

SENATE BILL REPORT

E2SHB 1923

As of March 29, 2019

Title: An act relating to increasing urban residential building capacity.

Brief Description: Increasing urban residential building capacity.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Fitzgibbon, Macri, Appleton, Doglio, Dolan, Santos and Frame).

Brief History: Passed House: 3/13/19, 66-30.

Committee Activity: Housing Stability & Affordability: 3/27/19.

Brief Summary of Bill

- Encourages cities with a population of greater than 10,000, planning fully under the Growth Management Act, to take certain actions to increase residential building capacity and housing affordability and to make updates to the housing element of their comprehensive plan.
- Exempts from the requirements of the State Environmental Policy Act (SEPA) amendments to development regulations that are made to implement the residential building capacity and housing affordability elements of the act.
- Exempts certain project actions from appeals under SEPA on the basis of transportation impacts.

SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

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Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designations and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 29 counties, and the cities within those counties, that are fully planning under the GMA.

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.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. In developing their comprehensive plans, counties and cities must consider various goals set forth in statute. These goals include:

- urban growth—encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner;
- housing—encourage the availability of affordable housing to all economic segments of the population of Washington State, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock; and
- public facilities and services—ensure that those public facilities and services necessary to support development are adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

Counties that fully plan under the GMA must include a plan for different types of land use areas, including 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. In addition, cities must include sufficient areas to accommodate the broad range of needs and uses that will accompany the projected urban growth.

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. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that the SEPA-checklist process identifies as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an Environmental Impact Statement (EIS).

Projects which undergo a SEPA review may be required to mitigate significant adverse environmental impacts to receive approval from the government entity performing the SEPA analysis. Project proponents may also choose to mitigate environmental impacts identified in the environmental checklist to receive a determination that the project does not have significant environmental impacts, and therefore can avoid the process of completing an EIS for the project.

State Environmental Policy Act Subarea Plans. A city with a population greater than 5000 may adopt optional elements of its comprehensive plans and optional development regulations that apply within specified subareas of the cities that are either:

- areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or
- areas within 0.5 miles of a major transit stop that are zoned to have an average minimum density of 15 dwelling units or more per gross acre.

A city that elects to include subarea development elements into its comprehensive plan must prepare a nonproject EIS specifically for the subarea. At least one community meeting must be held before scoping the EIS. All property owners within the subarea and within 150 feet of the subarea must be notified of the community meeting. A person may appeal the adoption of the subarea or the implementing regulations if they meet the requirements for standing provided in the GMA.

In a large city with over 500,000 residents, community meeting notices must be mailed to all small businesses within the subarea and within 150 feet of the subarea. A large city must also analyze whether the subarea plan will result in the displacement or fragmentation of businesses, existing residents, or cultural groups. The analysis must be discussed at the community meeting and incorporated in the nonproject EIS.

Until July 1, 2018, project-specific developments cannot be appealed as long as they are within the scope of the EIS and the development application is vested within a timeframe established by the city not to exceed 10 years from the adoption of the final EIS. After July 1, 2018, project specific developments cannot be appealed as long as they are within the scope of the EIS, the final EIS is issued by July 1, 2018, and the development application is vested.

State Environmental Policy Act Categorical Exemptions. Under SEPA, certain nonproject actions are categorically exempted from the requirements of SEPA. Examples of categorically exempt nonproject actions include certain amendments to development regulations and certain amendments to technical codes.

State Environmental Policy Act Categorical Exemptions Infill Development. Counties and cities planning fully under GMA may establish categorical exemptions from the requirements of SEPA to accommodate infill development. Locally authorized categorical exemptions may differ from the categorical exemptions established by the Department of Ecology by rule. Under the infill development categorical exemption, cities and counties may adopt categorical exemptions to exempt government action related to development that is new residential development, mixed-use development, or commercial development up to 65,000 square feet, proposed to fill in an urban growth area when:

- current density and intensity of the use in the area is lower than called for in the goals and policies of the applicable comprehensive plan;
- the action would not exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan;
- the local government considers the specific probable adverse environmental impact of the proposed action and determines that those specific impacts are adequately addressed by other applicable regulations, comprehensive plans, ordinances, or other local, state, and federal laws and rules; and
- the applicable comprehensive plan was previously subjected to environmental analysis through an EIS according to SEPA.

Summary of Bill: Increased Residential Building Capacity and Housing Affordability. Cities planning fully under the GMA with a population greater than 10,000 are encouraged to take two or more of the following actions to increase residential building capacity:

- authorize development of an average of at least 50 residential units per acre that include one or more train stations served by commuter rail or light rail;
- authorize development of an average of at least 25 residential units per acre that include one or more bus stops served by scheduled bus service;
- authorize at least one duplex, triplex, or courtyard apartment on each parcel in zoning districts that permit single-family residences unless a city documents a constraint that would make this requirement unfeasible for a particular parcel;
- authorize cluster zoning or lot size averaging in all zoning districts that permit single-family residences;
- require no more than one on-site parking space per two dwelling units in multifamily zones that are located within 0.5 miles of a fixed guideway transit station;
- authorize accessory dwelling units on all lots located in zoning districts that permit single-family residences, subject to certain restrictions;
- adopt a planned action pursuant to the subarea plan provisions of SEPA;
- adopt a planned action pursuant to the planned action provisions of SEPA, except that an EIS need not be prepared for such a planned action;
- adopt increases in categorical exemptions pursuant to the infill development provisions of SEPA for single-family and multifamily development;
- adopt a form-based code in one or more zoning districts that permit residential uses;
- authorize a duplex on each corner lot within all zoning districts that permit single-family residences; or
- identify questions in the SEPA checklist that are adequately covered by a locally adopted ordinance, development regulation, land use plan, or other legal authority.

