
Local Government Committee

HB 2984

Brief Description: Authorizing cities, towns, and counties to implement affordable housing incentive programs.

Sponsors: Representatives Springer, Jarrett, Simpson, Clibborn, B. Sullivan, Hasegawa, Sells, P. Sullivan, Moeller, Santos and Green.

Brief Summary of Bill

- Authorizes jurisdictions fully planning under the Growth Management Act (GMA) to enact or expand affordable housing incentive programs (incentive programs) through development regulations.
- Establishes requirements for incentive programs enacted or expanded after the effective date of the act.
- Specifies that excise tax preemption provisions do not limit the authority of jurisdictions to implement qualifying incentive programs or to enforce agreements made pursuant to these programs.

Hearing Date: 1/26/06

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act

Enacted in 1990 and 1991, the Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA specifies numerous provisions for jurisdictions fully planning under the Act (planning jurisdictions) and establishes a reduced number of compliance requirements for all local governments.

Among other requirements, planning jurisdictions must adopt internally consistent comprehensive land use plans, which are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must satisfy requirements for specified planning elements, each of which is a subset of a comprehensive plan. Planning jurisdictions must also adopt development regulations that are consistent with and implement the comprehensive plan.

The GMA includes planning requirements relating to the use or development of land in urban and rural areas. Among other obligations, counties that comply with the major requirements of the

GMA must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. "Urban growth" is defined by the GMA, in part, as a reference to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for specified agricultural, mineral resource, and rural purposes.

Excise Taxes

Excise taxes are taxes imposed on certain types of real or tangible personal property in lieu of property taxes. Excise taxes generally refer to a specific type of transaction or privilege and are determined by the selling price or some other measure of sales. The retail sales tax is the largest excise tax levied in the state.

The state preempts the imposition of specific excises taxes, including taxes pertaining to parimutuel wagering and cigarettes. Additionally, local governments may not impose direct or indirect taxes, fees, or charges on certain construction, development, and land division activities. However, statute includes numerous provisions specifying that local governments are not prohibited by preemption requirements from authorizing certain locally-imposed fees and charges, including:

- impact fees;
- permit processing fees;
- utility system charges; and
- transportation benefit district fees or charges on building construction or land development.

Summary of Bill:

Jurisdictions fully planning under the GMA are granted explicit authority to enact or expand affordable housing incentive programs (incentive programs) that encourage or require the development of low-income housing units through development regulations.

An enacted or expanded incentive program may include, but is not limited to, provisions pertaining to:

- density bonuses within the UGA;
- height bonuses;
- conditions on permits for commercial, mixed-use, or multifamily developments;
- fee waivers or exemptions;
- parking reductions;
- exemptions from development regulations; or
- expedited permitting, conditioned on the provision of low-income housing units.

Jurisdictions may enact or expand incentive programs, whether or not the programs may impose a tax, fee, or charge on the development or construction of property.

Incentive programs enacted or expanded after the effective date of the act must satisfy numerous requirements, including:

- providing that enacted incentives or bonuses encourage or require the construction of low-income housing units;

- requiring jurisdictions to establish requirements for low-income renter or owner occupancy housing that are intended to assist qualifying households;
- requiring jurisdictions to set a maximum rent level or sales price, consistent with specified criteria, for each low-income housing unit developed under the terms of an incentive program;
- requiring low-income housing units to be of comparable quality to the other units in housing projects developed under an incentive program;
- requiring low-income housing units developed under an incentive program to be committed to continuing affordability for at least 50 years; and
- requiring the incentive program to include measures to enforce continuing affordability and income standards, subject to specified provisions.

Other requirements for enacted or expanded incentive programs are specified. Incentive programs may apply to all or part of a jurisdiction, and jurisdictions are authorized to apply differing requirements within separate geographic areas. Jurisdictions may tailor incentive programs to meet local needs and may include provisions or requirements not expressly provided for in the act. Additionally, jurisdictions may accept payments in lieu of continuing affordability.

Required low-income housing units are encouraged to be located within market-rate housing developments for which a bonus or incentive is provided. Incentive programs may allow payments in lieu of low-income housing units if the payment equals the approximate cost of developing the same number and quality of housing units that would otherwise be developed. Jurisdictions may use these payment funds to support the development of low-income housing, including support through loans or grants to public or private owners or housing developers.

Low-income households are defined for renter and owner occupancy program purposes as follows: rental housing units to be developed must be affordable to and occupied by households with an income of no more than 50 percent of the county median family income, adjusted for family size. Owner occupancy housing units must be affordable to and occupied by households with an income of no more than 80 percent of the county median family income, adjusted for family size. A jurisdiction's legislative body may set higher or lower income levels, subject to public hearing and other requirements.

Nothing in specified excise tax preemption provisions limits the authority of counties, cities, or towns to implement qualifying incentive programs, nor to enforce agreements made pursuant to these programs.

Appropriation: None.

Fiscal Note: Not requested.

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