

HOUSE BILL REPORT

ESHB 2474

As Passed House:

February 12, 2024

Title: An act relating to compliance with siting requirements for transitional housing, permanent supportive housing, indoor emergency shelters, and indoor emergency housing.

Brief Description: Concerning compliance with siting requirements for transitional housing, permanent supportive housing, indoor emergency shelters, and indoor emergency housing.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Peterson, Alvarado, Gregerson, Berry, Leavitt, Fosse, Macri, Nance, Chopp and Bateman).

Brief History:

Committee Activity:

Housing: 1/29/24, 1/30/24 [DP];

Appropriations: 2/3/24, 2/5/24 [DPS].

Floor Activity:

Passed House: 2/12/24, 55-42.

Brief Summary of Engrossed Substitute Bill

- Requires the Department of Commerce (Commerce) to facilitate the resolution of disputes between a city and a project applicant or developer of permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters.
- Authorizes Commerce to issue a finding of noncompliance if dispute resolution is unsuccessful and the city has denied a project permit or development agreement, or enacted a zoning ordinance or development regulations, that prevents the siting of permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters.
- Directs the State Treasurer to withhold certain revenues from a city if Commerce issues a finding of noncompliance and the city fails to issue a

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project permit or modify its zoning ordinance and development regulations.

HOUSE COMMITTEE ON HOUSING

Majority Report: Do pass. Signed by 8 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Leavitt, Vice Chair; Bateman, Chopp, Entenman, Reed and Taylor.

Minority Report: Do not pass. Signed by 1 member: Representative Hutchins.

Minority Report: Without recommendation. Signed by 4 members: Representatives Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Barkis and Low.

Staff: Serena Dolly (786-7150).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Callan, Chopp, Davis, Fitzgibbon, Lekanoff, Pollet, Riccelli, Ryu, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 11 members: Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Dye, Harris, Rude, Sandlin, Schmick, Stokesbary and Wilcox.

Staff: Jackie Kauble (786-7125).

Background:

Cities may not prohibit transitional housing or permanent supportive housing in any zones where residential dwelling units or hotels are allowed. Cities may not prohibit indoor emergency housing or shelters in any zones where hotels are allowed, except for cities that have adopted an ordinance authorizing indoor emergency housing and shelters in a majority of zones within a 1-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 any requirements may not prevent the siting of such housing or shelters necessary to

accommodate each city's need as identified in the housing element of its comprehensive plan.

Summary of Engrossed Substitute Bill:

The Department of Commerce (Commerce) must provide services to facilitate the timely resolution of disputes between a city and either: (1) an applicant seeking a project permit or development agreement to site or construct permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters; or (2) a developer alleging that the city's zoning ordinance or development regulations prevent the siting of permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters. A city, an applicant, or a developer may request dispute resolution services from Commerce.

If dispute resolution is unsuccessful, the city must submit the project permit application, any development agreement, any zoning ordinance and related development regulations, and any other relevant documents to Commerce for review. The city must also submit a statement of:

- the reason for any denial, rescission, or conditions of approval;
- the requirements necessary to fulfill the development agreement or development regulations; or
- how the adopted ordinance and development regulations comply with requirements to allow the siting of permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters.

If Commerce finds that the final decision on the project permit application, a development agreement, or another permitting process violates requirements to allow the siting of permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters, Commerce must reverse the city's final decision and return it to the city for approval, modification, or further proceedings. If Commerce finds that a zoning ordinance or development regulations adopted by the city prevents the siting of such housing or shelter, Commerce must issue a determination of noncompliance. Commerce's final decision on permits or development agreements may be appealed under the Land Use Petition Act, and Commerce's final decision on zoning ordinances and development regulations may be appealed to the Growth Management Hearings Board.

If a city fails to issue a project permit application, a development agreement, or another permit or process decision, or fails to amend its zoning ordinance and development regulations, within 30 days of Commerce's determination of noncompliance, Commerce must notify the State Treasurer. Upon notification, the State Treasurer must withhold the following revenues from the city: the motor vehicle fuel tax, the transportation improvement account, the rural arterial trust account, the local sales and use tax, the liquor profit tax, and the liquor excise tax. The State Treasurer must resume distributions of withheld revenues when the city issues the project permit application or amends its zoning

ordinance and related development regulations.

An applicant submitting a project permit application, a development agreement, or other documents for permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters may submit a copy of the documents to Commerce or request Commerce's review of any denial, rescission, or conditions for approval by a city.

The act expires on July 1, 2029.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 9, 2024.

