

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SUBSTITUTE SENATE BILL 5659

Chapter 24, Laws of 2003

(partial veto)

58th Legislature
2003 1st Special Session

LOCAL GOVERNMENTS--ADDITIONAL FUNDING SOURCES

EFFECTIVE DATE: 7/1/03

Passed by the Senate June 10, 2003
YEAS 36 NAYS 9

BRAD OWEN

President of the Senate

Passed by the House June 10, 2003
YEAS 52 NAYS 40

FRANK CHOPP

Speaker of the House of Representatives

Approved June 20, 2003, with the
exception of sections 3 and 5, which
are vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
**SECOND ENGROSSED SUBSTITUTE SENATE
BILL 5659** as passed by the Senate
and the House of Representatives
on the dates hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

June 20, 2003 - 3:41 p.m.

**Secretary of State
State of Washington**

SECOND ENGROSSED SUBSTITUTE SENATE BILL 5659

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 1st Special Session

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Winsley, Kastama, Oke, Franklin, Swecker, Rasmussen, Regala and Kohl-Welles)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to authorizing additional funding for local
2 governments; amending RCW 36.70A.130, 84.55.050, and 36.70A.040; adding
3 a new section to chapter 82.14 RCW; creating a new section; providing
4 an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that local governments
7 in the state of Washington face enormous challenges in the area of
8 criminal justice and public health. It is the legislature's intent to
9 allow general local governments to raise revenues in order to better
10 protect the health and safety of Washington state and its residents.
11 It is further the intent of the legislature to provide such local
12 governments relief from regulatory burdens that do not harm the public
13 health and safety of the citizens of the state as a means of minimizing
14 the need to generate new revenues authorized under this act.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.14 RCW
16 to read as follows:

17 (1) A county legislative authority may submit an authorizing
18 proposition to the county voters at a primary or general election and,

1 if the proposition is approved by a majority of persons voting, impose
2 a sales and use tax in accordance with the terms of this chapter. The
3 title of each ballot measure must clearly state the purposes for which
4 the proposed sales and use tax will be used. Funds raised under this
5 tax shall not supplant existing funds used for these purposes. The
6 rate of tax under this section shall not exceed three-tenths of one
7 percent of the selling price in the case of a sales tax, or value of
8 the article used, in the case of a use tax.

9 (2) The tax authorized in this section is in addition to any other
10 taxes authorized by law and shall be collected from those persons who
11 are taxable by the state under chapters 82.08 and 82.12 RCW upon the
12 occurrence of any taxable event within the county.

13 (3) The retail sale or use of motor vehicles, and the lease of
14 motor vehicles for up to the first thirty-six months of the lease, are
15 exempt from tax imposed under this section.

16 (4) One-third of all money received under this section shall be
17 used solely for criminal justice purposes. For the purposes of this
18 subsection, "criminal justice purposes" means additional police
19 protection, mitigation of congested court systems, or relief of
20 overcrowded jails or other local correctional facilities.

21 (5) Money received under this section shall be shared between the
22 county and the cities as follows: Sixty percent shall be retained by
23 the county and forty percent shall be distributed on a per capita basis
24 to cities in the county.

25 ***Sec. 3. RCW 36.70A.130 and 2002 c 320 s 1 are each amended to read**
26 **as follows:**

27 **(1)(a) Each comprehensive land use plan and development regulations**
28 **shall be subject to continuing review and evaluation by the county or**
29 **city that adopted them. A county or city shall take legislative action**
30 **to review and, if needed, revise its comprehensive land use plan and**
31 **development regulations to ensure the plan and regulations comply with**
32 **the requirements of this chapter according to the time periods**
33 **specified in subsection (4) of this section. A county or city not**
34 **planning under RCW 36.70A.040 shall take action to review and, if**
35 **needed, revise its policies and development regulations regarding**
36 **critical areas and natural resource lands adopted according to this**
37 **chapter to ensure these policies and regulations comply with the**

1 requirements of this chapter according to the time periods specified in
2 subsection (4) of this section. Legislative action means the adoption
3 of a resolution or ordinance following notice and a public hearing
4 indicating at a minimum, a finding that a review and evaluation has
5 occurred and identifying the revisions made, or that a revision was not
6 needed and the reasons therefore. The review and evaluation required
7 by this subsection may be combined with the review required by
8 subsection (3) of this section. The review and evaluation required by
9 this subsection shall include, but is not limited to, consideration of
10 critical area ordinances and, if planning under RCW 36.70A.040, an
11 analysis of the population allocated to a city or county from the most
12 recent ten-year population forecast by the office of financial
13 management.

