

SENATE BILL REPORT

SB 6024

As of January 11, 2024

Title: An act relating to promoting community and transit-oriented housing development.

Brief Description: Promoting community and transit-oriented housing development.

Sponsors: Senators Trudeau, Saldaña, Frame, Kuderer, Lovelett, Lovick, Nguyen, Nobles, Valdez and Wilson, C.; by request of Office of the Governor.

Brief History:

Committee Activity: Local Government, Land Use & Tribal Affairs: 1/11/24.

Brief Summary of Bill

- Establishes that cities planning under the Growth Management Act (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 other residential use is permissible and must allow new residential and mixed-use development within any station area at certain transit-oriented development densities.
- Requires at least 10 percent of all residential units in buildings constructed within a station area be maintained as affordable housing for at least 50 years except under certain conditions.
- Prohibits counties and cities planning under the GMA from requiring off-street parking as a condition of permitting development within a station area, with exceptions.
- Requires Department of Transportation to designate a liaison as a point of contact for local governments and project proponents regarding land use decisions and processing development permit applications.
- Allows Department of Commerce to provide technical assistance, award grants to cities to facilitate transit-oriented development, and provide compliance review of transit-oriented development regulations.

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.

- Categorically exempts all project actions that propose to develop residential or mixed-use development within any station area up to the transit-oriented development density requirements from the State Environmental Policy Act.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

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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.

The GMA sets forth 14 planning goals to guide the development and adoption of comprehensive plans and development regulations of counties and cities that fully 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-site 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 affordable housing units, that are affordable to very low-income or extremely low-income individuals and are located within one-quarter mile 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 three-quarters space per unit. For market rate multifamily housing units located within one-quarter mile 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 three-quarters space per 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.

Joint Legislative Audit and Review Committee. The Joint Legislative Audit and Review Committee (JLARC) is a committee comprised of an equal number of House and Senate members, Democrats and Republicans. JLARC conducts performance audits, program evaluations, sunset reviews, and other analyses. Assignments to conduct studies are made by the Legislature and JLARC itself. Based on these assignments, JLARC's nonpartisan staff auditors, under the direction of the Legislative Auditor, independently seek answers to audit questions and issue recommendations to improve performance. JLARC's audits are directed to be independent, objective, and accurate.

Summary of Bill: Development Regulations Within a Station Area. Cities planning under 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. Station area means all parcels fully within an urban growth area and fully or partially within a three-quarter mile walking distance of a major transit stop or fully or partially within a half-mile walking distance of a frequent bus stop. A fully planning city may adopt a station area variance but only after consultation and approval by the

Department of Commerce (Commerce).

Cities planning under GMA must allow new residential and mixed-use development within any station area at the transit-oriented development density of:

- at least three and a half floor area ratio, on average, within one-half mile walking distance of a stop on a light rail system, a commuter rail stop, or a stop on rail or fixed guideway systems; and
- at least two and a half floor area ratio, on average, within one-quarter mile walking distance of a stop on a bus rapid transit route.

Cities planning under GMA may not enact or enforce any development regulation that imposes:

- a maximum floor area ratio of less than the transit-oriented development density for any residential or mixed-use development within a station area; or
- a maximum residential density, measured in residential units per acre or other metric of land area within a station area.

Cities planning under GMA may designate parts of a station area in which to enact or enforce floor area ratios for residential or mixed-use development more or less than the applicable transit-oriented development density, if the average maximum floor area ratio of all residential and mixed-use areas within a station area is no less than the applicable transit-oriented development density.

Within any station area, any building in which all units are affordable housing for at least 50 years or are dedicated to permanent supportive housing, an additional one and a half floor area ratio must be permitted. Any floor area within a building located in a station area reserved for residential units in multifamily housing that includes at least three bedrooms must not be counted toward applicable floor area ratio limits.

At least 10 percent of all residential units in buildings constructed within a station area must be maintained as affordable housing for at least 50 years, unless:

- the building is constructed on a lot in which a density that meets or exceeds the transit-oriented development density requirements was authorized prior to January 1, 2024;
- the building is subject to affordability requirements with a lower income threshold or a greater amount of required affordable housing enacted by a city prior to January 1, 2024; or
- a city has enacted or expands a mandatory program that requires a minimum amount of affordable housing that must be provided by residential development, either on-site or through an in-lieu payment, in an area where development regulations must comply with the transit-oriented development density requirements.