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

Staff Summary of Public Testimony (Housing):

(In support) The state is seeing patterns of cities who are enacting onerous regulations or denying some types of housing and shelter. Cities should embrace these types of housing in their communities. While many are, some still are not. The state is making tremendous investments in housing, and market rate housing is not going to work for everyone. While homelessness increases, the number of beds are staying the same. People tend to stay in the communities where they were last housed, and these are not outsiders moving into communities. The most vulnerable need support and housing. People need to be brought inside to save their lives. Financing is not the most significant hurdle, but instead it is roadblocks by community members and businesses. Groups are intimidating city councils. Organizations trying to site and build these housing and shelters have faced retaliation and intimidation. In other cases, cities have defunded organizations and projects. Fully funded housing and shelters are being stopped over fear and discrimination. These practices are squandering state funds and impeding progress on addressing homelessness. This is a good accountability measure.

(Opposed) While there may have been problems in a couple of cities, it is not a pattern. This is a one-size-fits-all mandate that ignores community needs and the actions cities are already taking. It would create a bureaucratic bottle neck, dilute public involvement, and limit local discretion. State law already places requirements on cities, and the Growth Management Hearings Board offers quick decisions in the case of disputes. The bill needs clarification related to what documents cities need to send to Commerce and how a city may come back into compliance. In addition, it should allow cities to ask Commerce to proactively review and approve ordinances without the threat of a penalty. An alternative to the bill would be to clarify existing definitions and requirements.

Staff Summary of Public Testimony (Appropriations):

(In support) Affordable housing is needed everywhere to meet the growing homelessness crisis. The state has made historic investments in this effort, and has given cities and providers resources to act with urgency. Unfortunately, some cities are making it harder to site housing and even canceling projects altogether, like the City of Kenmore, where a fully funded project was canceled after two years of meetings with city staff and many city council meetings because of misinformation and fearmongering.

Some cities have started enacting onerous zoning regulations that are preventing organizations from providing shelters in their communities and have even had ordinances that attempt to close existing programs. There are many requirements that are roadblocks and unfunded mandates that must be met to get the satisfaction of the city. Nonprofit organizations are facing retaliation and intimidation tactics because of their effort to bring the homeless inside.

This bill is a strategic solution to combat these challenges and would grant Commerce the authority to ensure state and local funding can be effectively deployed. This work requires partnership across sectors and communities. Adopting and funding this bill is a prudent decision that enables us to overcome unreasonable resistance, and put our limited fiscal resources to work for those in dire need.

(Opposed) This bill undermines the principles of local governance and public involvement by restricting a local government's ability to exercise discretion in zoning decisions related to transitional housing, permanent supportive housing, and emergency shelters. The one-size-fits-all mandate disregards the unique needs and character of individual communities which is best understood and addressed at the local level. Previous legislation, like House Bill 1220, already mandates that cities plan for and accommodate these housing types and shelters. This bill would create a bureaucratic bottleneck that duplicates efforts and complicates the process. The bill dilutes the role of public involvement in the local planning process by transferring significant authority to Commerce and distancing decisions from the communities.

This bill seems to be in response to actions that the citizens of Kenmore took in opposing a housing project that was not in the best interest of the community. This particular housing project was not as transparent about what types of vouchers would be issued. It was believed that the vouchers would be for families, women, and children in the area, but the voucher was limited to single individuals who do not have a job and do not have to be from Kenmore. This is a bad bill that will allow nonelected government employees to control the action of any city related to housing.

It is unsure if this bill is going to solve the events that preceded this bill. Tough discussions were held to ensure that all cities have to provide for these housing types. However, the scope of the problem is not yet known. Commerce comments on these sorts of ordinances, so perhaps they can advise if they are making comments in terms of this bill before the state spends millions per biennium.

(Other) There was hope that housing units in Kenmore intended to serve seniors, veterans, and those with disabilities would come to the city as the high rent increases are causing them to become homeless. However, the building project that was canceled would have been no-barrier housing for those addicted to drugs which is not safe for seniors or the homeless.

While there is support behind the intent of the bill, there are concerns about the process that is outlined and how it can be implemented, particularly when it comes to timing, notice requirements, and clear guidance on how cities can comply. The bill anticipates Commerce doing review of the ordinances once they have been adopted. It is unclear how it would apply to ordinances that have already been adopted and whether all those ordinances would no longer be effective upon the effective date of the bill. This could mean that there could be a reduction in areas where these housing types are allowed because there would be no ordinances in effect.

Persons Testifying (Housing): (In support) Representative Strom Peterson, prime sponsor; Dan Wise, Catholic Community Services; Michael White, King County; Michele Thomas, Washington Low Income Housing Alliance; Jon Culver; Benjamin Maritz; Melanie Smith, Seattle and King County Coalition on Homelessness; Elizabeth Murphy, Plymouth Housing; Bryce Yadon, Futurewise; and David Dorrian.

(Opposed) Salim Nice; and Carl Schroeder, Association of Washington Cities.

Persons Testifying (Appropriations): (In support) Sarah Dickmeyer, Plymouth Housing; Michael White; and Donna Christensen, Catholic Community Services.

(Opposed) Salim Nice; Dale Walker; Rachelle Stocum; and Carl Schroeder, Association of Washington Cities.

(Other) Briahna Murray; and Stacey Valenzuela.

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

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