14 (b) Any amendment of or revision to a comprehensive land use plan
15 shall conform to this chapter. Any amendment of or revision to
16 development regulations shall be consistent with and implement the
17 comprehensive plan.

18 (2)(a) Each county and city shall establish and broadly disseminate
19 to the public a public participation program consistent with RCW
20 36.70A.035 and 36.70A.140 that identifies procedures and schedules
21 whereby updates, proposed amendments, or revisions of the comprehensive
22 plan are considered by the governing body of the county or city no more
23 frequently than once every year. "Updates" means to review and revise,
24 if needed, according to subsection (1) of this section, and the time
25 periods specified in subsection (4) of this section. Amendments may be
26 considered more frequently than once per year under the following
27 circumstances:

28 (i) The initial adoption of a subarea plan that does not modify the
29 comprehensive plan policies and designations applicable to the subarea;

30 (ii) The adoption or amendment of a shoreline master program under
31 the procedures set forth in chapter 90.58 RCW; and

32 (iii) The amendment of the capital facilities element of a
33 comprehensive plan that occurs concurrently with the adoption or
34 amendment of a county or city budget.

35 (b) Except as otherwise provided in (a) of this subsection, all
36 proposals shall be considered by the governing body concurrently so the
37 cumulative effect of the various proposals can be ascertained.
38 However, after appropriate public participation a county or city may

1 adopt amendments or revisions to its comprehensive plan that conform
2 with this chapter whenever an emergency exists or to resolve an appeal
3 of a comprehensive plan filed with a growth management hearings board
4 or with the court.

5 (3) Each county that designates urban growth areas under RCW
6 36.70A.110 shall review, at least every ten years, its designated urban
7 growth area or areas, and the densities permitted within both the
8 incorporated and unincorporated portions of each urban growth area. In
9 conjunction with this review by the county, each city located within an
10 urban growth area shall review the densities permitted within its
11 boundaries, and the extent to which the urban growth occurring within
12 the county has located within each city and the unincorporated portions
13 of the urban growth areas. The county comprehensive plan designating
14 urban growth areas, and the densities permitted in the urban growth
15 areas by the comprehensive plans of the county and each city located
16 within the urban growth areas, shall be revised to accommodate the
17 urban growth projected to occur in the county for the succeeding
18 twenty-year period. The review required by this subsection may be
19 combined with the review and evaluation required by RCW 36.70A.215.

20 (4) The department shall establish a schedule for counties and
21 cities to take action to review and, if needed, revise their
22 comprehensive plans and development regulations to ensure the plan and
23 regulations comply with the requirements of this chapter. The schedule
24 established by the department shall provide for the reviews and
25 evaluations to be completed as follows:

26 (a) On or before December 1, 2004, and every seven years
27 thereafter, for ((Clallam₇)) Clark, ((Jefferson₇)) King, Kitsap,
28 Pierce, Snohomish, Thurston, and Whatcom counties and the cities within
29 those counties;

30 (b) On or before December 1, 2005, and every seven years
31 thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit,
32 Clallam, Jefferson, and Skamania counties and the cities within those
33 counties;

34 (c) On or before December 1, 2006, and every seven years
35 thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and
36 Yakima counties and the cities within those counties; and

37 (d) On or before December 1, 2007, and every seven years
38 thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield,

1 Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille,
2 Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities
3 within those counties.

4 (5)(a) Nothing in this section precludes a county or city from
5 conducting the review and evaluation required by this section before
6 the time limits established in subsection (4) of this section.
7 Counties and cities may begin this process early and may be eligible
8 for grants from the department, subject to available funding, if they
9 elect to do so.

10 (b) State agencies are encouraged to provide technical assistance
11 to the counties and cities in the review of critical area ordinances,
12 comprehensive plans, and development regulations.

13 (6) A county or city subject to the time periods in subsection
14 (4)(a) of this section that, pursuant to an ordinance adopted by the
15 county or city establishing a schedule for periodic review of its
16 comprehensive plan and development regulations, has conducted a review
17 and evaluation of its comprehensive plan and development regulations
18 and, on or after January 1, 2001, has taken action in response to that
19 review and evaluation shall be deemed to have conducted the first
20 review required by subsection (4)(a) of this section. Subsequent
21 review and evaluation by the county or city of its comprehensive plan
22 and development regulations shall be conducted in accordance with the
23 time periods established under subsection (4)(a) of this section.

