

SENATE BILL REPORT

E2SHB 1220

As Passed Senate - Amended, April 10, 2021

Title: An act relating to supporting emergency shelters and housing through local planning and development regulations.

Brief Description: Supporting emergency shelters and housing through local planning and development regulations.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Peterson, Macri, Bateman, Ryu, Lekanoff, Fitzgibbon, Kloba, Davis, Lovick, Santos, Ortiz-Self, Simmons, Berg, Hackney, Chopp, Tharinger and Frame).

Brief History: Passed House: 3/3/21, 57-39.

Committee Activity: Housing & Local Government: 3/18/21, 3/25/21 [DPA-WM, DNP].
Ways & Means: 3/31/21, 4/02/21 [DPA, DNP, w/oRec].

Floor Activity: Passed Senate - Amended: 4/10/21, 25-24.

Brief Summary of Amended Bill

- Updates the housing goals of the Growth Management Act (GMA) to include planning for and accommodating affordable housing.
- Requires GMA jurisdictions to address moderate, low, very low, and extremely low-income housing, moderate density housing options, and racially disparate impacts and displacement in the housing element of the comprehensive plan.
- Requires the Department of Commerce to provide an inventory and analysis of existing and projected housing needs required in the housing element of the comprehensive plan, including emergency housing and shelters and permanent supportive housing.
- Prohibits cities from preventing transitional housing or permanent supportive housing in zones where residential dwelling units or hotels are allowed, and from preventing indoor emergency shelters and indoor

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emergency housing in zones where hotels are allowed except for cities with ordinances authorizing such shelters and housing in a majority of zones within one mile of transit.

- Directs GMA jurisdictions to consider certain policies that encourage the construction of accessory dwelling units to meet affordable housing goals.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Cleveland, Lovelett and Salomon.

Minority Report: Do not pass.

Signed by Senators Fortunato, Ranking Member; Gildon, Assistant Ranking Member; Short, Assistant Ranking Member; Warnick.

Staff: Brandon Popovac (786-7465)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Carlyle, Darneille, Dhingra, Gildon, Hunt, Liias, Mullet, Pedersen, Rivers, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Braun, Conway, Hasegawa, Keiser, Muzzall and Warnick.

Staff: Trevor Press (786-7446)

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 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

Counties that fully plan under the GMA must designate urban growth areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period. 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.

The GMA also directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Comprehensive Plan—Mandatory Housing Element. The comprehensive plan of a fully planning county or city must consist of a map or maps and descriptive text covering objectives, principles, and standards used to develop the plan. The plan must be an internally consistent document and all elements must be consistent with the future land-use map. Each comprehensive plan must include a plan, scheme, or design for certain enumerated elements, including a housing element. The housing element must ensure the vitality and character of established residential neighborhoods and:

- include an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth;
- include a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences;
- identify sufficient land for housing, including government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and
- make adequate provisions for existing and projected needs of all economic segments of the community.

Adopted Moratoria and Interim Official Controls. GMA jurisdictions that adopt a moratorium or interim zoning map, ordinance, or other official control without holding a public hearing on the proposed moratorium or interim official control must hold a public hearing on the proposed moratorium or interim official control with 60 days of adoption, regardless of any received recommendations from the planning commission or the Department of Commerce (Commerce). Any moratorium or interim official control adopted is effective for no more than six months, or up to one year if a certain work plan is developed, but may be renewed for one or more six-month periods if a public hearing is held and findings of fact are made before renewal. Designations for critical areas, agricultural lands, forestlands, and mineral resource lands before such actions are taken in a comprehensive plan with development regulations adopted are exempt from such public

hearing and other requirements if a public hearing is held on such proposed actions.

Local Planning for Accessory Apartments. Local governments are required to have accessory apartments, commonly referred to as accessory dwelling units (ADUs), provisions incorporated in their development regulations, zoning regulations, or official controls. These provisions must be consistent with a 1993 report from the Department of Community, Trade, and Economic Development (CTED) that provided recommendations to the Legislature designed to encourage development and placement of accessory apartments in areas zoned for single-family residential use. CTED recommendations include standards and criteria regarding size, parking, design, and quantity of accessory apartments. Local communities have some flexibility to adapt these recommendations to local needs and preferences. "Local government" means a county planning under the GMA, a city with a population of over 20,000, and a county with a population of over 125,000.

