

# SENATE BILL REPORT

## SB 5609

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As of February 17, 2023

**Title:** An act relating to establishing housing approval requirements that will eliminate Washington's housing shortage.

**Brief Description:** Establishing housing approval requirements that will eliminate Washington's housing shortage.

**Sponsors:** Senators Braun, Kuderer, Gildon, Dozier, Fortunato, Lias, Lovick and Wilson, L..

**Brief History:**

**Committee Activity:** Housing: 2/01/23, 2/10/23 [DPS-WM].  
Ways & Means: 2/20/23.

**Brief Summary of First Substitute Bill**

- Requires counties, cities, and towns to approve the construction of enough new homes to eliminate each local government's proportional share of the state's total housing shortage through 2033, and review their requirements to determine whether they impede these efforts.
- Requires the Department of Commerce to calculate each local government's share of the state's total housing shortage and forward reports from local governments of state laws that are preventing the local government from eliminating its share of the housing shortage.
- Prohibits distribution of the earnings of investments of balances in the Local Real Estate Excise Tax Account to any county, city, or town that does not comply with the conditions and requirements.

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### SENATE COMMITTEE ON HOUSING

**Majority Report:** That Substitute Senate Bill No. 5609 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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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.*

Signed by Senators Kuderer, Chair; Frame, Vice Chair; Fortunato, Ranking Member; Braun, Cleveland, Gildon, Saldaña, Shewmake, Trudeau and Wilson, J..

**Staff:** Melissa Van Gorkom (786-7491)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Trevor Press (786-7446)

**Background:** Housing Planning Goal. The Growth Management Act (GMA) includes various planning goals to guide the development of comprehensive plans and development regulations for counties and cities that plan under the GMA. Under the housing goal, GMA jurisdictions must plan for and accommodate housing affordable to all economic segments of the population of the state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

The Department of Commerce (Commerce) must provide an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth as required in the housing element of the comprehensive plan, including units for moderate-, low-, very low-, and extremely low-income households as well as emergency housing, emergency shelters, and permanent supportive housing.

Project Permit Process. Before developing land, a developer must obtain permits from the county, city, or town allowing the development. These permits can include land use permits, environmental permits, building permits, and others, and are referred to as project permits. When a county or city planning under the growth management act is reviewing a project, decisions on permit applications are based on adopted development regulations, or the comprehensive plan in the absence of development regulations.

Real Estate Excise Tax. Most real estate sales are subject to state and local real estate excise taxes (REET). The tax is usually collected by the treasurer of the county within which the property is located, or in some circumstances by the Department of Revenue. The county treasurer remits collections of state REET moneys to the state treasurer. For real estate transactions where the state collects REET directly, the local portion of the tax is deposited with the state treasurer in a local REET account. On a monthly basis, the state treasurer distributes from the local REET account to the counties, cities, and towns, the amount of tax collected on behalf of each taxing authority as well as all earnings of investments of balances in the local REET account.

**Summary of Bill (First Substitute):** Commerce must establish the proportional share of Washington's total housing shortage for each county, city, and town using the best available data no later than April 1, 2024, and report the number of new homes that must be created in each county, city, and town through 2033, to eliminate Washington's housing shortage. Commerce must post the information to its public website by May 1, 2024.

Every county, city, and town that has authority to approve or deny permits or similar approvals necessary for the construction of new homes must:

- approve the construction of enough new homes through 2033, as calculated by Commerce;
- beginning May 1, 2024, regularly evaluate its locally enacted codes, ordinances, plans, and regulations to determine whether its requirements impede the ability to eliminate its proportional share of Washington's total housing shortage by 2033; and
- report to Commerce any state-enacted requirements that impede the county, city, or town's ability to approve the construction of a sufficient number of new homes to eliminate its proportional share of Washington's total housing shortage by 2033.

The state treasurer may not distribute the earnings of investments of balances in the local real estate excise tax account to any county, city, or town that does not comply with the conditions and requirements.

Commerce must regularly forward any reports made by counties, cities, or towns to the Governor, Lieutenant Governor, Chief Clerk of the House of Representatives, and Secretary of the Senate.

**EFFECT OF CHANGES MADE BY HOUSING COMMITTEE (First Substitute):**

- Allows Commerce to include data collected under other programs when making calculations.
- Requires Commerce complete its calculations no later than April 1, 2024, instead of December 1, 2023.
- Requires Commerce post the number of new homes that must be created in each county, city and town through 2033 to eliminate Washington's total housing shortage by May 1, 2024, instead of December 31, 2023.
- Requires a county, city, or town to regularly evaluate its locally enacted codes, ordinance, plans and regulations beginning May 1, 2024, instead of January 1, 2024.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Housing):** *The committee recommended a different version of the bill than what was heard.* PRO: Washington is 50th in the nation in number of housing units per family which shows the housing ladder is fundamentally broken. This by itself will not solve the housing shortage but the goal is to

recognize the scale of the problem and timeframes necessary to get after the problem. It is not realistic that the problem will be solved in one year so this bill looks at a 10 year period to provide short term goals by municipality because we each need to have a process in place to get a minimum amount of permits through annually to cover the growth or expected growth in the population. There are a lot of housing bills on the table and this is a unique approach to tell local governments to start permitting housing. It will force them to take a look at development regulations that may be preventing builders from building and also let the state know what is preventing housing units from being built as well.

CON: The planning elements of the bill make a lot of sense and are largely reflected in the housing element that was passed a few years ago. The 5 year check-in on the comprehensive plan included in that legislation is the first time we will be able to measure if jurisdictions are meeting their goals and if there are not updates required. This is outside of the GMA process and so it may be confusing which statute should be used if there is a conflict. The largest concern is the mechanism that requires permitting the number of houses calculated because there are many communities that are not seeing applications. If you are unable to get enough permits you should not lose resources.

OTHER: The GMA framework contains a lot of these ideas and Commerce is working with local governments to help them implement and meet these new requirements. We are concerned that the bill applies to all cities and counties in the state the same way, even those who don't plan under GMA and that there will be a second, duplicative framework with a new set of targets established by Commerce. If the housing targets are going to be binding requirements we would need more time to establish those requirements, 5 months is not enough.

**Persons Testifying (Housing):** PRO: Senator John Braun, Prime Sponsor; Jan Himebaugh, Building Industry Association of Washington; Nathan Gorton, Washington REALTORS.

CON: Bryce Yadon, Futurewise; Carl Schroeder, Association of Washington Cities.

OTHER: Dave Andersen, Washington Department of Commerce.

**Persons Signed In To Testify But Not Testifying (Housing):** No one.