24 (7) The requirements imposed on counties and cities under this
25 section shall be considered "requirements of this chapter" under the
26 terms of RCW 36.70A.040(1). Only those counties and cities in
27 compliance with the schedules in this section shall have the requisite
28 authority to receive grants, loans, pledges, or financial guarantees
29 from those accounts established in RCW 43.155.050 and 70.146.030. Only
30 those counties and cities in compliance with the schedules in this
31 section shall receive preference for grants or loans subject to the
32 provisions of RCW 43.17.250.

**Sec. 3 was vetoed. See message at end of chapter.*

33 **Sec. 4.** RCW 84.55.050 and 1989 c 287 s 1 are each amended to read
34 as follows:

35 (1) Subject to any otherwise applicable statutory dollar rate
36 limitations, regular property taxes may be levied by or for a taxing
37 district in an amount exceeding the limitations provided for in this

1 chapter if such levy is authorized by a proposition approved by a
2 majority of the voters of the taxing district voting on the proposition
3 at a general election held within the district or at a special election
4 within the taxing district called by the district for the purpose of
5 submitting such proposition to the voters. Any election held pursuant
6 to this section shall be held not more than twelve months prior to the
7 date on which the proposed levy is to be made, except as provided in
8 subsection (3)(b) of this section. The ballot of the proposition shall
9 state the dollar rate proposed and shall clearly state any conditions
10 which are applicable under subsection (3) of this section.

11 (2) After a levy authorized pursuant to this section is made, the
12 dollar amount of such levy shall be used for the purpose of computing
13 the limitations for subsequent levies provided for in this chapter,
14 except as provided in subsections (3) and (4) of this section.

15 (3) A proposition placed before the voters under this section may:

16 (a) Limit the period for which the increased levy is to be made;

17 (b) Subject to statutory dollar limitations in RCW 84.52.043,
18 authorize annual increases in levies for any county, city, or town for
19 multiple consecutive years, up to six consecutive years, during which
20 period each year's authorized maximum legal levy shall be used as the
21 base upon which an increased levy limit for the succeeding year is
22 computed, but the ballot proposition must state the dollar rate
23 proposed only for the first year of the consecutive years and must
24 state the limit factor, or a specified index to be used for determining
25 a limit factor, such as the consumer price index, which need not be the
26 same for all years, by which the regular tax levy for the district may
27 be increased in each of the subsequent consecutive years. Elections
28 for this purpose must be held at a primary or general election. The
29 title of each ballot measure must state the specific purposes for which
30 the proposed levy increase shall be used, and funds raised under this
31 levy shall not supplant existing funds used for these purposes;

32 (c) Limit the purpose for which the increased levy is to be made,
33 but if the limited purpose includes making redemption payments on
34 bonds, the period for which the increased levies are made shall not
35 exceed nine years;

36 ((+e)) (d) Set the levy at a rate less than the maximum rate
37 allowed for the district;

1 (e) Provide that the maximum allowable dollar amount of the final
2 annual levy of the period specified in the measure shall be used to
3 compute the limitations provided for in this chapter on levy increases
4 occurring after the expiration of the period; or

5 ~~((d))~~ (f) Include any combination of the conditions in this
6 subsection.

7 (4) Except as otherwise provided in an approved ballot measure
8 under this section, after the expiration of a limited period or the
9 satisfaction of a limited purpose, whichever comes first, subsequent
10 levies shall be computed as if:

11 (a) The limited proposition under subsection (3) of this section
12 had not been approved; and

13 (b) The taxing district had made levies at the maximum rates which
14 would otherwise have been allowed under this chapter during the years
15 levies were made under the limited proposition.

