

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5412 S SB	<b>Title:</b> Land use permitting/local
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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	.4	111,271	111,271	111,271	.0	0	0	0	.0	0	0	0
Department of Transportation	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Environmental and Land Use Hearings Office	.0	0	0	0	.0	0	0	0	.0	0	0	0
<b>Total \$</b>	<b>0.4</b>	<b>111,271</b>	<b>111,271</b>	<b>111,271</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			824,800			1,158,000			373,200
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			824,800			1,158,000			373,200

## 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
Department of Transportation	.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 2/20/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5412 S SB	<b>Title:</b> Land use permitting/local	<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	0.4	0.3	0.4	0.0	0.0
<b>Account</b>					
General Fund-State      001-1	68,820	42,451	111,271	0	0
<b>Total \$</b>	68,820	42,451	111,271	0	0

### 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: Karen Epps	Phone: 360-786-7424	Date: 02/09/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 02/13/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 02/13/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 02/14/2023

## 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 adds a new section to RCW 36.70A design review is defined as a formally adopted local government process to review projects for compliance with design standards for the type and use adopted through local ordinance. The section states that, except for structures on the state and national historic register, cities and counties planning under the Growth Management Act (GMA) may only apply clear and objective development regulations to the exterior design of new development. Clear and objective are defined as:

- Must include one or more ascertainable guideline, standard, or criterion by which an applicant can determine whether a given building design is permissible under that development regulation, and
- May not have the effect, either alone or together with other development regulations, of discouraging needed housing through unreasonable cost, delay, or uncertainty.

The section also states that design review must be completed concurrently or otherwise integrated to consolidate review and decision processes. Additionally, design review may not contain more than one public meeting.

Section 2 amends RCW 36.70B.160 the Local Project Review Act, 36.70B.160 “Additional project review encouraged—Construction” to read to provide prompt, coordinated and objective review to ensure accountability to applicants and the public.” Section also amends this section to state that local governments can require a pre-application conference or public meeting where otherwise permitted by applicable state law.

Section 3 amends RCW 43.21C.229 “Infill development—Categorical exemptions from chapter” to read in order to accommodate infill and housing development. There are no changes to the requirements needed to be met by a jurisdiction in order to adopt a categorical exemption under this chapter. This section also adds a new #3: Project actions that propose residential development (one or more housing units or middle housing) within the incorporated or unincorporated in a UGA are categorically exempt from the State Environmental Policy Act (SEPA) when:

- It is consistent with the comp plan.
- It does not exceed the density or intensity of use adopted in the goals and policies of the comp plan.
- The comp plan was reviewed by Environmental Impact Statement (EIS), or
- The city or county has prepared an EIS that considers the density and intensity proposed by the development.

Middle housing is defined fourplexes, attached and detached accessory dwelling units, cottage housing, stacked flats, townhouses with more than four units, and courtyard apartments.

Proposed projects that do not have existing or anticipated transportation system, safety or operational deficiencies including all modes where a plan to correct these deficiencies does not exist consistent with RCW 36.70A.070. A city or county must consult with the Washington state department of transportation to determine if it qualifies for exemption if it:

- Comprehensive plan adopted according to GMA (36.70A RCW) for project jurisdiction is consistent with all development regulations and provisions.
- The Comp Plan was previously subjected to environmental analysis under the requirements.

Any exemption adopted under this section applies even if it differs from rules of the state environmental policy act (RCW 30 43.21C.110(1)(a)).

### 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.

Agency assumptions:

- Establish exemption guidance for cities and counties consistent with all development regulations and provisions described in proposed legislation.
- Provide additional technical assistance to participating jurisdictions that may need to update development regulations consistent with proposed legislation, including reviewing and commenting on updates.
- Reviewing comprehensive plans with possible expanded scopes as they will have greater application to routine local housing and land use proposals.

0.1 FTE Management Analyst 4 (209 hours) in FY24, to lead rulemaking efforts allowing review for housing and other land use proposals to rely on environmental reviews completed at the comprehensive planning level.

0.25 FTE Commerce Specialist 3 (522 hours) in FY24-FY25, to provide technical assistance to jurisdictions in updating regulations and guidance in implementation and exemption processes consistent with proposed legislation.

Salaries and Benefits:

FY24: \$39,361

FY25: \$28,711

Goods and Services:

Attorney General Costs: \$10,500 of AAG time in FY24 for 50 hours at \$210 per hour, to assist with rulemaking and establishment of new guidelines.

FY24: \$16,509

FY25: \$4,294

Intra-agency Reimbursements:

FY24: \$12,950

FY25: \$9,446

Note: Standard goods and services costs include supplies and materials, employee development and training, Attorney General costs, central services charges and agency administration.

