

ESSB 5466 - H COMM AMD
By Committee on Housing

NOT CONSIDERED 01/02/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the state has
4 made groundbreaking investments in state-of-the-art mass transit and
5 intermodal infrastructure. The legislature finds that to maximize the
6 state's return on these investments, land use policies and practices
7 must keep pace with progress being implemented in transportation
8 infrastructure development. The legislature also intends new
9 development to reflect the state's commitment to vibrant, walkable,
10 accessible urban environments that improve health, expand multimodal
11 transportation options, and include varied community facilities,
12 parks, and green spaces that are open to people of all income levels.

13 The legislature recognizes that cities planning under chapter
14 36.70A RCW require direction and technical assistance to ensure the
15 benefits of state transportation investments are maximized and shared
16 equitably while avoiding unnecessary programmatic and cost burdens to
17 local governments in their comprehensive planning, code enactment,
18 and permit processing workloads. The legislature further recognizes
19 that regulatory flexibility and local control are also important
20 features of optimal planning outcomes.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.01
22 RCW to read as follows:

23 (1) The department must create a new division within its agency
24 or expand an existing division within its agency to mediate or help
25 resolve disputes between the department, local governments, and
26 project proponents regarding land use decisions and processing
27 development permit applications.

28 (2) The department must adopt any rules necessary to implement
29 this section.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330
2 RCW to read as follows:

3 (1) The department, in consultation with the department of
4 transportation, must establish and administer a competitive grant
5 program to assist in the financing of housing projects within station
6 areas.

7 (2) Entities eligible to receive grant awards are state agencies,
8 local governments, and nonprofit or for-profit housing developers.
9 Eligible uses of grant awards include project capital costs and
10 infrastructure costs and addressing gaps in project financing that
11 would prevent ongoing or complete project construction.

12 (3) Eligible housing projects must meet the following
13 requirements:

14 (a) Be within a station area;

15 (b) Comply with the applicable transit-oriented density;

16 (c) Produce at least 100 units of rental, shelter, or permanent
17 supportive housing or at least 30 units of owner-occupied housing;
18 and

19 (d) Include a covenant on the property requiring 100 percent of
20 units remain affordable for at least 50 years for households with
21 incomes at or below 60 percent of area median income for rental,
22 shelter, or permanent supportive housing projects or at or below 80
23 percent of area median income for homeownership projects.

24 (4) The department must prioritize eligible projects by occupancy
25 date, with a target occupancy date of December 31, 2025. The
26 department must also consider the following criteria when
27 prioritizing projects:

28 (a) Have a high concentration of units affordable to households
29 with incomes at or below 50 percent area median income;

30 (b) Do not include costs related to land acquisition;

31 (c) Include land acquired at a reduced price or without cost;

32 (d) Abide by antidisplacement measures, if appropriate;

33 (e) Submitted by community-based housing developers; or

34 (f) Include units with additional bedrooms or intended for
35 occupancy by families with multiple dependents.

36 (5) The department may adopt any necessary rules to implement the
37 competitive grant program under this section, including any
38 additional project eligibility criteria and prioritization criteria.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330
2 RCW to read as follows:

3 (1) The transit-oriented development housing partnership account
4 is created in the custody of the state treasurer.

5 (2) Revenues to the account must consist of appropriations by the
6 legislature and any gifts, grants, donations, or other private
7 contribution received by the director for the purposes set forth in
8 subsection (3) of this section.

9 (3) Expenditures from the account may be used only for
10 administration of the competitive grant program under section 3 of
11 this act, including any technical assistance provided by the
12 department to eligible entities.

13 (4) Only the director or the director's designee may authorize
14 expenditures from the account. The account is subject to allotment
15 procedures under chapter 43.88 RCW, but an appropriation is not
16 required for expenditures.

17 **Sec. 5.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Adopt a comprehensive land use plan" means to enact a new
22 comprehensive land use plan or to update an existing comprehensive
23 land use plan.

24 (2) "Affordable housing" means, unless the context clearly
25 indicates otherwise, residential housing whose monthly costs,
26 including utilities other than telephone, do not exceed thirty
27 percent of the monthly income of a household whose income is:

28 (a) For rental housing, (~~sixty~~) 60 percent of the median
29 household income adjusted for household size, for the county where
30 the household is located, as reported by the United States department
31 of housing and urban development; or

32 (b) For owner-occupied housing, (~~eighty~~) 80 percent of the
33 median household income adjusted for household size, for the county
34 where the household is located, as reported by the United States
35 department of housing and urban development.

36 (3) "Agricultural land" means land primarily devoted to the
37 commercial production of horticultural, viticultural, floricultural,
38 dairy, apiary, vegetable, or animal products or of berries, grain,
39 hay, straw, turf, seed, Christmas trees not subject to the excise tax

1 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
2 hatcheries, or livestock, and that has long-term commercial
3 significance for agricultural production.

4 (4) "City" means any city or town, including a code city.

5 (5) "Comprehensive land use plan," "comprehensive plan," or
6 "plan" means a generalized coordinated land use policy statement of
7 the governing body of a county or city that is adopted pursuant to
8 this chapter.

9 (6) "Critical areas" include the following areas and ecosystems:

10 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
11 used for potable water; (c) fish and wildlife habitat conservation
12 areas; (d) frequently flooded areas; and (e) geologically hazardous
13 areas. "Fish and wildlife habitat conservation areas" does not
14 include such artificial features or constructs as irrigation delivery
15 systems, irrigation infrastructure, irrigation canals, or drainage
16 ditches that lie within the boundaries of and are maintained by a
17 port district or an irrigation district or company.

