

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5190 SB	<b>Title:</b> Middle housing
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## Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	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 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	5.6	1,879,964	1,879,964	1,879,964	5.1	1,495,146	1,495,146	1,495,146	5.1	1,502,346	1,502,346	1,502,346
Environmental and Land Use Hearings Office	.1	40,848	40,848	40,848	.3	70,342	70,342	70,342	.3	70,342	70,342	70,342
<b>Total \$</b>	<b>5.7</b>	<b>1,920,812</b>	<b>1,920,812</b>	<b>1,920,812</b>	<b>5.4</b>	<b>1,565,488</b>	<b>1,565,488</b>	<b>1,565,488</b>	<b>5.4</b>	<b>1,572,688</b>	<b>1,572,688</b>	<b>1,572,688</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			3,744,000			10,879,000			
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Local Gov. Total			3,744,000			10,879,000			

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
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> Final
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5190 SB	<b>Title:</b> Middle housing	<b>Agency:</b> 103-Department of Commerce
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.5	5.6	5.6	5.1	5.1
<b>Account</b>					
General Fund-State 001-1	934,783	945,181	1,879,964	1,495,146	1,502,346
<b>Total \$</b>	934,783	945,181	1,879,964	1,495,146	1,502,346

### 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: Melissa Van Gorkom	Phone: 360-786-7491	Date: 01/16/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 01/30/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 01/30/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 02/01/2023

## 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 2 amends RCW 36.70A.030 adding several new housing-related definitions to the growth management act (GMA) under RCW 36.70A.030.

Section 3 adds a new section to RCW 36.70A outlined in the GMA the applicability for cities to adopt new housing and zoning incentives. The section further outlines the criteria for affordable housing incentives and new requirements on cities, including the time frame for deadline for cities to take action under Section 3.

Section 4 adds a new section to RCW 36.70A requiring the Department of Commerce (department) to provide technical assistance to cities the requirements of Section 3, with priority of assistance on those cities demonstrating the greatest need.

Section 4(2) requires the department to publish a model middle housing ordinance no later than 18 months following the effective date of this section. The department is also directed to develop a process to approve or reject local actions taken to comply with the requirements of Section 3.

Section 6 adds a new section to RCW 36.70A providing that a city subject to the requirements of Section 3 may apply to the department for extension of the implementation timelines. The department may establish by rule any procedures needed for implementation of Section 6.

Section 8 adds a new section to RCW 36.70A providing that cities taking actions to comply with this act shall be deemed to be in compliance with RCW 36.70A.070(2)(d).

### 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.*

### 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.*

#### Assumptions:

- The department assumes significant administrative rulemaking for middle housing model ordinances and other processes as well as ongoing work monitoring, approving or denying actions to implement the bill, under Sections 3, 4, and 6.
- Development of a middle housing model ordinances would likely involve retaining consultant services with expertise.
- The department assumes ongoing monitoring of local housing plans and comprehensive plan updates, including related technical assistance and training statewide with development of a new approval process under Section 6.
- The department assumes \$15,000 per fiscal year, FY24-FY25, and \$10,000 in FY24-FY29, ongoing in AAG rulemaking review and consultation for rulemaking required throughout this bill, including guidelines in Section 5, and model element adopted by rule under Section 6, and general guidance updates, based on similar high level GMA guidance and rulemaking review. Ongoing AAG costs of \$10,000 assume the cost of legal services required for potential appeals of department decisions under Section 3.

- Additional significant department IT work will be required to initially upgrade its internal planning data system for tracking submitted materials, FY24-FY25, and ongoing maintenance. The department assumes \$50,000 a year for the first two years for immediate IT upgrades for tracking and new workflow for receiving local amendments, department approval processes, certification and tracking of timeline extensions, and the legal appeals of department decisions, and 0.3 FTE for two IT staff to upgrade and maintain the planning data system to implement new requirements (Sections 3, 4 and 6).