Cities planning under GMA must adopt development regulations related to transit-oriented development density requirements within a station area and modify or repeal existing

development regulations application in a station area inconsistent with these requirements within six months after its first comprehensive plan update or within six months after its first implementation progress report due after December 31, 2024, for cities required to review its comprehensive plan by December 31, 2024. Cities planning under GMA must 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 or agricultural uses or industrial or agricultural areas within the urban growth area or require a city to issue a building permit if other federal, state, and local requirements for a building permit are not met.

Cities planning under GMA may exclude from the requirements on transit-oriented development regulations any lot or portion of a lot that:

- is designated as a shoreline environment governed by a shoreline master program or as a critical area governed by a critical area ordinance;
- is nonconforming with development regulations governing lot dimensions, unless an applicant demonstrates the nonconforming lot may be developed in compliance with development regulations;
- contains a designated landmark or is located within a historic district established under a local preservation ordinance;
- has been designated as containing urban separators by countywide planning policies; or
- is an industrial or agricultural designated lot that either is limited to one dwelling unit per lot or only allows housing for individuals and their families.

Commerce may approve actions for cities that have, by January 1, 2024, adopted a plan and implementing development regulations for a specific station area substantially similar to the requirements of transit-oriented development density for that station area.

Work Group. No later than August 1, 2024, the Governor shall convene a work group to develop a list of antidisplacement guiding principles and strategies. The work group must be comprised, at a minimum, of the following representatives from or with:

- impacted cities and tenants;
- ethnic or cultural associations;
- organizations advocating for affordable housing and for nonprofit builders of affordable housing;
- an association representing tenants;
- a development industry association;
- experience developing affordable housing; and
- experience developing or implementing antidisplacement strategies.

The work group must develop definitions for displacement and gentrification, a list of recommended antidisplacement strategies, including strategies that mitigate the impacts of

displacement and protect against gentrification; and identify the potential costs and funding sources to implement the strategies. By September 30, 2024, the work group must submit a report of its findings and recommendations to Commerce. No later than October 15, 2024, Commerce must develop antidisplacement guiding principles and a list of potential strategies and then make available to cities.

Antidisplacement. A city may apply to Commerce for extension from the transit-oriented development density requirements in any areas at risk of displacement based on the statewide antidisplacement map created by Commerce, another map based on quantifiable data demonstrating the risk of displacement, or areas of lower opportunity based on income, access to resources, and other economic factors according to quantitative and statistically valid data. The city and Commerce must agree on the city plan to mitigate the impacts of displacement and an implementation plan that includes specific antidisplacement policies.

In addition to antidisplacement policies, the city may implement alternative floor area ratio requirements in areas deemed at greater risk of displacement under an antidisplacement analysis, including reducing floor area ratios or applying varying floor area ratios within the station area for as long as the area remains at risk of displacement.

Joint Legislative Audit Review Committee. JLARC must review jurisdictions' experiences with the effects of the 10 percent affordable housing requirement, in-lieu payment options for affordable housing requirements, and requirements for transit-oriented development density around fixed route transit stops providing frequent bus service. JLARC must complete the review and evaluation by June 30, 2035. JLARC must conduct case studies that consider the following factors:

- the effects on housing supply, including the supply of affordable housing;
- the implementation of transit-oriented development density regulations; and
- how statewide transit-oriented development density regulations are interacting with residential housing construction and development in specific cities.

In conducting its evaluation, JLARC must consult with representatives from certain entities, including Commerce, Washington State Housing Finance Commission, University of Washington's Runstad Department of Real Estate, cities, regional transportation planning organizations and transit agencies serving areas that include cities with station areas, and affordable housing advocacy organizations and for-profit and non-profit housing development industry working in cities with station areas.

Technical Assistance and Grant Programs. WSDOT must create a new division within its agency or expand an existing division within its agency and designate a liaison to serve as a point of contact and resource for WSDOT, local governments, and project proponents regarding land use decisions and processing development permit applications. The liaison's priority must be to facilitate and expedite WSDOT decisions required for project approval.

Commerce must develop guidance to convert different types of planning measurements to

the transit-oriented development density requirements and applicable floor area ratios. Subject to amounts appropriated to the Growth Management Planning and Environmental Review Fund, Commerce may:

- award grants to cities to facilitate transit-oriented development, and cities may use grant funds 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
- provide technical assistance and award planning grants to cities to implement requirements related to transit-oriented development density requirements and provide compliance review of transit-oriented development regulations.