18 (7) "Department" means the department of commerce.

19 (8) "Development regulations" or "regulation" means the controls
20 placed on development or land use activities by a county or city,
21 including, but not limited to, zoning ordinances, critical areas
22 ordinances, shoreline master programs, official controls, planned
23 unit development ordinances, subdivision ordinances, and binding site
24 plan ordinances together with any amendments thereto. A development
25 regulation does not include a decision to approve a project permit
26 application, as defined in RCW 36.70B.020, even though the decision
27 may be expressed in a resolution or ordinance of the legislative body
28 of the county or city.

29 (9) "Emergency housing" means temporary indoor accommodations for
30 individuals or families who are homeless or at imminent risk of
31 becoming homeless that is intended to address the basic health, food,
32 clothing, and personal hygiene needs of individuals or families.
33 Emergency housing may or may not require occupants to enter into a
34 lease or an occupancy agreement.

35 (10) "Emergency shelter" means a facility that provides a
36 temporary shelter for individuals or families who are currently
37 homeless. Emergency shelter may not require occupants to enter into a
38 lease or an occupancy agreement. Emergency shelter facilities may
39 include day and warming centers that do not provide overnight
40 accommodations.

1 (11) "Extremely low-income household" means a single person,
2 family, or unrelated persons living together whose adjusted income is
3 at or below (~~(thirty)~~) 30 percent of the median household income
4 adjusted for household size, for the county where the household is
5 located, as reported by the United States department of housing and
6 urban development.

7 (12) "Floor area ratio" means a measure of transit-oriented
8 development intensity equal to building square footage divided by the
9 developable property square footage. Developable property excludes
10 lots with critical areas or their buffers as designated in RCW
11 36.70A.060, as well as public facilities including streets, roads,
12 highways, sidewalks, street and road lighting systems, traffic
13 signals, domestic water systems, storm and sanitary sewer systems,
14 parks and recreational facilities, and schools.

15 (13) "Forestland" means land primarily devoted to growing trees
16 for long-term commercial timber production on land that can be
17 economically and practically managed for such production, including
18 Christmas trees subject to the excise tax imposed under RCW 84.33.100
19 through 84.33.140, and that has long-term commercial significance. In
20 determining whether forestland is primarily devoted to growing trees
21 for long-term commercial timber production on land that can be
22 economically and practically managed for such production, the
23 following factors shall be considered: (a) The proximity of the land
24 to urban, suburban, and rural settlements; (b) surrounding parcel
25 size and the compatibility and intensity of adjacent and nearby land
26 uses; (c) long-term local economic conditions that affect the ability
27 to manage for timber production; and (d) the availability of public
28 facilities and services conducive to conversion of forestland to
29 other uses.

30 (~~((13))~~) (14) "Freight rail dependent uses" means buildings and
31 other infrastructure that are used in the fabrication, processing,
32 storage, and transport of goods where the use is dependent on and
33 makes use of an adjacent short line railroad. Such facilities are
34 both urban and rural development for purposes of this chapter.
35 "Freight rail dependent uses" does not include buildings and other
36 infrastructure that are used in the fabrication, processing, storage,
37 and transport of coal, liquefied natural gas, or "crude oil" as
38 defined in RCW 90.56.010.

39 (~~((14))~~) (15) "Geologically hazardous areas" means areas that
40 because of their susceptibility to erosion, sliding, earthquake, or

1 other geological events, are not suited to the siting of commercial,
2 residential, or industrial development consistent with public health
3 or safety concerns.

4 ~~((15))~~ (16) "Long-term commercial significance" includes the
5 growing capacity, productivity, and soil composition of the land for
6 long-term commercial production, in consideration with the land's
7 proximity to population areas, and the possibility of more intense
8 uses of the land.

9 ~~((16))~~ (17) "Low-income household" means a single person,
10 family, or unrelated persons living together whose adjusted income is
11 at or below ~~((eighty))~~ 80 percent of the median household income
12 adjusted for household size, for the county where the household is
13 located, as reported by the United States department of housing and
14 urban development.

15 ~~((17))~~ (18) "Minerals" include gravel, sand, and valuable
16 metallic substances.

17 ~~((18))~~ (19) "Moderate-income household" means a single person,
18 family, or unrelated persons living together whose adjusted income is
19 at or below 120 percent of the median household income adjusted for
20 household size, for the county where the household is located, as
21 reported by the United States department of housing and urban
22 development.

23 ~~((19))~~ (20) "Permanent supportive housing" is subsidized,
24 leased housing with no limit on length of stay that prioritizes
25 people who need comprehensive support services to retain tenancy and
26 utilizes admissions practices designed to use lower barriers to entry
27 than would be typical for other subsidized or unsubsidized rental
28 housing, especially related to rental history, criminal history, and
29 personal behaviors. Permanent supportive housing is paired with on-
30 site or off-site voluntary services designed to support a person
31 living with a complex and disabling behavioral health or physical
32 health condition who was experiencing homelessness or was at imminent
33 risk of homelessness prior to moving into housing to retain their
34 housing and be a successful tenant in a housing arrangement, improve
35 the resident's health status, and connect the resident of the housing
36 with community-based health care, treatment, or employment services.
37 Permanent supportive housing is subject to all of the rights and
38 responsibilities defined in chapter 59.18 RCW.

