level, SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt master programs that regulate land-use activities in shoreline areas.

#### Technical Assistance.

Commerce is required to assist cities and counties, both with funding and with technical assistance, in the adoption of comprehensive plans. Commerce's assistance program must include a priority list for funding and technical assistance based on a county's or city's growth rate, commercial and industrial development rate, and the existence and quality of a comprehensive plan, among other factors. Commerce is also required to administer a grant program to provide direct financial assistance to local governments for the preparation of comprehensive plans. Other technical assistance required includes utilizing the Commerce's staff and the staff of other agencies to assist in the development of comprehensive plans, including the provision of model land use ordinances, the adoption of procedural criteria, and regional education and training programs.

### **Summary of Bill:**

#### Goals of the Growth Management Act.

The goals of the Growth Management Act (GMA) must guide development of regional policies,

plans, and strategies in addition to comprehensive plans and development regulations. Goals are amended as follows.

*Transportation.*

The transportation goal must encourage efficient multimodal transportation systems that will reduce greenhouse gas (GHG) emissions and per capita vehicle miles traveled (VMT).

*Open Space and Recreation.*

The open space and recreation goal must retain green space and enhance fish and wildlife habitat.

*Citizen Participation and Coordination.*

The citizen participation and coordination goal must encourage the participation of vulnerable populations and overburdened communities in the planning process.

*Climate Change and Resiliency.*

The issue of climate change is added as a goal of the GMA. Under the climate change goal, comprehensive plans, development regulations, and regional plans must support state GHG emissions reduction goals and per capita VMT and foster resiliency to climate impacts and natural hazards, among other requirements.

Applicability.

The requirements of the GHG emissions reduction subelement of the climate change and resiliency element apply only to those counties that are required or that choose to plan fully under the GMA, and the cities within them with a population greater than 6,000, that meet either of the following criteria as of April 1, 2021:

- a county with a population of at least 100,000; or
- a county with a population density of at least 75 people per square mile and an annual growth rate of at least 1.75 percent.

Once a county meets either of the sets of criteria described above, the requirement to conform with the GHG emissions reduction subelement of the climate change and resiliency element remains in effect, even if the county no longer meets one of these sets of criteria.

The resiliency subelement is mandatory for all counties and cities fully planning under the GMA and is encouraged for all other jurisdictions.

If the population of a county that previously had not been required to conform with the GHG emissions reduction subelement of the climate change and resiliency element changes such that the county meets either of the sets of criteria described above, the county, and the cities within that county, must adopt a GHG emissions reduction subelement at the next scheduled update of the comprehensive plan.

The requirements of the amendments to the transportation element of comprehensive plans apply

to the counties and cities that are required to comply with the GHG emissions reduction subelement, as well as all cities planning fully under the GMA that have a population greater than 6,000.

The requirements of the amendments to the land use element of comprehensive plans apply to all counties and cities that meet the population criteria for the GHG emissions reduction subelement and counties that have a population of 20,000 or greater as of April 21, 2021, and that are required or choose to plan under the GMA.

Population criteria must be based on data as determined by the Office of Financial Management.

#### Growth Management Act-Elements of Comprehensive Plans.

The land use element of comprehensive plans must include green spaces in its designation of the proposed general distribution and extent of the uses of land. It must give special consideration to achieving environmental justice in its goals and policies. In addition, the land use element must avoid creating or worsening environmental health disparities and reduce per capita VMT without increasing GHG emissions elsewhere in the state. The land use element must also reduce and mitigate the risk to lives and property posed by wildfires by using land use planning tools, which may include reducing residential development pressure in the wildland urban interface area, creating open space buffers between human development and wildfire prone landscapes, and protecting existing residential development.

The inventory of existing capital facilities owned by public entities within the capital facilities plan element must include green infrastructure.

The utilities element must include components of drinking water, stormwater, wastewater, electrical, telecommunications, and natural gas systems.

The forecasts of traffic demand contained within the transportation element of comprehensive plans must address forecasts of multimodal transportation demands and needs within cities and urban growth areas and forecasts of traffic demands and needs outside of cities and urban growth areas, to inform the development of a transportation element that balances transportation system safety and convenience to accommodate all users of the transportation system to safely, reliably, and efficiently provide access and mobility to people and goods. The facilities and services needs under this element must include an inventory of active transportation facilities and level of service standards for all locally owned arterials, locally and regionally operated transit routes that serve urban growth areas, state-owned or operated transit routes that serve urban areas, and active transportation facilities. A development approval may not be denied because it fails to meet traffic level of service standards if it is possible to provide for the transportation needs of a development through pedestrian and bicycle facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, or other transportation systems management strategies funded by the development.

#### Growth Management Act-Climate Change and Resiliency Element.

Comprehensive plans must include a climate change and resiliency element. The element must be designed to result in reductions in overall GHG emissions and must enhance resiliency to, and avoid the adverse impacts of, climate change, which must include efforts to reduce localized GHG emissions and avoid creating or worsening localized climate impacts to vulnerable populations and overburdened communities. The climate change and resiliency element is divided into two subelements: a GHG emissions reduction subelement and a resiliency subelement.

