

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1293 HB	<b>Title:</b> Development regulations
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## Estimated Cash Receipts

NONE

## Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Commerce	Fiscal note not available											
Environmental and Land Use Hearings Office	.0	0	0	0	.0	0	0	0	.0	0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Commerce	Fiscal note not available								
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Gwen Stamey, OFM	<b>Phone:</b> (360) 790-1166	<b>Date Published:</b> Preliminary
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1293 HB	<b>Title:</b> Development regulations	<b>Agency:</b> 468-Environmental and Land Use Hearings Office
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Serena Dolly	Phone: 360-786-7150	Date: 01/27/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 01/31/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 01/31/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/31/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Section 1. Slightly amends the intent section adding the “The purpose of this section is to accommodate infill and housing development and thereby realize the goals....”, thus making housing development as well as infill development a policy goal of the Growth Management Act (GMA). (3) Creates eligibility for a categorical exemption for any project action under this subsection. Criteria for eligibility include consistency with an applicable Comprehensive Plan, not exceeding density or intensity of use called for in the goals and policies of the applicable comprehensive plan, and the plan being subject to an environmental impact statement (EIS). (4) States: Any categorical exemption under this section applies even if it differs from the categorical exemptions adopted by rule of the Department of Commerce (Commerce) under RCW 43.21C.110(1) (a). However, any categorical exemption ((adopted by a city or county)) under this section shall be subject to the rules of Commerce adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by Commerce.

Section 2. Creates a new section in the GMA that addresses design review requirements under this subsection that need to be clear and objective.

Section 3. Amends 36.70B and is not under the jurisdiction of the Growth Management Hearings Board (GMHB).

Assume new GMHB petitions – The proposed bill would increase GMHB cases by an estimated four new cases per year. This estimate is based on past experience with cases filed after updates to the GMA.

Assume new appeals in FY 2025 – We anticipate challenges to the new law will begin in FY2025 following local governments’ planning processes.

Assume cost absorption – ELUHO assumes the GMHB can absorb costs to manage the few petitions likely to be generated by this bill.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

None

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

None

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

None

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1293 HB

Title: Development regulations

## Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

Cities: Fully planning cities would be required to amend existing categorical exemption for residential infill development to accommodate new infill development statute; fully planning cities would be required to adopt objective exterior design standards for new development.

Counties:

Special Districts:

Specific jurisdictions only: Jurisdictions fully planning under the Growth Management Act.

Variance occurs due to:

## Part II: Estimates

No fiscal impacts.

Expenditures represent one-time costs: Analysis and ordinance adoption are one-time costs for impacted cities and counties.

Legislation provides local option:

Key variables cannot be estimated with certainty at this time: Added workload to adopt new infill development regulations beyond adopting this statute by reference into local code; number of jurisdictions with infill development in existing municipal code; number of jurisdictions that would need to conduct an environmental impact statement to support the residential infill development requirements of Sec. 1.

### Estimated revenue impacts to:

None

### Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

## Part III: Preparation and Approval

Fiscal Note Analyst: Jordan Laramie	Phone: 360-725-5044	Date: 01/31/2023
Leg. Committee Contact: Serena Dolly	Phone: 360-786-7150	Date: 01/27/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/31/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 02/01/2023

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Description of the bill with an emphasis on how it impacts local government.*

This legislation would amend categorical exemptions provided for residential infill development under the State Environmental Policy Act (SEPA) for cities and counties planning under the Growth Management Act (GMA).

The bill establishes a categorical exemption from SEPA for residential housing units within an urban growth area. Requires counties and cities planning under the GMA to apply only clear and objective design review standards to the exterior of new development.

Sec. 1 amends RCW 43.21C.229

(3) Would allow all project actions that propose to develop one or more residential housing units within an urban growth area categorical exemption if the proposed development is not inconsistent with the jurisdiction's comprehensive plan; the proposed development would not exceed the density or intensity of use called for in the goals and policies of that applicable comprehensive plan. The categorical exemption would also be applicable for all project actions of the residential development if 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.

Sec. 2 would add a new section to 36.70A RCW

Cities and counties planning under the GMA would be authorized to incorporate design review processes that apply objective development regulations governing the exterior design of new development.

(4) Design review must be conducted concurrently with, or otherwise logically integrated with, the consolidated review and decision process for project permits. Limits the number of design review process

Sec. 3 amends 36.70B.160 RCW

Counties and cities are encouraged to adopt project review provisions that ensure an objective review. During project review, counties and cities may only require preapplication conferences or a public meeting where otherwise permitted by state law.

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

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.*

This act would have indeterminate expenditure increases for all Growth Management Act (GMA) planning jurisdictions to amend or provide State Environmental Policy Act (SEPA) categorical exemptions for residential development within urban growth areas.

Any planning jurisdictions with these exemptions in their municipal code would have to amend these provisions. The number of planning jurisdictions that do not currently offer categorical exemptions for infill development is unknown.

#### **COSTS TO AMEND CODE FOR SEPA CATEGORICAL EXEMPTION:**

Indeterminate – There are 28 counties and 217 cities that plan under the GMA with urban growth areas that may have costs starting at \$2,200 to adopt new categorical infill exemptions for residential development. If every jurisdiction that planned under the GMA with an UGA adopted the provisions of Sec. 1(3) the costs may be approximately \$500,000. However, an unknown number of jurisdictions would likely amend their municipal code in a way that requires more costly updates than a simple ordinance with a hearing of the same complexity. Many jurisdictions have adopted SEPA categorical exemptions by reference and incorporating the provisions of this act for residential infill development may carry minimal costs for these jurisdictions. However, other jurisdictions may need to amend other development and zoning regulations to incorporate the changes to existing infill development exemptions, which would have more significant costs.

