SENATE BILL REPORT
2SHB 1157

As of April 5, 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: Passed House: 3/28/21, 93-4.
Committee Activity: Ways & Means: 4/05/21.

Brief Summary of 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 state real estate excise tax revenues within such incentive zones.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

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.

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.

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. 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 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 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, 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.

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: PRO: There is a critical need for new housing, especially affordable housing near transit. This bill would provide a powerful incentive for cities and county to up-zone and build more housing. The benefit only accrues once the housing is built and provides an incentive as opposed to a mandate. We have seen prior success with housing incentive programs and this bill builds on that success. Washington is facing a massive housing crisis. Middle income families are being priced out of the communities in which they live and serve. This bill is a good step towards addressing this problem. This incentive will encourage jurisdictions to increase residential density, which will help avoid sprawl and save resources. The cost of homelessness far exceeds the cost of housing so this incentive is a viable financial strategy. The housing crisis is complex but the root problem is a shortage of homes. In most cities, around three quarters of residential land is reserved for standalone homes. This bill will use an incentive approach to accelerate the adoption of more dense housing development for the state, municipalities, and the climate. This bill will be a great tool to allow for smart density. It is not clear that there will necessarily be a negative fiscal impact on the state because when there are more units, there will be more sales generating revenues for the state.

Persons Testifying: PRO: Carl Schroeder, Association of Washington Cities; Ryan Donohue, Habitat for Humanity Seattle-King County; Cynthia Stewart, League of Women Voters of Washington; Alice Lockhart, 350 Seattle; Dan Bertolet, Sightline Institute; Alex Hur, Master Builders Association of King and Snohomish Counties; Bill Clarke, Washington REALTORS.

Persons Signed In To Testify But Not Testifying: No one.