
Housing Committee

ESSB 5466

Brief Description: Promoting transit-oriented development.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Liias, Gildon, Kuderer, Lovelett, MacEwen, Mullet, Braun, Billig, Dhingra, Frame, Hunt, Kauffman, Nguyen, Nobles, Pedersen, Saldaña, Salomon, Shewmake, Stanford, Valdez, Van De Wege and Wilson, C.; by request of Office of the Governor).

Brief Summary of Engrossed Substitute Bill

- Establishes that cities planning under the Growth Management Act (GMA) may not enact or enforce any new development regulation within a transit station area or station hub that prohibits the siting of multifamily residential housing on parcels where any other residential use is permissible, with some exceptions.
- Prohibits cities planning under the GMA from enacting or enforcing any new development regulation within a transit station area or station hub that imposes a maximum floor area ratio of less than the transit-oriented density or imposes a maximum residential density, measured in residential units per acre or other metric of land area.
- Prohibits cities and counties planning under the GMA from requiring off-street parking as a condition of permitting development within a station area, with some exceptions.
- Requires the Department of Transportation to establish a competitive grant program to help finance qualifying housing projects within rapid transit corridors and to provide technical assistance for implementing transit-oriented development regulations.
- Expands the categorical exemption for infill development.

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.

Hearing Date: 3/16/23

Staff: Serena Dolly (786-7150).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. 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. These jurisdictions are sometimes said to be fully planning under the GMA.

Counties that fully plan under the GMA are required to designate urban growth areas (UGA) 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 UGA must permit urban densities and include greenbelt and open space areas.

Comprehensive Plans.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. 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.

The GMA also establishes 14 goals in a nonprioritized list to guide the development of comprehensive plans and development regulations of counties and cities that plan under the GMA. The transportation goal encourages efficient multimodal transportation systems based on regional priorities and coordinated with county and city transportation plans. The housing element must ensure the vitality and character of established residential neighborhoods. Among other things, the housing element must include:

- an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth;
- adequate provisions for existing and projected needs of all economic segments of the community;
- identification and implementation of policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion of housing caused by local policies, plans, and actions; and
- establishment of antidisplacement policies.

Fully planning cities are encouraged to take an array of specified planning actions to increase

residential building capacity. This may include, for example:

- authorizing a development in one or more areas of certain size that include at least one train station served by commuter rail or light rail with an average of at least 50 residential units per acre that require no more than an average of one on-stop parking space per two bedrooms in the portions of multifamily zones located within the area; or
- authorizing a development in one or more areas of certain size and population that include at least one bus stop served by a scheduled bus service of at least four times per hour for 12 or more hours per day with an average of at least 25 residential units per acre that require no more than an average of one on-site parking space per two bedrooms in portions of the multifamily zones located within the area.

Limits on Minimum Residential Parking Requirements.

For housing units that are affordable to very low-income or extremely low-income individuals, and are located within .25 miles of a transit stop that receives transit service at least two times per hour for 12 or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 of a parking space per unit. For market rate multifamily housing units that are located within .25 miles of a transit stop that receives transit service from at least one route that provides service at least four times per hour for 12 or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 of a parking space per unit.

Cities and counties may establish a requirement for more than one parking space per bedroom for market rate multifamily housing, if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit. Fully planning cities under the GMA may not require the provision of off-street parking for accessory dwelling units within .25 miles of a major transit stop, such as a high-capacity transportation system stop, a rail stop, or certain bus stops, unless the city determines that on-street parking is infeasible for the accessory dwelling unit.

Average Minimum Density Requirements.

Floor area ratio is the measurement of a building's floor area in relation to the size of the lot or parcel on which the building is located. Minimum density specifies a minimum size, or floor area ratio, for new development.

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. Government decisions identified as having significant adverse environmental impacts must then undertake an environmental impact statement (EIS). Under 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.

SEPA Categorical Exemptions for Infill Development.