16 ***Sec. 5. RCW 36.70A.040 and 2000 c 36 s 1 are each amended to read**
17 **as follows:**

18 **(1)(a) Each county that has both a population of fifty thousand or**
19 **more and, until May 16, 1995, has had its population increase by more**
20 **than ten percent in the previous ten years or, on or after May 16,**
21 **1995, has had its population increase by more than seventeen percent in**
22 **the previous ten years, and the cities located within such county, and**
23 **any other county regardless of its population that has had its**
24 **population increase by more than twenty percent in the previous ten**
25 **years, and the cities located within such county, shall conform with**
26 **all of the requirements of this chapter. However, the county**
27 **legislative authority of such a county with a population of less than**
28 **fifty thousand population may adopt a resolution removing the county,**
29 **and the cities located within the county, from the requirements of**
30 **adopting comprehensive land use plans and development regulations under**
31 **this chapter if this resolution is adopted and filed with the**
32 **department by December 31, 1990, for counties initially meeting this**
33 **set of criteria, or within sixty days of the date the office of**
34 **financial management certifies that a county meets this set of criteria**
35 **under subsection ~~((5))~~ (6) of this section. For the purposes of this**
36 **subsection, a county not currently planning under this chapter is not**

1 required to include in its population count those persons confined in
2 a correctional facility under the jurisdiction of the department of
3 corrections that is located in the county.

4 (b) Once a county meets either of these sets of criteria and the
5 county has not removed itself from the requirement to plan under this
6 section pursuant to subsection (3) of this section, the requirement to
7 conform with all of the requirements of this chapter remains in effect,
8 even if the county no longer meets one of these sets of criteria.

9 (2) The county legislative authority of any county that does not
10 meet either of the sets of criteria established under subsection (1) of
11 this section may adopt a resolution indicating its intention to have
12 subsection (1) of this section apply to the county. Each city, located
13 in a county that chooses to plan under this subsection, shall conform
14 with all of the requirements of this chapter. Once such a resolution
15 has been adopted, the county and the cities located within the county
16 remain subject to all of the requirements of this chapter unless the
17 county removes itself from the requirement to plan under this section
18 pursuant to subsection (3) of this section.

19 (3) A county that meets the requirements of this subsection, and a
20 city located within the county, may be relieved from the requirement to
21 plan under this section.

22 (a) A county may be relieved from the planning requirement of this
23 section only if the county: (i) Has a population of less than ten
24 thousand; (ii) has a privately owned taxable land base of less than
25 twenty percent; and (iii) includes no more than one incorporated city.

26 (b) To be relieved from the planning requirement of this section,
27 a county shall adopt a resolution that removes the county and the city
28 from the requirement to plan and shall file the resolution with the
29 department. Removal shall be deemed to occur on the date the
30 resolution is filed with the department.

31 (4) Any county or city that is initially required to conform with
32 all of the requirements of this chapter under subsection (1) of this
33 section and has not removed itself under subsection (3) of this section
34 shall take actions under this chapter as follows: (a) The county
35 legislative authority shall adopt a county-wide planning policy under
36 RCW 36.70A.210; (b) the county and each city located within the county
37 shall designate critical areas, agricultural lands, forest lands, and
38 mineral resource lands, and adopt development regulations conserving

1 these designated agricultural lands, forest lands, and mineral resource
2 lands and protecting these designated critical areas, under RCW
3 36.70A.170 and 36.70A.060; (c) the county shall designate and take
4 other actions related to urban growth areas under RCW 36.70A.110; (d)
5 if the county has a population of fifty thousand or more, the county
6 and each city located within the county shall adopt a comprehensive
7 plan under this chapter and development regulations that are consistent
8 with and implement the comprehensive plan on or before July 1, 1994,
9 and if the county has a population of less than fifty thousand, the
10 county and each city located within the county shall adopt a
11 comprehensive plan under this chapter and development regulations that
12 are consistent with and implement the comprehensive plan by January 1,
13 1995, but if the governor makes written findings that a county with a
14 population of less than fifty thousand or a city located within such a
15 county is not making reasonable progress toward adopting a
16 comprehensive plan and development regulations the governor may reduce
17 this deadline for such actions to be taken by no more than one hundred
18 eighty days. Any county or city subject to this subsection may obtain
19 an additional six months before it is required to have adopted its
20 development regulations by submitting a letter notifying the department
21 of community, trade, and economic development of its need prior to the
22 deadline for adopting both a comprehensive plan and development
23 regulations.

