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## Local Government & Housing Committee

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### HB 1490

**Brief Description:** Reducing greenhouse gas emissions through land use and transportation requirements.

**Sponsors:** Representatives Nelson, Pedersen, Goodman, Simpson, Upthegrove, Appleton, Dickerson, Lias, Morris, Roberts, White, Ormsby, McCoy and Miloscia.

#### Brief Summary of Bill

- Makes numerous land use and transportation planning changes to the Growth Management Act pertaining to reducing greenhouse gas emissions.
- Establishes an exemption to certain requirements of the State Environmental Policy Act (SEPA) for greenhouse gas emissions for qualifying project actions.
- Establishes new environmental fee provisions under the SEPA for cities and towns authorizing compact development in designated centers or participating in a regional transfer of development rights program.
- Specifies new surplus land requirements for regional transportation authorities.
- Removes time limitation provisions for sales and use taxes imposed by a transportation benefit district.
- Includes a December 1, 2011, effective date.

**Hearing Date:** 1/28/09

**Staff:** Ethan Moreno (786-7386)

#### **Background:**

##### Growth Management Act - Introduction.

The Growth Management Act (GMA or Act) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA

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establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the Act (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

The Department of Community, Trade, and Economic Development (DCTED) provides technical and financial assistance to jurisdictions that must implement requirements of the GMA.

### Comprehensive Land Use Plans, Development Regulations, and Selected Elements.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, including housing, and transportation, each of which is a subset of a comprehensive plan. Comprehensive plans must be coordinated and consistent with those of other counties and cities with which the county or city has common borders or related regional issues. The implementation of comprehensive plans occurs through development regulations mandated by the GMA.

The housing element of a comprehensive plan must ensure the vitality and character of established residential neighborhoods. Housing elements must include an inventory and analysis of existing and projected needs that identifies the number of housing units needed to manage projected growth, and a statement of goals, policies, and provisions for the preservation, improvement, and development of housing. Housing elements must also include provisions for existing and projected housing needs for all economic segments of the community.

The transportation element of a comprehensive plan must include sub-elements that address transportation mandates for forecasting, finance, coordination, and facilities and services needs. A provision of the sub-element for facilities and services needs requires planning jurisdictions to adopt level of service (LOS) standards for all locally-owned arterials and transit routes.

Planning jurisdictions must adopt and enforce ordinances prohibiting development approval if the proposed development will cause the LOS on a locally-owned transportation facility to decline below standards adopted in the transportation element. Exemptions to this "concurrency" prohibition may be made if improvements or strategies to accommodate development impacts are made concurrent with the development. These strategies may include:

- increased public transportation service;
- ride sharing programs;
- demand management; and
- other transportation systems management strategies.

"Concurrent with the development" means improvements or strategies that are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

Transportation elements may also include, in addition to improvements or strategies to accommodate the impacts of development authorized under the GMA, multimodal transportation improvements or strategies that are made concurrent with the development.

## Planning Goals.

The GMA establishes planning goals in a non-prioritized list that must be used exclusively for guiding the development and adoption of comprehensive plans and development regulations. Examples of planning goals include the following:

- Urban growth - Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner;
- Transportation - Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans;
- Housing - Encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities and housing types, and encourage the preservation of existing housing stock; and
- Environment - Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

## County-wide Planning Policies.

The legislative authority of each county that fully plans under the GMA must adopt a county-wide planning policy (CPP) in cooperation with the cities located wholly or partially within the county. A CPP is a written policy statement or statements used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted.

County-wide planning policies must include specified planning provisions. Examples include:

- policies to implement requirements for urban growth areas designated under the GMA;
- policies for county-wide transportation facilities and strategies; and
- policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution.

The governor may impose sanctions upon a planning jurisdiction that fails to adopt CPPs in conformity with the GMA.

## Growth Management Planning and Environmental Review Fund.

Established in 1995, the Growth Management Planning and Environmental Review Fund (PERF or fund) is a grant program that is administered by the DCTED. Under the program, a grant may be awarded to a planning jurisdiction to assist with the costs of preparing an environmental analysis under the State Environmental Policy Act that is integrated with qualifying land use planning actions or activities. To qualify for a grant, a county or city must meet requirements set forth in statute.

In awarding grants, the DCTED must give preference to proposals that include one or more specific elements. Examples of these elements include: financial participation by the private sector or a public/private partnering approach; and furtherance of important state objectives related to economic development, the protection of areas of statewide significance, and the siting of essential public facilities.