- Grant assumptions: Between 60 and 80 communities will be updating their plans and regulations, a total of 330 jurisdictions between FY24 and FY28. Past grants ranged in size, depending on the size of the community, with smaller jurisdictions getting proportionately more due to small internal capacity and substantial technical assistance from the department. We estimate about 50% of jurisdictions will request grants and technical assistance for middle housing, while the others lack capacity to write the grants. With about 250 to complete updates after this year, and about 120 potentially applying for and getting grants of about \$75,000 each is \$9,000,000 along with \$2,000,000 in admin and technical assistance to help over the 4 years. Total is \$5.5 million for each biennium. \$4.5 million in grants and \$1 million in technical assistance

Sections 1-4, 6 and 8:

1.0 FTE Commerce Specialist 4 (2,088 hours), FY24-FY29, ongoing, to serve as the statewide expert in middle housing planning and oversee implementation and management of the new review and approval program.

2.5 FTE Commerce Specialist 3 (5,220 hours), FY24-FY29, ongoing, to assist Commerce Specialist 4 in above activities. Manage grants, work with local governments on their housing elements and develop regulations, specifically related to middle housing.

0.2 FTE Management Analyst 4 (418 hours), FY24-FY25, to provide professional and technical advice to management for rulemaking administration and technical support for approval process and timeline extensions.

0.2 FTE Administrative Assistant 3 (418 hours), FY24-FY29, to review documents, records, or applications for completeness, accuracy, and compliance with rules. Composes office correspondence such as requests for documentation and responses to requests for information.

0.52 FTE IT Business Analyst Expert (1,086 hours), FY24 and FY 25 and 0.3 FTE (600 hours) FY26-FY29, for significant system maintenance and upgrades to the plan review data and program tracking data system, including major data system upgrades for the new program, and ongoing maintenance and periodic upgrades thereafter.

0.3 FTE IT Application Developer (209 hours) in FY24-FY29 for system maintenance for upgrades to the data and program tracking database.

Salaries and Benefits:

FY24: \$564,104

FY25: \$583,191

FY26-FY29: \$522,025 each fiscal year

Professional Service Contracts:

Section 4 requires a contract in FY24-FY25 to provide professional expertise for model ordinance development at 500 hours in FY24-FY25 each fiscal year with a billable rate of \$200 per hour.

FY24-FY25: \$100,000 each fiscal year

Goods and Services:

Includes \$15,000 in FY24-25 (71 hours at \$210 per hour each fiscal year) for legal review of draft guidelines adopted by

rule guidance through rulemaking, and model ordinance review; and \$10,000 FY24-FY29 (48 hours at 210 per hour each fiscal year) for legal services and ongoing appeals of department decisions under Section 4.

FY24: \$62,824

FY25: \$62,855

FY26-FY29: \$53,802 each fiscal year

Travel:

Statewide local technical assistance, 30 days annually, for training and outreach with local governments and half with overnight lodging.

FY24-FY25: \$7,265 each fiscal year

Equipment:

Standard workstations for new team members and a replacement computer on the agency's five-year lifecycle replacement schedule.

FY24: \$15,000

FY28: \$7,200

Intra-Agency Reimbursements:

FY24: \$185,590

FY25: \$191,870

FY26-FY29: \$171,746 each fiscal year

Note: Standard goods and services costs include supplies and materials, employee development and training, Attorney General costs, central services charges and agency administration. Intra-agency-administration costs (e.g., payroll, HR, IT) are funded under a federally approved cost allocation plan.

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Total Costs:

FY24: \$934,783

FY25: \$945,181

FY26-FY27: \$747,573 each fiscal year

FY28: \$754,773

FY29: \$747,573

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	934,783	945,181	1,879,964	1,495,146	1,502,346
<b>Total \$</b>			934,783	945,181	1,879,964	1,495,146	1,502,346

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.5	5.6	5.6	5.1	5.1
A-Salaries and Wages	421,026	433,657	854,683	774,472	774,472
B-Employee Benefits	143,078	149,534	292,612	269,578	269,578
C-Professional Service Contracts	100,000	100,000	200,000		
E-Goods and Other Services	62,824	62,855	125,679	107,604	107,604
G-Travel	7,265	7,265	14,530		
J-Capital Outlays	15,000		15,000		7,200
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	185,590	191,870	377,460	343,492	343,492
9-					
<b>Total \$</b>	934,783	945,181	1,879,964	1,495,146	1,502,346