Cities planning fully under the GMA with a population greater than 10,000 are encouraged to take one or more of the following actions to increase housing affordability:

- adopt an inclusionary zoning program, in which 10 percent of the new housing capacity directed under the act consists of affordable housing;
- provide surplus property to be used for affordable housing;
- enact an affordable housing levy;
- form or join existing subregional partnerships with neighboring jurisdictions to implement and promote affordable housing programs;
- adopt a renters' commission to advise on issues of displacement; or
- adopt a relocation assistance program.

The actions taken by a city to implement the residential building capacity and housing affordability elements are not subject to SEPA.

Growth Management Act Housing Element Update. Cities planning fully under the GMA with a population greater than 10,000 are encouraged to update the housing element of their comprehensive plan. The housing element update should quantify existing and projected housing needs for all income levels, including extremely low-income households. Additional elements for the housing update include:

- policies and programs to preserve existing private market and subsidized affordable housing and existing manufactured home parks;
- policies and programs to minimize displacement for cities with more than 80,000 in population;

- a program to make sufficient multifamily development capacity available if necessary;
- an analysis of population and employment trends;
- an 8-year schedule of programs and actions to implement the policies of the housing element and to accommodate the planned housing units, including incentives and funding for affordable housing; and
- a review and evaluation of the previous housing element, including an evaluation of success in attaining planned housing units, achievement of goals and policies, and implementation of the schedule of programs and actions.

The features described above should be incorporated into the housing element of a city's comprehensive plan by the next regularly scheduled comprehensive plan update.

State Environmental Policy Act Categorical Exemptions. Amendments to development regulations to implement the residential building capacity and housing affordability elements of the act are categorically exempt from the requirements of SEPA.

State Environmental Policy Act Transportation Elements. A project action evaluated under SEPA by a city, county, or town planning fully under the GMA is exempt from appeals under SEPA on the basis of the evaluation of or impacts to transportation elements of the environment. To qualify for the SEPA exemption, the project must not present significant adverse impacts to state highways as determined by the Department of Transportation. In addition, the project must be consistent with a locally adopted transportation plan or a transportation element of a comprehensive plan, and either a project for which traffic or parking impact fees are imposed pursuant to, or a project for which traffic or parking impacts are expressly mitigated by, an ordinance adopted by the city, town, or county.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The original version of the bill is a more ambitious version than the bill in committee today. One of the more substantive aspects of the bill is exempting actions by cities to grow housing supply from the requirements of SEPA. While the bill does exempt certain actions from SEPA, the intent was to only exempt those actions from appeals under SEPA. The list of actions that cities may adopt were required in earlier versions of the bill. The goal is to provide a flexible menu of options for cities to choose that would grow the housing supply. It is important for cities to have the proper metrics that will help match incomes and needs of community members with housing. Cities need options to deliver more housing for all income levels. Encouraging rather than requiring actions will not adequately address the housing crisis. Many local governments would like to see increased densities, but they face many challenges and appeals. Affordable housing where for the middle class where jobs are is becoming out of reach for many

workers. There is a supply problem in the housing market, and this bill helps to address that problem by increasing densities and building more housing. Cities appreciate the optional approach in the bill that allows for a broad menu of items cities can choose from to meet their diverse needs.

CON: There are signs that the residential market is recovering and rents and prices have stabilized. The private market establishes house prices. The focus should be on people with lower incomes, the working poor and the homeless, so they can participate in the housing market. The state and federal government needs to play a larger role in helping address the subsidized sector and homeless.

OTHER: Cities should be required to take actions to increase density and affordability, not just encouraged. The bill contains both short term and long term actions that need to be done to increase housing supply and affordability. There should be increased affordability requirements and anti-displacement provisions added to the bill. Many local governments cannot increase their zoning densities because their community does not support it. The list of menu items that the city can choose from to increase density could be increased. Nonprofit developers have identified impediments to developing affordable housing including zoning restrictions and other barriers.

Persons Testifying: PRO: Representative Joe Fitzgibbon, Prime Sponsor; Alex Hur, Master Builders Association of King and Snohomish Counties; Madeline Kovacs, Sightline Institute; Jeanette McKague, Washington Realtors; Carl Schroeder, Association of Washington Cities; Joe Kendo, Washington State Labor Council, AFL-CIO.

CON: Bob Jacobs, citizen.

OTHER: Michele Thomas, Washington Low Income Housing Alliance; Jan Himebaugh, Building Industry Association of Washington; Bryce Yadon, Futurewise.

Persons Signed In To Testify But Not Testifying: No one.