

# SENATE BILL REPORT

## ESHB 1293

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As of March 21, 2023

**Title:** An act relating to streamlining development regulations.

**Brief Description:** Streamlining development regulations.

**Sponsors:** House Committee on Housing (originally sponsored by Representatives Klicker, Leavitt, Barkis, Jacobsen, Waters, Chapman, Reed and Graham).

**Brief History:** Passed House: 2/28/23, 94-3.

**Committee Activity:** Local Government, Land Use & Tribal Affairs: 3/21/23.

### Brief Summary of Bill

- Establishes a categorical exemption from the State Environmental Policy Act for residential housing units within an urban growth area.
- Requires counties and cities planning under the Growth Management Act to apply only clear and objective design review standards to the exterior of new development that does not include residential housing, with exceptions.
- Clarifies project review provisions and adds expedited review of project permit applications that include dwelling units that are affordable to low- and moderate-income households.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

**Staff:** Karen Epps (786-7424)

**Background:** Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning

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requirements for counties and cities obligated by mandate or choice to fully plan under the GMA—planning jurisdictions—and a reduced number of directives for all other counties and cities. Twenty-eight of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

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.

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.

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 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 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 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 applicable comprehensive plan;
- the action would not clearly exceed the density or intensity of use called for in the goals and policies of the applicable 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 applicable regulations, comprehensive plans, ordinances, or other local, state, and federal laws and rules; and

- the applicable comprehensive plan was previously subjected to environmental analysis through an EIS according to SEPA.

**Summary of Bill:** State Environmental Policy Act—Categorical Exemptions—Housing Development. The infill development categorical exemption is expanded to include housing development. The categorical exemption applies in a city or county beginning six months after its next required periodic comprehensive plan update. All project actions that propose to develop one or more residential housing units within a UGA, and that meet certain criteria are categorically exempt from SEPA. The categorical exemption applies to areas that do not have existing or anticipated transportation system safety or operational deficiencies. Counties and cities must consult with the Washington State Department of Transportation to determine if anticipated transportation system safety or operation deficiencies exist. The project action is eligible for categorical exemption only if it meets the following criteria:

- the proposed development is consistent with all development regulations implementing the jurisdiction's comprehensive plan; and
- the city or county's comprehensive plan was previously subjected to an EIS, or the city or county has an EIS that considers the proposed use or density and intensity of use in the area and fully addresses the transportation impacts.

Design Review. Beginning six months after its next required periodic comprehensive plan update, a fully planning city or county may apply only clear and objective regulations to the exterior design of new development that does not include any residential units, except for designated landmarks or historic districts established under a local preservation ordinance. For the design review process, a clear and objective 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, and the design review process may not include more than one public meeting.

Project Review. During project review, counties and cities may only require preapplication conferences or a public meeting where otherwise required by state law. Counties and cities are encouraged to adopt project review provisions that ensure an objective review and expedite project permit applications for projects that include dwelling units that are affordable to low- and moderate-income households.

**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 more red tape for permitting and with the need to expedite housing, this bill expedites the permitting process to get through the red tape. This bill will make it so that one EIS is needed rather than repetitive EISs under SEPA. This bill will save time, effort, and money, while still following protocols. This bill is part of a package of bills to improve housing availability and affordability. This bill moves environmental review up to the planning level where the community can be involved in the process and removes environmental review from the project level. The bill allows projects that are consistent with the comprehensive plan to move forward without an added step. There are projects inside the UGA that are subject to SEPA and design review and it can take upwards to two years to go through those stops. This bill will move housing projects through the permitting process faster. The bill makes changes to design review to provide predictable ascertainable standards that will ensure quality design, while also streamlining the process when building housing.

OTHER: This bill is one of three bills that amends the same SEPA section in different ways that would be difficult to reconcile if they were all adopted. This bill adds a mandatory categorical exemption provided the development is consistent with the comprehensive plan with the intent being that the cities and counties would prepare an EIS on the plan, but the bill is unclear about when the EIS was done.

**Persons Testifying:** PRO: Representative Mark Klicker, Prime Sponsor; Ian Morrison, NAIOP Washington State; Scott Hazlegrove, Master Builders Association of King and Snohomish Counties; Tricia Gullion, Building Industry Association of Washington.

OTHER: Tim Gates, Ecology Shorelands Program.

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