
Environment Committee

HB 2763

Brief Description: Using the state environmental policy act to encourage development that is consistent with forward-looking growth plans.

Sponsors: Representatives Fey and McBride.

Brief Summary of Bill

- Extends until 2028, the termination of an option that allows a city to adopt an element of its comprehensive plan that allows certain developments consistent with the optional elements to be exempt from appeal under the State Environmental Policy Act (SEPA).
- Requires that 20 percent of dwelling units in a project completed under a city's optional comprehensive plan element must be set aside for affordable housing in order for the project to be exempt from appeal under the SEPA.

Hearing Date: 1/28/16

Staff: Jacob Lipson (786-7196).

Background:

The State Environmental Policy Act (SEPA) Review.

The SEPA establishes a review process for state and local governments to identify environmental impacts that may result from government 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 are identified as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS). If the SEPA review process identifies significant adverse environmental impacts, the lead agency may deny a government decision or may require mitigation for identified environmental impacts.

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.

SEPA Appeals.

Government decisions can be appealed under the SEPA on procedural grounds related to a threshold determination of significance, or on substantive grounds related to an agency's decision to deny or condition a project approval upon the completion of mitigation. Depending on the applicable rules or ordinances related to SEPA appeals that have been adopted by a lead agency, a SEPA appeals process may either begin in an administrative appeals forum or may directly proceed to a judicial review.

Optional Subarea Element Adoption and SEPA Appeal Exemptions.

Cities and counties that plan under the Growth Management Act (GMA) must adopt comprehensive land use plans that are implemented through locally-adopted development regulations. Cities and counties must include certain elements in their plans, such as land use, housing, and transportation. Cities and counties may also adopt a variety of optional elements for inclusion in their comprehensive plan.

In 2010 the Legislature established a process that allows a city to adopt an optional element of their GMA comprehensive plan and associated development regulations that allow projects consistent with the optional element to be exempt from appeal under the SEPA. Depending on the size and location of the city, the optional element may only apply to certain subareas of the city:

- In cities of over 5,000, the optional element may only apply to areas designated as mixed-use or urban centers by a regional transportation planning organization, or that are within half of a mile of certain types of major transit stops and zoned for at least 15 dwelling units per acre.
- In cities east of the Cascades that are located in counties with less than 230,000, the optional element must be located within designated mixed-use or urban centers, and must enhance non-vehicle transportation methods.

In order to adopt an optional subarea element that exempts qualifying projects from SEPA appeals, the city must complete an upfront environmental review and public participation processes during the adoption of the optional element. All cities adopting an optional subarea element must prepare an EIS that addresses the probable significant adverse environmental impacts associated with the optional element and the associated anticipated future development. The city must hold a community meeting on the proposed subarea plan, and must mail notice of the optional subarea element proposal and the planned scope of the associated EIS to local property owners and other agencies with development jurisdiction within the subarea. In addition, cities of over 500,000 must prepare a study analyzing whether the optional subarea element may result in the displacement or fragmentation of existing businesses, residences, people living with poverty, families with children, intergenerational households, or cultural groups.

Cities may enact an ordinance that allows them to recover reasonable expenses associated with the preparation of the EIS from fees charged to subsequent development that is consistent with the optional element. Cities adopting an optional subarea element are also encouraged to establish programs to allow for the transfer of development rights.

Projects in a subarea that have vested or have begun the vesting process within 10 years of the city's adoption of the EIS are exempt from SEPA appeals. The process by which cities can adopt

an optional subarea element expires on July 1, 2018, although development permits that have vested or will vest prior to that date retain the SEPA appeal exemption for a period of up to 10 years after the city's adoption of the EIS.

The Growth Management Planning and Environmental Review Fund.

Money in the Growth Management Planning and Environmental Review Fund (Fund) may be used for grants or loans to local governments to perform certain GMA planning actions and SEPA environmental reviews. The Fund has not received Legislative appropriations since the late 1990s.

Summary of Bill:

The expiring authority that allows a city to adopt an optional subarea element that limits SEPA appeals of qualifying projects is extended until 2028. If a city's optional subarea element was adopted prior to 2016, the city may allow projects consistent with the optional element to remain exempt from SEPA appeals for up to 18 years after the completion of the EIS for the optional element. Projects under optional elements adopted by a city beginning in 2016 must vest or begin the vesting process within 10 years of the city's subarea EIS adoption in order to be exempt from SEPA appeals.

In order to be exempt from SEPA appeals, projects consistent with an optional subarea element adopted by a city must set aside at least 20 percent of dwelling units for sale or rental to low income households at prices considered affordable by the city's housing programs.

Expenditures from the Fund may be used for grants or loans to local governments to adopt optional subarea elements. A city may recover costs or prospectively apply for a grant or loan from the Fund to cover costs associated with the adoption of an optional subarea element.

Appropriation: None.

Fiscal Note: Requested on 1/22/16.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.