
SENATE BILL 6417

State of Washington

65th Legislature

2018 Regular Session

By Senators Palumbo and Rivers

1 AN ACT Relating to enabling Washington cities and counties to
2 encourage residential development around transit; amending RCW
3 82.02.060; adding a new section to chapter 36.22 RCW; and adding a
4 new chapter to Title 35 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
7 finds that:

8 (a) Local jurisdictions have the ability to utilize their zoning
9 authority to constrain the delivery of housing by limiting the scale
10 of development, especially in high-opportunity locations;

11 (b) This state is in a housing state of emergency. The department
12 of commerce's 2015 housing needs assessment found that there is a
13 housing supply gap of three hundred thirty-seven thousand nine
14 hundred seventy-four units for households earning zero to fifty
15 percent of area median income across the entire state of Washington.
16 The King county housing affordability task force found that there is
17 a total supply gap of one hundred fifty-six thousand units for 2017
18 above current growth. Their analysis went farther and found that the
19 county requires two hundred forty-four thousand new homes above
20 current growth projects to address countywide affordability by 2040;

1 (c) This housing shortage leads to housing unaffordability and
2 economic displacement, which disproportionately impacts low-income
3 households and historically disadvantaged communities, limits
4 economic growth and productivity, limits economic mobility, and
5 severely curtails the state's ability to meet its climate goals,
6 including carbon reduction; and

7 (d) More compact and efficient development within a one-half mile
8 distance around transit facilities have shown value in providing
9 affordable housing, reducing household spending, reducing greenhouse
10 gas emissions, enhancing walkability, reducing need for automobiles,
11 improving health outcomes, and strengthening local economies.

12 (2) The intent of the legislature is to create an opt-in pilot
13 program for Washington cities and counties to enable and encourage
14 compact and efficient development within a one-half mile distance
15 around transit facilities. This voluntary program which cities and
16 counties may choose to participate in offers the opportunity to
17 access financial resources in exchange for streamlined residential
18 project approval and reduced fees charged to specific housing
19 projects, in order to increase transit-oriented housing production.

20 NEW SECTION. **Sec. 2.** The definitions in this section apply
21 throughout this chapter unless the context clearly requires
22 otherwise.

23 (1) "Affordable unit" means:

24 (a) A rental unit restricted for thirty years to households
25 earning eighty percent or less of median family income; or

26 (b) A for-sale unit restricted for ninety-nine years to
27 households earning one hundred percent or less of median family
28 income.

29 (2) "Housing opportunity zone" means those parcels of land
30 designated as such pursuant to section 3 of this act.

31 (3) "Jurisdiction" means a city or county that has designated a
32 housing opportunity zone.

33 NEW SECTION. **Sec. 3.** DESIGNATION OF HOUSING OPPORTUNITY ZONES.

34 (1) Any jurisdiction desiring to designate a housing opportunity zone
35 may submit an application to the department of commerce, together
36 with detailed maps describing the parcels of land to be included in
37 the zone.

1 (2) A housing opportunity zone created under subsection (1) of
2 this section must:

3 (a) Include only parcels of land that are intersected within one-
4 half linear mile of a transit service stop with fixed station
5 infrastructure, including heavy rail and Amtrak, commuter rail, light
6 rail, streetcars, and bus rapid transit; and

7 (b) Contain no less than ninety percent of the total land within
8 the one-half linear mile area described in (a) of this subsection.

9 (3) Prior to submitting an application under subsection (1) of
10 this section, the jurisdiction must provide for appropriate area wide
11 environmental mitigation by completing an area environmental impact
12 statement under RCW 43.21C.031 and WAC 197-11-164 for the area of the
13 proposed housing opportunity zone.

14 NEW SECTION. **Sec. 4.** ZONING OF HOUSING OPPORTUNITY ZONE. All
15 parcels that are within a designated housing opportunity zone are, in
16 addition to any other allowed uses, by right developable for
17 residential use.

18 NEW SECTION. **Sec. 5.** BUILDABLE HEIGHTS WITHIN HOUSING
19 OPPORTUNITY ZONE. (1) All cities and unincorporated areas with a
20 population greater than five hundred thousand must have at minimum
21 the following buildable heights within housing opportunity zones:

22 (a) Within one-half mile of each designated transit stop, two
23 hundred feet; and

24 (b) Within one-quarter mile of each designated transit stop, five
25 hundred fifty feet.

26 (2) All cities and unincorporated areas with a population less
27 than five hundred thousand but greater than two hundred thousand must
28 have at minimum the following buildable heights within housing
29 opportunity zones:

30 (a) Within one-half mile of each designated transit stop, one
31 hundred twenty-five feet; and

32 (b) Within one-quarter mile of each designated transit stop, two
33 hundred forty feet.

34 (3) All cities and unincorporated areas with a population of less
35 than two hundred thousand must have at minimum an eighty-five foot
36 buildable height within housing opportunity zone areas that are
37 within one-half mile of each designated transit stop.

