

SENATE BILL REPORT

E2SSB 5254

As Passed Senate, June 29, 2017

Title: An act relating to ensuring adequacy of buildable lands and zoning in urban growth areas and providing funding for low-income housing and homelessness programs.

Brief Description: Ensuring adequacy of buildable lands and zoning in urban growth areas and providing funding for low-income housing and homelessness programs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Fain, Palumbo, Zeiger, Angel, Hobbs and Mullet).

Brief History:

Committee Activity: Local Government: 1/26/17, 2/14/17 [DPS-WM].

Ways & Means: 2/22/17, 3/20/17 [DP2S, DNP, w/oRec].

Floor Activity:

Third Special Session: Passed Senate: 6/29/17, 47-2.

Brief Summary of Engrossed Second Substitute Bill

- Modifies timelines and factors in the buildable lands report (BLR) program in the Growth Management Act.
- Extends the \$40 surcharge for local homeless housing and assistance to 2023.
- Allows a portion of local real estate excise tax (REET) 2 to be used for construction of homeless housing facilities through 2019.
- Provides for a threshold determination of environmental imports under the state environmental policy act (SEPA) for certain planned actions located near a major transit stop.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: That Substitute Senate Bill No. 5254 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Short, Chair; Angel, Vice Chair; Takko, Ranking Minority Member; Palumbo and Sheldon.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Bonnie Kim (786-7316)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5254 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Becker, Carlyle, Conway, Fain, Keiser, Miloscia, Pedersen, Schoesler, Warnick and Zeiger.

Minority Report: Do not pass.

Signed by Senators Ranker, Ranking Minority Member; Darneille and Hasegawa.

Minority Report: That it be referred without recommendation.

Signed by Senators Billig and Padden.

Staff: Daniel Masterson (786-7454)

Background: Growth Management Act (GMA). The GMA is the comprehensive land use planning framework for counties and cities in Washington. The GMA sets forth three broad planning obligations for those counties and cities who plan fully under the GMA: the county legislative authority must adopt a countywide planning policy; the county, and the cities within the county, must designate critical areas, agricultural lands, forestlands, and mineral resource lands, and adopt development regulations accordingly; and the county must designate and take other actions related to Urban Growth Areas (UGAs).

UGAs. Counties that fully plan under the GMA must designate UGAs, areas within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period. In addition, cities must include sufficient areas to accommodate the broad range of needs and uses that will accompany the projected urban growth, including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

Countywide Planning Policy. A countywide planning policy is a written policy statement used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted. The policy must address certain issues, including policies for promoting orderly development and provision of urban services, for siting public capital facilities, and for joint county and city planning within UGAs. Cities and the Governor may appeal an adopted policy to the Growth Management Hearings Board (GMHB) within 60 days of adoption.

BLR Process. Counties and cities must determine whether they are achieving urban densities within UGAs by comparing growth and development assumptions in comprehensive plans and countywide planning policies with actual growth and development. Counties and cities must identify reasonable measures to comply with GMA requirements. The review must

include data collection regarding land uses and activities and must, at a minimum, determine whether there is sufficient suitable land to accommodate countywide population projections.

Affordable Housing For All Surcharge. The county auditor may charge a \$10 surcharge per document recorded. Of the \$10, the county may retain up to 5 percent for administrative costs; 40 percent is deposited into the Affordable Housing for All Account; and remaining funds may be retained by the county for eligible housing activities. The Department of Commerce (Department) must use these funds to provide housing and shelter for extremely low-income households.

Surcharge for Local Homeless Housing and Assistance. From September 1, 2012, to June 30, 2019, the county auditor may charge an additional \$40 surcharge to administer the requirements of the Homeless Housing and Assistance Act. After June 30, 2019, the fee is reduced to \$10. Of the total fee, 2 percent is retained by the auditor to cover collection costs; 60 percent goes to the county to administer a local homeless housing program; 6 percent may be used by the county to cover related administrative costs; and 32 percent goes to programs directly related to accomplishing the goals of the county's local homeless housing plan. Certain documents are exempt from this surcharge.

