

FINAL BILL REPORT

2SSB 5412

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Synopsis as Enacted

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).

Senate Committee on Local Government, Land Use & Tribal Affairs

Senate Committee on Transportation

House Committee on Local Government

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 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.

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

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.

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: State Environmental Policy Act—Categorical Exemptions—Housing 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 an urban growth area or middle housing within the unincorporated areas in an urban growth area, and that meet certain criteria are categorically exempt from SEPA.

Before adopting the categorical exemption, jurisdictions must satisfy the following criteria:

- the proposed development must be 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 or county has prepared an environmental analysis that considers the proposed use or density and intensity of use in the area proposed for exemption and analyzes multimodal transportation impacts.

The environmental analysis must include documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the

environment have been adequately addressed for the development exempted. The city or county must document its consultation with the Washington Department of Transportation on impacts to state-owned transportation facilities including consideration of whether mitigation is necessary for impacts to transportation facilities.

Before finalizing the environmental analysis, the local government must provide a minimum of 60 days' notice to affected tribes, relevant state agencies, other jurisdictions that may be impacted, and the public, and address any probable adverse impacts.

The categorical exemption is effective 30 days after the requirements of the environmental analysis are completed by a local government.

Until September 30, 2025, all project actions that propose to develop one or more residential housing or middle housing units within a city west of the crest of the Cascade Mountains with a population of 700,000 or more are categorically exempt from SEPA. After September 30, 2025, project actions that propose to develop one or more residential housing or middle housing units within the city may utilize the categorical exemption in the manner provided for cities and counties generally.

Locally authorized categorical exemptions for housing development may differ from the categorical exemptions established by the Department of Ecology by rule.

Votes on Final Passage:

Senate	49	0	
House	95	2	(House amended)
Senate			(Senate refused to concur)
House	95	2	(House receded/amended)
Senate	41	8	(Senate concurred)

Effective: July 23, 2023