



Washington State Legislature

Mr. Brian Bonlender, Director
Washington Department of Commerce
1011 Plum St SE
Olympia, WA 98501

April 5, 2018

Re: Input on "The Siting of School Facilities and the Growth Management Act, 2017 School Siting Law: Frequently Asked Questions"

Dear Director Bonlender:

The stakeholders involved in multiple years of negotiations that resulted in Chapter 129 Laws of 2017, and Chapter 32 Laws of 2017, Third Special Session have contacted us about Commerce's misinterpretation of the law. As the legislators who worked on this legislation for years, we object to the Department's attempt to restrict that which the Legislature negotiated to allow - the siting of schools outside of the urban growth area for dozens of schools districts throughout the state.

This statute, passed by the legislature and signed by the Governor, directs *counties, cities, and school districts* to make decisions inter-locally regarding the siting of schools. Nowhere in the legislation is there direction to the Department of Commerce to guide or influence these decisions. We understand that the Department often finds itself in a position to offer guidance where the Growth Management Act is related, but we think it is counterproductive in light of what is being offered.

Considering that the Department has taken it upon itself to provide guidance, the guidance should be limited to an accurate representation of the content of the statute and the context of the situation. The document itself indicates that "[t]he guidance is intended to provide basic information to city and county officials." Additionally, the title of the document indicates that it has been written to respond to frequently asked questions. However, the document clearly states Department of Commerce's opinion regarding the legislation and inserts extra policy suggestions in such a way as to dissuade school districts from taking advantage of this legislation.

The Guidelines, on page 3, section 4(b), "School District Action to Select the Site," includes language recommending that "the district include" policies that are not present in the legislation. All of the Department's suggestions may cause extra costly work for school districts. There was ample discussion of what should be required by schools through the years of negotiations, and the listed items are not in the law. Since the Department's thoughts are permissive, then there is no need to mention it in guidance so it can never be used against a school district in a lawsuit. We want school district funding to go for education, not defending lawsuits.

The Department has taken the position that neighboring properties “in general” cannot connect to the sewer line. This is simply not accurate under the statute. Any insinuation that other connections are not allowed is merely the opinion of the Department of Commerce.

With regard to private schools, we would recommend that the Department interpret the legislation broadly so that if there is no school district, then the provisions of the law can be met by an individual school on its own behalf.

Given these concerns, we recommend that the Department amend the guidance document to be limited simply to the requirements of the statute, without additional commentary.

Sincerely,



Senator Hans Zeiger
25th Legislative District



Representative Larry Springer
45th Legislative District



Senator Steve Conway
29th Legislative District



Representative David Taylor
15th Legislative District



Senator Shelly Short
9th Legislative District



Representative Bob McCaslin
4th Legislative District



Senator Randi Becker
2nd Legislative District

Cc: Ann Fritzel