39 ~~((20))~~ (21) "Public facilities" include streets, roads,
40 highways, sidewalks, street and road lighting systems, traffic

1 signals, domestic water systems, storm and sanitary sewer systems,
2 parks and recreational facilities, and schools.

3 ~~((21))~~ (22) "Public services" include fire protection and
4 suppression, law enforcement, public health, education, recreation,
5 environmental protection, and other governmental services.

6 ~~((22))~~ (23) "Recreational land" means land so designated under
7 RCW 36.70A.1701 and that, immediately prior to this designation, was
8 designated as agricultural land of long-term commercial significance
9 under RCW 36.70A.170. Recreational land must have playing fields and
10 supporting facilities existing before July 1, 2004, for sports played
11 on grass playing fields.

12 ~~((23))~~ (24) "Rural character" refers to the patterns of land
13 use and development established by a county in the rural element of
14 its comprehensive plan:

15 (a) In which open space, the natural landscape, and vegetation
16 predominate over the built environment;

17 (b) That foster traditional rural lifestyles, rural-based
18 economies, and opportunities to both live and work in rural areas;

19 (c) That provide visual landscapes that are traditionally found
20 in rural areas and communities;

21 (d) That are compatible with the use of the land by wildlife and
22 for fish and wildlife habitat;

23 (e) That reduce the inappropriate conversion of undeveloped land
24 into sprawling, low-density development;

25 (f) That generally do not require the extension of urban
26 governmental services; and

27 (g) That are consistent with the protection of natural surface
28 water flows and groundwater and surface water recharge and discharge
29 areas.

30 ~~((24))~~ (25) "Rural development" refers to development outside
31 the urban growth area and outside agricultural, forest, and mineral
32 resource lands designated pursuant to RCW 36.70A.170. Rural
33 development can consist of a variety of uses and residential
34 densities, including clustered residential development, at levels
35 that are consistent with the preservation of rural character and the
36 requirements of the rural element. Rural development does not refer
37 to agriculture or forestry activities that may be conducted in rural
38 areas.

39 ~~((25))~~ (26) "Rural governmental services" or "rural services"
40 include those public services and public facilities historically and

1 typically delivered at an intensity usually found in rural areas, and
2 may include domestic water systems, fire and police protection
3 services, transportation and public transit services, and other
4 public utilities associated with rural development and normally not
5 associated with urban areas. Rural services do not include storm or
6 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

7 ~~((26))~~ (27) "Short line railroad" means those railroad lines
8 designated class II or class III by the United States surface
9 transportation board.

10 ~~((27))~~ (28) (a) "Station area" means all parcels that are:

11 (i) Fully within an urban growth area; and

12 (ii) Fully or partially within:

13 (A) One-half mile walking distance of a stop on a high capacity
14 transportation system funded or expanded under chapter 81.104 RCW, a
15 commuter rail stop, or a stop on rail or fixed guideway systems,
16 including transitways; and

17 (B) One-quarter mile walking distance of a stop on a bus rapid
18 transit route.

19 (b) For the purposes of this subsection, a "stop" includes any
20 existing stop and any stop funded for development prior to the
21 earlier of a city's deadline to complete its next periodic
22 comprehensive plan update under RCW 36.70A.130(5) or its deadline to
23 complete its next implementation progress report as required by RCW
24 36.70A.130(9).

25 (c) A city planning under RCW 36.70A.040 may adopt a station area
26 variance to alter the station area designation, but only after
27 consultation with and approval by the department.

28 (29) "Transit-oriented density" means a floor area ratio of:

29 (a) At least 3.0 for all uses that are permitted within one-half
30 mile walking distance of a stop on a high capacity transportation
31 system funded or expanded under chapter 81.104 RCW, a commuter rail
32 stop, or a stop on rail or fixed guideway systems, including
33 transitways; and

34 (b) At least 2.5 for all uses permitted within one-quarter mile
35 walking distance of a stop on a bus rapid transit route.

36 (30) "Urban governmental services" or "urban services" include
37 those public services and public facilities at an intensity
38 historically and typically provided in cities, specifically including
39 storm and sanitary sewer systems, domestic water systems, street
40 cleaning services, fire and police protection services, public

1 transit services, and other public utilities associated with urban
2 areas and normally not associated with rural areas.

3 ~~((28))~~ (31) "Urban growth" refers to growth that makes
4 intensive use of land for the location of buildings, structures, and
5 impermeable surfaces to such a degree as to be incompatible with the
6 primary use of land for the production of food, other agricultural
7 products, or fiber, or the extraction of mineral resources, rural
8 uses, rural development, and natural resource lands designated
9 pursuant to RCW 36.70A.170. A pattern of more intensive rural
10 development, as provided in RCW 36.70A.070(5)(d), is not urban
11 growth. When allowed to spread over wide areas, urban growth
12 typically requires urban governmental services. "Characterized by
13 urban growth" refers to land having urban growth located on it, or to
14 land located in relationship to an area with urban growth on it as to
15 be appropriate for urban growth.

16 ~~((29))~~ (32) "Urban growth areas" means those areas designated
17 by a county pursuant to RCW 36.70A.110.

18 ~~((30))~~ (33) "Very low-income household" means a single person,
19 family, or unrelated persons living together whose adjusted income is
20 at or below ~~((fifty))~~ 50 percent of the median household income
21 adjusted for household size, for the county where the household is
22 located, as reported by the United States department of housing and
23 urban development.