1 (4) All parcels that are within a designated housing opportunity
2 zone are developable to the minimum buildable heights provided in
3 this section, without restriction on the number of units allowed, lot
4 coverage, or other restrictions that limit the developability of the
5 parcel except as provided in section 9 of this act.

6 NEW SECTION. **Sec. 6.** HOUSING OPPORTUNITY ZONE MULTIFAMILY TAX
7 EXEMPTION REQUIREMENT. (1) All residential developments within a
8 designated housing opportunity zone may participate in a city's or
9 county's multifamily tax exemption program, or similar program
10 authorized under chapter 84.14 RCW, even if outside of a designated
11 residential target area.

12 (2) If the jurisdiction designating a housing opportunity zone
13 does not have a multifamily tax exemption program, or similar program
14 authorized under chapter 84.14 RCW, the jurisdiction must authorize a
15 multifamily tax exemption program with:

16 (a) An eight-year tax abatement for residential development; and

17 (b) A twelve-year tax abatement for twenty percent of the total
18 housing units being affordable to moderate-income households earning
19 eighty percent of median income.

20 NEW SECTION. **Sec. 7.** IMPACT FEES, LINKAGE FEES, AND OTHER
21 CHARGES. (1) Impact fees. Development that conforms to this chapter
22 and is in a designated housing opportunity zone may not be charged
23 impact fees under chapter 82.02 RCW. The legislature finds that this
24 fee exemption is appropriate because transit-oriented development has
25 shown to have a reduced impact on public infrastructure in the long
26 run.

27 (2) State environmental policy act mitigation fees. Any state
28 environmental policy act mitigation fees as a result of the
29 environmental impact statement required under section 3(3) of this
30 act may not be charged to development within the housing opportunity
31 zone, but is instead funded pursuant to section 8(1)(c) of this act.

32 (3) Other charges. No other charges imposed by the state, a
33 county, a city, or another jurisdiction, beyond reasonable fees
34 related exclusively to the processing of a building permit, may be
35 assessed to development that conforms to this chapter and is in a
36 designated housing opportunity zone.

1 NEW SECTION. **Sec. 8.** REIMBURSEMENT OF FUNDS. (1)(a) Until
2 December 31, 2023, for impact fees, including impact fees for parks,
3 transportation, fire services, and other impact fees authorized under
4 chapter 82.02 RCW, waived within housing opportunity zones under
5 section 7(1) of this act, jurisdictions may request reimbursement for
6 funding lost by operation of section 7(1) of this act, at the impact
7 fee rate established on January 1, 2018. Jurisdictions must have
8 established fee rates and collection procedures on January 1, 2018,
9 to request reimbursement.

10 (b) Until December 31, 2023, school districts may request
11 reimbursement for funding lost by operation of section 7(1) of this
12 act, at the impact fee rate established on January 1, 2018. School
13 districts must have established fee rates and collection procedures
14 with local jurisdictions on January 1, 2018, to request
15 reimbursement.

16 (c) Jurisdictions may request reimbursement for environmental
17 impact statement costs, state environmental policy act mitigation
18 fees, and planning activities as required under section 3(2) of this
19 act.

20 (d) Jurisdictions may request funding in the amount of two
21 thousand dollars per unit developed under this chapter.

22 (2) Funding and reimbursements under this section are limited to
23 fifteen million dollars per fiscal year. Requests for funding or
24 reimbursement under this section must be submitted to the department
25 of commerce, to be paid from the services for transit-oriented
26 communities special account. If requests for funding and
27 reimbursement under this section exceed the balance of the account or
28 the limit imposed by this subsection, then the department of commerce
29 shall reduce the amount of funding and reimbursement paid in a manner
30 prescribed by rule.

31 NEW SECTION. **Sec. 9.** BUILDING STANDARDS. All development within
32 housing opportunity zones must conform to the codes described in RCW
33 19.27.031 (1) through (4), as most recently adopted pursuant to RCW
34 19.27.031.

35 NEW SECTION. **Sec. 10.** CHAPTER WILL CONTROL OVER CONFLICTING
36 LOCAL STATUTES AND REGULATIONS. This chapter controls over
37 conflicting local statutes and regulations.

1 NEW SECTION. **Sec. 11.** MAINTENANCE OF ZONES. The department of
2 commerce shall maintain maps of housing opportunity zones, and areas
3 eligible for designation as housing opportunity zones, and update
4 them annually.

5 NEW SECTION. **Sec. 12.** The services for transit-oriented
6 communities special account is created in the custody of the state
7 treasurer. The state's portion of the surcharge established in
8 section 13 of this act must be deposited in the account. Expenditures
9 from the account may only be used for section 8 of this act. Only the
10 director of the department of commerce or the director's designee may
11 authorize expenditures from the account. The account is subject to
12 allotment procedures under chapter 43.88 RCW, but an appropriation is
13 not required for expenditures.