The GHG emissions reduction subelement of the comprehensive plan, and its related development regulations, must identify the actions the jurisdiction will take during the planning cycle, consistent with the guidelines published by the Department of Commerce (Commerce), that will:

- result in reductions in overall GHG emissions generated by the transportation and land use systems within the jurisdiction, but without increasing emissions elsewhere in the state;
- result in reductions in per capita VMT within the jurisdiction but without increasing emissions elsewhere in the state; and
- prioritize reductions in overburdened communities in order to maximize the cobenefits of reduced air pollution and environmental justice.

Actions not specifically identified in the guidelines developed by Commerce may be considered to be consistent with those guidelines only if they are projected to achieve GHG emissions reductions or per capita VMT reductions equivalent to what would be required of the jurisdiction under Commerce's guidelines, and they are supported by scientifically credible projections.

A jurisdiction may not restrict population growth or limit population allocation in order to achieve the requirements of the GHG emissions reduction subelement.

The resiliency subelement must, among other things, equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change in human communities and ecological systems through goals, policies, and programs consistent with the best available science and scientifically credible climate projections and impact scenarios.

A natural hazard mitigation plan, or similar plan that complies with the applicable requirements of the GMA and prioritizes actions in overburdened communities, may be adopted by reference to satisfy those requirements. If any of the substantive requirements of the resiliency subelement are not addressed in the natural hazard mitigation plan, a jurisdiction must supplement the plan so that the adopted resiliency subelement fully complies with the substantive requirements.

If a county or city intends to incorporate by reference a Federal Emergency Management Agency natural hazard mitigation plan in order to meet the requirement of the resiliency subelement, and the most recently adopted natural hazard mitigation plan does not comply with the requirements of the resiliency subelement, Commerce may grant the county or city an extension of time in which to submit a natural hazard mitigation plan.

For jurisdictions that must adopt GHG emissions reduction and resiliency subelements, updates to comprehensive plans and related development regulations made during the update cycle that begins in 2025 must adopt measures identified by Commerce that are likely to result in reductions to GHG emissions and per capita VMT.

Ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city for the GHG emissions reduction subelement, or measures adopted by Commerce as part of updated comprehensive plans in the 2024 update cycle, are not subject to administrative or judicial appeal under the State Environmental Policy Act (SEPA).

Greenhouse Gas Emissions Reduction and Vehicle Miles Traveled Reduction Guidelines.

Commerce, in consultation with the Department of Ecology (Ecology), the Department of Health, and the Department of Transportation (DOT), must publish guidelines that specify a set of measures that counties and cities have available to them to take through updates to their comprehensive plans and development regulations that have a demonstrated ability to increase housing capacity within urban growth areas or reduce GHG emissions, allowing for consideration of the emissions reductions achieved through the adoption of statewide programs. The guidelines must prioritize reductions in overburdened communities that have experienced disproportionate harm due to air pollution. The guidelines must be developed using an environmental justice assessment and must include environmental justice assessment processes.

Commerce, in consultation with the DOT, must also publish guidelines that specify a set of measures that counties and cities have available to them to take through updates to their comprehensive plans and development regulations that have a demonstrated ability to reduce per capita VMT. The measures must be designed to be achievable throughout the state, including in small cities and rural cities.

Commerce must publish the full set of GHG emissions reduction and VMT reduction guidelines no later than December 31, 2025. Commerce must update the guidelines at least every four years based on the most recently available data, and must provide a process for local governments and other interested parties to submit alternative actions for possible inclusion into the guidelines at least once per year. Commerce must publish an intermediate set of guidelines no later than December 31, 2022, for use by local governments whose comprehensive plan updates are required to occur prior to December 31, 2025.

In any updates to the guidelines published after 2025, Commerce must include an evaluation of the impact that locally adopted climate change and resiliency elements have had on local GHG emissions and per capita VMT reduction goals. The updates must also include an estimate of the impacts that locally adopted climate change and resiliency elements will have on achieving local GHG emissions and per capita VMT reduction goals. The estimate and evaluation must also include an estimate of the impact that locally adopted greenhouse gas emissions reduction subelements will have on zoned housing capacity. Commerce may also include additional measures that cities and counties should take to make additional progress on local reduction



goals.

Commerce may not propose or adopt any guidelines directing local governments to regulate tax transportation service providers, delivery vehicles, or passenger vehicles.

In developing the guidelines, Commerce must provide and prioritize options that support housing diversity and assist counties and cities in meeting GHG emissions reduction and other requirements.

Greenhouse Gas Emissions Reduction-Process for Adoption.

A county or city required to complete the GHG emissions reduction subelement may submit the subelement to Commerce for approval, and it becomes effective when approved by Commerce. If a county or city does not seek Commerce's approval of the subelement, the effective date of the subelement is the date on which the comprehensive plan is adopted by the county or city.