The number of cities and counties that would choose one option or the other cannot be determined in advance.

The Local Government Fiscal Program Unit Cost Model estimates that the cost the typical cost per jurisdiction to adopt an ordinance with a hearing of the same complexity from \$2,958 for a simple ordinance to \$9,492 for a complex ordinance. These estimates include costs for draft ordinances, advisory commission meeting and recommendation, finalized ordinance, publication of ordinance, and general public information. Assuming these ordinances are complex, with a hearing of the same complexity the following ordinance adoption costs can be estimated:

\$2,958 per city or county that chooses to adopt the categorical exemption in this act by reference.

Starting costs of at least \$9,492 for each city and county that adopts the categorical exemption in a more substantive manner.

Illustrative Example of Amended Local Code for SEPA Residential Infill Development:

There are 28 counties and 217 cities that plan under the GMA with urban growth areas. If all planning jurisdictions would have to amend their existing code to conform to the new SEPA categorical exemptions, as described in this legislation, the total estimated costs would be:

Cities:  $217 \times \$2,200 = \$436,772$

Counties:  $28 \times \$2,200 = \$55,347$

Illustrative Estimate Total: \$492,119

#### COSTS TO ADOPT NEW CATEGORICAL EXEMPTIONS:

Indeterminate – Estimate for each jurisdiction that would adopt categorical exemption for residential infill development would start at approximately \$9,492 per jurisdiction that does not currently have these provisions in their in their municipal code. Additional costs may be necessary to comply with the environmental review components of Sec. 1(2)(d) and Sec. 1(3)(c) that authorize the infill development provisions.

#### Ordinance Adoption Costs:

The Local Government Fiscal Program Unit Cost Model estimates that the cost the typical cost to adopt an ordinance per jurisdiction ranges from \$595 for a simple ordinance to \$9,492 for a complex ordinance with a hearing of the same complexity. These costs include costs for draft ordinances, advisory commission meeting and recommendation, finalized ordinance, publication of ordinance, and general public information.

#### Environmental Impact Statements Associated with SEPA Infill Development Categorical Exemptions:

Indeterminate - The number of jurisdictions that lack an infill development categorical exemption is unknown, but in these jurisdictions, an Environmental Impact Statement (EIS) would be a requirement per Sec. 3. The costs for the EIS may start \$100,000 per city and \$300,000 per county.

All project actions for residential housing construction within a UGA would be categorically exempt from SEPA if the proposed development is consistent with the jurisdiction's comprehensive plan; the proposed development would not exceed the density or intensity of use called for in the goals and policies of that applicable 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.

The cost to counties and individual cities that would pursue infill development through this categorical exemption would be indeterminate due to the size, scale, and scope of development plans. The larger the area, the more it will influence the cost of development under the GMA planning provisions. Assessment from the Department of Commerce and the Association of Washington Cities, it would be difficult to estimate how many cities and jurisdictions would be involved in



this planning because the needs for infill development around the state vary significantly.

Estimates from the Association of Washington Cities' 2020 city planning cost survey indicate that the cost of an EIS to be approximately \$100,000 per city that chooses to undergo the infill development within their municipality. The Department of Commerce indicate these costs may approximate to \$300,000 for larger jurisdictions, in HB 2066 (2020). These costs include EIS alternative analysis and preferred alternative selection, and increasing the SEPA exemption threshold for residential and mixed use development within the UGA as it pertained to a planned action under RCW 43.21C.440.

There may be instances where cities or counties determine that their EIS is insufficient or needs refinements; especially if such refinements will automatically trigger an exemption to building and development requirements under the GMA. Even if there are cities that do not opt into the exemption, there could be pressure to review and refine existing EIS for infill development exemptions in GMA planning cities.

#### COST FOR OBJECTIVE DESIGN REVIEW:

Indeterminate – For expenses that can be estimated at this time, the costs for adopting ordinances for the objective design review into local municipal code may exceed \$2.3 million. It is not currently known how many jurisdiction's local code contain provisions that govern exterior design of new development with objective regulations.

The Local Government Fiscal Program Unit Cost Model estimates that the cost the typical cost per jurisdiction to adopt an ordinance with a hearing of the same complexity from \$2,958 for a simple ordinance to \$9,492 for a complex ordinance. These estimates include costs for draft ordinances, advisory commission meeting and recommendation, finalized ordinance, publication of ordinance, and general public information. Assuming these ordinances are complex, with a hearing of the same complexity the following ordinance adoption costs can be estimated:

#### Illustrative Example of Amended Local Code for Objective Design Review:

217 cities x \$9,600 = \$2,083,200

28 counties x \$9,400 = \$263,200

Illustrative Example Total \$2,346,400

#### BACKGROUND:

SEPA categorical exemptions remove projects below a set threshold number of units from SEPA review (WAC 197-11-800). Typically, developments of more than four dwelling units are subject to an environmental review process under SEPA. However, jurisdictions are allowed to adopt higher exemption thresholds for single-family, multifamily and other project types, which can help to lower development costs for new housing development. (Puget Sound Regional Council).

### C. SUMMARY OF REVENUE IMPACTS

*Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.*

This legislation would not impact local government revenue.

#### SOURCES:

Association of Washington Cities, Planning Cost Survey (2020)

Department of Commerce

Department of Ecology, State Environmental Policy Act, Guidance and Categorical Exemptions

Local Government Fiscal Note Program, FN HB 2066 (2020)

Local Government Fiscal Note Program, FN HB 1167 (2023)

Local Government Fiscal Note Program, Unit Cost Model (2023)

Puget Sound Regional Council, State Environmental Policy Act, Categorical Exemptions

WAC 197-11-164

WAC 197-11-800