Capital Project Maintenance - Use of Additional (REET 2) Tax Funds. If the following conditions are met, a city or county may use the greater of \$100,000 or 25 percent of available funds up to \$1 million for the maintenance of capital projects:

- the city or county prepares a written report demonstrating that it has or will have adequate funding from all sources of public funding to pay for all capital projects identified in its capital facilities plan for the succeeding two-year period; and
- the city or county has not enacted, after June 9, 2016, any requirement on the listing or sale of real property; or any requirement on landlords, at the time of executing a lease, to perform or provide physical improvements or modifications to real property or fixtures, except if necessary to address an immediate threat to health or safety.

State Environmental Policy Act (SEPA). SEPA establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. Except for exempt projects, the SEPA generally requires a project applicant to submit an environmental checklist that includes answers to questions about the potential impacts of the project on the built and natural environments. The information collected through the SEPA review process may be used to condition a proposal to mitigate environmental impacts or to deny a proposal when significant adverse environmental impacts are identified.

Summary of Engrossed Second Substitute Bill: BLR Process. For comprehensive plans required to be updated before 2024, the evaluation must be completed no more than two years before the review deadline and, if necessary, update of comprehensive plans.

Reasonable measures are actions necessary to reduce differences between growth and development assumptions and actual development patterns. Counties and cities must consider data regarding zoning, development, and environmental regulations.

The zoned capacity of land, alone, is insufficient to deem land suitable or likely for development or redevelopment.

To determine whether land is suitable for development or redevelopment, counties and cities must:

- review regulations and conditions which may impact development or prevent achievement of planned densities; and
- use a reasonable land market supply factor identifying reductions in suitable land for residential development and employment activities.

The amendments to the BLR process in the bill are subject to the availability of appropriated funds. If funds are not appropriated, counties and cities will be subject to the BLR process as it existed prior to the effective date of the Act.

By December 1, 2018, the Department, in cooperation with local governments and stakeholders, must develop guidance materials on the BLR process. The Department must also develop guidance for the appropriate market factor analysis and review and update of the overall buildable lands program.

Surcharge for Local Homeless Housing and Assistance. The \$40 surcharge may be charged until June 30, 2023. Documents recording a water-sewer district lien for nonpayment of water-sewer services or the satisfaction of such a lien are exempt from the surcharge.

Capital Project Maintenance - Use of Additional REET 2 Tax Funds. From July 1, 2017, to June 30, 2019, the acquisition, construction, improvement, or rehabilitation of facilities to provide housing for the homeless is an allowable use of funds for cities or counties that are able to use additional tax funds for the maintenance and/or acquisition of capital projects. The effective date of this provision is 90 days after the effective date of the bill.

SEPA. When a planned action in an area that contains or will contain a major transit stop is carried out in conjunction with a comprehensive plan or other community plan, significant environmental impacts must be adequately addressed in a threshold determination or in an environmental impact statement. If an infill development area contains or will contain a major transit stop, an environmental impact statement is not the required form of environmental analysis.

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 (Local Government): *The committee recommended a different version of the bill than what was heard.* PRO: This bill addresses the issue of the lack of supply of buildable lands and housing. AWC voted to support the bill. The purpose of the buildable lands section is to have the reports reflect the

reality on the ground and be realistic. The issue with Puget Sound Regional Council needs to be clarified in terms of authority to approve or reject comprehensive plans. Homelessness is a huge problem statewide; it's not just an urban problem anymore. BIAW has been frustrated with the availability of buildable lands for affordable housing. We think it is time for the Legislature to step in and address the buildable lands issue. When first implemented, measures were taken under the GMA to address transportation service. One of the reasons for the GMA was to help local governments prioritize expenditures to meet growth. Regarding the buildable lands studies, because of the lack of county resources and the complexity of the studies, counties have relied on measures like zone capacity. These studies are beyond the expertise of the counties. Washington has record vacancy rates across the state and we appreciate this effort to address the problem.

