

# SENATE BILL REPORT

## SB 5964

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As of February 20, 2015

**Title:** An act relating to infill development.

**Brief Description:** Addressing infill development.

**Sponsors:** Senators Roach and Liias.

**Brief History:**

**Committee Activity:** Government Operations & Security: 2/19/15.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

**Staff:** Karen Epps (786-7424)

**Background:** The State Environmental Policy Act (SEPA) establishes a review process for state agencies and local governments to identify possible environmental impacts that may result from nonexempt government actions. The actions include project actions involving decisions on specific projects, such as the issuance of a permit, and nonproject actions involving decisions on policies and plans, including the adoption of land use plans and regulations. The information collected through the SEPA review process may be used to change a proposal to mitigate likely impacts, or to condition or deny a proposal when adverse environmental impacts are identified.

Provisions of SEPA generally require a project applicant to complete an environmental checklist. An environmental checklist includes, in part, questions about the potential environmental impacts of the proposal. This checklist is then reviewed by the lead agency – one agency identified as such and responsible for compliance with the procedural requirements of SEPA – to determine whether the proposal is likely to have a significant adverse environmental impact. This environmental threshold determination is made by the lead agency and is documented in either a determination of nonsignificance or a determination of significance.

A determination of significance requires the preparation of an environmental impact statement (EIS) by the lead agency. The EIS must include detailed information about the environmental impact of the project, and any adverse environmental effects that cannot be avoided if the proposal is implemented. The EIS must also include alternatives, including

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mitigation, to the proposed action. Analysis of environmental considerations for an EIS may be required only for listed elements of the natural and built environment.

Specific categorical exemptions from the EIS and other requirements for actions meeting specified criteria are established in SEPA. In 2012 the Legislature directed the Department of Ecology to update the categorical exemptions to SEPA in a two-phase rulemaking process that was originally scheduled to conclude by December 31, 2013. As part of the rulemaking, the Department of Ecology was directed to consider updates to the SEPA categorical exemptions to further integrate SEPA review with GMA planning.

**Summary of Bill:** A categorical exemption from SEPA may be adopted by a city or county for a short plat or short subdivision approval. Minor actions that are four dwelling units or less, excavation of 500 cubic yards of dirt or less, or four-lot short plats or less are categorically exempt from SEPA.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: This bill is common-sense legislation that can expedite review of short plats of four lots or less. These actions would still be required to comply with all development regulations, including existing zoning, sensitive areas designations, and shoreline regulations. One of the principle goals of GMA is to encourage infill within areas designated for urban growth under comprehensive plans. This bill will help expedite infill projects that are ready to go.

CON: The bill eliminates the provisions that currently exist in Washington Administrative Code short plats and short subdivisions around lands covered by water, including floodplains and wetlands. It may not be a good idea to develop in floodplains and wetland areas and, if it does happen, having a SEPA review is important.

OTHER: The biggest issue raised is how to harmonize SEPA process with the planning that is done under GMA. The section of code being amended is one of the most important tools that has been provided because it creates an infill exemption with no upper limit. This tool has not been used very much, but it is a very powerful tool for local jurisdictions. There is concern about the bill because it may make this tool too confusing to use. Short plats are already exempt from SEPA review. Adding this provision to this narrow part of the statute may cloud the exempt status of short plats under the rules.

**Persons Testifying:** PRO: Ron Main, Master Builders of King and Snohomish Counties.

CON: Bryce Yadon, Futurewise.

OTHER: Tom Clingman, Dept. of Ecology.