
Local Government Committee

2SSB 5412

Brief Description: Reducing local governments' land use permitting workloads.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Salomon, Lias, Kuderer, Lovelett, Mullet and Pedersen).

Brief Summary of Second Substitute Bill

- Limits the design review process conducted by cities and counties planning under the Growth Management Act to clear and objective development regulations governing the exterior design of new development, with exceptions.
- Clarifies requirements for cities and counties to add additional project review requirements.
- Adds project actions that develop residential housing units or middle housing within unincorporated areas within an urban growth area to the categorical exemption for infill development from the State Environmental Policy Act.

Hearing Date: 3/21/23

Staff: Elizabeth Allison (786-7129).

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 Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities.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,

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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. Each city in a county must be included in a UGA. Planning jurisdictions must include within their UGAs sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period.

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. Government decisions that the SEPA checklist process identifies as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS). Under the SEPA, certain nonproject actions are categorically exempt from threshold determinations and EISs in rule. Examples of categorical exemptions include various kinds of minor new construction and minor land use decisions.

State Environmental Policy Act—Categorical Exemptions—Infill Development.

Counties and cities planning fully under the GMA may establish categorical exemptions from the requirements of the 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 a categorical exemption that meets the following criteria:

- It categorically exempts 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, and the development is residential development, mixed-use development, or commercial development up to 65,000 square feet.
- It does 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 policy of the applicable comprehensive plan.
- The local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws.
- The city's or county's applicable comprehensive plan was previously subjected to environmental analysis through an EIS under the requirements of the SEPA prior to

adoption, or the city or county has prepared an EIS that considers the proposed use or density and intensity of use in the area proposed for an exemption for infill development.

Design Review.

Design review is a formally adopted local government process by which projects are reviewed for compliance with design standards for the type of use adopted through local ordinance. Design review focuses on the appearance of new construction, site planning, and items such as landscaping, signage, and other aesthetic issues.

Project Review.

Except for certain exempt projects, local governments are required to review proposed projects within their jurisdictions to ensure that such projects are consistent with land use planning choices made in comprehensive plans and development regulations. The project review process must combine both procedural and substantive environmental review with project permit review. Local governments may have no more than one open record hearing and no more than one closed record appeal hearing on both the permit and environmental review, except for appeals of a SEPA determination of significance.

During project review, the local government or other subsequent reviewing body must determine whether certain specified items within the proposed project are defined in the applicable development regulations or comprehensive plans. For jurisdictions that plan under the GMA, a project's consistency with comprehensive plans and development regulations adopted under the GMA must be decided by the local government.

Each local government is encouraged to adopt further project review provisions to provide prompt, coordinated review and ensure accountability to applicants and the public. Local governments may require a preapplication conference or public meeting by rule, ordinance, or regulation and must adopt procedures to monitor and enforce permit decisions and conditions.

Summary of Bill:

Design Review.

Jurisdictions planning under the GMA may only apply clear and objective development regulations governing the exterior design of new development in a design review process, except for structures listed on the Washington Heritage Register or the National Register of Historic Places. A clear and objective development regulation:

- must include one or more ascertainable guidelines, standards, or criterion by which an applicant can determine whether a given building design is permissible under that development regulation; and
- may not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone.

Any design review process must be conducted concurrently, or otherwise logically integrated, with the consolidated review and decision process for project permits.

Project Review.

Additional project review provisions must be objective as well as coordinated and prompt. Local governments may require a preapplication conference or public meeting by authority of other applicable state laws in addition to a rule, ordinance, or regulation.

State Environmental Policy Act—Categorical Exemptions—Infill Development.

The infill development categorical exemption is expanded to include housing development. All project actions that propose to develop one or more residential housing units within the incorporated areas in a UGA, or middle housing within the unincorporated areas in a UGA, and that meet certain criteria are categorically exempt from the SEPA. The categorical exemption applies to proposed projects that do not have existing or anticipated transportation system safety or operational deficiencies. A city or county must consult with the Washington State Department of Transportation to determine if anticipated transportation system safety or operation deficiencies exist in connection with a proposed project.

The project action is eligible for categorical exemption only if:

- the proposed development is consistent with all development regulations implementing an applicable comprehensive plan under the GMA adopted by the jurisdiction in which the development is proposed, with the exception of any development regulation that is inconsistent with applicable provisions of the GMA; and
- the city's or county's applicable comprehensive plan was previously subjected to environmental analysis under the SEPA prior to adoption.

"Middle housing" means fourplexes, attached and detached accessory dwelling units, cottage housing, stacked flats, townhouses with more than four units, and courtyard apartments.

Appropriation: None.

Fiscal Note: Available.

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