Accessory Dwelling Unit Regulation. In 2019, the Legislature encouraged fully planning cities to take an array of specified planning actions to increase residential building capacity. Specified planning actions relating to ADUs include authorizing attached and detached ADUs on all parcels containing single-family homes on lots of a certain size.

In 2020, the Legislature required any city within a county planning under the GMA that has not adopted or substantively amended its ADU regulations within the previous four years to adopt or amend ordinances, regulations, or other official controls that do not require the provision of off-street parking for ADUs within 0.25 mile of a major transit stop, with exceptions.

Summary of Amended Bill: The housing goal guiding the development of comprehensive plans and development regulations for GMA jurisdictions is updated to provide that jurisdictions plan for and accommodate, rather than encourage the availability of, affordable housing.

Commerce must provide the inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth as required in the housing element of the comprehensive plan, including units for moderate, low, very low, and extremely low-income households as well as emergency housing, emergency shelters, and permanent supportive housing. Definitions are provided for emergency housing, emergency shelter, and moderate-income household.

The housing element of the comprehensive plan is updated to require GMA jurisdictions to do the following:

- include, within the UGA boundary, moderate density housing options, such as duplexes, triplexes, and townhomes, in the statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing;
- identify sufficient capacity of land for housing, including:

1. moderate, low, very low, and extremely low-income households;
 2. emergency housing, emergency shelters, and permanent supportive housing; and
 3. within the UGA boundary, consideration of duplexes, triplexes, and townhomes;
- when making adequate provisions for existing and projected needs of all economic segments:
 1. incorporate consideration for low, very low, extremely low, and moderate-income households;
 2. document programs and actions needed to achieve housing availability, including gaps in local funding, barriers such as development regulations, and other limitations;
 3. consider housing locations in relation to employment location; and
 4. consider the role of ADUs in meeting housing needs;
 - identify local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including discriminatory zoning, disinvestment, and infrastructure availability;
 - identify and implement policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing;
 - identify areas at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and
 - establish anti-displacement policies, with consideration to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing, equitable development initiatives, inclusionary zoning, community planning requirements, tenant protections, land disposition policies, and land that may be used for affordable housing.

The housing element should link jurisdictional goals with overall county goals to ensure the housing element goals are met.

Cities may not prohibit transitional housing or permanent supportive housing in any zones where residential dwelling units or hotels are allowed. Beginning September 30, 2021, cities may not prohibit indoor emergency shelters and indoor emergency housing in any zones where hotels are allowed, except for cities that have an adopted ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit. Reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance on permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters for public health and safety purposes, but such requirements on occupancy, spacing, and intensity of use may not prevent the siting of a sufficient number of permanent supportive housing, transitional housing, or indoor emergency housing or shelters necessary to accommodate the need for such housing and shelter as provided by Commerce under comprehensive plan housing element requirements.

Any city ordinances or development regulations prohibiting building permit applications for or the construction of transitional housing or permanent supportive housing in any zones where residential dwelling units or hotels are allowed, or prohibiting such applications for or the construction of indoor emergency shelters and housing in any zones where hotels are allowed, are exempt from public hearing and other requirements applicable to adopted moratoria or interim zoning controls under the GMA.

Cities and counties are directed to consider policies encouraging construction of ADUs to meet affordable housing goals. Policies may include:

- prohibiting owner-occupancy requirements;
- requiring the owner not to use the ADU for short-term rentals;
- prohibiting counting of ADU residents toward the number of unrelated residents on the lot;
- prohibiting minimum gross floor area requirements exceeding building codes;
- prohibiting maximum gross floor area requirements of certain dimensions;
- requiring the same ADU allowances regarding roof decks, balconies, and porches as for the principal unit;
- requiring certain abutting lot setbacks;
- requiring an amnesty program for owners with unpermitted ADUs to obtain permits;
- authorizing detached ADUs, ADUs on lots meeting minimum lot size, and ADUs on lots with nonconforming principal units, if the ADU would not increase the nonconformity;
- authorizing ADUs to be converted from existing structures even if in violation of current setback or lot coverage requirements;
- prohibiting public street improvements as a requisite to permitting ADUs; and
- authorizing new or separate utility connection requirements between the ADU and utility when necessary to be consistent with certain requirements, plans, or policies.