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Assistant 3	52,616	0.2	0.2	0.2	0.2	0.2
Administrative Services - Indirect	111,168	0.8	0.9	0.9	0.8	0.8
Commerce Specialist 3	82,056	2.5	2.5	2.5	2.5	2.5
Commerce Specialist 4	86,212	1.0	1.0	1.0	1.0	1.0
IT APP Development - Senior/Specialist	120,457	0.3	0.3	0.3	0.3	0.3
IT Business Analyst - Expert	126,485	0.5	0.5	0.5	0.3	0.3
Management Analyst 4	86,212	0.2	0.2	0.2		
<b>Total FTEs</b>		5.5	5.6	5.6	5.1	5.1

**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

## **Part V: New Rule Making Required**

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

This bill requires rule making activities, amending chapter 365-196 WAC.

- Sections 2-4, 6, and 8 contain revision to the GMA that would require updated technical assistance and guidance for cities through rulemaking.
- Section 4 directs the department to develop a process for approval of local actions.
- Section 6 directs the department to establish by rule, procedures for timeline extensions.



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5190 SB	<b>Title:</b> Middle housing	<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:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.3	0.1	0.3	0.3
<b>Account</b>					
General Fund-State 001-1	0	40,848	40,848	70,342	70,342
<b>Total \$</b>	0	40,848	40,848	70,342	70,342

### 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: Melissa Van Gorkom	Phone: 360-786-7491	Date: 01/16/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 01/19/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 01/19/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/22/2023

## 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. Legislative intent to allow more housing options affordable to various income levels in areas already served by urban infrastructure in order to reduce pressure to develop natural and working lands and support key strategies for climate change, food security, and Puget Sound recovery, hopefully saving taxpayer and ratepayers money.

Section 2. Adds a number of definitions, the first being “Administrative Review Process”, which could generate appeals to the Growth Management Hearings Board (GMHB). Other definitions include Cottage Housing, Courtyard Apartments, Major Transit Stops, and Townhouses.

Section 3. Requires certain sized cities to develop by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for specific higher density zoning with additional high density residential zones within one half mile of major transit stops. Increased density is allowed if two of six units are affordable, with certain requirements.

Section 4. Mandates the Department of Commerce to provide technical assistance to the cities and counties to assist in implementation of Section 3 of the bill. Within 18 months the Department must have developed model housing ordinances. Time frames for implementation are established. In any city subject to Section 3 that fails to act in the time frame provided in the bill, the model ordinance can be imposed until the city acts.

Local actions approved by the Department pursuant to this subsection to implement the requirements under Section 3 are exempt from appeals under this chapter and chapter 43.21C RCW. However, the Department’s final decision to approve or reject actions by cities implementing Section 3 of this act may be appealed to the GMHB.

Section 5. New language added that the GMHB may hear only petitions alleging the Department’s final decision to approve or reject actions by a city implementing Section 3 of this act is erroneous.

Section 6. Provides cities to apply for certain time extension to their implementation time.

Section 7. Actions taken under Section 4(3)(b) are not subject to administrative or judicial appeals under this chapter.

Section 8. Development regulations that are consistent with and implement this act and RCW 35A.21.439 or 35.21.683 shall be deemed in compliance with the requirements of RCW 36.70A(2)d.

Section 9. After the effective date of this act, a city cannot actively or effectively prohibit the construction, development, or use of additional housing units as required in Section 3 of this act.

Section 10. Private associations of apartment owners cannot actively or effectively prohibit the construction, development, or use of additional housing units as required in Section 3 of this act.

Section 11. Governing documents of associations within cities subject to the requirement of Section 3 that are created after the effective date of this section may not actively or effectively prohibit the construction, development, or use of additional housing units as required in Section 3 of this act.

Section 12. Declarations and governing documents of a common interest community within cities subject to the middle housing requirements, created after this act, may not actively or effectively prohibit the construction, development, or use of additional housing units as required in Section 3 of this act.