24 ~~((31))~~ (34) "Wetland" or "wetlands" means areas that are
25 inundated or saturated by surface water or groundwater at a frequency
26 and duration sufficient to support, and that under normal
27 circumstances do support, a prevalence of vegetation typically
28 adapted for life in saturated soil conditions. Wetlands generally
29 include swamps, marshes, bogs, and similar areas. Wetlands do not
30 include those artificial wetlands intentionally created from
31 nonwetland sites, including, but not limited to, irrigation and
32 drainage ditches, grass-lined swales, canals, detention facilities,
33 wastewater treatment facilities, farm ponds, and landscape amenities,
34 or those wetlands created after July 1, 1990, that were
35 unintentionally created as a result of the construction of a road,
36 street, or highway. Wetlands may include those artificial wetlands
37 intentionally created from nonwetland areas created to mitigate
38 conversion of wetlands.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A
2 RCW to read as follows:

3 (1) Cities planning under RCW 36.70A.040 may not enact or enforce
4 any development regulation within a station area that would prohibit
5 the siting of multifamily residential housing on parcels where any
6 other residential use is permissible.

7 (2) Within any station area, any building in which all units are
8 affordable housing for households with incomes at or below 60 percent
9 area median income for at least 50 years or for permanent supportive
10 housing, an additional 1.5 floor area ratio must be permitted. Any
11 floor area within a station area that is reserved for residential
12 units in multifamily housing that includes at least three bedrooms
13 must not be counted toward applicable floor area ratio limits. If a
14 city has enacted or expands a program under RCW 36.70A.540 in an area
15 where development regulations must comply with this section, that
16 program governs to the extent it varies from the requirements of this
17 subsection.

18 (3)(a) Except as provided in (c) of this subsection, cities
19 planning under RCW 36.70A.040 may not enact any new development
20 regulation that imposes a maximum floor area ratio of less than the
21 applicable transit-oriented density for any use otherwise permitted
22 within a station area.

23 (b) Cities planning under RCW 36.70A.040 may not enact any new
24 development regulation that imposes a maximum residential density,
25 measured in residential units per acre or other metric of land area
26 within a station area.

27 (c) As an alternative to (a) of this subsection, cities planning
28 under RCW 36.70A.040 may by ordinance designate parts of a station
29 area in which to enact or enforce floor area ratios that are more or
30 less than the applicable transit-oriented density, if:

31 (i) The average maximum floor area ratio of all buildable land
32 within a station area is no less than the applicable transit-oriented
33 density. For purposes of this subsection, "buildable land" excludes
34 lots within critical areas or their buffers as designated in RCW
35 36.70A.170, as well as public facilities including streets, roads,
36 highways, sidewalks, street and road lighting systems, traffic
37 signals, lands occupied by or easements for domestic water systems
38 and storm and sanitary sewer systems, parks and recreational
39 facilities, and schools; and

1 (ii) No part of a station area is subject to a maximum floor area
2 ratio that is less than 0.5.

3 (4) Except in zones authorized by June 30, 2023, for a
4 development capacity greater than or equal to the applicable transit-
5 oriented density, at least 20 percent of all residential units
6 constructed within a station area must be affordable to households
7 with an income at or below 60 percent of area median income for at
8 least 50 years.

9 (5) Any city planning under RCW 36.70A.040 that has, as of the
10 effective date of this section, enacted any development regulation
11 that imposes within any station area (a) a maximum floor area ratio
12 of less than the applicable transit-oriented density or (b) a maximum
13 residential density measured in residential units per acre or other
14 metric of land area, the city must enforce and apply such development
15 regulation consistent with the requirements of this section.

16 (6) (a) Except as provided in (b) of this subsection, cities
17 planning under RCW 36.70A.040 may not enforce upon any parcel in a
18 station area any development standard that renders it impracticable
19 on that parcel to build a usable structure for the permitted uses at
20 the (i) applicable transit-oriented density or (ii) applicable floor
21 area ratio imposed under subsection (3) (c) of this section.

22 (b) This subsection (6) does not apply to development standards
23 contained in a shoreline master program or critical area ordinance,
24 or to any parcel that:

25 (i) Is nonconforming, legally or otherwise, with applicable local
26 subdivision standards including, but not limited to, standards
27 related to lot width, area, geometry, or street access; or

28 (ii) Is a designated landmark or within a historic district
29 established under a local preservation ordinance.

30 (7) Any city subject to the requirements of this section may
31 apply to the department for planning grants and consult with the
32 department for purposes of obtaining technical assistance and
33 compliance review with development regulation adoption, pursuant to
34 RCW 36.70A.500 (7).

35 (8) Nothing in this section requires alteration, displacement, or
36 limitation of industrial uses or industrial areas within the urban
37 growth area.

38 (9) (a) This section does not limit the amount of affordable
39 housing that a city may require to be provided, either on-site or

1 through an in-lieu payment, pursuant to a program enacted or expanded
2 under RCW 36.70A.540.

3 (10) A city planning under RCW 36.70A.040 must comply with the
4 requirements of this section, and collaborate with federally
5 recognized tribes in accordance with RCW 36.70A.040(8) regarding such
6 requirements, six months after its next periodic comprehensive plan
7 update required under RCW 36.70A.130, and following the completion or
8 funding of any transit stop that would create a new station area
9 within the jurisdiction, at each implementation progress report
10 required by RCW 36.70A.130(9).

