

SENATE BILL REPORT

ESHB 2984

As Reported By Senate Committee On:
Financial Institutions, Housing & Consumer Protection, February 22, 2006

Title: An act relating to affordable housing incentive programs.

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

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

Brief History: Passed House: 2/14/06, 60-38.

Committee Activity: Financial Institutions, Housing & Consumer Protection: 2/21/06, 2/22/06 [DPA].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Majority Report: Do pass as amended.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benson, Brandland, Finkbeiner, Franklin, Keiser, Schmidt and Spanel.

Staff: Jennifer Arnold (786-7471)

Background: The Growth Management Act (GMA). Counties, and the cities located within those counties, that are planning under the GMA must adopt comprehensive land use plans, which are generalized, coordinated land use policy statements of the governing body. Such local governments must also adopt development regulations that are consistent with, and implement, the comprehensive plan. Comprehensive plans are required to include a housing element, which provides: (1) an inventory/analysis of existing and projected housing needs; (2) a statement of policies for the preservation, improvement, and development of housing; (3) identification of sufficient land for housing; and (4) adequate provisions for the existing and projected needs of all the communities' economic segments.

The GMA requires counties to designate Urban Growth Areas (UGAs), or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature.

Excise taxes are taxes on a specific good or activity. Examples of current excise taxes on goods and activities in Washington include, among others: the business and occupation tax, the sales tax, the use tax, the public utility tax, the gas tax, and the real estate sales excise tax. Local governments may impose a local sales & use tax, as well as a tax on lodging, but otherwise state law, generally, prohibits excise taxation at the local level.

Local governments are expressly prohibited from imposing taxes, charges, or fees (other than impact fees) on building construction or land development. However, local governments are allowed to impose certain fees and charges, including: impact fees, special assessments, permit processing fees, utility system charges, and transportation benefit district fees.

Summary of Amended Bill: Affordable Housing Incentive Programs. Local governments fully planning under the GMA may enact or expand affordable housing incentive programs, providing for the development of low-income housing units. Incentive programs may include, but are not limited to, provisions pertaining to: density bonuses within the UGA; height and bulk bonuses; mixed-use projects; fee waivers or exemptions; parking reductions; or expedited permitting, conditioned on the provision of low-income housing units.

Incentive Program Requirements. An incentive program must, among other requirements:

- provide for the construction of low-income housing units;
- establish standards for low-income renter or owner-occupancy housing;
- require low-income housing units to be committed to continuing affordability for at least 50 years;
- require that low-income units have substantially the same functionality as the other units in the building; and
- develop measures to enforce continuing affordability and income standards applicable to low-income units constructed under the program.

Required 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 must use these funds or property to support the development of low-income housing, including support through loans or grants to public or private owners or housing developers.

Local governments may establish a minimum amount of affordable housing that must be provided by all residential developments, subject to incentive program requirements. However, a local government's issuance of a permit or development approval, which, aside from the incentive program provisions, is otherwise consistent with zoning and development standards, cannot be conditioned, denied, or delayed based on the developer's decision not to participate, if the program is optional.

Low-income households are defined for incentive program purposes, as follows: (1) rental housing units that are 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; and (2) owner occupancy housing that is 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.

Excise Taxes. The excise tax statutes, relating to state preemption, do not limit the authority of local governments to enact or expand affordable housing incentive programs created under this Act.

Amended Bill Compared to Original Bill: Mixed-use projects and bulk bonuses are added to the list of incentives that a local government may opt to use in developing a program. The

provisions providing that a permit cannot be conditioned, denied, or delayed for an absence of participation in the program are modified. Funds or property received in lieu of construction of low-income units must be used to support the development of low-income housing. Low-income units must have substantially the same "functionality," rather than "equipment and amenities," as the other units in the buildings. A technical correction is made to remove reference to RCW 82.02.020 in Section 2(2).

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: This bill moved through the House as a work in progress. The intent is to offer incentives to developers in areas with home prices that are increasing rapidly, as a way to create more affordable housing units. The term substantially the same "functionality" should be used in place of "equipment and amenities" to make the bill more practical for local governments to implement and to ensure that the intent of the bill is met.

Testimony Against: None.

Testimony Other: This bill needs an amendment in order to provide the certainty that it will actually create low-income housing. Mixed-use projects should be added to the permissive list of incentives, for the purpose of providing more ideas on what can be done. Low-income households should not be defined on the basis of county median family income, but rather on the basis of areas where the homes are to be constructed to enable all areas of the county to participate in the program. It needs to be required that money or property received in lieu of construction of homes "must" be used by local governments to support low-income housing, in place of "may." Changes are necessary to the provision on permit issuance in Section 2(c) to ensure that no steps backward are taken in regards to creating low-income housing.

Who Testified: PRO: Michael Luis, The Housing Partnership; Dave Williams, Association of Washington Cities.

OTHER: Bill Riley, Washington Realtors; Ben Gitenstein, Washington Low Income Housing Alliance.