## 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.

Fiscal Impact to GMHB: Yes

ELUHO estimates 6 GMHB petitions per year resulting from this bill. We assume that cities may challenge the approval or rejection of the Department of Commerce.

ELUHO assumes ELUHO's work on these appeals begins in FY 25, following the planning other work needed by cities and counties in order to implement.

ELUHO estimates each appeal resulting from this bill will require approximately 60 hours of Hearing Examiner work to complete.

60 hours/appeal x 6 appeals = 360 Hearing Examiner hours per FY, ongoing.

Assume new Hearing Examiner FTE: The GMHB will need approximately 0.25 FTE for a Hearing Examiner with demonstrated knowledge in land use planning and law to assist with the new petitions. RCW 43.21B.005(2) authorizes the ELUHO director to appoint such Hearing Examiners to assist the GMHB. The Hearing Examiner FTE will not serve as a member of the Board, but will assist the board in its hearing function, make conclusions of law and findings of fact, and perform other legal duties to assist the Board.

A Hearing Examiner makes \$100,000 per year, plus related benefits estimated at \$32,021 per year, at current benefits rates. The agency needs a 0.25 FTE Hearing Examiner, so the salary would be \$100,000 x 0.25 FTE = \$25,000, per FY, ongoing. Related benefits would total \$8,005, per FY, ongoing.

Goods and services are estimated at \$1,817 per year, ongoing, and include communications, payroll processing, training, and other staff costs. Estimates include some travel at the low cost per diem rates totaling \$349 per year, ongoing. Also included is one time equipment costs for furniture and computers totaling \$5,557 in fiscal year 2025 (FY25).

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	40,848	40,848	70,342	70,342
<b>Total \$</b>			0	40,848	40,848	70,342	70,342

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.3	0.1	0.3	0.3
A-Salaries and Wages		25,000	25,000	50,000	50,000
B-Employee Benefits		8,005	8,005	16,010	16,010
C-Professional Service Contracts					
E-Goods and Other Services		1,937	1,937	3,634	3,634
G-Travel		349	349	698	698
J-Capital Outlays		5,557	5,557		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	40,848	40,848	70,342	70,342

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Hearing Examiner	100,000		0.3	0.1	0.3	0.3
<b>Total FTEs</b>			0.3	0.1	0.3	0.3

**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

<b>Bill Number:</b> 5190 SB	<b>Title:</b> Middle housing
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**Part I: Jurisdiction**-Location, type or status of political subdivision defines range of fiscal impacts.

**Legislation Impacts:**

- Cities: Cities that meet certain population criteria would have to adopt increased density in residential zones and near major transit stops into their municipal code. Cities would need to amend existing Growth Management Act (GMA) comprehensive plans to accommodate these new density requirements.
- Counties:
- Special Districts:
- Specific jurisdictions only: Cities with a population of 6,000 or more, or any city with contiguous urban growth area with a city with a population above 200,000 that is fully planning under the GMA.
- Variance occurs due to:

**Part II: Estimates**

- No fiscal impacts.
- Expenditures represent one-time costs: Ordinance adoption and accompanying analysis costs; updating zoning documents.
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: When comprehensive plan elements would be amended. Number of cities that have adopted antidisplacement policies into their municipal code.

**Estimated revenue impacts to:**

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

**Estimated expenditure impacts to:**

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City		3,744,000	3,744,000	10,879,000	
<b>TOTAL \$</b>		3,744,000	3,744,000	10,879,000	
<b>GRAND TOTAL \$</b>					<b>14,623,000</b>

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

**Part III: Preparation and Approval**

Fiscal Note Analyst: Jordan Laramie	Phone: 360-725-5044	Date: 01/19/2023
Leg. Committee Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 01/16/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/19/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 01/23/2023

## Part IV: Analysis

### A. SUMMARY OF BILL

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

For cities fully planning under the Growth Management Act (GMA) with populations of 6,000 or more, and certain cities below this population bordering urban growth areas that have greater than 200,000 residents, this legislation would authorize middle housing types in single-family residential zones and increase density in residential zones around major transit stops

Within these cities, four units would be allowed in all residential zones. An additional two units would be allowed per lot with single residential zoning if these units were maintained for low-income residents for a term of at least 50 years. A six unit per lot minimum would be authorized for single-family residential zones if the lot is within one-half mile of a major transit stop.

