

FINAL BILL REPORT

SHB 1707

C 298 L 03

Synopsis as Enacted

Brief Description: Revising environmental review provisions to improve the development approval process and enhance economic development.

Sponsors: By House Committee on Local Government (originally sponsored by Representatives Jarrett, Simpson, Shabro, Sullivan, Moeller, Berkey, Schindler, Linville and Anderson).

House Committee on Local Government
Senate Committee on Land Use & Planning

Background:

Growth Management Act

The Growth Management Act (GMA) requires a county and its cities to plan under its major requirements if the county meets certain population and growth criteria. Other counties may choose to plan under the major requirements of the GMA. The counties and cities required or choosing to plan under the GMA's major requirements are referred to as GMA jurisdictions. Currently 29 of the 39 counties and their cities are GMA jurisdictions.

All counties and cities have certain responsibilities under the GMA. GMA jurisdictions must fulfill numerous planning requirements, including adoption of county-wide planning policies and designation of urban growth areas. GMA jurisdictions also must adopt comprehensive plans with certain mandatory elements, such as land use, transportation, and utilities, and must adopt implementing development regulations.

State Environmental Policy Act

The State Environmental Policy Act (SEPA) requires local governments and state agencies to prepare an environmental impact statement (EIS) if proposed legislation or other major action may have a probable significant adverse impact on the environment. If it appears a probable significant adverse environmental impact may result, the proposal may be altered or its probable significant adverse impact mitigated. If this cannot be accomplished, an EIS is prepared. The responsible agency official has authority to make the threshold determination whether an EIS must be prepared.

Except for development projects that are exempt from SEPA requirements by statute or

rule, the SEPA statutes generally require a project applicant to submit an environmental checklist. An environmental checklist includes questions about the potential impacts of the project on the built environment (e.g., land use, transportation, and utilities) and the natural environment (water, air, habitat, and wildlife). The checklist is reviewed by the SEPA lead agency (one of the agencies with permitting authority for the project) to determine whether the project is likely to have a significant adverse environmental impact. The lead agency also will review the checklist to determine if the applicant has identified mitigation sufficient to reduce environmental impacts.

After the checklist is reviewed, the lead agency issues its threshold determination. If a lead agency determines that a project is not likely to have a significant adverse environmental impact « or if mitigation sufficient to reduce these impacts has been identified « the lead agency issues a determination of nonsignificance (DNS) or a mitigated DNS (MDNS), which includes mitigation conditions for the project.

Alternatively, a lead agency issues a determination of significance (DS) if it determines that a project is likely to have a significant adverse environmental impact or mitigation cannot be identified to reduce these impacts. The DS triggers the requirement to prepare an EIS. The EIS is scoped to address only the matters determined to have a probable significant adverse environmental impact.

SEPA Categorical Exemptions

The Department of Ecology (DOE) is required to adopt rules to implement SEPA. One rule requirement is to define "categorical exemptions," which are categories of actions not considered major actions significantly affecting the quality of the environment. The DOE must specify by rule circumstances in which certain actions that potentially are categorically exempt will be subject to environmental review. Actions determined to be categorically exempt, however, are not subject to SEPA's environmental review or EIS requirements.

Project Review and SEPA Compliance

GMA jurisdictions may determine the analysis, review, and mitigation of adverse environmental impacts in GMA comprehensive plans and development regulations or other laws satisfy SEPA's procedural requirements for a development project if certain requirements are satisfied. These requirements include the GMA jurisdiction's:

- determination that the specific adverse environmental impacts of a project have been addressed by a comprehensive plan or development regulation provisions or other laws; and
- conditioning of the project on compliance with these requirements or mitigation measures.

A GMA jurisdiction that determines a project's impacts have been addressed in this manner may not impose additional mitigation under SEPA.

Summary:

SEPA Categorical Exemptions

Counties and cities planning under the major requirements of the Growth Management Act (GMA jurisdictions) may establish categorical exemptions from the requirements of the State Environmental Policy Act (SEPA) to accommodate infill development. Locally authorized categorical exemptions may differ from the categorical exemptions established by the Department of Ecology (DOE) by rule. GMA jurisdictions may adopt categorical exemptions to exempt government action related to development that is new residential or mixed-use development 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; and
- the applicable comprehensive plan was previously subjected to environmental analysis through an EIS according to SEPA.

Any locally adopted categorical exemption is subject to the DOE's rules specifying exceptions to the use of categorical exemptions.

Project Review and SEPA Compliance

GMA jurisdictions must determine that the analysis, review, and mitigation of adverse environmental impacts in GMA comprehensive plans and development regulations or other specified documents satisfy SEPA's procedural requirements for a development project if the statutory requirements are satisfied. GMA jurisdictions must issue determinations of nonsignificance (with or without mitigating conditions) under SEPA for projects under these circumstances. The DOE's rules regarding project specific impacts that may not have been adequately addressed apply to any such determination.

Votes on Final Passage:

House 96 0
Senate 44 3 (Senate amended)
House 96 1 (House concurred)

Effective: July 27, 2003