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A
12 RCW to read as follows:

13 (1)(a) The department may approve actions under this section for
14 cities that have, by January 1, 2023, adopted a subarea plan and
15 implementing development regulations that are substantially similar
16 to the requirements of section 6 of this act. In determining whether
17 a city's adopted subarea plan and development regulations are
18 substantially similar, the department's evaluation may include, but
19 not be limited to, if:

20 (i) The regulations will result in an amount of affordable
21 housing that is at least equivalent to the amount of affordable
22 housing that would result if the specific provisions of section 6 of
23 this act were adopted;

24 (ii) The jurisdiction offers a way to exceed maximum heights to
25 achieve buildings that exceed 100 feet; and

26 (iii) New detached single-family residences are prohibited on
27 average within one-quarter mile of light rail stations.

28 (b) The department must establish by rule any standards or
29 procedures necessary to implement this subsection.

30 (2) Any local actions approved by the department pursuant to
31 subsection (1) of this section are exempt from appeals under this
32 chapter and chapter 43.21C RCW.

33 (3) The department's final decision to approve or reject actions
34 by cities under this section may be appealed to the growth management
35 hearings board by filing a petition as provided in RCW 36.70A.290.

36 (4) In reviewing any petition filed pursuant to subsection (3) of
37 this section, the growth management hearings board shall grant
38 substantial deference to the department's finding of substantial
39 compliance as an agency with expertise.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A
2 RCW to read as follows:

3 (1) By October 1, 2023, the department must develop, or contract
4 for the development of, a statewide displacement risk map that
5 identifies areas where residents and businesses are at a greater risk
6 of displacement. In completing the risk map, the department may build
7 on existing models for displacement risk assessment that are
8 currently in use for the state.

9 (2) The department must certify an extension from the
10 requirements in section 6 of this act for areas at risk of
11 displacement as determined by the antidisplacement analysis that a
12 jurisdiction is required to complete under RCW 36.70A.070(2) or by
13 the department or a regional planning authority. The extension may be
14 granted until the city and the department agree on an implementation
15 plan for specific antidisplacement policies. In addition to
16 antidisplacement policies, the city may implement alternative floor
17 area ratio requirements in areas deemed at greater risk of
18 displacement under an antidisplacement analysis.

19 **Sec. 9.** RCW 36.70A.500 and 2012 1st sp.s. c 1 s 310 are each
20 amended to read as follows:

21 (1) The department of commerce shall provide management services
22 for the growth management planning and environmental review fund
23 created by RCW 36.70A.490. The department shall establish procedures
24 for fund management. The department shall encourage participation in
25 the grant or loan program by other public agencies. The department
26 shall develop the grant or loan criteria, monitor the grant or loan
27 program, and select grant or loan recipients in consultation with
28 state agencies participating in the grant or loan program through the
29 provision of grant or loan funds or technical assistance.

30 (2) A grant or loan may be awarded to a county or city that is
31 required to or has chosen to plan under RCW 36.70A.040 and that is
32 qualified pursuant to this section. The grant or loan shall be
33 provided to assist a county or city in paying for the cost of
34 preparing an environmental analysis under chapter 43.21C RCW, that is
35 integrated with a comprehensive plan, subarea plan, plan element,
36 countywide planning policy, development regulation, monitoring
37 program, or other planning activity adopted under or implementing
38 this chapter that:

1 (a) Improves the process for project permit review while
2 maintaining environmental quality; or

3 (b) Encourages use of plans and information developed for
4 purposes of complying with this chapter to satisfy requirements of
5 other state programs.

6 (3) In order to qualify for a grant or loan, a county or city
7 shall:

8 (a) Demonstrate that it will prepare an environmental analysis
9 pursuant to chapter 43.21C RCW and subsection (2) of this section
10 that is integrated with a comprehensive plan, subarea plan, plan
11 element, countywide planning policy, development regulations,
12 monitoring program, or other planning activity adopted under or
13 implementing this chapter;

14 (b) Address environmental impacts and consequences, alternatives,
15 and mitigation measures in sufficient detail to allow the analysis to
16 be adopted in whole or in part by applicants for development permits
17 within the geographic area analyzed in the plan;

18 (c) Demonstrate that procedures for review of development permit
19 applications will be based on the integrated plans and environmental
20 analysis;

21 (d) Include mechanisms to monitor the consequences of growth as
22 it occurs in the plan area and to use the resulting data to update
23 the plan, policy, or implementing mechanisms and associated
24 environmental analysis;

25 (e) Demonstrate substantial progress towards compliance with the
26 requirements of this chapter. A county or city that is more than six
27 months out of compliance with a requirement of this chapter is deemed
28 not to be making substantial progress towards compliance; and

29 (f) Provide local funding, which may include financial
30 participation by the private sector.

31 (4) In awarding grants or loans, the department shall give
32 preference to proposals that include one or more of the following
33 elements:

34 (a) Financial participation by the private sector, or a public/
35 private partnering approach;

36 (b) Identification and monitoring of system capacities for
37 elements of the built environment, and to the extent appropriate, of
38 the natural environment;

39 (c) Coordination with state, federal, and tribal governments in
40 project review;

1 (d) Furtherance of important state objectives related to economic
2 development, protection of areas of statewide significance, and
3 siting of essential public facilities;

4 (e) Programs to improve the efficiency and effectiveness of the
5 permitting process by greater reliance on integrated plans and
6 prospective environmental analysis;

7 (f) Programs for effective citizen and neighborhood involvement
8 that contribute to greater likelihood that planning decisions can be
9 implemented with community support;

10 (g) Programs to identify environmental impacts and establish
11 mitigation measures that provide effective means to satisfy
12 concurrency requirements and establish project consistency with the
13 plans; or

14 (h) Environmental review that addresses the impacts of increased
15 density or intensity of comprehensive plans, subarea plans, or
16 receiving areas designated by a city or town under the regional
17 transfer of development rights program in chapter 43.362 RCW.