For cities with existing populations that are greater than 10,000 in population and fully plan under the GMA, they would be required to adopt local ordinances and development regulations that allow for middle housing in single-family residential zones by 2025. For cities that meet the 10,000 population threshold at a later time, these local ordinances and development regulations would be due one year after the population threshold has been recorded by the Office of Financial Management. In creating local ordinances and development regulations, cities must not require standards for middle housing that is more restrictive than those required for detached single-family residences. An exemption is allowed for areas of the city that are found to have inadequate water, sewer, and stormwater services.

All cities that fully plan under the GMA and meet the population criteria of Sec. 3(1) that have not adopted a local antidisplacement measures as part of its Housing element, must perform the actions that identify and reduce displacement, disparate impacts to housing, and exclusion from housing within one half-mile of a major transit stop. This work must be complete nine months after the effective date of this act.

Sec. 3 would add a new section to 36.70A

(1) Any city with a population of 6,000 or more, or any city with contiguous urban growth area with a city with a population above 200,000 that is fully planning under the Growth Management Act, must adopt into its local code and development regulations, zoning regulations, and other official controls:

- (a) The development of four units per lot on all lots zoned for residential use.
- (b) The development of six units per lot on all residential use lots, if two of the units are affordable.
- (c) The development of six units per lot on all residential use lots within a half-mile of a major transit stop.

(2) Specifies the criteria for covenants or deeds that are required for applicants, which maintain the affordable units in Sec. 1(b) for a period of 50 years, as well as remedies should the property no longer serve as permanent affordable rentals.

(3) Cities impacted by Sec. 2(1) that have not adopted anti-displacement measures of the city's Housing element, must implement actions specified in RCW 36.70A.070(2) (e) through (h), within nine months of this act's effective date.

(4)(b) Cities impacted by Sec. 2(1) must not require standards for middle housing that is more restrictive than those required for detached single-family residences. (4)(c)-(d) Prescribes the same single-family residential development permits, environmental review, critical areas regulations must apply to middle housing. (4)(e)-(g) Prescribes off-street parking requirements for middle housing within one half-mile of mass transit stops

(6) This section takes effect on the latter of: (a) two years following the effective date of this section for cities with a population of 10,000 or more, or; (b) one year following a determination by the Office of Financial Management that a population threshold has been met.

Sec. 4 would add a new section to 36.70A RCW

The Department of Commerce would develop a model middle housing ordinance no later than 18 months after the

effective date of this section. After then implementation date specified in Sec. 3(6), the model ordinance would supersede, preempt, and invalidate local code in any city that is required to adopt the middle housing ordinance or local controls. Local actions that are approved by Commerce are exempt from State Environmental Policy Act appeals.

Sec. 6 would add a new section to 36.70A

For any city subject to the requirements of Sec. 3, such cities may file an extension to the Department of Commerce for specific areas where a city can demonstrate deficient water, sewer, or stormwater services. As part of this extension, the city must establish a plan of action to remedy the deficiencies. Commerce may certify no more than one additional extension.

Sec. 7 amends RCW 43.21C.495

(2) Establishes that middle housing code and development regulations that are substantially similar to the requirements of Sec. 3, which are approved by Commerce, are not subject to administrative or judicial review under the State Environmental Policy Act.

Sec. 8 is a new section added to chapter 36.70A

For cities that adopt development regulations consistent with this act, and allow transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed, such cities would be in compliance of the requirements of the Housing element on adequate provisions for existing and projected needs of all economic segments of the community.

This legislation would take 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 legislation would have an indeterminate, but significant, expenditure impact on 119 cities meeting the population thresholds that require them to incorporate the increased density and middle housing provisions of this act into their local code.

For expenses that can be estimated at this time, the provisions in this bill would have costs exceeding \$14.6 million (\$9,163,000 ordinance amendments and adoption + \$4,865,000 transportation analysis + \$595,000 in updated zoning documents), and the timing of these costs would occur in FY25 and FY26.