## Climate Change and the GMA.

Legislation adopted in 2008 (*i.e.*, ESSB 6580, enacted as ch. 289, Laws of 2008) charged the DCTED with submitting a climate change report to the Governor and the appropriate committees of the House of Representatives and the Senate by December 1, 2008. Among other requirements, the report was required to include:

- descriptions of actions counties and cities are taking to address climate change issues, and
- recommendations of changes, if any, to the GMA and other statutes that would enable state and local governments to address climate change issues and foreign oil dependence through land use and transportation planning processes.

The legislation directed DCTED to convene a 25-member climate change advisory policy committee comprised of legislators, a representative of the Governor's Office, elected representatives of counties and cities, and representatives of organizations meeting specified criteria. In accordance with ESSB 6580, the Land Use and Climate Change Advisory Committee completed their efforts in 2008.

## Regional Transportation Planning Organizations.

Legislation enacted in 1990 authorized the creation of regional transportation planning organizations (RTPOs). The RTPOs are formed through the voluntary association of local governments within a county or within geographically contiguous counties. The RTPOs have duties prescribed in statute, including preparing and updating regional transportation strategies, and certifying that transportation elements of comprehensive plans conform with specified requirements.

The RTPOs must also prepare and update a regional transportation plan (plan) that is consistent with certain provisions of the GMA. The plan must be developed in cooperation with the Department of Transportation, transportation providers, local governments, and other specified entities. All transportation projects, programs, and demand management measures within the region that have an impact upon regional facilities or services must be consistent with the plan and adopted regional growth and transportation strategies.

## State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify possible environmental impacts that may result from governmental decisions, including the issuance of permits or the adoption of or amendment to land use plans and regulations. Any governmental action may be conditioned or denied pursuant to the SEPA, provided the conditions or denials are based upon policies identified by the appropriate governmental authority and incorporated into formally designated regulations, plans, or codes.

Provisions of the SEPA generally require a project applicant to complete an environmental checklist. An environmental checklist includes questions about the potential environmental impacts of the proposal. This checklist is then reviewed by the lead agency (one agency identified as such and responsible for compliance with procedural requirements of the SEPA) to

determine whether the proposal is likely to have a significant adverse environmental impact. This process is referred to as making a threshold determination. The determination is made in a determination of significance (DS), a determination of nonsignificance (DNS), or a mitigated DNS (MDNS), which includes mitigation conditions for the project. A DS requires an environmental impact statement (EIS).

Local governments and state agencies must prepare an EIS for legislation and other major actions that significantly affect the quality of the environment. The EIS must include detailed information about the environmental impact of the proposed action, any adverse environmental effects that cannot be avoided if the proposal is implemented, and alternatives, including mitigation, to the proposed action.

Categorical exemptions from the EIS and other requirements for actions meeting specified criteria are provided in the SEPA. Categories of government actions that are not considered as potential major actions significantly affecting the quality of the environment are also defined in administrative rules.

Other exemptions to the SEPA requirements are provided in law. A "planned action" in a planning jurisdiction does not require a threshold determination or the preparation of an EIS. These actions, however, are subject to certain environmental review and mitigation measures provided in the SEPA.

A planned action is defined to mean one or more types of project action that meet certain criteria, including:

- being designated as planned actions by an adopted ordinance or resolution of a planning jurisdiction;
- having had the significant impacts adequately addressed in an EIS prepared in conjunction with: a comprehensive plan or subarea plan adopted under the GMA; or a fully contained community, a master planned resort, a master planned development, or a phased project; and
- being consistent with a comprehensive plan adopted under the GMA.

Planning jurisdictions must limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the local government. These jurisdictions may limit a planned action to a time period identified in the EIS or the ordinance or resolution, subject to statutory requirements.

#### Development Fees - Limits and Authority.

With some exemptions, counties, cities, towns, and other municipal corporation are prohibited from imposing any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. This prohibition, however, does not prohibit cities, towns, counties, or other municipal corporations from collecting reasonable permit fees, inspection fees, or preparing detailed statements required by the SEPA.

### Regional Transit Authorities.

In 1992 the Legislature authorized creation of regional transit authorities (RTA or authority) for the purpose of developing and operating high capacity transportation systems. An RTA may only consist of two or more contiguous counties, each having a population of 400,000 persons or more. A high capacity transportation system is an urban public transportation system that operates principally on exclusive rights-of-way and provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating mainly on general purpose roadways.