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Total costs:

FY24: \$68,820

FY25: \$42,451

## 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	68,820	42,451	111,271	0	0
<b>Total \$</b>			68,820	42,451	111,271	0	0

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.3	0.4		
A-Salaries and Wages	29,135	21,129	50,264		
B-Employee Benefits	10,226	7,582	17,808		
C-Professional Service Contracts					
E-Goods and Other Services	16,509	4,294	20,803		
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	12,950	9,446	22,396		
9-					
<b>Total \$</b>	68,820	42,451	111,271	0	0

### 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 Services - Indirect	111,168	0.1	0.0	0.1		
Commerce Specialist 3	82,056	0.3	0.3	0.3		
Management Analyst 4	86,212	0.1		0.1		
<b>Total FTEs</b>		0.4	0.3	0.4		0.0

### 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.*

Rulemaking required to amend RCW 36.70B.160 and add a new section to chapter 36.70A RCW.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5412 S SB	<b>Title:</b> Land use permitting/local	<b>Agency:</b> 405-Department of Transportation
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

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

**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: Karen Epps	Phone: 360-786-7424	Date: 02/09/2023
Agency Preparation: Anna Ragaza-Bourassa	Phone: 509-324-6201	Date: 02/16/2023
Agency Approval: Kerri Woehler	Phone: 360-705-7958	Date: 02/16/2023
OFM Review: Maria Thomas	Phone: (360) 229-4717	Date: 02/16/2023



## 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.*

See attached WSDOT fiscal note.

### 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.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

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

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

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

**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

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

**Bill Number:** 5412 2SSB **Title:** Land use permitting/local

**Agency:** 405-Department of Transportation

## Part I: Estimates

Check applicable boxes and follow corresponding instructions, use the fiscal template table provided to show fiscal impact by account, object, and program (if necessary), **add rows if needed**. If no fiscal impact, check the box below, skip fiscal template table, and go to Part II to explain briefly, why the program believes there will be no fiscal impact to the department.

No Fiscal Impact (Explain in section II. A)

*If a fiscal note is assigned to our agency, someone believes there might be, and we need to address that, showing why there is no impact to the department.*

Indeterminate Cash Receipts Impact (Explain in section II. B)

Indeterminate Expenditure Impact (Explain in section II. C)

If fiscal impact is less 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 greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, **complete entire fiscal note form Parts I-V**

Capital budget impact, **complete Part IV**

Requires new rule making, **complete Part V**

Revised

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

## Agency Assumptions

- The burden for gathering and analyzing project impacts will shift from the developer to WSDOT
- The impact to WSDOT is uncertain as each local agency will be able to adopt its own SEPA exemption level
- The impact to WSDOT will vary based on volume of consultation requests as well as analysis complexity and the availability of necessary data.
- While consultations on many smaller projects will not require detailed analysis, consultation to determine impacts associated with significant proposals will require safety and operational analysis as well as acquisition of data at an estimated cost of \$15,000 - \$25,000 per consultation.
- The number of consultations requiring data and analysis is dependent on development activity in each area.

## Agency Contacts:

Preparer: Anna Ragaza-Bourassa	Phone: 509-324-6201	Date: 2/9/23
Approval: Kerri Woehler	Phone: 360.480.1962	Date: 2/9/23
Budget Manager: Stacey Halverstadt	Phone: 360-705-7544	Date: 2/14/23

# Individual State Agency Fiscal Note

## Part II: Narrative Explanation

### II. A - Brief description of what the measure does that has fiscal impact

*Briefly describe by section number (sections that will change WSDOT costs or revenue), the significant provisions of the bill, and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency.*

Sec 3 (3) authorizes local agencies to adopt a new SEPA exemption level for housing projects. This categorical exemption applies to proposed projects that do not have existing or anticipated transportation system safety or operational deficiencies including all modes where a plan to correct these deficiencies does not exist consistent with RCW 36.70A.070. A city or county must consult with the Washington state department of transportation to determine if anticipated transportation system safety or operation deficiencies exist in connection with a proposed project.

### II. B – Cash Receipts Impact

*. 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.*

N/A

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

The fiscal impact to the department is indeterminate because 2SSB 5412 Sec 3(3) authorizes local agencies to adopt a new SEPA exemption level for housing projects. This exemption level can be different for each local agency, so the number of consultations is unknown at this time. WSDOT expects many of these consultations to not require additional expenditures. However, an indeterminate number of the consultations will be complex and require WSDOT to obtain data. Based on previous projects, the cost of data and detailed safety and operational analysis is estimated to be \$15,000 to \$25,000 for each consultation.

## Part III: Expenditure Detail

### III. A - Expenditures by Object or Purpose

N/A

## Part IV: Capital Budget Impact

N/A

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

N/A

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5412 S SB	<b>Title:</b> Land use permitting/local	<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: Karen Epps	Phone: 360-786-7424	Date: 02/09/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 02/09/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 02/09/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 02/14/2023

## 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. Creates a new section in the Growth Management Act (GMA) that addresses design review requirements. Requires clear and objective development regulations for the design review process for exterior design and sets forth criteria for clear and objective development regulations.