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 on Engrossed Second Substitute House Bill (Housing & Local Government): *The committee recommended a different version of the bill than what was heard.* PRO: The bill addresses the housing element in GMA comprehensive plans, which has been a relatively vague element, and asks cities to look at all housing types and possibly past zoning policies. The bill simply attempts to allow people to live where they want to live, and eliminates discrimination that may occur when limiting where people stay. Stakeholder negotiations are still ongoing to address fears with the bill. The bill does not interfere with current local practices addressing homelessness and

housing. Land use regulation is based on a history of discrimination and redlining, and this bill addresses this history of exclusion. The bill addresses areas with high risk of displacement and provides policies to help prevent such displacement from reoccurring in certain communities. Emergency shelters need to be made available and provided in all neighborhoods. Too few GMA jurisdictions have addressed any housing beyond market rate housing. Many families are cost burdened, and there is no GMA planning to accommodate affordable housing or for emergency shelters. More emergency shelters are needed that are not congregate care based, like the recent use of the Red Lion Hotel in Renton, which can provide better support for shelter clients. Hotel-based shelters provided a benefit to the community in which they are located, resulting in a low spread of COVID-19 and a 75 percent decrease in emergency/police calls at the primary shelter location. Hotel-based shelters would provide more streamlined access to local clinics for medical services. Some counties have declared homelessness an emergency, and a lack of shelter and housing for lower income households has increased during the pandemic especially for BIPOC communities. Homelessness has decreased in certain counties and increased in others. The best way to treat homelessness is with housing, which is more cost effective. The planning and action strategies in the bill cannot be separated. People of color represent the homeless population at disproportionately higher rates. Local control is important but should not result in local discrimination. Most opposition to the bill has come from local government officials themselves and not the organizations operating or communities within such jurisdictions.

CON: There are general objections to sections 3 and 4 in the bill, and revisions or removal is requested. The state preemption in the bill is based on the false premise that smaller cities oppose emergency shelters. Certain cities have engaged in homelessness work over the last ten years, including convening a homelessness task force, setting up a day center and overnight shelter, and converting a strip mall to house a resource center and other providers. Certain cities have also worked with faith-based organizations to set up emergency shelters within city buildings. The preemptive language undermines other encouraging language in the bill. The bill goes too far and removes local zoning authority provided to cities to regulate shelter location. The underlying intent of the bill in providing local government options is supported, but sections 3 and 4 are concerning, especially if shelters would be permitted in areas of commercial activity. Amendments to the housing element should work as long as such efforts are funded along with any projected shelter need requirements; however, local stakeholders and residents still need to be involved to help determine shelter locations. Current issues around the types of shelters and appropriate locations depend on the type of proposed shelter. State preemption of local control faces the risk of backlash and a resulting lack of collaboration from local governments and residents to address the homelessness and housing needs. Local governments are best suited to evaluate transit and legal services needs for shelter populations. The state preemption fails to acknowledge previous efforts of cities to address housing and site shelters. Certain cities are already implementing permanent supportive housing and amending city codes to make shelter access easier. Conflating regulations governing short-term rentals and shelters does not make sense, and local governments have a better sense to

achieve a balance between these approaches. Some cities are already in the process of updating their comprehensive plans and could not meet required timelines.

OTHER: There are concerns about the policies in the bill providing ADU recommendations, specifically utility connection charges for water-sewer service. Certain cities have allowed zoning for new residential multifamily housing where single-family zoning previously existed. The state preemption of local zoning authority is not supported, but the housing element modifications will help achieve housing diversity.