18 (5) If the local funding includes funding provided by other state
19 functional planning programs, including open space planning and
20 watershed or basin planning, the functional plan shall be integrated
21 into and be consistent with the comprehensive plan.

22 (6) State agencies shall work with grant or loan recipients to
23 facilitate state and local project review processes that will
24 implement the projects receiving grants or loans under this section.

25 (7)(a) Subject to the availability of amounts appropriated to the
26 growth management planning and environmental review fund established
27 in RCW 36.70A.490, the department may:

28 (i) Award grants to cities to facilitate transit-oriented
29 development consistent with subsection (8) of this section. Cities
30 may use such grants to pay for the costs associated with the
31 preparation of state environmental policy act environmental impact
32 statements, planned action ordinances, subarea plans, costs
33 associated with the utilization of other tools under this chapter or
34 the state environmental policy act, and the costs of local code
35 adoption and implementation of such efforts; and

36 (ii) Provide technical assistance and award planning grants to
37 cities to implement the requirements under section 6 of this act and
38 provide compliance review of any transit-oriented development
39 regulations adopted consistent with section 6 of this act.

1 (b) Grant awards under (a)(i) of this subsection may only fund
2 efforts that address environmental impacts and consequences,
3 alternatives, and mitigation measures in sufficient detail to allow
4 the analysis to be adopted in whole or in part by applicants for
5 development permits within the geographic area analyzed in the plan.

6 (8) In consultation with the department of transportation, the
7 department shall prioritize applications for grants under subsection
8 (7)(a)(i) of this section that maximize the following policy
9 objectives in the area covered by a proposal:

10 (a) The total number of housing units authorized for new
11 development in station areas;

12 (b) The proximity and quality of transit access in the area. For
13 purposes of this subsection, "transit access" includes walkable
14 access to light rail and other fixed guideway rail systems and bus
15 rapid transit;

16 (c) Plans that exceed applicable transit-oriented densities for
17 station areas;

18 (d) Plans that authorize, but do not mandate, ground floor retail
19 with housing above;

20 (e) Plans in areas that eliminate on-site parking requirements;

21 (f) Existence or establishment of incentive zoning, inclusionary
22 housing, or other tools to promote low-income housing in the area;

23 (g) Plans that include dedicated policies to support public or
24 nonprofit funded low-income or workforce housing; and

25 (h) Plans designed to maximize and increase the variety of
26 allowable housing types and expected sale or rental rates.

27 **Sec. 10.** RCW 36.70A.620 and 2020 c 173 s 3 are each amended to
28 read as follows:

29 ~~((In counties and cities planning under RCW 36.70A.040, minimum~~
30 ~~residential parking requirements mandated by municipal zoning~~
31 ~~ordinances for housing units constructed after July 1, 2019, are~~
32 ~~subject to the following requirements:~~

33 ~~(1) For housing units that are affordable to very low-income or~~
34 ~~extremely low-income individuals and that are located within one-~~
35 ~~quarter mile of a transit stop that receives transit service at least~~
36 ~~two times per hour for twelve or more hours per day, minimum~~
37 ~~residential parking requirements may be no greater than one parking~~
38 ~~space per bedroom or .75 space per unit. A city may require a~~
39 ~~developer to record a covenant that prohibits the rental of a unit~~

1 subject to this parking restriction for any purpose other than
2 providing for housing for very low-income or extremely low-income
3 individuals. The covenant must address price restrictions and
4 household income limits and policies if the property is converted to
5 a use other than for low-income housing. A city may establish a
6 requirement for the provision of more than one parking space per
7 bedroom or .75 space per unit if the jurisdiction has determined a
8 particular housing unit to be in an area with a lack of access to
9 street parking capacity, physical space impediments, or other reasons
10 supported by evidence that would make on-street parking infeasible
11 for the unit.

12 (2) For housing units that are specifically for seniors or people
13 with disabilities, that are located within one-quarter mile of a
14 transit stop that receives transit service at least four times per
15 hour for twelve or more hours per day, a city may not impose minimum
16 residential parking requirements for the residents of such housing
17 units, subject to the exceptions provided in this subsection. A city
18 may establish parking requirements for staff and visitors of such
19 housing units. A city may establish a requirement for the provision
20 of one or more parking space per bedroom if the jurisdiction has
21 determined a particular housing unit to be in an area with a lack of
22 access to street parking capacity, physical space impediments, or
23 other reasons supported by evidence that would make on-street parking
24 infeasible for the unit. A city may require a developer to record a
25 covenant that prohibits the rental of a unit subject to this parking
26 restriction for any purpose other than providing for housing for
27 seniors or people with disabilities.

28 (3) For market rate multifamily housing units that are located
29 within one-quarter mile of a transit stop that receives transit
30 service from at least one route that provides service at least four
31 times per hour for twelve or more hours per day, minimum residential
32 parking requirements may be no greater than one parking space per
33 bedroom or .75 space per unit. A city or county may establish a
34 requirement for the provision of more than one parking space per
35 bedroom or .75 space per unit if the jurisdiction has determined a
36 particular housing unit to be in an area with a lack of access to
37 street parking capacity, physical space impediments, or other reasons
38 supported by evidence that would make on-street parking infeasible
39 for the unit.) (1) To encourage transit-oriented development and
40 transit use and resulting substantial environmental benefits, cities

1 planning under RCW 36.70A.040 may not require off-street parking as a
2 condition of permitting development within a station area, except for
3 off-street parking that is permanently marked for the exclusive use
4 of individuals with disabilities.