There would be indeterminate costs of \$12.6 million for cities to update certain comprehensive plan elements to account for housing allocations and infrastructure to support higher residential density. These element amendments would include, at minimum, the Housing and Capital Facilities Plan elements. The timing of these updates may occur from FY24 to FY28, although the implementation of amendments may be different than the periodic update schedule specified by RCW 36.70A.130.

There would be additional indeterminate costs, provided in this fiscal note through illustrative examples, in excess of \$2.9 million in antidisplacement analysis near transit and implementation of antidisplacement ordinances starting in FY24 through FY26.

### **LOCAL GOVERNMENT FISCAL NOTE PROGRAM ASSUMPTIONS:**

The provisions of Sec. 3(1) and 3(6) indicate the cities that must adopt the increased density and middle housing requirements of Sec. 3. For these estimates, the Local Government Fiscal Note program assumes that for most cities, determination by the Office of Financial Management (OFM) that a city reached the population threshold will occur on the effective date of the bill. Therefore, there are 119 cities impacted by this bill based on 2022 OFM population estimates:

### **TWO YEARS AFTER EFFECTIVE DATE:**

Population of 10K or more (at the time of the effective date) - 87 Cities

ONE YEAR AFTER EFFECTIVE DATE

Population of 6K to 10K if in a UGA with a city having less than 200K (as of effective date) - 23 Cities

Population of less than 6K if in a UGA with a city having 200K or more (as of effective date) - 9 Cities

THEN ONE YEAR AFTER CITIES CROSS THE FOLLOWING POPULATION THRESHOLDS:

For cities reaching 6,000 in a UGA where no city is more than 200K

A city between 0-6,000 in a UGA where there is a city reaching 200K or more

IMPACT OF SECTION 3(1)

\$9,163,000 – Costs that can be estimated at this time would be \$9.2 million for 119 cities with starting costs of \$77,000 per city to amend local code through a variety new ordinances including zoning, development regulations, and permitting.

This work would involve modifying existing local zoning designation and residential use for any residential lot that applies to Sec. 3(1)(a) through (c) and create a new designation and use. It would also extend to any permitting process (site development plan review, variance, conditional use permits), environmental review, and zoning overlays. Cities impacted by this bill would have to determine which zones are impacted and which ones already comply. Amending existing code generally carry higher costs than implementing new code.

Costs for provisions in Sec. 3(1) include: analyzing comprehensive plan policies and municipal code to determine extent of amendments required; drafting informational materials on reasons for, and approach to, allowing middle housing (e.g. design regulations to ensure compatibility) for public review; conducting outreach to inform and solicit feedback from residential neighborhoods and developers; drafting proposed amendments for the city’s planning commission considerations; a planning commission public hearing and recommendation to the city council; a presentation of the city planning commission’s recommendations to the city council; and a city council public hearing and action.

Costs to amend each portion of local code to conform to the requirements of this act may be similar to the grant averages provided by the Department of Commerce in S HB 2343 (2020) where \$4 million in had been awarded to 52 fully planning cities with populations over 20,000 to increase residential building capacity under RCW 36.70A.600. The average grant award was \$77,000 per city. The implementation of the ordinances to amend local code would begin in 2025 based on Sec. 3(6)(a) but the timing of adopting increased density into local code would likely vary based on the capacity of cities required to adopt such ordinances. When the updates to local code are required, but not yet adopted, the model ordinance developed by the Department of Commerce would supersede, preempt, and invalidate local code per Sec. 4(2)(b).

Some jurisdictions may elect not to bring their codes into conformance with the requirements of this legislation prior to the applicable deadline. In these jurisdictions, the provision will automatically apply and take effect. It is unclear if these jurisdictions would incur any legal costs based upon codes that do not conform to the required code measures. Such costs cannot be anticipated in advance and are indeterminate.