Persons Testifying (Housing & Local Government): PRO: Representative Strom Peterson, Prime Sponsor; Bryce Yadon, Futurewise; Cynthia Stewart, League of Women Voters of Washington; Nancy Connolly; Russell Berg; Penny Sweet, Mayor, City of Kirkland; Michele Thomas, Washington Low Income Housing Alliance; Des Anderson, SEIU 1199NW.

CON: Armondo Pavone, Mayor, City of Renton; Reagan Dunn, King County Council; Nancy Backus, City of Auburn; Mike Ennis, Association of Washington Business; Carl Schroeder, Association of Washington Cities; Angela Birney, Mayor, City of Redmond; Brian Enslow, Cities of Vancouver, Lacey, Ferndale, and College Place.

OTHER: Joren Clowers, Washington Association of Sewer and Water Districts; Elizabeth Chamberlain, City of Walla Walla; Bill Clarke, Pierce County Water Cooperative.

Persons Signed In To Testify But Not Testifying (Housing & Local Government): No one.

Staff Summary of Public Testimony on Bill as Amended by Housing & Local Government (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Support this bill as a good financial investment. The housing elements in many comp plans do not have planning for shelters. Many people experiencing homelessness do not have places to stay. Without the changes in this bill, many jurisdictions would not fully plan for these types of housing. Homelessness is more expensive than housing. There is a massive gap of housing units. Housing problems can only be solved if all cities participate. This bill is a necessary tool for providing a roadmap for every city to plan for this housing crisis. All cities must do their part to make supportive housing available. This bill is an example of an appropriate use of exemption because it creates a floor for what must exist. This legislation helps to address the history of exclusion in our cities. This legislation requires anti-displacement policies be implemented in certain instances. Sections 3 and 4 are also about ending exclusion. We should not be excluding people from neighborhoods because they do not have the income to live there. Homeowner who sees neighbors are without housing entirely. We should want to live in diverse communities where all people are allowed to live. Instead of using planning for redlining we should use it to build diverse communities. This bill is necessary and urgent because there is urgent need to reduce homelessness. The state has a legitimate interest to ensure all cities do their part to address homelessness. Cities will need units across the income

spectrum to create a community where all residents can thrive. Please allocate flexible planning dollars for cities to help with the costs of these bills.

CON: Sections 3 and 4 tie local government's hands in a way that has never been done before. This is not about whether or not we should do something but where and how. Please fix the bill by deleting sections 3 and 4 or changing them. Support the underlying intentions of the bill, but have concerns with mandates in sections 3 and 4. Local governments understand their planning needs best and should be able to plan accordingly, not have to follow mandates from the state. Support the GMA elements in sections 1 and 2, do not support sections 3 and 4 because this is excluding the voice of local governments. This plan needs to work for everyone as it impacts all cities, not just the most urban ones. Please further amend sections 3 and 4. Cities understand the need for some level of pre-exemption, but tying regulations of emergency shelters to other forms of housing is unfair. Please do not reference short-term rentals in the bill.

OTHER: Please further amend sections 3 and 4. Cities have worked to increase the level of low-income housing and understand the need for some level of preemption in this area. The bill is confusing when looking at implementation. tying the work of shelters with the work of air b&b's, VRBOs and other short-term rentals are unnecessary and will cause confusion. Short-term rentals do not need to be separately listed from residential dwelling units. It is unclear whether the reasonable occupancy spacing and intensity of use restrictions only apply to emergency housing and shelters or if they also apply to transitional housing and supportive housing. Please clarify that cities can enact these restrictions on any of these uses.

Persons Testifying (Ways & Means): PRO: Cynthia Stewart, League of Women Voters of Washington; Penny Sweet, Mayor, City of Kirkland; Lindsey Schromen-Wawrin, City of Port Angeles; Bryce Yadon, Futurewise; Benjamin Miksch; Michele Thomas, Washington Low Income Housing Alliance; Lyset Cadena, City of Burien.

CON: Armondo Pavone, Mayor, City of Renton; Mike Ennis, Association of Washington Business; Carl Schroeder, Association of Washington Cities.

OTHER: Elizabeth Chamberlain, City of Walla Walla; Briahna Murray, Cities of Tacoma, Kent, Redmond, Issaquah, Lakewood, and Mountlake Terrace.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.