

SENATE BILL REPORT

SB 6624

As Reported By Senate Committee On:
Land Use & Planning, February 5, 2004

Title: An act relating to accessory dwelling units in counties with populations of less than twenty thousand, one incorporated city, and growth rates in excess of thirty percent.

Brief Description: Authorizing accessory dwelling units under specified circumstances.

Sponsors: Senators Spanel and Roach.

Brief History:

Committee Activity: Land Use & Planning: 2/5/04 [DP, DNP].

SENATE COMMITTEE ON LAND USE & PLANNING

Majority Report: Do pass.

Signed by Senators Mulliken, Chair; Morton, Murray and T. Sheldon.

Minority Report: Do not pass.

Signed by Senator Kline.

Staff: Andrea McNamara (786-7483)

Background: Current law requires local governments planning under the Growth Management Act (GMA) to have incorporated into their development or zoning regulations, by 1994, recommendations from the Department of Community, Trade, and Economic Development (CTED) that are designed to encourage accessory apartments in areas zoned for single-family use.

The law requires accessory apartment provisions to be part of a local government's development regulation, zoning regulation, and official control. In order to allow for local flexibility, the CTED recommendations are subject to such regulations, conditions, procedures, and limitations, as determined by the local legislative authority.

In April 2003, the Western Washington Growth Management Hearings Board issued a decision invalidating a San Juan County ordinance that allows one principal residence and one internal, attached or detached accessory dwelling unit (ADU) on certain parcels of land. The board distinguished between detached ADUs and internal or attached ADUs, and it ruled that:

- Regulations allowing a freestanding ADU on a natural resource land parcel can be made to be consistent with the GMA only if the following conditions are met: (1) it is available for occupancy or rent on a long-term basis to family members or other workers employed by the property owner in resource production; (2) the regulations include specific locational standards that clearly do not allow interference with resource production; and (3) the freestanding ADU is counted as a dwelling unit for the purposes of calculating the appropriate density on a parcel of resource land; and

- Permitting internal and attached ADUs in resource lands is consistent with the GMA because, by the nature of their construction, internal and attached ADUs are unlikely to interfere with the production of the natural resource.

Both parties before the board appealed the decision to the Thurston County Superior Court on various grounds, and the outcome was mixed. Among other matters, the superior court affirmed the board's decision regarding attached ADUs and reversed the board's decision invalidating that portion of San Juan County's ordinance related to the siting of detached ADUs on resource lands.

Finally, the court stated that it was not reversing the board's decision with regard to counting freestanding ADUs as separate dwellings for purposes of calculating the appropriate density on resource lands.

Summary of Bill: The authority to approve the construction and use of one single-family residence and one accessory dwelling unit (ADU) for each parcel of land in designated rural and resource lands is granted to local governments that meet certain criteria. Counties with populations less than 20,000, with only one incorporated city, and growth rates in excess of the 30 percent over a ten-year period may use this authority. The city within a qualifying county may also use it.

Local governments authorizing the construction and use of ADUs under this provision must adopt regulations, procedures, and other limitations necessary to protect rural character, environmentally sensitive areas, and open space, and to conserve the capacity of resource lands for commercial resource production. ADUs are not to be considered separate dwelling units for density calculation purposes.

"Accessory dwelling unit" is defined to mean a structure or living unit that is accessory to a principal single-family residence, whether attached or detached, and that provides basic sleeping quarters, kitchen facilities, and sanitation.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Average housing prices in San Juan County are the highest in the state, and average income is the lowest. This bill would help with affordable housing opportunities. The county does have sufficient restrictions in place to protect the natural resource land and water resources. ADUs should not be included in density calculations because it is projected that, at most, only 10 percent of the parcels would have them.

Testimony Against: There are much better ways to address the issues of accessory dwellings and of affordable housing than this bill. It will create sprawl under the guise of affordable housing. The community is not in agreement that this is necessary or desirable despite the wishes of the county commissioners.

Testified: PRO: Sen. Harriet Spanel, prime sponsor; Rhea Miller, San Juan County Commissioner; CON: Roger Collier, Friends of the San Juans.