
Environment & Energy Committee

HB 2066

Brief Description: Concerning exemptions for infill development under the state environmental policy act.

Sponsors: Representatives Barkis, Klicker, Dufault, Gilday, Sutherland, Eslick and Dent.

Brief Summary of Bill

- Requires cities and counties planning fully under the Growth Management Act to establish a categorical exemption from the requirements of the State Environmental Policy Act related to infill development, subject to certain criteria.

Hearing Date: 2/1/22

Staff: Robert Hatfield (786-7117).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be "fully planning" under the GMA.

Counties that fully plan under the GMA must include a plan, scheme, or design for different types of land use areas, including Urban Growth Areas (UGAs) within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. Planning

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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.

State Environmental Policy Act.

The State Environmental Policy Act (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. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. If an initial review of the checklist and supporting documents results in a determination that the government decision has a probable significant adverse environmental impact (threshold determination), the proposal must undergo a more comprehensive environmental analysis in the form of an Environmental Impact Statement (EIS). If the SEPA review process identifies significant adverse environmental impacts, the lead agency may deny a government decision or may require mitigation for identified environmental impacts.

State Environmental Policy Act—Categorical Exemptions.

Under SEPA, certain nonproject actions are categorically exempted from the requirements of SEPA. Examples of categorically exempt nonproject actions include certain amendments to development regulations and certain amendments to technical codes.

State Environmental Policy Act—Categorical Exemptions—Infill Development.

Counties and cities planning fully under GMA may establish categorical exemptions from the requirements of SEPA to accommodate infill development. Locally authorized categorical exemptions may differ from the categorical exemptions established by the Department of Ecology by rule. Under the infill development categorical exemption, cities and counties may adopt categorical exemptions to exempt government action related to development that is new residential development, mixed-use development, or commercial development up to 65,000 square feet, proposed to fill in a UGA when:

- current density and intensity of the use in the area is roughly equal to or lower than called for in the goals and policies of the applicable comprehensive plan;
- the action would not clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan;
- the local government considers the specific probable adverse environmental impact of the proposed action and determines that those specific impacts are adequately addressed by other applicable regulations, comprehensive plans, ordinances, or other local, state, and federal laws and rules; and
- the applicable comprehensive plan was previously subjected to environmental analysis through an EIS according to SEPA.

Summary of Bill:

A city or county planning fully under the GMA must, rather than may, establish a categorical exemption from the requirements of SEPA related to infill development, and the exemption must meet the following criteria:

- it must categorically exempt government action related to development proposed to fill in a UGA, where current density and intensity of use in the area is roughly equal to or lower than called for in the goals and policies of the applicable comprehensive plan;
- it must not exempt government action related to development that is inconsistent with the applicable comprehensive plan or would clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan; and
- the comprehensive plan must have been the subject of an EIS prior to adoption, or the city or county must have prepared an EIS that considers the proposed use or density and intensity of use in the area proposed for the categorical exemption.

If a local government considers the specific probable adverse environmental impacts of the proposed government action relating to infill development and adopts a finding that the specific impacts are not adequately addressed by the development regulations, other applicable requirements of the comprehensive plan, or other laws, the local government may require the development to comply with the other requirements of SEPA.

Appropriation: None.

Fiscal Note: Requested on January 28, 2022.

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