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## Local Government Committee

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### HB 1337

**Brief Description:** Concerning accessory dwelling units.

**Sponsors:** Representatives Gregerson, Barkis, Fitzgibbon, Chambers, Peterson, Davis, Gilday, Bateman, Callan, Eslick, Young, Harris-Talley and Macri.

#### Brief Summary of Bill

- Provides that cities and counties that adopt specified policies regarding accessory dwelling units may qualify for a distribution from the accessory dwelling unit incentive account.
- Distributions from the accessory dwelling unit incentive account are based on the number of qualifying new accessory dwelling units constructed after the regulations are adopted.
- Provides for the transfer from the General Fund of \$1,000,000 each fiscal year to be used for distributions, with any remainder to be returned to the General Fund at the end of the fiscal year.

**Hearing Date:** 2/3/21

**Staff:** Kellen Wright (786-7134).

#### Background:

An accessory dwelling unit (ADU) is a residential living unit providing complete, independent living facilities and permanent provisions for sleeping, cooking, sanitation, and living on the same lot as a single-family house, duplex, triplex, townhome, or other housing unit. As of July 1, 2021, cities are prohibited from requiring the provision of off-street parking for ADUs within a quarter mile of a high capacity transportation system stop, a rail stop, or certain bus stops unless the city determines that on-street parking is infeasible for the ADU.

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*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.*

Cities with more than 20,000 people, and counties with more than 125,000 people or that are required to plan under the Growth Management Act are required to incorporate in their development and zoning regulations recommendations made by the then Department of Community, Trade, and Economic Development, now the Department of Commerce, for the development and placement of accessory apartments in 1993.

### **Summary of Bill:**

A city or county that adopts proscribed ADU policies may qualify for a distribution from the accessory dwelling unit incentive account of an amount that is meant to be equivalent to the state's portion of the sales tax generated by the qualifying new construction of ADUs within the jurisdiction. These policies need only be adopted in the portions of cities or counties that are within urban growth areas.

To qualify for a distribution, a city or county must adopt at least three of the following policies:

- the city or county may not require off-street parking for ADUs;
- the city or county may not assess impact fees on ADU construction;
- the city or county may not require the owner of a lot on which there is an accessory dwelling unit to live on the same lot; and
- the city or county must allow at least two accessory dwelling units on all lots in zoning districts that allow for single-family homes.

The city or county must also adopt at least five of the following policies to qualify for a distribution:

- the city or county may not count residents of ADUs against existing limits on the number of unrelated residents on a lot;
- the city or county may not establish a minimum gross floor area for ADUs that exceeds the state building code;
- the city or county may not count the gross floor area of an ADU against floor-area-ratio limitations that apply to principal units;
- the city or county may not count indoor parking, unheated storage, or heated basements against the gross floor area limits for ADUs;
- the city or county must make the same allowances for ADUs' decks, balconies, and porches to encroach on setbacks as are allowed for the principal unit;
- the city or county must allow ADUs to encroach on setbacks if the other property owner approves and the fire code does not prohibit the encroachment;
- the city or county must apply abutting lot setbacks to ADUs on lots abutting zones with lower setback requirements;
- the city or county must adopt ADU architectural plans that are preapproved for use under local permitting requirements; and
- the city or county must establish an amnesty program to help owners of unpermitted ADUs to obtain a permit.

Finally, the city or county must also adopt all of the following requirements to qualify for a distribution:

- the city or county must permit ADUs in structures detached from the principal unit, on any lot that meets the minimum lot size required for the principal unit, and must generally allow attached ADUs on any lot with a principal unit that is nonconforming solely because the lot is smaller than the minimum size;
- the city or county may not establish a maximum gross floor area requirement for ADUs that are less than 1,000 square feet or 60 percent of the principal unit, whichever is greater, or that is more than 1,200 square feet;
- the city or county may not establish roof height limits, setback requirements, rear yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for ADUs that are more restrictive than those for principal units;
- a city or county must allow detached a ADUs to be sited at a lot line if the lot line abuts a public alley that is not routinely plowed for snow by the city or county;
- a city or county must allow accessory dwelling units to be converted from existing structures, such as detached garages, even if they violate current code requirements for setbacks or lot coverage;
- a city or county may not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an ADU;
- a city or county may not charge permitting or plan review fees for ADUs greater than those that would be charged for a project of similar value or square footage in a principal unit;
- a city or county may not require public street improvements as a condition of permitting ADUs; and
- a city or county may not generally require installation of a new or separate utility connection between an accessory dwelling unit and a utility unless unusual site conditions make it unavoidable, and any fees charged must be reasonable.

Cities and counties that have adopted the necessary requirements are eligible for a distribution from the accessory dwelling unit incentive account. The State Treasurer must transfer \$1,000,000 into this account every year from the General Fund. This money is distributed to cities and counties that apply within 12 months of the conclusion of the state fiscal year for which the city or county is seeking a distribution, and that have provided sufficient data for the Department of Commerce (Commerce) to verify the amount of new ADU construction that has occurred in the jurisdiction. Commerce will disburse \$10,000 to the jurisdiction for each qualifying new ADU constructed. No more than \$1,000,000 may be distributed each year, and once this amount has been exhausted, no more distributions can be made based on ADU construction during that fiscal year. Any amount that has not been distributed at the end of a fiscal year will be returned to the General Fund.

The amount of new ADU construction that has occurred is determined by looking at the number of ADUs constructed in the fiscal year for which a distribution is being sought as compared to

the average number of ADUs constructed over the previous five years prior to the city or county adopted the necessary policies. The new ADU construction that qualifies for a distribution is the difference between these numbers. For example, if five ADUs were constructed in a jurisdiction prior to the jurisdiction adopting the necessary policies, and 12 were constructed the year after the policies were adopted, then the amount of qualifying new ADU construction would be seven; the 12 ADUs that were constructed in the year, minus the five that were constructed on average before, equals seven qualifying new ADUs constructed during that fiscal year. The jurisdiction would be eligible for a \$70,000 distribution based on this construction.

ADUs may not be considered as contributing to underlying density within an urban growth area boundary of a county for purposes of the GMA.

Actions taken to adopt these regulations cannot be challenged under the Growth Management Act or the State Environmental Policy Act.

The provision requiring cities and counties to incorporate in their regulations the recommendations made by the then Department of Community, Trade, and Economic Development for accessory dwelling apartments are repealed.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

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