In consultation with 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;
- proximity and quality of transit access plans that exceed applicable transit-oriented development densities for station areas;
- plans that authorize, but do not mandate, ground floor retail with housing above;
- plans in areas that eliminate on-site parking requirements;
- existence or establishment of incentive zoning, inclusionary housing or other tools to promote low-income housing in the area;
- plans that include dedicated policies to support public or nonprofit funded low-income or workforce housing; and
- plans designed to maximize and increase the variety of allowable housing types and expected sale or rental rates.

Parking. To encourage transit-oriented development and transit use and resulting substantial environmental benefits, cities planning under GMA may not require off-street automobile parking as a condition of permitting residential or mixed-use development within a station area, except for off-street automobile parking permanently marked for the exclusive use of individuals with disabilities. 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.

The parking provisions do not apply to portions of cities within a one-mile radius of a commercial airport with at least 9 million annual enplanements or if a local government submits an empirical study to Commerce and Commerce finds and certifies the application of the parking limitations will be significantly less safe than if the jurisdiction's parking requirements were applied to the same location. Commerce must develop guidance to assist cities and counties on items to include in the study.

If a residential or mixed-use development provides parking for residential uses in excess of parking limitations, cities planning under GMA may enact or enforce development regulations to:

- require a share of any provided residential parking to be distributed between units designated as affordable housing and units offered at market rate; and
- include all or a portion of the cost of unbundled parking charges into the monthly cost for rental units designated as affordable housing.

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. All project actions that propose to develop residential or mixed-use development within any station area up to the transit-oriented development density requirements are categorically exempt from SEPA.

Common Interest Communities. Governing documents and declarations created after the effective date of the act and applicable to common interest communities, including condominium associations and home owners' 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 development density within a station area or require off-street parking inconsistent or in conflict with parking provisions applicable within a station area.

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 a need for affordable housing solutions that prevent displacement and ensure housing security for residents. The bill advocates for a healthy, sustainable approach aligned with climate action goals and prioritizes affordable housing and equity. The bill supports local governments in implementing this bill by offering an implementation roadmap, financial support, and technical assistance. There is a need to balance state efforts for increased housing with efforts to conserve limited public resources for transportation, efficiently move people and goods throughout the region, protect industrial lands from conversion, and adhere to strong environmental justice principles and this bill strikes that balance. This bill aims to reduce the carbon footprint and reliance on private vehicles, as well as provide alternatives to driving to reduce greenhouse gas emissions and vehicle miles traveled. There needs to be inclusive, equitable, and affordable transit housing.

CON: The bill includes excessive mandatory upzoning around every bus rapid transit stop and it is critical to avoid a one-size fits all approach. The bill does not take into

consideration smaller cities without regular local bus services and the definition of station area will severely impact some surrounding neighborhoods. There are areas that are ripe for redevelopment but need supportive infrastructure to catalyze that development. There are concerns about the application of this bill to every bus rapid transit stop and it would be better if cities could identify a particular bus rapid transit stops to focus efforts. The FAR numbers in the bill are very high for mid-size and smaller jurisdictions. The bill set density levels that are too low, and the affordability mandates are too high. The affordability requirement will push housing development outside of the TOD areas where it is less expensive to build.

OTHER: There is concern that cities might not want to have bus rapid transit in their communities because of the upzoning requirements in this bill. There is concern about bus rapid transit stations because they have moved over the years and service has been inconsistent, there is light industrial at many stops and adding residential to these areas will be detrimental to those jobs, and the mandatory FAR is challenging at some stops as those stops lack infrastructure to support a walkable community. There should be an alternative approach to allow averaging of densities of stations areas in a city's jurisdiction or allow cities to select certain stops in which to focus density. This bill falls short on what is needed to address the state's housing crisis because it does not legalize the level of housing density that is appropriate for the state's biggest transit investments. The bill needs to grant larger upzones if it is to have a positive impact.

Persons Testifying: PRO: Senator Yasmin Trudeau, Prime Sponsor; Ryan Donohue, Habitat for Humanity Seattle-King & Kittitas Counties; Bryce Yadon, Futurewise and Transportation Choices Coalition; John Flanagan, Port of Seattle; Megan Slade, Beacon Hill Council.

CON: Morgan Irwin, Association of Washington Business; Salim Nice, Mayor, City of Mercer Island; Carl Schroeder, Association of Washington Cities; BILL CLARKE, Washington REALTORS; Ryan Windish, City of Sumner.

OTHER: Angela Birney, Mayor of the City of Redmond; Justin Leighton, WA State Transit Association; Dan Bertolet, Sightline Institute.

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