

HOUSE BILL REPORT

HB 2126

As Reported by House Committee On:
Housing

Title: An act relating to creating opportunities for affordable housing by authorizing detached accessory dwelling units in rural areas.

Brief Description: Authorizing accessory dwelling units in rural areas.

Sponsors: Representatives Low, Peterson, Connors, Leavitt, Chapman, Barkis, Reed, Ormsby, Graham, Gregerson, Sandlin, Tharinger, Couture and Kloba.

Brief History:

Committee Activity:

Housing: 1/16/24, 1/18/24 [DP].

Brief Summary of Bill

- Allows counties planning under the Growth Management Act to authorize development of detached accessory dwelling units (DADUs) in rural areas on lots of any size if the DADUs are subject to certain development regulations.
- Prohibits counting population growth from the development of such DADUs for the purpose of determining whether a county is achieving rural or urban growth targets contained in a comprehensive plan, countywide planning policy, or multicounty planning policy.

HOUSE COMMITTEE ON HOUSING

Majority Report: Do pass. Signed by 13 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Entenman, Hutchins, Low, Reed and Taylor.

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.

Staff: Audrey Vasek (786-7383).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. The GMA establishes land-use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are required or have chosen to plan under the GMA.

Counties that plan under the GMA must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Each city in a planning county must be included in a UGA, and UGAs must include sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

Comprehensive Plans.

The GMA also directs cities and counties planning under the GMA to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements in the GMA. A comprehensive plan must be reviewed and, if necessary, revised every 10 years to ensure that it complies with the GMA.

When developing comprehensive plans, counties and cities must consider specific planning goals related to certain subjects, such as urban growth, reduction of sprawl, transportation, and housing. Each comprehensive plan must include certain mandatory elements, including elements related to land use, housing, capital facilities, utilities, rural areas, transportation, economic development, parks and recreation, and climate change and resiliency.

Countywide Planning Policies and Multicounty Planning Policies.

Counties that plan under the GMA must adopt a countywide planning policy in cooperation with the cities located within the county. A countywide planning policy is a written policy statement used for establishing a countywide framework for developing and adopting comprehensive plans to ensure that city and county comprehensive plans are consistent. Counties that each have a population of 450,000 or more and have contiguous urban areas must adopt multicounty planning policies. Other counties may choose to adopt multicounty planning policies.

Summary of Bill:

Counties planning under the GMA may authorize development of detached accessory dwelling units (DADUs) in rural areas on lots of any size, even where otherwise prohibited

by a comprehensive plan, countywide planning policy, or multicounty planning policy, if the DADUs are subject to the following development regulations:

- A parcel may not have more than one accessory dwelling unit (ADU), whether attached or detached.
- The DADU must be subject to certain water supply requirements and may not be located on a parcel that uses a water source that is closed to further appropriation, must use water that is part of the water right for the primary dwelling, and withdrawals of water must be metered.
- The DADU may not be located within or encroach upon any existing critical area buffers.
- The building permit applicant must demonstrate that the sewage, septic, or on-site sewage system can handle the additional demand from the DADU. If the DADU will be connected to an existing system, the system must be inspected by a licensed contractor prior to issuance of the building permit.
- The floor area of the DADU may not exceed the lesser of 1,296 square feet, or the square footage that could be authorized by the county as an expansion of the primary dwelling to create an attached ADU.
- The DADU must be constructed so that exterior material, roof form, window spacing, and proportions approximate those of the primary dwelling, unless the DADU is a manufactured/mobile home.
- The DADU must use the same driveway as the primary dwelling.
- The DADU must be sited to prevent loss of agricultural land or forestland.
- A parcel may not be subdivided for the purposes of avoiding these development regulations.

The comprehensive plan, countywide planning policy, or multicounty planning policy for any county that authorizes development of DADUs under the specified development regulations must be amended, at its next regularly scheduled update, to allow development of DADUs consistent with the specified development regulations.

Population growth from the development of DADUs that comply with the specified development regulations may not be counted for the purpose of determining whether a county is achieving rural or urban growth targets contained in a comprehensive plan, countywide planning policy, or multicounty planning policy.

The section in the GMA that requires cities and counties to protect agricultural lands of long-term commercial significance may not be interpreted to limit the development of DADUs that comply with the specified development regulations.

Appropriation: None.

Fiscal Note: Available.

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) Washington is in an affordable housing crisis. Detached accessory dwelling units are the perfect option for affordable housing. Detached accessory dwelling units give families the opportunity to house their aging senior parents, give adult kids a place to start out, and provide space for family members who may be struggling with special or behavioral health needs.

This bill is a complex attempt at threading the needle for allowing DADUs. This bill picks up on previous discussions and addresses issues around water rights and septic systems. This bill gives counties the option to do what is already allowed in the largest county in the state.

This bill is not going to create huge population growth outside of UGAs. This bill is informed by the Snohomish County experience over the past couple years. The GMA did not address ADUs in rural areas when it was first created, leaving a void. The Growth Management Hearing Board has filled the void in the wrong way and this bill will help fix that.

People are building these types of structures even where not permitted. People are using barns, sheds, and garages as functional DADUs. After the inspector signs off on the structure, homeowners will convert the structure to a living space when it is not designed for that. Unlike proper DADUs, these structures do not have concrete pads or insulation. It makes much more sense to permit this activity and make sure all the proper protections are in place for DADUs, rather than have unpermitted structures with problems.

This bill offers flexibility to residents living in rural areas. Properties in rural areas are already eligible for attached ADUs. Detached accessory dwelling units are not that different from attached ADUs, so they should not be treated differently. Residents in rural areas should have the same opportunity as residents in urban areas to build DADUs.

(Opposed) This bill fundamentally undermines the GMA's intentions and long-range planning requirements. By essentially doubling rural densities and expanding growth outside of UGAs, the bill will create urban sprawl and have negative impacts on infrastructure, services, the environment, and quality of life. Rural areas will likely become urban areas.

This bill will not solve the affordable housing crisis. This bill provides no assurance that the housing created will be affordable in the short term or long term. Detached accessory dwelling units could for all intents and purposes be sold through 99-year leases or become vacation rentals. Increases in rural density are going to increase the need for rural services,

such as fire services, utilities, and other infrastructure. This will not increase housing affordability. Tax assessments will be impacted and taxpayers will likely see tax increases.

This bill will place more homes and lives in the path of destructive forest fires, disrupt wildlife feeding and migration areas, and will introduce more domestic pets into rural areas which could lead to negative encounters between wildlife and domestic pets.

While there is some language around water and septic in the bill, there are still major water and septic issues with the bill. The bill would not protect water resource inventory areas and basins that are at risk of running dry.

King County allows DADUs in rural areas but also takes into account population growth from the development of DADUs in rural areas. This bill should allow a clear accounting of where population growth is coming from. Requiring multicounty planning policies to be updated could potentially cause issues with federal funding.

Persons Testifying: (In support) Representative Sam Low, prime sponsor; Alex Hur, Master Builders Association of King and Snohomish Counties; Bill Stauffacher, Building Industry Association of Washington; Paul Jewell, Washington State Association of Counties; and Bill Clarke, Kittitas County and Washington Realtors.

(Opposed) D. James McCubbin, Friends of the San Juans; Alex Brennan and Bryce Yadon, Futurewise; Phyllis Kardos, Responsible Growth; Marnie Jackson, Whidbey Environmental Action Network; Angie Homola, Environment and Climate Caucus of the Washington State Democratic Party; and Dani Madrone, American Farmland Trust.

Persons Signed In To Testify But Not Testifying: None.