

# HOUSE BILL REPORT

## SHB 2673

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### As Passed Legislature

**Title:** An act relating to exemptions for infill development under the state environmental policy act.

**Brief Description:** Concerning exemptions for infill development under the state environmental policy act.

**Sponsors:** House Committee on Environment & Energy (originally sponsored by Representatives Barkis, Griffey, Gildon, Steele, Ybarra, Smith, Chambers, Boehnke, Hoff, Vick, Eslick, Volz, Graham, Jenkin, Klippert, Van Werven, Tharinger and Dufault).

**Brief History:**

**Committee Activity:**

Environment & Energy: 1/30/20, 2/4/20 [DPS].

**Floor Activity:**

Passed House: 2/17/20, 98-0.

Passed Senate: 3/3/20, 43-4.

Passed Legislature.

#### Brief Summary of Substitute Bill

- Changes the standard for what constitutes infill development to include development in areas where population is roughly equal to projections in a local government's Growth Management Act comprehensive plan and development regulations, rather than limiting it to areas where it is less than such projections.

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### HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; DeBolt, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke, Doglio, Fey, Goehner, Mead, Robinson and Shewmake.

**Staff:** Jacob Lipson (786-7196).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land-use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA (planning jurisdictions).

Counties that fully plan under the GMA must designate Urban Growth Areas (UGAs), areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

### State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land-use plans. Except for development projects that are exempt from SEPA requirements, the SEPA generally requires a project applicant to submit an environmental checklist. The checklist includes answers to questions about the potential impacts of the project on the built environment and the natural environment. Generally, an environmental impact statement (EIS) must be prepared for a proposal which the lead agency determines will have a probable significant and adverse impact on the environment.

### Infill Development.

Counties and cities that are planning jurisdictions under the GMA may establish a categorical exemption from SEPA requirements for government actions related to residential development, mixed-use development, and commercial development of up to 65,000 square feet, excluding retail development. The categorical exemption must be proposed to fill in an urban growth area designated under the GMA where the current density or intensity of use is lower than called for in the goals and policies of the comprehensive plan. The categorical exemption may not exempt government action related to development that is inconsistent with the applicable comprehensive plan or that would exceed the density or intensity of use called for in the comprehensive plan.

Cities and counties that adopt an infill development categorical exemption must consider the specific probable adverse environmental impacts of proposed actions and determine that specific impacts are adequately addressed by the development regulations or other applicable legal requirements.

The comprehensive plans of cities and counties that adopt an infill development categorical exemption must have previously been subjected to an EIS, or the city or county must prepare an EIS considering the proposed use or density and intensity of use proposed in the infill development categorical exemption.

### **Summary of Substitute Bill:**

Infill development is eligible for a city- or county-adopted exemption from the State Environmental Policy Act if the government action relates to development that occurs where current density and intensity of use is roughly equal to what is called for in a jurisdiction's comprehensive plan. The categorical exemption may not exempt government action related to development that is inconsistent with the applicable comprehensive plan or that would clearly exceed the density or intensity of use called for in the comprehensive plan.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

### **Staff Summary of Public Testimony:**

(In support) This bill is an attempt to get rid of redundancy. Once a local jurisdiction has gone through a State Environmental Policy Act (SEPA) review process for its comprehensive plans, developments that align with the plan should not also have to go through another environmental review process. Time is the enemy of development and progress. The SEPA can delay projects. Most types of infill development projects are projects that will bring desired community attributes, such as affordable housing. Infill development projects occur on already disturbed lands. This bill will make an existing SEPA tool more useful and impactful. Some communities use the SEPA in order to assess impact fees, and because this bill might deprive them of a source of revenue that they rely upon, a transition time might be warranted.

(Opposed) This bill will take discretion away from cities and counties as to whether SEPA review is warranted under particular circumstances. Urban development does still occur in environmentally sensitive areas near streams, wetlands, and other areas that support fish habitat. Tribes are always concerned about site-specific impacts, even when programmatic SEPA analysis has also been conducted. Just because tribes like affordable housing does not mean that we should forget that development projects have environmental impacts.

(Other) The SEPA is not done by all cities and counties in the same way: Some counties and cities consider every conceivable impact of projects that will later be authorized when doing SEPA review for upfront plans, while others do a more cursory environmental analysis on plans and a more thorough analysis on projects. This bill would require all cities and counties to invest in much more thorough upfront SEPA planning in a way that might not be efficient. This bill will limit the ability of jurisdictions to condition projects and obtain mitigation under the SEPA.

**Persons Testifying:** (In support) Representative Barkis, prime sponsor; Jan Himebaugh, Building Industry Association of Washington; Jacquelyn Styrna, Building Industry Association of Whatcom County; and Jeanette McKague, Washington REALTORS.

(Opposed) Dawn Vyvyan, Puyallup Tribe and Yakama Nation.

(Other) Dave Andersen, Washington Department of Commerce.

**Persons Signed In To Testify But Not Testifying:** None.