24 ~~((4))~~ (5) Any county or city that is required to conform with all
25 the requirements of this chapter, as a result of the county legislative
26 authority adopting its resolution of intention under subsection (2) of
27 this section and the county has not removed itself pursuant to
28 subsection (3) of this section, shall take actions under this chapter
29 as follows: (a) The county legislative authority shall adopt a county-
30 wide planning policy under RCW 36.70A.210; (b) the county and each city
31 that is located within the county shall adopt development regulations
32 conserving agricultural lands, forest lands, and mineral resource lands
33 it designated under RCW 36.70A.060 within one year of the date the
34 county legislative authority adopts its resolution of intention; (c)
35 the county shall designate and take other actions related to urban
36 growth areas under RCW 36.70A.110; and (d) the county and each city
37 that is located within the county shall adopt a comprehensive plan and
38 development regulations that are consistent with and implement the

1 comprehensive plan not later than four years from the date the county
2 legislative authority adopts its resolution of intention, but a county
3 or city may obtain an additional six months before it is required to
4 have adopted its development regulations by submitting a letter
5 notifying the department of community, trade, and economic development
6 of its need prior to the deadline for adopting both a comprehensive
7 plan and development regulations.

8 ~~((5))~~ (6) If the office of financial management certifies that
9 the population of a county that previously had not been required to
10 plan under subsection (1) or (2) of this section has changed
11 sufficiently to meet either of the sets of criteria specified under
12 subsection (1) of this section, and where applicable, the county
13 legislative authority has not adopted a resolution removing the county
14 from these requirements as provided in subsection (1) of this section,
15 the county and each city within such county shall take actions under
16 this chapter as follows: (a) The county legislative authority shall
17 adopt a county-wide planning policy under RCW 36.70A.210; (b) the
18 county and each city located within the county shall adopt development
19 regulations under RCW 36.70A.060 conserving agricultural lands, forest
20 lands, and mineral resource lands it designated within one year of the
21 certification by the office of financial management; (c) the county
22 shall designate and take other actions related to urban growth areas
23 under RCW 36.70A.110; and (d) the county and each city located within
24 the county shall adopt a comprehensive land use plan and development
25 regulations that are consistent with and implement the comprehensive
26 plan within four years of the certification by the office of financial
27 management, but a county or city may obtain an additional six months
28 before it is required to have adopted its development regulations by
29 submitting a letter notifying the department of community, trade, and
30 economic development of its need prior to the deadline for adopting
31 both a comprehensive plan and development regulations.

32 ~~((6))~~ (7) A copy of each document that is required under this
33 section shall be submitted to the department at the time of its
34 adoption.

35 ~~((7))~~ (8) Cities and counties planning under this chapter must
36 amend the transportation element of the comprehensive plan to be in
37 compliance with this chapter and chapter 47.80 RCW no later than
38 December 31, 2000.

*Sec. 5 was vetoed. See message at end of chapter.

1 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2003.

5 NEW SECTION. **Sec. 7.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

 Passed by the Senate June 10, 2003.

 Passed by the House June 10, 2003.

 Approved by the Governor June 20, 2003, with the exception of
 certain items that were vetoed.

 Filed in Office of Secretary of State June 20, 2003.

 Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 3 and 5,
Second Engrossed Substitute Senate Bill No. 5659 entitled:

"AN ACT Relating to authorizing additional funding for local
governments;"

This bill responsibly addresses a growing problem in Washington State
- the gap between local government revenues and expenses. It
provides two different mechanisms for localities to deal with this
situation. Both approaches have a common feature; they allow the
taxes to take effect only if voters approve them.

However, two sections of the bill are unrelated to its title, "an act
relating to authorizing additional funding for local governments,"
which could jeopardize the constitutionality of the entire act.
Sections 3 and 5 amend the Growth Management Act (GMA). While I
realize that various jurisdictions have problems with GMA
implementation, any changes to GMA should only be undertaken after
careful consideration of relevant issues. It is also questionable
whether two counties should receive an extension of the timetable for
updating their comprehensive plans without clearer comparison to
other counties' problems in meeting their deadlines for such updates.

I hereby direct my staff to work with the Department of Community,
Trade and Economic Development and with concerned stakeholders over
the next five months on potential amendments to the GMA. The
deliberations should focus on how we can meet the goals of the GMA,
plan for economic development, and protect our environment, while
recognizing the difficult fiscal conditions facing so many local
governments. The stakeholders should include a representative group
of cities and counties, as well as the Association of Washington
Cities and the Washington State Association of Counties. It is my
intention that we bring to the 2004 Legislature a set of GMA
amendments that can be adopted with broad support.

For these reasons, I have vetoed sections 3 and 5 of Second Engrossed
Substitute Senate Bill No. 5659.

With the exception of sections 3 and 5, Second Engrossed Substitute
Senate Bill No. 5659 is approved."