An RTA is governed by a board of representatives appointed by the county executive and confirmed by the legislative authority of each member county. Membership is proportioned among counties based on population. Established in 1993, Sound Transit is the only RTA formed in the state, with boundaries that include King, Pierce, and most of Snohomish counties.

### Transportation Benefit Districts.

A transportation benefit district (TBD or district) is a quasi-municipal corporation and independent taxing district. A county or city may establish one or more TBD within its jurisdiction to fund improvements to city streets, county roads, and state highways. The boundaries of a TBD may be less than city- or county-wide, and may be comprised of more than one city or county.

A TBD is governed by the legislative authority of the jurisdiction proposing to create it, or by a governance structure prescribed in an interlocal agreement among multiple jurisdictions. Port districts and transit districts may participate in the establishment of a TBD but may not initiate district formation.

Transportation benefit districts may implement the following revenue measures, all of which are subject to voter approval:

- border area motor vehicle fuel taxes;
- local option sales and use tax. This tax may be imposed for a period not to exceed 10 years, but doing so requires voter approval;
- local option annual vehicle fee of up to \$100 on vehicle license renewals, a portion of which may be imposed without voter approval in certain circumstances as noted below; and
- tolls (subject to approval by the Transportation Commission).

Transportation benefit districts may issue general obligation and revenue bonds, and also have authority to impose the selected development and vehicles fees without voter approval.

### Greenhouse Gas Emission Reduction Requirements/Benchmarks for Vehicle Miles Traveled.

For purposes of Washington state regulations of greenhouse gas emissions, "*greenhouse gas and gasses*" include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Legislation adopted in 2008 (*i.e.*, E2SHB 2815, enacted as ch. 14, Laws of 2008), established the following greenhouse gas emissions limitations for the state:

- by 2020, reduce overall greenhouse gases emissions in the state to 1990 levels;
- by 2035, reduce overall greenhouse gases emissions in the state to 25 percent below 1990 levels; and
- by 2050, the state will do its part to reach global climate stabilization levels by reducing overall emissions to 50 percent below 1990 levels, or 70 percent below the state's expected emissions that year.

E2SHB 2815 also established the following statewide benchmarks relating to number of annual vehicle miles traveled (VMT) in the state:

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

### **Summary of Bill:**

The GMA is amended to include numerous provisions pertaining to reducing greenhouse gas emissions.

### Planning Goals.

The environment goal of the GMA is amended to specify that part of the goal is to establish land use and transportation patterns that, at a minimum, achieve and support state and federal greenhouse gas emissions reductions requirements.

### Comprehensive Plans - Housing and Transportation Elements.

Locally adopted housing elements of counties and cities must include incentives and requirements to provide housing required by the housing element of the GMA. Locally adopted housing elements must also designate sufficient land for and encourage housing within walking, bicycling, or transit distance of employment concentrations that is affordable to persons employed within such concentrations. This land must be designated at densities that support transit services.

The level of service (LOS) standards that are included within locally-adopted transportation elements for locally owned arterials and transit routes must, in meeting regional transportation demands, consider all transportation modes. In adopting LOS standards, jurisdictions must also consider adopting such standards for bicycle and pedestrian routes.

Concurrency provisions for locally-adopted transportation elements are modified. Ordinances prohibiting development approval if the proposed development will cause the LOS on a locally-owned transportation facility to decline below adopted standards must consider multimodal improvements or strategies. Additionally, the list of multimodal transportation improvements or strategies that may be made concurrent with the development is expanded to include transit oriented development or other compact development strategies.

Regarding related definitions, "*compact development*" is defined as an area designated for mixed-use, higher density development patterns that encourage walking, bicycling, and plans for a multimodal network that may include transit services and facilities. "*Transit oriented development*" is defined as a type of compact development that provides compact, walkable communities with densities that support transit service and have convenient access to transit systems with frequent peak travel period service.

#### Comprehensive Plans and Development Regulations - Transit Oriented Development.

Numerous comprehensive plan and development regulations pertaining to transit oriented development are established. With some exceptions, comprehensive plans and development regulations must authorize transit oriented development within one-half mile of a major transit station, a term defined in the bill. The allowed net density for these transit oriented development areas must be 50 dwelling units per acre.

The adopted plans and regulations also must satisfy other requirements. Examples include:

- incorporating standards for streets, sidewalks, and buildings that encourage walking and bicycling, and a process to ensure that these standards are met;
- providing for a net gain in housing units that are affordable to low and moderate-income households;
- requiring one-for-one replacement of demolished or converted housing units that meet specified criteria;
- requiring affordability and location requirements for new housing or mixed-use developments;
- authorizing the waiving of minimum parking space requirements for any land use; and
- requiring developers to provide notice and relocation assistance to qualifying renters who will be displaced by development.

