

FINAL BILL REPORT

ESHB 2984

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Synopsis as Enacted

Brief Description: Authorizing cities, towns, and counties to implement affordable housing incentive programs.

Sponsors: By House Committee on Local Government (originally sponsored by Representatives Springer, Jarrett, Simpson, Clibborn, B. Sullivan, Hasegawa, Sells, P. Sullivan, Moeller, Santos and Green).

House Committee on Local Government

Senate Committee on Financial Institutions, Housing & Consumer Protection

Background:

Growth Management Act

Enacted in 1990 and 1991, the Growth Management Act (GMA or Act) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA specifies numerous provisions for jurisdictions fully planning under the Act (planning jurisdictions) and establishes a reduced number of compliance requirements for all local governments.

Among other requirements, planning jurisdictions must adopt internally consistent comprehensive land use plans, which are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must satisfy requirements for specified planning elements, each of which is a subset of a comprehensive plan. Planning jurisdictions must also adopt development regulations that are consistent with and implement the comprehensive plan.

The GMA includes planning obligations relating to the use or development of land in urban and rural areas. Counties that comply with the major requirements of the GMA must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature.

Excise Taxes

Excise taxes are taxes imposed on certain types of real or tangible personal property in lieu of property taxes. Excise taxes generally refer to a specific type of transaction or privilege and are determined by the selling price or some other measure of sales.

The state preempts the imposition of specific excises taxes. Additionally, local governments may not impose direct or indirect taxes, fees, or charges on certain construction, development, and land division activities. However, state statute includes numerous provisions specifying that local governments are not prohibited by preemption requirements from authorizing certain locally-imposed fees and charges, including:

- impact fees;
- permit processing fees;
- utility system charges; and
- transportation benefit district fees or charges on building construction or land development.

Summary:

Affordable Housing Incentive Programs - General Provisions

Jurisdictions fully planning under the GMA may enact or expand affordable housing incentive programs (incentive programs) providing for the development of low-income housing units through development regulations. Incentive programs may include, but are not limited to, provisions pertaining to:

- density bonuses within the UGA;
- height and bulk bonuses;
- fee waivers or exemptions;
- parking reductions;
- expedited permitting, conditioned on the provision of low-income housing units; or
- mixed use projects.

Jurisdictions may enact or expand incentive programs whether or not the programs impose a tax, fee, or charge on the development or construction of property. If a developer chooses not to participate in an incentive program, a jurisdiction may not condition, deny, or delay the issuance of a qualifying permit or development approval, absent incentive provisions of the program.

Enacted or expanded incentive programs must satisfy numerous requirements, including:

- requiring incentives or bonuses to provide for the construction of low-income housing units;
- obligating jurisdictions to establish standards for low-income renter or owner occupancy housing, including guidelines that are consistent with local needs, to assist qualifying low-income households;
- requiring jurisdictions to establish, and allowing jurisdictions to adjust, a maximum rent level or sales price for low-income housing units developed under an incentive program;
- requiring low-income housing units to be provided in a range of sizes and to conform to more general provisions pertaining to numbers of bedrooms, distributions of units throughout buildings, and functionality;
- requiring low-income housing units developed under an incentive program to be committed to continuing affordability for no fewer than 50 years; and
- requiring measures to enforce continuing affordability and income standards for low-income units constructed under an incentive program.

Other requirements for enacted or expanded incentive programs are specified. Incentive programs may apply to all or part of a jurisdiction, and differing standards may be applied within a jurisdiction. Jurisdictions may modify incentive programs to meet local needs and

may include qualifying provisions or requirements not expressly authorized. Additionally, jurisdictions may accept payments in lieu of continuing affordability.

Low-income housing units are encouraged to be located within market-rate housing developments for which a bonus or incentive is provided. Incentive programs may allow units to be located in adjacent buildings and may allow payments of money or property in lieu of providing low-income housing units if the payment equals the approximate cost of developing the same number and quality of housing units that would otherwise be developed. Jurisdictions accepting these payments must use the funds or property to support the development of low-income housing, including support through loans or grants to public or private recipients.

Application of Incentive Programs

Enacted or expanded incentive programs may be applied within jurisdictions to address the need for increased residential development. The application of incentive programs must be consistent with local growth management and housing policies and must comply with specific requirements obligating jurisdictions to:

- identify certain land use designations within a geographic area where increased residential development will assist in achieving local growth management and housing policies;
- provide increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or incentives; and
- determine that increased residential development capacity or other incentives can be achieved within an identified area, subject to the consideration of other regulatory controls on development.

Additionally, jurisdictions may establish a minimum amount of affordable housing that must be provided by all residential developments constructed under revised regulations, subject to incentive program requirements.

Income Requirements

Low-income households are defined for renter and owner occupancy incentive program purposes as follows:

- Rental housing units must be affordable to and occupied by households with an income of no more than 50 percent of the county median family income, adjusted for family size.
- Owner occupancy housing units must be affordable to and occupied by households with an income of no more than 80 percent of the county median family income, adjusted for family size.

The legislative body of a jurisdiction may establish higher or lower income levels, subject to public hearing and other requirements. Legislatively-established higher income levels must be considered "low-income" for the purposes of incentive programs.

Excise Taxes

Nothing in specified excise tax preemption provisions limits the authority of counties, cities, or towns to implement qualifying incentive programs, nor to enforce agreements made pursuant to these programs.

Votes on Final Passage:

House	60	38	
Senate	47	0	(Senate amended)
House	58	39	(House concurred)

Effective: June 7, 2006