HOUSE BILL REPORT
EHB 1464

As Passed Legislature

Title: An act relating to affordable housing incentive programs.

Brief Description: Concerning affordable housing incentive programs.

Sponsors: Representatives Springer, Ormsby, Orwall, Eddy, Ericks, Nelson, Kagi, Dickerson, Morrell, Wood and Goodman.

Brief History:
Committee Activity:
Local Government & Housing: 2/2/09, 2/9/09 [DP].
Floor Activity
Passed House: 3/4/09, 63-32.
Passed Senate: 4/2/09, 26-19.
Passed Legislature.

Brief Summary of Engrossed Bill

- Modifies provisions governing affordable housing incentive programs that may be enacted or expanded in jurisdictions planning under the Growth Management Act.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: Do pass. Signed by 6 members: Representatives Simpson, Chair; Nelson, Vice Chair; Miloscia, Springer, Upthegrove and White.

Minority Report: Do not pass. Signed by 3 members: Representatives Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Short.

Staff: Ethan Moreno (786-7386)

Background:

The Growth Management Act (GMA or Act) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the

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.

GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the Act and a reduced number of directives for all other counties and cities.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through development regulations mandated by the GMA.

The GMA includes planning requirements relating to the use or development of land in urban and rural areas. Among other requirements, counties that fully plan under the GMA must 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.

<u>Affordable Housing Incentive Programs - General Provisions</u>.

Legislation adopted in 2006 (*i.e.*, ESHB 2984, enacted as ch. 149, Laws of 2006) authorized jurisdictions fully planning under the GMA to enact or expand affordable housing incentive programs (incentive programs or programs) to provide for the development of low-income housing units through development regulations. These programs may include, but are not limited to, provisions pertaining to:

- density bonuses within the UGA;
- height and bulk bonuses;
- fee waivers or exemptions;
- parking reductions;
- expedited permitting, conditioned on the provision of low-income housing units; or
- mixed-use projects.

Jurisdictions may enact or expand incentive programs whether or not the programs impose a tax, fee, or charge on the development or construction of property. Incentive programs may apply to all or part of a jurisdiction, and differing standards may be applied within a jurisdiction. Jurisdictions may also modify incentive programs to meet local needs and may include qualifying provisions or requirements not expressly authorized in statute.

Enacted or expanded incentive programs must satisfy numerous requirements, including:

- requiring incentives or bonuses to provide for the construction of low-income housing units;
- obligating jurisdictions to establish standards for low-income renter or owner occupancy housing, including guidelines that are consistent with local needs, to assist qualifying low-income households;
- requiring jurisdictions to establish, and allowing jurisdictions to adjust, a maximum rent level or sales price for low-income housing units developed under an incentive program;

- requiring low-income housing units to be provided in a range of sizes and to conform to more general provisions pertaining to numbers of bedrooms, distributions of units throughout buildings, and functionality;
- requiring low-income housing units developed under an incentive program to be committed to continuing affordability for no fewer than 50 years; and
- requiring measures to enforce continuing affordability and income standards for low-income units constructed under an incentive program. Jurisdictions, however, may accept payments in lieu of continuing affordability.

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 accepting these payments must use the funds or property to support the development of low-income housing, including support through loans or grants to public or private recipients.

If a developer chooses not to participate in an incentive program, a jurisdiction may not condition, deny, or delay the issuance of a qualifying permit or development approval, absent incentive provisions of the program.

Application of Incentive Programs.

Enacted or expanded incentive programs may be applied within jurisdictions to address the need for increased residential development. The application of incentive programs must be consistent with local growth management and housing policies and must comply with specific requirements obligating jurisdictions to:

- identify certain land use designations within a geographic area where increased residential development will assist in achieving local growth management and housing policies;
- provide increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or incentives; and
- determine that increased residential development capacity or other incentives can be achieved within an identified area, subject to the consideration of other regulatory controls on development.

Jurisdictions may establish a minimum amount of affordable housing that must be provided by all residential developments constructed under revised regulations, subject to incentive program requirements.

Income Requirements.

Statute specifies income requirements for incentive programs. Low-income households, for incentive program purposes, are defined as follows:

- Rental housing units must be affordable to and occupied by households with an income of 50 percent or less of the county median family income, adjusted for family size.
- Owner occupancy housing units must be affordable to and occupied by households with an income of 80 percent or less of the county median family income, adjusted for family size.

The legislative body of a jurisdiction with an incentive program, however, may establish higher or lower income levels, subject to public hearing and other requirements. These established higher income levels are considered "low-income" for the purposes of incentive programs.

Summary of Engrossed Bill:

Provisions governing affordable housing incentive programs that may be enacted or expanded in jurisdictions planning under the GMA are modified.

Programs may be implemented through development regulations or conditions on rezoning or permit decisions, or both, on one or more of the following types of development:

- residential;
- commercial;
- industrial; or
- mixed-use.

Incentive programs may include, but are not limited to, provisions pertaining to one or more of the following:

- density bonuses within the UGA;
- height and bulk bonuses;
- fee waivers or exemptions;
- parking reductions; or
- expedited permitting.

Several general requirements that enacted or expanded incentive programs must satisfy are modified. Examples include:

- requiring incentives or bonuses to provide for the development, rather than the construction, of low-income housing units;
- specifying that where a developer is utilizing an incentive program to develop market rate housing, and is developing low-income housing to satisfy program requirements, the low-income units must be provided in size ranges that are comparable to units available to other residents and must be generally distributed throughout the development; and
- specifying that different program standards may be applied to different areas within a jurisdiction or to different types of development.

Low-income housing units are encouraged to be located within housing developments for which a bonus or incentive is provided. Incentive programs may allow units to be located in the general area of the development for which a bonus or incentive is provided, rather than in adjacent buildings. Incentive programs may allow money or property payments in lieu of providing low-income housing units if the jurisdiction determines that the payment achieves a result equal to or better than providing the affordable housing on-site and other conditions are met.

Appropriation: None.

Fiscal Note: Not requested.

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 expansion and the next logical step of ESHB 2984, the inclusionary zoning bill passed in 2006. The 2006 legislation was designed to promote affordable housing in the urban corridor and was primarily aimed at residential construction. This bill extends the principles of ESHB 2984 to industrial and residential development.

This bill includes three changes to existing affordable housing incentive programs. First, it clarifies that incentive programs can be used for commercial and residential development. Similar programs have been effective for 20 years. Second, it provides more flexibility for the placement of created housing units. Third, it modifies fee-in-lieu provisions by allowing more flexibility of program requirements. This bill will help cities and citizens: it is a needed tool. This bill helps with affordable housing: it is appropriate to include commercial development within incentive programs. It is hoped that more jurisdictions will use the incentive programs. This bill has provisions that are complimentary to those of House Bill 1490.

(Opposed) None.

Persons Testifying: Representative Springer, prime sponsor; Adrienne Quinn, City of Seattle; Dave Williams, Association of Washington Cities; April Putney, Futurewise; and Nick Federici, Washington Low-Income Housing Alliance.

Persons Signed In To Testify But Not Testifying: None.