5 (2) If a project permit application within a station area, as
6 defined in RCW 36.70B.020, does not provide parking in compliance
7 with this section, the proposed absence of parking may not be treated
8 as a basis for issuance of a determination of significance pursuant
9 to chapter 43.21C RCW.

10 (3) The parking provisions of this section do not apply:

11 (a) If the city submits to the department an empirical study
12 prepared by a credentialed transportation or land use planning expert
13 that clearly demonstrates, and the department finds and certifies,
14 that the application of the parking limitations under subsection (1)
15 of this section in a defined area within a station area will be
16 significantly less safe for vehicle drivers or passengers,
17 pedestrians, or bicyclists than if the jurisdiction's parking
18 requirements were applied to the same location without increased
19 transit-oriented development and density requirements. The department
20 must develop guidance to assist cities and counties on items to
21 include in the study; or

22 (b) To portions of cities within a one-mile radius of a
23 commercial airport in Washington with at least 9,000,000 annual
24 enplanements.

25 **Sec. 11.** RCW 43.21C.229 and 2020 c 87 s 1 are each amended to
26 read as follows:

27 (1) ~~((In order))~~ The purpose of this section is to provide cities
28 and counties with additional flexibility to accommodate infill
29 development, as well as to facilitate the timely and certain
30 deployment of sustainable transit-oriented development, and thereby
31 realize the goals and policies of comprehensive plans adopted
32 according to chapter 36.70A RCW~~((7-a))~~.

33 (2) A city or county planning under RCW 36.70A.040 ~~((is~~
34 authorized by this section to)) may establish categorical exemptions
35 from the requirements of this chapter~~((An exemption adopted under~~
36 this section applies even if it differs from the categorical
37 exemptions adopted by rule of the department under RCW
38 43.21C.110(1)(a). An exemption may be adopted by a city or county
39 under this section)) if it meets the following criteria:

1 (a) It categorically exempts government action related to
2 development proposed to fill in an urban growth area, designated
3 according to RCW 36.70A.110, where current density and intensity of
4 use in the area is roughly equal to or lower than called for in the
5 goals and policies of the applicable comprehensive plan and the
6 development is either:

7 (i) Residential development;

8 (ii) Mixed-use development; or

9 (iii) Commercial development up to (~~sixty-five thousand~~) 65,000
10 square feet, excluding retail development;

11 (b) It does not exempt government action related to development
12 that is inconsistent with the applicable comprehensive plan or would
13 clearly exceed the density or intensity of use called for in the
14 goals and policies of the applicable comprehensive plan;

15 (c) The local government considers the specific probable adverse
16 environmental impacts of the proposed action and determines that
17 these specific impacts are adequately addressed by the development
18 regulations or other applicable requirements of the comprehensive
19 plan, subarea plan element of the comprehensive plan, planned action
20 ordinance, or other local, state, or federal rules or laws; and

21 (d) (i) The city or county's applicable comprehensive plan was
22 previously subjected to environmental analysis through an
23 environmental impact statement under the requirements of this chapter
24 prior to adoption; or

25 (ii) The city or county has prepared an environmental impact
26 statement that considers the proposed use or density and intensity of
27 use in the area proposed for an exemption under this (~~section~~)
28 subsection.

29 (~~(2) Any~~) (3) Any project action that meets the following
30 criteria is categorically exempt from the requirements of this
31 chapter:

32 (a) It is related to a proposed development that would fill in a
33 station area as defined in RCW 36.70A.030;

34 (b) It is related to a proposed:

35 (i) Multifamily residential development;

36 (ii) Mixed-use development; or

37 (iii) Commercial development; and

38 (c) It is not inconsistent with the applicable comprehensive
39 plan, and does not clearly exceed the density or intensity of use

1 called for in the goals and policies of the applicable comprehensive
2 plan.

3 (4) Any categorical exemption under this section applies even if
4 it differs from the categorical exemptions adopted by rule of the
5 department of ecology under RCW 43.21C.110(1)(a). However, any
6 categorical exemption ((adopted by a city or county)) under this
7 section ((shall be)) is subject to the rules of the department
8 adopted according to RCW 43.21C.110(1)(a) that provide exceptions to
9 the use of categorical exemptions adopted by the department.

10 NEW SECTION. Sec. 12. A new section is added to chapter 64.38
11 RCW to read as follows:

12 Governing documents created after the effective date of this
13 section and applicable to associations located fully or partially
14 within a station area as defined in RCW 36.70A.030 may not prohibit
15 the construction or development of multifamily housing or transit-
16 oriented density that must be permitted by cities under section 6 of
17 this act or require off-street parking inconsistent or in conflict
18 with RCW 36.70A.620.

19 NEW SECTION. Sec. 13. A new section is added to chapter 64.90
20 RCW to read as follows:

21 Declarations and governing documents created after the effective
22 date of this section and applicable to a common interest community
23 located fully or partially within a station area as defined in RCW
24 36.70A.030 may not prohibit the construction or development of
25 multifamily housing or transit-oriented density that must be
26 permitted by cities under section 6 of this act or require off-street
27 parking inconsistent or in conflict with RCW 36.70A.620.