Counties and cities fully planning under the GMA may establish categorical exemptions from SEPA to accommodate infill development. 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 comprehensive plan;
- the action would not clearly exceed the density or intensity of use called for in the goals and policies of the 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 regulations, comprehensive plans, ordinances, or other local, state, and federal laws and rules; and
- the comprehensive plan was previously subjected to environmental analysis through an EIS.

Summary of Bill:

Development Regulations Within a Station Area or Station Hub.

A station area is comprised of all parcels within a UGA that are fully or partially within a .75 mile walking distance of a major transit stop or within .5 mile walking distance of a frequent bus stop. A station hub is comprised of all parcels within a UGA that area fully or partially within a .25 mile walking distance of a major transit station.

A major transit station is a site within a UGA that is or has been funded for development as: (1) a stop on a high capacity transportation system; (2) a commuter rail stop; or (3) a stop on rail or fixed guideway systems, including transitways. A major transit stop is a site within a UGA that is or has been funded for development as: (1) a major transit station characterized by fostering the interconnection of multiple transit routes, including high capacity transit, light rail, or commuter rail; or (2) a stop on a high capacity transit route or a route that runs on high occupancy vehicle lanes.

Cities planning under the GMA may not enact or enforce any new development regulation within a station area that prohibits the siting of multifamily residential housing on parcels where any other residential use is permissible. Cities planning under the GMA may not enact any new development regulation within a station area or station hub that:

- imposes a maximum floor area ratio of less than the transit-oriented density for any use otherwise permitted within a station area or station hub;
- imposes a maximum residential density, measured in residential units per acre or other metric of land area within a station area or station hub; or
- renders a parcel in a station area impracticable to build a usable structure for permitted uses at the transit-oriented density or floor area ratio except for: (1) development standards contained in a shoreline master program or critical area ordinance; or (2) any

parcel that is nonconforming with local subdivision standards or is listed in the Washington Heritage Register or the National Register of Historic Places.

Within any station area or station hub, any maximum floor area ratio must include an increased density bonus of 50 percent for affordable housing for: (1) households with incomes at or below 60 percent area median income; (2) permanent supportive housing; or (3) long-term inpatient care for behavioral health services. Child care facilities, a small business with fewer than 50 employees, and residential units with at least three bedrooms in multifamily housing that are within a station area must not be counted toward floor area ratio limits.

As an alternative, cities may designate parts of a station area or station hub to enact or enforce floor area ratios that are more or less than the transit-oriented density if the following conditions are met:

- the average maximum floor area ratio of all buildable land within a station area or station hub is no less than the applicable transit-oriented density;
- no part of a station hub is subject to a maximum floor area ratio that is less than 1.0; and
- no part of a station area is subject to a maximum floor area ratio that is less than 0.5.

If a city has enacted a development regulation that imposes a maximum floor area ratio of less than the transit-oriented density or a maximum residential density within a station area or station hub, the city must enforce and apply the development regulation consistent with this act instead. Cities planning under GMA must comply with the requirements above, and collaborate with tribes as outlined under the GMA, by the time of their next periodic comprehensive plan update.

The requirements on transit-oriented development regulations do not:

- alter, displace, or limit industrial uses or industrial areas within the urban growth area; or
- limit the amount of affordable housing provided through local mandatory housing affordability programs.

Parking.

Cities and counties planning under the GMA may not require off-street parking as a condition of permitting development within a station area, except for off-street parking that is permanently marked for the exclusive use of individuals with disabilities. A city or county may consult with the Washington State Department of Transportation (WSDOT), and if the city or county and the WSDOT determine that the lack of minimum parking requirements in a defined area would make on-street parking infeasible or unsafe for the authorized units, off-street parking may be allowed within a station area. If a project permit application within a station area does not provide off-street parking, the proposed absence of parking may not be treated as a basis for issuance of a determination of significance pursuant to SEPA. Minimum residential parking requirements for affordable housing units, housing units for seniors or persons with disabilities, and market rate multifamily housing units, in close proximity of certain transit stops, are removed.