Counties and cities must report the number of affordable housing units created in accordance with comprehensive plan and development regulations pertaining to transit oriented development to the DCTED and the appropriate committees of the legislature by January 1, 2015. Subsequent reports to the DCTED and the legislature must be completed according to a specified recurring schedule.

#### Comprehensive Plans - Consistency with Regional Transportation Plans.

Comprehensive plan consistency requirements are modified. Comprehensive plans of cities and counties must be consistent with the regional transportation plans adopted by regional transportation planning organizations for the region within which the county or city is located.

#### County-wide Planning Policies.

New requirements for CPPs are specified. Adopted CPPs must include the following:



- policies for reducing greenhouse gas emissions that, at a minimum, support and achieve state greenhouse gas emissions limitations, per capita VMT reductions specified in state benchmarks, and applicable federal emission reduction requirements; and
- policies for reducing dependence on foreign oil.

#### Growth Management Planning and Environmental Review Fund.

Monies from the Growth Management Planning and Environmental Review Fund may be used for grants and loans. New criteria for the administration of the fund is specified. In awarding grants and loans from the fund, the DCTED must, in addition to other criteria, give preference to proposals that include furtherance of greenhouse gas emissions reduction requirements.

#### Technical Assistance Requirements for the DCTED.

New technical assistance requirements are specified for the DCTED. The technical assistance must include guidance that may be used by counties and cities for developing and implementing:

- multimodal transportation concurrency improvements and strategies; and
- programs that encourage, through developer incentives and other means, compact development in urban growth areas.

#### Regional Transportation Planning Organizations.

Regional transportation planning organizations encompassing:

- one county fully planning under the GMA with 100,000 or more residents; or
- two or more counties fully planning under the GMA, one of which has 100,000 or more residents, must ensure that the regional transportation plan for those counties implements the goals to reduce annual per capita VMT.

When completing biennial regional transportation plan reviews for currency, the RTPO must provide notice reasonably calculated to inform the public of the review, and opportunities for the public to comment on the review and plan adoption.

#### State Environmental Policy Act.

New provisions in the SEPA are established. A project action that is consistent with the applicable comprehensive plan and development regulations may not be challenged for noncompliance under SEPA with greenhouse gas emissions requirements if:

- the county, city, or town in which the project action is located has prepared an EIS for the area covered by the comprehensive plan or subarea plan that includes a greenhouse gas emissions analysis;
- the county, city, or town in which the project action is located has adopted a comprehensive plan or subarea plan and development regulations that meet certain requirements;
- the comprehensive plan and development regulations will reduce greenhouse gas emissions and per capita VMT;

- the project action complies with the definition of compact development; and
- the project action is located in an urban growth area and a center designated by the county, city, or town comprehensive plan.

New environmental fee provisions in the SEPA are established. Cities and towns authorizing compact development in designated centers or participating in a qualifying regional transfer of development rights program may impose environmental fees on development activity as part of the financing for environmental review under the SEPA. These environmental fees:

- may only be for a subarea plan for which the impacts of compact development have been addressed by the applicable city or town, or a regional transfer of development rights program receiving area for which the impacts of development within the receiving area have been addressed by the applicable city or town;
- may only be for environmental review costs that have been identified as reasonably related to the new development;
- may not exceed a proportionate share of the environmental review costs financed under the PERF, if any, or the costs of environmental review and holding costs that would have been borne by the development if no environmental review had occurred; and
- must be used to repay a loan authorized under the PERF, if applicable.

#### Regional Transit Authorities.

An RTA that owns surplus land located within one-half mile of a major transit station must provide qualifying public or nonprofit entities an opportunity of first offer to develop the land. For purposes of this requirement, a "*qualifying public or nonprofit entity*" is an entity that is eligible for assistance from the housing trust fund, will seek assistance from the housing trust fund for development of the land, and meets other financial and development requirements.

#### Transportation Benefit Districts.

Sales and use tax provisions for transportation benefit districts are modified. The sales and use tax may be imposed for more than 10 years without voter approval.

#### Transportation - High Capacity Transportation Systems.

The definition of high capacity transportation system in provisions governing high capacity transportation systems is amended to specify that the supporting services and facilities necessary to implement such a system include regional transit systems.

**Appropriation:** None.

**Fiscal Note:** Requested on December 1, 2011.

**Effective Date:** The bill takes effect on DATE.