TWO YEARS AFTER EFFECTIVE DATE:

Population of 10K or more - 87 Cities x \$77,000 = \$6,699,000

ONE YEAR AFTER EFFECTIVE DATE

Population of 6K to 10K if in a UGA with a city having less than 200K - 23 Cities x \$77,000 = \$1,771,000

Population of less than 6K if in a UGA with a city having 200K or more - 9 Cities x \$77,000 = \$693,000

119 Cities adopting ordinances with hearing of same complexity: (119 cities x \$77,000) = \$9,163,000



Transportation Evaluations:

\$4,865,000 – Costs that can be estimated at this time approximate to \$4.9 million (see calculations below). This bill would also impact the transit evaluation of modified single-family zoning districts in impacted cities. Costs would be more extensive in jurisdictions with a greater number of single-family zones. Costs estimates for transportation evaluations conducted during jurisdiction’s planned actions in Association of Washington Cities 2020 Planning Cost Survey indicate that city costs have a range of \$35,000 to \$63,000. The Local Government Fiscal Note Program averaged the highest estimate to the base estimate in the AWC 2020 Planning Cost Survey to approximate the costs of the transportation evaluations for cities greater than 20,000 in population.

Transportation analysis of the rezoning could be considerably expensive for those jurisdictions that are impacted by this legislation. Transportation evaluations consider a wide number of variables in the potential effect of a purposed rezone, including but not limited to: vehicle ownership, vehicle operation, travel time, potential traffic collision impacts, health impacts, parking considerations, congestion impacts, road facilities capacity, land value, traffic services, transport diversity, air pollution, greenhouse gas emissions, noise pollution, land use impacts, water pollution, and waste generation.

TWO YEARS AFTER EFFECTIVE DATE:

Population of 10K or more – (56 Cities x \$47,500) + (31 Cities x \$35,000) = \$3,745,000

ONE YEAR AFTER EFFECTIVE DATE

Population of 6K to 10K if in a UGA with a city having less than 200K - 23 Cities x \$35,000 = \$805,000

Population of less than 6K if in a UGA with a city having 200K or more - 9 Cities x \$35,000 = \$315,000

119 Cities adopting transportation evaluations to support increased residential density: \$4,865,000

Amended Mandatory GMA Elements:

Indeterminate - Due to the changes this bill makes to increased density in portions of impacted cities, there would be impacts that have to be accounted for through updates to mandatory elements of city’s comprehensive plans. The Association of Washington Cities assume that these element updates would be complex and may extend to the Housing and Capital Facilities Plans elements, at minimum. These amended elements may have costs that exceed \$12,578,650, however the timing of these amendments is currently unknown. An illustrative example of costs is provided in an illustrative example below if the amendments follow the periodic comprehensive update cycle specified by RCW 36.70A.130.

An example of this comes from the City of Mukilteo, which would be required to up-zone its entire historic district. The city assumes that it would then have to update its Housing and Land Use elements since the growth it had planned for in the other portions of the city would be moved to the other side of town. The city indicated that existing planning for utilities and transportation were more difficult in this area due to geography, which may also need to be address through updates.

These mandatory comprehensive plan element costs use estimates for complex element updates from E2S HB 1099 (2022). Large cities are cities with greater than 100,000 in population, while medium size cities have populations between 10,000 and 100,000 in population, and small cities have less than 10,000 in population.

Estimated complex element amendments costs:

Small sized cities: \$32,475 x 2 = \$64,950

Medium sized cities: \$54,125 x 2 = \$108,250

Large sized cities: \$108,250 x 2 = \$216,500

32 small cities

32 x \$64,950 = \$2,078,400

77 medium cities

77 x \$108,250 = \$8,335,250

10 large cities,

10 x \$216,500 = \$2,165,000

Total mandatory element update costs: \$12,578,650

#### Illustrative City Comprehensive Plan Element Amendment Costs by State Fiscal Year:

Based on the periodic update schedule in RCW 36.70A.130, the cities that would have to update their comprehensive plans to account for the increased density provisions of this act into their local code would have the following costs on a state fiscal year basis. Based on assessments by AWC and the Department of Commerce, work on GMA comprehensive plans usually begins two years prior to the submission deadline. For example, jurisdictions with comprehensive plans due June 30, 2025, may start in July 1, 2023. The figures below assume all cities start two years in advance of the comprehensive plan submission deadline and encompass two years' worth of expenditures per planning jurisdiction.

