HOUSE BILL REPORT
2SHB 1157

As Passed House:
March 28, 2021

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: House Committee on Finance (originally sponsored by 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)].

Floor Activity:

Passed House: 3/28/21, 93-4.

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.

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).

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 Second 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 a year for the first 15 years after construction, and the county or city must determine how the residential dwelling units are to be restricted from being short-term rentals within their respective jurisdictions.

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.

Prior to establishing an incentive zone, the city or county must:
- consider the race and income of existing residents within the area and adjacent neighborhoods to be designated;
- consider displacement impacts of low, very low, and extremely low-income residents within the area and the adjacent neighborhoods to be designated; and
- assess the need for antidisplacement policies for high-risk communities within designated areas and the adjacent neighborhoods and make the assessment publicly available.

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 if the residential dwelling unit continues to meet the original requirements of a qualified residential dwelling unit. Counties must revalidate that the residential dwelling unit continues to meet the original applicable requirements on each subsequent sale of the residential dwelling unit.

The amounts distributed to a city and county may only be used for:
- implementation of the housing element of the comprehensive plan under the GMA;
- 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; or
- creation of permanently affordable homeownership.

Counties must validate and identify sales of qualified residential dwelling units within incentive zones, including any reduction in REET distribution based on the number of new dwelling units within the building that could have been built under prior zoning regulations compared to the number of new dwelling units built under the incentive zone and the distance from a mass transit stop. A county must provide this information to the Department of Revenue when the county submits the REET affidavit to the Department of Revenue.

Appropriation: None.

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

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

Staff Summary of Public Testimony (Local Government):

(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.

Staff Summary of Public Testimony (Finance):

(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 (Local Government): (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 Testifying (Finance): 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 (Local Government): None.

Persons Signed In To Testify But Not Testifying (Finance): None.