28 NEW SECTION. Sec. 14. A new section is added to chapter 64.34
29 RCW to read as follows:

30 A declaration created after the effective date of this section
31 and applicable to an association located fully or partially within a
32 station area as defined in RCW 36.70A.030 may not prohibit the
33 construction or development of multifamily housing or transit-
34 oriented density that must be permitted by cities under section 6 of
35 this act or require off-street parking inconsistent or in conflict
36 with RCW 36.70A.620.

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 64.32
2 RCW to read as follows:

3 A declaration created after the effective date of this section
4 and applicable to an association of apartment owners located fully or
5 partially within a station area as defined in RCW 36.70A.030 may not
6 prohibit the construction or development of multifamily housing or
7 transit-oriented density that must be permitted by cities under
8 section 6 of this act or require off-street parking inconsistent or
9 in conflict with RCW 36.70A.620."

10 Correct the title.

EFFECT: (1) Transfers responsibilities for providing technical assistance, awarding grants, and providing compliance review of transit-oriented development regulations from the Washington State Department of Transportation (WSDOT) to the Department of Commerce (Commerce).

(2) Modifies the grant program for the financing of housing projects by: (a) Requiring it to fund projects within station areas instead of rapid transit corridors; (b) limiting grants to properties with a covenant requiring all of the units to remain affordable for at least 50 years for households with incomes at or below 60 percent of area median income for rental, shelter, or permanent supportive housing projects or at or below 80 percent of area median income for homeownership projects; and (c) requiring projects to include at least 100 units of rental, shelter, or permanent supportive housing or at least 30 units of owner-occupied housing.

(3) Modifies the definition of "station area" to mean all parcels within an urban growth area (UGA) that are fully or partially within: (a) One-half mile walking distance of a stop on a high capacity transportation system funded or expanded under chapter 81.104 RCW, a commuter rail stop, or a stop on rail or fixed guideway systems, including transitways; and (b) one-quarter mile walking distance of a stop on a bus rapid transit route.

(4) Removes the definition of "station hub" and all requirements and provisions related to a station hub.

(5) Defines a "stop" as any existing stop or any stop funded for development prior to the earlier of a city's deadline to complete its next periodic comprehensive plan update or its deadline to complete its implementation progress report.

(6) Removes the definitions of "major transit station" and "major transit stop."

(7) Modifies the definition of "floor area ratio" (FAR) by specifying it is a measure of transit-oriented development intensity and clarifying that developable property excludes lots with critical areas or their buffers and lots used for public facilities.

(8) Modifies the definition of "transit-oriented density" (TOD) to mean a FAR of: (a) At least 3.0 within one-half mile walking distance of a stop on a high-capacity transportation system funded or expanded, a commuter rail stop, or a stop on rail or fixed guideway systems, including transitways; and (b) at least 2.5 within one-quarter mile walking distance of a stop on a bus rapid transit route.

(9) Requires at least 20 percent of all residential units constructed within a station area to be affordable to households with

an income at or below 60 percent of area median income for at least 50 years, except in zones where a development capacity greater than or equal to the applicable TOD is authorized by June 30, 2023.

(10) Modifies provisions for an increased density bonus by: (a) Removing the 50 percent density bonus for affordable housing, permanent supportive housing, and long-term inpatient care; (b) allowing an additional 1.5 FAR in any building within a station area in which all units are affordable for households with incomes at or below 60 percent area median income for at least 50 years or for permanent supportive housing; and (c) removing provisions allowing child care facilities and small businesses to be excluded from the FAR calculation.

(11) Specifies that if a city has enacted or expands an affordable housing incentive program in an area that must comply with the TOD regulations, that program governs to the extent it varies from the density bonus requirements.

(12) Modifies the exemption from TOD requirements for historic places to exempt any parcel that is a designated landmark or within a historic district established under a local preservation ordinance.

(13) Specifies that a city must comply with the new TOD requirements six months after its next periodic comprehensive plan update and, following the completion or funding of any transit stop that would create a new station area within the jurisdiction, at each five-year implementation progress report.

(14) Allows Commerce to approve subarea plans and implementing regulations adopted by cities prior to January 1, 2023, as substantially similar to the TOD requirements. Specifies that in evaluating plans and regulations, Commerce may consider if: (a) The regulations will result in an amount of affordable housing that is at least equivalent to the amount of affordable housing that would result if the TOD requirements were adopted; (b) the jurisdiction offers a way to exceed maximum heights to achieve buildings that exceed 100 feet; and (c) new detached single-family residences are prohibited on average within one-quarter mile of light rail stations. Directs Commerce to establish by rule any standards or procedures necessary to make a determination of substantially similar. Specifies that any local actions approved by Commerce as substantially similar are exempt from appeals under the State Environmental Protection Act but allows Commerce's final decision to be appealed to the Growth Management Hearings Board.

(15) Directs Commerce to develop, or contract for the development of, a statewide displacement risk map that identifies areas where residents and businesses are at a greater risk of displacement, which may build on existing models.

(16) Requires Commerce to grant cities an extension from the TOD requirements for areas at greater risk of displacement and allows cities to implement alternative FARs for areas at greater risk of displacement.

(17) Allows cities to impose off-street parking requirements within a station area if the city provides Commerce with an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and Commerce finds and certifies, that the limits on off-street parking in a defined area will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location without increased transit-oriented development and density requirements. Directs Commerce to develop guidance to assist cities and counties on items to include in the study.

(18) Exempts from the provisions prohibiting off-street parking any portion of a city within a one-mile radius of a commercial airport with at least 9,000,000 annual enplanements.

(19) Removes counties from the provisions prohibiting off-street parking requirements within a station area.

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