State Environmental Policy Act.

The categorical exemption for infill development is expanded to include a project action that:

- is related to a proposed development that would fill in a station hub or station area;

- is related to a proposed multifamily residential development, mixed-use development, or commercial development; and
- is not inconsistent with the applicable comprehensive plan, and does not clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan.

A categorical exemption for sustainable transit-oriented development applies even if it differs from the categorical exemptions adopted by Department of Ecology rules.

Common Interest Communities.

Governing documents and declarations of common interest communities, including those such as condominiums and home owner associations, within cities that adopt development regulations related to maximum floor area ratios and maximum residential density provisions, may not prohibit construction or development of multifamily housing or transit-oriented density within a station area or require off-street parking that is inconsistent or in conflict with the parking provisions within a station area.

Transit-Oriented Development Technical Assistance and Grant Programs.

The WSDOT must create a new division within its agency or expand an existing division within its agency to:

- provide technical assistance and award planning grants to cities for transit-oriented development regulation adoption;
- provide compliance review of any transit-oriented development regulations; and
- mediate or help resolve disputes between the WSDOT, local governments, and project proponents regarding land use decisions and processing development permit applications.

The WSDOT must establish and administer a competitive grant program, in consultation with the Department of Commerce (Commerce), to assist with financing housing projects within rapid transit corridors. State agencies, local governments, and nonprofit or for-profit housing developers are eligible to receive grant awards, and grant awards may be used for project capital costs and infrastructure costs and to address gaps in project financing that would prevent ongoing or complete project construction. Eligible housing projects must meet the following requirements:

- be within one-quarter mile of a rapid transit corridor;
- comply with floor area ratio or net density minimums;
- produce at least 100 units of housing; and
- include a covenant on the property requiring at least 20 percent of units remain affordable for households with incomes at or below 80 percent of area median income for at least 99 years.

The WSDOT may award up to 5 percent of grant funds to housing projects within rapid transit corridors that meet such requirements except for either the 100-housing unit minimum requirement or the within one-quarter mile of a rapid transit corridor requirement. The WSDOT must also prioritize eligible projects by occupancy date, with a target occupancy date of

December 31, 2025, and consider certain criteria when prioritizing projects, such as those that:

- are comprised of the largest percentage of affordable units;
- have a high concentration of units affordable to households with incomes at or below 50 percent area median income;
- abide by antidisplacement measures, if appropriate; or
- include units with additional bedrooms or are intended for occupancy by families with multiple dependents.

The Transit-Oriented Development Housing Partnership Account is created in the custody of the state treasurer, and the secretary of the WSDOT, or their designees, and may authorize expenditures from the account. Account revenue may include gifts, donations, or other private contributions, with authorized expenditures for the competitive grant program to finance housing projects in rapid transit corridors and for costs related to duties of the new or expanded division created within the WSDOT.

If funds are appropriated to the Growth Management Planning and Environmental Review Fund in the transportation budget for awarding grants to cities to facilitate transit-oriented development, Commerce may award grants:

- to pay for the costs associated with environmental impact statements, planned action ordinances, subarea plans, the use of other tools under GMA or SEPA, and local code adoption and implementation; and
- to only fund efforts that address environmental impacts and consequences, alternatives, and mitigation measures to allow the analysis to be adopted by applicants for development permits within the geographic area analyzed in the plan.

In consultation with the WSDOT, Commerce must prioritize applications for grants to facilitate transit-oriented development that maximize certain policy objectives in the area covered by a proposal, such as:

- the total number of housing units authorized for new development in station areas, with specific attention to station hubs;
- proximity and quality of transit access;
- plans that exceed applicable transit-oriented densities for station areas and station hubs;
- plans in areas that eliminate on-site parking requirements;
- existence or establishment of incentive zoning, inclusionary housing, use of the multifamily tax exemption, or other tools to promote low-income housing in the area; and
- organization planning and financing of housing benefit districts.

Appropriation: None.

Fiscal Note: Available.

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