HOUSE BILL REPORT
HB 1157

As Reported by House Committee On:
Local Government
Finance

Title: An act relating to increasing housing supply through the growth management act and housing density tax incentives for local governments.

Brief Description: Increasing housing supply through the growth management act and housing density tax incentives for local governments.

Sponsors: Representatives Bateman, Gilday, Taylor, Eslick, Robertson, Simmons, Ormsby, Lekanoff, Hackney, Ryu, Walen, Vick, Wicks, Berg, Fitzgibbon, Barkis, Harris-Talley and Dolan.

Brief History:

Committee Activity:

Local Government: 1/27/21, 2/12/21 [DPS];
Finance: 2/18/21, 3/22/21 [DP2S(w/o sub LG)].

Brief Summary of Second Substitute Bill

- Authorizes counties and cities to establish a real estate excise tax density incentive zone within urban growth areas and provides for the distribution of real estate excise tax revenue with such incentive zones.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Pollet, Chair; Duerr, Vice Chair; Goehner, Ranking Minority Member; Berg, Robertson and Senn.

Staff: Elizabeth Allison (786-7129).

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.

Background:

Growth Management Act.
The Growth Management Act (GMA) is the state's comprehensive land use planning framework for counties and cities. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated by population-based criteria or choice to satisfy all planning requirements of the GMA.

The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must include specific planning elements, such as a housing element, land use element, and utilities element, each of which is a subset of a comprehensive plan. Planning jurisdictions must implement comprehensive plans through locally adopted development regulations that conform to the plan. The comprehensive plan must be updated every eight years.

Counties that fully plan under the GMA are required to designate urban growth areas (UGAs) within their boundaries sufficient to accommodate a planned 20-year population projection range provided by the Office of Financial Management. Each city located within a planning county must be included within a UGA. Urban growth must be encouraged within the UGAs, and only growth that is not urban in nature can occur outside of the UGAs. Each urban growth area must permit urban densities and include greenbelt and open space areas.

Excise Tax on Real Estate Sales.
Real estate excise tax (REET) is a tax on the sale of real estate. The REET is typically paid by the seller of the property, although the buyer is liable for the tax if it is not paid. The tax applies to the seller. The tax also applies to transfers of controlling interests, 50 percent or more, in entities that own property in the state. The tax base is the selling price of real estate, including the amount of any liens, mortgages, and other debts.

Summary of Substitute Bill:

Real Estate Excise Tax Density Incentive Zones.
Planning counties and cities are authorized to establish REET density incentive zones. A REET density incentive zone (incentive zone) is an area within a UGA where the city or county adopts zoning and development regulations to increase housing supply by allowing construction of additional housing types as outright permitted uses. Upon establishing an incentive zone, the local government receives a portion of the state REET imposed for sales of qualified residential dwelling units within the incentive zone.

A qualified residential dwelling is either an individual residential dwelling unit or a residential building of two or more dwelling units constructed within an incentive zone that achieves a net increase in the total number of residential dwelling units compared to the maximum number of residential dwelling units that could have been built prior to the adoption of zoning and development regulations creating the incentive zone. To be included as qualified residential dwelling units, the units must be restricted from being offered as short-term rentals for more than 30 days for the first 15 years after construction, and the Department of Revenue must determine how the residential dwelling units are to be restricted from being short-term rentals.

An incentive zone may only be located within a UGA and must allow single-family detached dwellings at a net density of at least six dwelling units per acre, duplexes, triplexes, fourplexes, townhomes, accessory dwelling units, and courtyard apartments. An incentive zone may also allow housing types and densities that exceed the minimum UGA requirements as outright permitted uses.

An incentive zone may not be established later than one year after the date by which a city or county is required to update its comprehensive plan. Once an incentive zone is established, a qualified residential dwelling unit may be constructed at any time.

Beginning July 1, 2023, the REET collected within an incentive zone is distributed to a county or city as follows:

- for a qualified residential dwelling unit located less than or equal to 0.25 miles from a mass transit stop, 50 percent of the amounts collected to the city or county where the dwelling is located; and
- for a qualified residential dwelling unit located more than 0.25 miles from a mass transit stop, 25 percent of the amounts collected to the city or county where the dwelling is located.

The distribution to a city or county applies to both the initial and all subsequent sales of a qualified residential dwelling unit. The amounts distributed to a city and county may only be used for planning to implement moderate, low, very low, and extremely low-income housing or creating affordable housing, preparation of the review and evaluation report, long-term planning, code and development regulation amendments for the purpose of increasing housing supply, or code and development regulation amendments that decrease the amount of time necessary to obtain permits for housing.

Substitute Bill Compared to Original Bill:

The substitute bill removes the additional requirements in the housing and land use elements of the comprehensive plan under the GMA. The requirement that urban densities within UGAs include at least six-net dwelling units per acre for areas zoned for housing is removed. The requirement that counties and cities adopt housing targets to seek to balance housing supply with employment in their jurisdictions in countywide planning policies is removed.