Upon receipt of a proposed GHG emissions reduction subelement, Commerce must first provide notice and an opportunity for comment to all persons, groups, and agencies that have requested in writing notice of the proposed subelement. The comment period must be at least 30 days. Commerce may, at its discretion, conduct a public hearing in the jurisdiction proposing the subelement.

Within 15 days of the close of the comment period, Commerce must ask the local government to address the comments raised during the comment period and provide a written response as to how the proposal addresses the identified issues. Within 30 days of receiving the local government's response, Commerce must make written findings and conclusions regarding the consistency of the proposal with the requirements of the GMA and the applicable guidelines adopted by Commerce, and provide a response to the issues identified during the comment period.

Commerce must either approve the GHG emissions reduction subelement as submitted, recommend specific changes, or deny the subelement in those instances in which no alteration of the GHG emissions reduction subelement appears likely to be consistent with the policy of the GMA and the applicable guidelines.

If Commerce recommends changes to the proposed GHG emissions reduction subelement, Commerce must require that the local government either agree to the proposed changes or submit an alternative GHG emissions reduction subelement. Commerce must approve a proposed GHG emissions reduction subelement unless it determines the proposed subelement is not consistent with the policy of the GMA or the applicable guidelines.

A GHG emissions reduction subelement takes effect once approved by Commerce. Commerce must maintain a record of each GHG emissions reduction subelement, the action taken on any proposed GHG emissions reduction subelement, and any appeal of Commerce's action. Commerce's approved document of record constitutes the official GHG emissions reduction

subelement.

Greenhouse Gas Emissions Reduction-Appeals.

Commerce's final decision to approve or reject a proposed GHG emissions reduction subelement or amendment may be appealed to the Growth Management Hearings Board (GMHB). The GMHB's decision concerning an appeal of Commerce's final decision to approve or reject a proposed GHG emissions reduction subelement or amendment must be based solely on whether the adopted or amended GHG emissions reduction subelement complies with the GMA's climate change goal, the guidelines adopted by Commerce related to GHG emissions reductions and VMT reductions, or SEPA.

Technical Assistance.

Priority for technical assistance shall also be based on the presence of overburdened communities. Commerce must establish funding levels for grants to community-based organizations for the specific purpose of advancing participation of vulnerable populations and overburdened communities in the planning process.

Model Climate Change and Resiliency Element.

Commerce must develop, in collaboration with the departments of Ecology, Fish and Wildlife, Natural Resources, and Health, the Emergency Management Division of the Washington Military Department, and any federally recognized tribe that chooses to participate, and adopt by rule, a model climate change and resiliency element that may be used by counties, cities, and multiple-county planning regions for developing and implementing climate change and resiliency plans and policies.

The model element must establish minimum requirements for fulfilling the requirements of the climate change and resiliency element, and should provide guidance on identifying, designing, and investing in infrastructure that supports community resilience to climate impacts. The model element should provide guidance on identifying and addressing natural hazards created or aggravated by climate change. The rule must recognize and promote as many cobenefits of climate resilience as possible, such as climate change mitigation, salmon recovery, forest health, ecosystem services, and socioeconomic health and resilience.

Compilation of Vehicles Miles Traveled.

The DOT must compile, maintain, and publish a summary of the per capita VMT annually in each city in the state, and in the unincorporated portions of each county in the state.

Shoreline Master Program Guidelines.

Ecology must update its Shoreline Master Program guidelines to require Shoreline Master Programs to address the impact of sea level rise and increased storm severity on people, property, shoreline natural resources, and the environment.

Comprehensive Flood Control Management Plan.

A comprehensive flood control management plan, if a county chooses to adopt one, must include

a consideration of climate change impacts, including the impact of sea level rise and increased storm severity on people, property, natural resources, and the environment.

State Environmental Policy Act-Appeals.

The adoption of ordinances, amendments to comprehensive plans, and other related nonproject actions taken by a county or city to implement the guidelines published by Commerce are not subject to appeal under SEPA.

Growth Management Act-Definitions.

Per capita VMT, active transportation, transportation system, environmental justice, active transportation facilities, greenspace, and green infrastructure are defined.

Funding.

The obligation of local governments to comply with the requirements established in the amendments to the requirements of comprehensive plans under the GMA and the updated Shoreline Master Program guidelines adopted by Ecology is contingent on the provision of state funding to local governments for the specific purpose of complying with these requirements.

The obligation of local governments to comply with these requirements takes effect two years after the date the Legislature appropriates state funding to local governments for the purpose of complying with these requirements.

Implementation Progress Report.

Counties or cities required to include a climate change and resiliency element in their comprehensive plans, and that must review or revise their comprehensive plan by December 31, 2024, must incorporate the climate change and resiliency element into their comprehensive plans as part of the first implementation progress report.

**Appropriation:** None.

**Fiscal Note:** Requested on January 13, 2023.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.