

SENATE BILL REPORT

SB 6029

As Reported by Senate Committee On:
Local Government, Land Use & Tribal Affairs, January 30, 2024

Title: An act relating to establishing limitations on detached accessory dwelling units outside urban growth areas.

Brief Description: Establishing limitations on detached accessory dwelling units outside urban growth areas.

Sponsors: Senators Braun, Cleveland, Conway, Gildon, Lias, Lovelett, Mullet, Wellman and Wilson, J..

Brief History:

Committee Activity: Local Government, Land Use & Tribal Affairs: 1/16/24, 1/30/24 [DPS].

Brief Summary of First Substitute Bill

- Authorizes counties planning under the Growth Management Act to allow detached accessory dwelling units (ADUs) outside of urban growth areas if the ADU is subject to development regulations that include certain limitations.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

Majority Report: That Substitute Senate Bill No. 6029 be substituted therefor, and the substitute bill do pass.

Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Torres, Ranking Member; Kauffman and Short.

Staff: Maggie Douglas (786-7279)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not 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. 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. These jurisdictions are sometimes said to be fully planning under the GMA.

Counties that fully plan under the GMA must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may 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.

Accessory Dwelling Units. Any city or county fully planning under the GMA must ensure that within a UGA, local development regulations allow for the construction of accessory dwelling units (ADUs). Cities and counties may apply certain regulations to ADUs, including:

- generally applicable development regulations;
- public health, safety, building code, and environmental permitting requirements that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater;
- a prohibition on the construction of ADUs that are not connected to or served by public sewers;
- a prohibition or restriction on the construction of ADUs in residential zones with a density of one dwelling unit per acre or less within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas; and
- restrictions on the use of ADUs for short-term rentals.

A city or county may not authorize the construction of an ADU in a location where development is restricted under other laws, rules, or ordinances as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property.

An ADU is a dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit. A detached ADU is a dwelling unit that is separate and detached from another housing unit and is located on the same property.

Summary of Bill (First Substitute): Counties may allow detached ADUs outside of UGAs if the units are subject to development regulations that include the following limitations:

- a parcel must not have more than one attached or detached ADU;
- the detached ADU is subject to water supply requirements established in the state building code;

- the applicant must provide documentation that the existing or proposed sewage or septic system is capable of handling the additional demand placed on the system by the detached ADU;
- the floor area of a detached ADU must not exceed the floor area of what would otherwise be authorized by the county as an expansion of the primary dwelling to create an attached ADU and is not greater than 1296 square feet;
- the detached ADU must be located within the same acre as the primary dwelling unit and utilize the same driveway as the primary dwelling. An existing driveway may not be extended or altered to service the detached ADU;
- the detached ADU must be located on a conforming lot that does not contain a critical area or areas as defined under this chapter;
- if the detached ADU is offered as a short-term rental, the primary unit must be owner occupied; and
- the detached ADU must be sited to prevent loss of land designated as agricultural land or forestland under this chapter.

A parcel may not be subdivided for the purposes of avoiding the limits on development regulations established by this act.

A county must deny an application for a detached ADU if the primary dwelling unit was built after the effective date of this act. Counties may allow detached ADUs by adopting development regulations substantially similar to those in effect as of January 1, 2024, in a county with a population exceeding 2 million.

The authority of a county to allow detached ADUs outside UGAs is in addition to existing county authority under the GMA and does not:

- affect or modify the validity of any county ordinance authorizing ADUs adopted prior to the effective date of the act;
- exclude other means of authorizing ADUs in urban or rural areas, if consistent with the act; and
- exclude other innovative techniques authorized under other provisions of the GMA, if consistent with the act.

EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS COMMITTEE (First Substitute):

- Clarifies that counties may allow detached ADUs under certain circumstances, rather than must.
- Requires a county to deny an application for a detached ADU if the primary dwelling unit was built after the effective date of this bill.
- Provides that if the detached ADU is offered as a short-term rental, the primary unit must be owner occupied.
- Specifies that a detached ADU may only be built on conforming lots without critical areas.

- Prohibits the extension or alteration of a primary dwelling unit's existing driveway to service the detached ADU.

Appropriation: None.

Fiscal Note: Not requested.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There are many housing challenges in rural areas. Rural areas have less resources to address these challenges because they do not have the density options that are available in urban areas. Some residents are inventive and find ways to address the need, like parking an RV next to the house, but there are limits in what they can do and it is challenging for the counties to enforce limitations. These kinds of buildings are being built anyways, and if a county is authorized to permit a detached ADU, they can ensure that the buildings are built to code and allow for basic health and safety. Further, because the county is aware of the dwelling, they can collect property revenue on it, but if they are not permitted, they are not part of the increased value. This bill offers a long term, sustainable solution that provides very specific guidance around land use, transportation systems, and water and sewer requirements. Rural areas are allowed to build attached ADUs, but not detached ADUs. An attached ADU could be up to two to three times larger than what would be allowed for a proposed detached ADU under this bill, but the smaller detached unit would be impermissible and the larger attached unit would be permissible. The usage between these two types of ADUs is the same, but detached could allow for some additional privacy. Finding a way to allow detached ADUs that preserves water and septic systems and health and safety is the prudent thing to do.

CON: The bill's impact on the environment, infrastructure and services, and the quality of life for rural residents is deeply concerning. Allowing detached ADUs would be allowing a second house that would not count towards rural growth targets, and would therefore undermine the core ability for the GMA to plan for growth. These buildings would increase impervious services and impact salmon habitat. Increased rural densities will increase traffic congestion and need for rural services. This will not promote affordability. Many of these become vacation rentals.

Persons Testifying: PRO: Senator John Braun, Prime Sponsor; Alex Hur, Master Builders Association of King and Snohomish Counties; Paul Jewell, Washington State Association of Counties; Jan Himebaugh, Building Industry Association of Washington; Bill Clarke, REALTORS + Kittitas County.

CON: D. James McCubbin, Friends of the San Juans; Alex Brennan, Futurewise; Marnie

Jackson, Whidbey Environmental Action Network; Bryce Yadon, Futurewise.

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