FY24 \$3,702,150

FY25 \$4,968,675

FY26 \$2,468,100

FY27 \$1,320,650

FY28 \$119,075

FY29 \$0

Total \$12,578,650

#### Amending Existing Updating Zoning Documents, Outreach Materials, and Planning Maps:

\$435,000 - This bill impacts all single-family zoned lots and their use designations, as well as, the jurisdiction's zoning maps. These documents would need to be amended to reflect the changes this legislation proposes, which would take staff time or hiring a consultant to perform the work. AWC estimate that the costs for updating zoning documents and planning maps would start at approximately \$5,000 per impacted jurisdiction. This work would occur concurrently with the updated local code starting in 2025, but the Local Government Fiscal Note program assumes that not all jurisdictions would do this work within by the deadline.

119 cities x \$5,000 = \$595,000

#### COSTS FOR SECTION 3(2)

Costs to Record Affordable Housing Terms in Deeds or Covenants

No Impact –The Washington State Association of County Auditors indicate that auditors are already conducting this work and there would not be an increase in workload.

#### COSTS FOR SECTION 3(3)

Indeterminate – An unknown number of jurisdictions have implemented locally adopted antidisplacement measures. Any cities that are subject to Sec. 3(1) of this act, and have not implemented such measures, would be required to adopt these measures within one-half mile of major transit stops. An illustrative example of costs area provided below.

The anti-displacement provision in Sec. 3(3) requires cities to implement parts of HB 1220 (2021) early and primarily focuses this work around major transit stops. An assessment by AWC indicates that focusing on anti-displacement around

mass transit would make the work more challenging by refining the data that must be collected and analyzed. An unknown number of cities have implemented antidisplacement policies as these are not a requirement of existing Housing elements, but are requirements of Housing elements in the next periodic comprehensive plan update. The first of these comprehensive plans is due in December 2024, where-as the implementation of Sec. 3(3) would be nine months after the passage of this bill. AWC indicates that 74 cities have or are conducting Housing Action Plans which may consider antidisplacement policy measures, but implementing these policies are not a requirement of the plans per RCW 36.70A.600.

Illustrative example of Sec. 3(3) Costs:

For illustrative purposes the LGFN program assumes at least half of the 119 cities meeting the implementation requirements of this bill would have conduct the antidisplacement and housing exclusionary planning work of Sec. 3(3) within nine months of the passage of this bill. Estimates from AWC indicate that this analysis could cost approximately \$40,000 per impacted city.

60 cities without locally adopted antidisplacement measures x \$40,000 per city = \$2,400,000

These cities would be required to adopt antidisplacement ordinances as part of their local code. 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 costs include costs for draft ordinances, advisory commission meeting and recommendation, finalized ordinance, publication of ordinance, and general public information. The Local Government Fiscal Note Program assumes that these ordinances are complex, with a hearing of the same complexity, and the following illustrative ordinance adoption costs can be estimated:

60 cities x \$9,492 costs for a complex ordinance with a hearing of the same complexity = \$569,520

Note: These cost estimates are for only one meeting or staff report, more complex ordinances would likely require more meetings and potentially more staff reports. There would be further costs associated with enforcing or executing the ordinance

Total illustrative antidisplacement analysis and ordinance adoption costs: \$2,969,520

## 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 is not anticipated to increase local government revenue.

### SOURCES:

Association of Washington Cities  
Association of Washington Cities, City Planning Cost Survey (2020)  
City of Mukilteo  
Department of Commerce, FN S HB 2343 (2020)  
Local Government Fiscal Note Program, FN E2S HB 1099 (2022)  
Local Government Fiscal Note Program, FN S HB 1782 (2022)  
Local Government Fiscal Note Program, Unit Cost Model (2022)  
MRSC, Missing Middle Housing  
Office of Financial Management, 2022 Population Estimates  
Victoria Transport Policy Institute, Transportation Cost Analysis  
Washington State Association of County Auditors