CON: Futurewise has concerns with respect to the buildable lands provisions and the regional planning processes. The requirement to update the buildable lands report every year seems very costly. The default market factor of 50 percent may be too high. Pierce County sees the buildable lands sections as decreasing local control by creating a one-size-fits-all solution. Counties need flexibility to address local concerns. The market factors required are often unknowable and are only five-year projections. The timeline in the buildable lands section is impossible to meet. The document recording fee is a negative for counties because it removes certain documents to which the fee currently applies and also removes the two percent retained by the auditor for administrative purposes. WACO appreciates the extension of the recording fee but has concerns about the buildable lands sections. WACO is cautious about imposing reviews on flat growth counties that have never been required to conduct them before. The new market factors are ambiguous. Maybe there is a different entity, such as a public-private partnership, that can collect market factor data better than the counties. Ecology has concerns about the sections regarding SEPA because they allow for broad exemptions with respect to environmental impact statements.

OTHER: We appreciate that this bill starts the process to address the growing homelessness problem in the state. We need more money in the system to meet unmet needs. Regarding the buildable lands sections, the question is to what extent the state should step into a regional dispute. Section 2 deals with ports and the use of industrial lands but ports are more concerned with the preservation of industrial lands. Commerce supports the extension of the document fee but would like to see it made permanent. Commerce has concerns about the following language: "sufficient capacity of land suitable for development" because this may allow cities and counties to expand UGAs even when there is no evidence to support such expansions. We would like to eliminate the sunset date on the document fee to provide a permanent funding source for homeless housing projects. We acknowledge there has been a history of controversy over funding sources for homeless housing and services. The document recording fee pays for 62 percent of homelessness programs. We need an opportunity to examine our current plans and programs to identify keys for success. Cities need local sources for affordable housing.

Persons Testifying (Local Government): PRO: Bill Clarke, WA Realtors; Steve Gano, Building Industry Assoc. of WA; Ron Main, Master Builders of King and Snohomish Counties; Bill Hinkle, RHA.

CON: Bryce Yadon, Futurewise; Dan Cardwell, Pierce County; Laura Berg, WA State Assoc.

of Counties; Gordon White, Department of Ecology.

OTHER: Carl Schroeder, Assoc. of WA Cities; Sean Eagan, The Northwest Seaport Alliance; Dave Andersen, WA Department of Commerce; Nick Federici, WA Low Income Housing Alliance; Brian Enslow, Sidewalk; Penny Sweet, Kirkland City Council.

Persons Signed In To Testify But Not Testifying (Local Government): No one.

Staff Summary of Public Testimony on Proposed Second Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill combines a number of topics that will address the housing crisis. The bill would require that the buildable lands reports that counties do now are actually meaningful. The plans would take market realities into account. The REET would act as temporary funding for homelessness until cities could use their sales tax. If you're going to spend money on planning, that planning should be more realistic. The water-sewer document fee exemption needs to be fixed, the current language does not treat all areas of the state the same.

OTHER: The six largest counties on the west side do a buildable lands review to inform their comprehensive plan updates. This report is costly to produce. The bill would expand what the report requires, and requires other parts of the state to do one. If this isn't funded, it would come out of criminal justice dollars. It is smart to look at regulatory issues with market rate housing. Measurements need to be quantifiable and attainable, and paid for. Document recording fees fund a significant portion of local rent assistance programs. We would like to see the recording fees increased. The document recording fee is 60 percent of the operating budget of Sidewalk.

Persons Testifying (Ways & Means): PRO: Bill Clarke, WA Realtors; Jan Himebaugh, BIAW; Ron Main, Master Builders of King/Snohomish Counties; Joe Daniels, WA ST Assn. of Water/Sewer Districts.

OTHER: Laura Berg, WA State Assoc. of Counties; Brian Enslow, Sidewalk; Phil Owen, Sidewalk; Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.