14 NEW SECTION. **Sec. 13.** A new section is added to chapter 36.22
15 RCW to read as follows:

16 (1) In addition to the surcharges authorized in RCW 36.22.178 and
17 36.22.179, an additional surcharge in the amount determined under
18 subsection (2) of this section shall be charged by the county auditor
19 for each document recorded, which will be in addition to any other
20 charge allowed by law. The auditor shall retain two percent for
21 collection of the fee, and shall remit the remainder to the state to
22 be deposited into the services for transit-oriented communities
23 special account.

24 (2) The surcharge imposed by subsection (1) of this section must
25 be sufficient to provide fifteen million dollars of deposits to the
26 services for transit-oriented communities special account each fiscal
27 year. The office of financial management shall establish, and
28 periodically adjust, the surcharge at an amount no higher than
29 necessary to meet this requirement.

30 **Sec. 14.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to
31 read as follows:

32 The local ordinance by which impact fees are imposed:

33 (1) Shall include a schedule of impact fees which shall be
34 adopted for each type of development activity that is subject to
35 impact fees, specifying the amount of the impact fee to be imposed
36 for each type of system improvement. The schedule shall be based upon
37 a formula or other method of calculating such impact fees. In

1 determining proportionate share, the formula or other method of
2 calculating impact fees shall incorporate, among other things, the
3 following:

4 (a) The cost of public facilities necessitated by new
5 development;

6 (b) An adjustment to the cost of the public facilities for past
7 or future payments made or reasonably anticipated to be made by new
8 development to pay for particular system improvements in the form of
9 user fees, debt service payments, taxes, or other payments earmarked
10 for or proratable to the particular system improvement;

11 (c) The availability of other means of funding public facility
12 improvements;

13 (d) The cost of existing public facilities improvements; and

14 (e) The methods by which public facilities improvements were
15 financed;

16 (2) May provide an exemption for low-income housing, and other
17 development activities with broad public purposes, from these impact
18 fees, provided that the impact fees for such development activity
19 shall be paid from public funds other than impact fee accounts;

20 (3) May provide an exemption from impact fees for low-income
21 housing. Local governments that grant exemptions for low-income
22 housing under this subsection (3) may either: Grant a partial
23 exemption of not more than eighty percent of impact fees, in which
24 case there is no explicit requirement to pay the exempted portion of
25 the fee from public funds other than impact fee accounts; or provide
26 a full waiver, in which case the remaining percentage of the exempted
27 fee must be paid from public funds other than impact fee accounts. An
28 exemption for low-income housing granted under subsection (2) of this
29 section or this subsection (3) must be conditioned upon requiring the
30 developer to record a covenant that, except as provided otherwise by
31 this subsection, prohibits using the property for any purpose other
32 than for low-income housing. At a minimum, the covenant must address
33 price restrictions and household income limits for the low-income
34 housing, and that if the property is converted to a use other than
35 for low-income housing, the property owner must pay the applicable
36 impact fees in effect at the time of conversion. Covenants required
37 by this subsection must be recorded with the applicable county
38 auditor or recording officer. A local government granting an
39 exemption under subsection (2) of this section or this subsection (3)
40 for low-income housing may not collect revenue lost through granting

1 an exemption by increasing impact fees unrelated to the exemption. A
2 school district who receives school impact fees must approve any
3 exemption under subsection (2) of this section or this subsection
4 (3);

5 (4) Shall provide a credit for the value of any dedication of
6 land for, improvement to, or new construction of any system
7 improvements provided by the developer, to facilities that are
8 identified in the capital facilities plan and that are required by
9 the county, city, or town as a condition of approving the development
10 activity;

11 (5) Shall allow the county, city, or town imposing the impact
12 fees to adjust the standard impact fee at the time the fee is imposed
13 to consider unusual circumstances in specific cases to ensure that
14 impact fees are imposed fairly;

15 (6) Shall include a provision for calculating the amount of the
16 fee to be imposed on a particular development that permits
17 consideration of studies and data submitted by the developer to
18 adjust the amount of the fee;

19 (7) Shall establish one or more reasonable service areas within
20 which it shall calculate and impose impact fees for various land use
21 categories per unit of development; (~~and~~)

22 (8) May provide for the imposition of an impact fee for system
23 improvement costs previously incurred by a county, city, or town to
24 the extent that new growth and development will be served by the
25 previously constructed improvements provided such fee shall not be
26 imposed to make up for any system improvement deficiencies; and

27 (9) Shall provide for the exemptions required by section 7 of
28 this act.

29 For purposes of this section, "low-income housing" means housing
30 with a monthly housing expense, that is no greater than thirty
31 percent of eighty percent of the median family income adjusted for
32 family size, for the county where the project is located, as reported
33 by the United States department of housing and urban development.

34 NEW SECTION. **Sec. 15.** Sections 1 through 12 of this act
35 constitute a new chapter in Title 35 RCW.

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