Additionally, the substitute bill requires additional dwelling units within a REET density incentive zone to be in addition to the baseline density allowed under existing zoning. Dwelling units must be restricted from being offered as short-term rentals for more than 30-days a year for the first 15 years after construction to be included as qualified residential dwelling units, and the Department of Revenue must determine how the residential dwelling units are to be restricted from being short-term rentals. The distribution of revenue collected within a REET density incentive zone is changed to be 50 percent for qualified residential dwelling units located 0.25 miles or less from a mass transit stop, and 25 percent for qualified residential dwelling units located more than 0.25 miles from a mass transit stop. One of the uses for which REET revenue can be used is changed from costs associated with adoption or amendment of plans under the GMA to planning to implement moderate, low, very low, and extremely low-income housing and creating affordable housing.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Abundant, diverse housing must be created in high-opportunity areas near transit centers to address the housing shortage. The GMA requires planning for future population growth, and House Bill 1157 is designed to provide an incentive for counties to provide housing. The incentive is voluntary and could allow more homes to be built within areas that are within the REET density incentive zone, and would allow cities to get a portion of the state REET. Coming from a position of working with homelessness and evaluating various jurisdictions' response to homelessness, there has not been much done in comprehensive plans to address the various types of housing that is needed, nor have they addressed housing in relation to employment and transit. An increase in density with a broader range of housing would create more housing and be more efficient. We can not continue to ignore large segments of populations disadvantaged by the high cost of housing and lack of transit access. Many cities lock away three-quarters of residential land for single-family dwellings and do not address other types of housing, such as attached housing, which can reduce sprawl.

(Opposed) None.

(Other) The underlying merits of the bill are extremely important and provide good opportunities for homebuyers and others, but there could be some additional language around affordability to make sure there is planning for low and extremely low-income housing. The housing element can be modified for planning for middle housing types to take place in communities where they make sense. The bill holds cities to a standard that is based on results whether or not housing types are constructed or available. Cities can make zoning and development capacity changes but to actually change housing types requires the private market to come through in support of creating the additional units. There is additional concern about the requirement for six units per acre as specific density should not be mandated. Not all counties make provisions for all different types of housing as not all counties are urban. Some are very rural with at most two to 4,000 people. In nonurban counties it is not always possible to construct all types of housing required in the bill. Including permissive zoning in the bill will not necessarily result in more housing.

Persons Testifying: (In support) Representative Bateman, prime sponsor; Cynthia Stewart, League of Women Voters of Washington; Bill Clarke, Washington REALTORS; and Dan Bertolet, Sightline Institute.

(Other) Bryce Yadon, Futurewise; Carl Schroeder, Association of Washington Cities; and Paul Jewell, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 16 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

Minority Report: Without recommendation. Signed by 1 member: Representative Dufault, Assistant Ranking Minority Member.

Staff: Nick Tucker (786-7383).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Local Government:

The second substitute bill:

- requires a city or county to consider: (1) the race and income of existing residents within the area and the adjacent neighborhoods to be designated; and (2) the displacement impacts of low, very low, and extremely low-income residents within the area and the adjacent neighborhoods to be designated prior to establishing a real estate excise tax (REET) density incentive zone;

- requires a city or county to assess the need for anti-displacement policies for high-risk communities within designated areas and the adjacent neighborhoods, and make the assessment publicly available prior to establishing a REET density incentive zone;
- provides that the county or city, not the Department of Revenue, shall determine how dwelling units will be restricted from being short-term rentals;
- specifies that distance between a dwelling unit and a transit stop is to be measured by direct distance;
- provides that additional REET distributions to a city or county apply to subsequent sales of a qualified dwelling unit only if the requirements of the program continue to be met and that the county must revalidate compliance at each subsequent sale;
- requires counties to validate and identify sales of qualified dwelling units within a density incentive zone when submitting the REET affidavit to the Department of Revenue;
- specifies that state REET revenue distributed to a REET density incentive zone comes from the portion of state REET revenue that would have otherwise been deposited in the State General Fund; and
- provides that REET distributions made to a density incentive zone must be used solely for: implementation of the housing element in RCW 36.70A.070 as amended in House Bill 1220; costs for infrastructure, construction, and service support for moderate, low, very low, and extremely low-income housing; construction of capital facilities that promote livable and walkable neighborhoods, such as neighborhood-scale parks, trails, or other recreational amenities; or creation of certain permanently affordable homeownership.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 22, 2021.

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

Staff Summary of Public Testimony:

(In support) This bill is designed to provide an incentive for cities to provide abundant housing in high opportunity areas near transit. Walkable neighborhoods are important to meet climate goals. Families across the state continue to face the challenges associated with the housing crisis and many cannot afford to live in the cities in which they work. Many of the most coveted neighborhoods in the state remain out of reach for many. This bill would support an important missing middle housing segment as well as support housing for low and very low-income households. Our state is stronger when everyone has an opportunity to thrive. Access to housing is foundational to the health and wellbeing of our communities. The allowable use of funds received under this program include many items that cities do not otherwise have funding for.

(Opposed) None.

Persons Testifying: Representative Bateman, prime sponsor; Bill Clarke, Washington REALTORS; Cynthia Stewart, League of Women Voters of Washington; and Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.