Section 2. Amends 36.70B which is not under the jurisdiction of the Growth Management Hearings Board (GMHB).

Section 3. Slightly amends the intent section of the State Environmental Policy Act (SEPA) Infill Development – Categorical Exemptions 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 GMA. (3) Creates eligibility for a categorical exemption for any project action under this subsection. This categorical exemption applies to proposed projects that do not have existing or anticipated transportation system safety or operational deficiencies. Cities and Counties must consult with WSDOT to assure no deficiencies in anticipated operational or safety systems.

Criteria for eligibility include consistency with development regulations implementing an applicable Comprehensive Plan that is consistent with the GMA, and the plan being subject to an environmental impact statement (EIS). (4) States: Any categorical exemption adopted by a city or county 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.

Assume new GMHB petitions – The proposed bill would increase GMHB cases by an estimated four new appeals 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 appeals 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:** 5412 S SB

**Title:** Land use permitting/local

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

### Legislation Impacts:

**Cities:** Cities fully planning under the Growth Management Act would be required to adopt objective design review standards. Cities with State Environmental Policy Act (SEPA) categorical exemptions for infill development would be required to amend existing code to incorporate exemptions for residential or middle housing development in incorporated and unincorporated portions of the urban growth area, respectively.

**Counties:**

**Special Districts:**

**Specific jurisdictions only:**

**Variance occurs due to:**

## Part II: Estimates

**No fiscal impacts.**

**Expenditures represent one-time costs:** Ordinance adoption and analysis costs.

**Legislation provides local option:** Jurisdictions may adopt the SEPA categorical exemptions for infill development.

**Key variables cannot be estimated with certainty at this time:** Number of jurisdictions that have SEPA categorical exemptions for infill development within their existing local code.

### Estimated revenue impacts to:

None

### Estimated expenditure impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City		787,200	787,200	988,800	316,800
County		37,600	37,600	169,200	56,400
<b>TOTAL \$</b>		824,800	824,800	1,158,000	373,200
<b>GRAND TOTAL \$</b>					<b>2,356,000</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: 02/16/2023
Leg. Committee Contact: Karen Epps	Phone: 360-786-7424	Date: 02/09/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/16/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 02/20/2023



## **Part IV: Analysis**

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

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

This proposed substitute legislation would establish that cities and counties planning under the Growth Management Act (GMA) may apply only clear and objective development regulations governing the exterior design of certain new development in a design review process.

Additionally, this bill would establish that categorically exempt project actions that propose to develop one or more residential housing units within the incorporated areas in an urban growth area, or middle housing within the unincorporated areas in an urban growth area and meet certain criteria from the State Environmental Policy Act (SEPA).

Sec. 1 would be a new section added to 36.70A RCW

(1) Defines design review as the formal process a local government adopts by which projects are reviewed for compliance with design standards for the types of use adopted through local ordinance.

(2) For any design review process in all jurisdictions fully planning under the GMA, may apply only a clear and objective development regulation. These regulations must include one or more ascertainable guidelines, standards, or criteria by which an applicant can determine whether a given building design is permissible under that development regulation. These regulations may not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone.

(3) Provides an exemption from the design review process specified by this section for structures listed on the Washington Heritage Register or the National Register of Historic Places.

(4) A design review process must be conducted concurrently, or otherwise logically integrated, with the consolidated review and decision process for project permits, and no design review process may include more than one public meeting.

Sec. 2 would amend 36.70B.160 RCW

Amends this statute to incorporate the objective review provisions of Sec. 1 for all Adds objective review to the review provisions cities and counties planning under the GMA are encouraged to adopt.

Sec. 3 would amend 43.21C.229 RCW

(1) Amends the stated purpose of the SEPA categorical exemption for infill development to specify accommodating housing development.

(2) A project action is eligible for categorical exemption only if it meets the following criteria: the proposed development is consistent with all development regulations implementing an applicable comprehensive plan adopted by the jurisdiction in which the development is proposed, with the exception of any development regulation that is inconsistent with applicable provisions of the GMA; and the city or county's applicable comprehensive plan was previously subjected to environmental analysis under the SEPA prior to adoption.

(3) All project actions that propose to develop one or more residential housing units within the incorporated areas in an urban growth area or middle housing within the unincorporated areas in an urban growth area, and that meet certain criteria are categorically exempt from SEPA.

The categorical exemption applies to proposed projects that do not have existing or anticipated transportation system safety or operational deficiencies including all modes where a plan to correct these deficiencies does not exist consistent with the comprehensive plan. A city or county must consult with the Washington State Department of Transportation to determine if expected transportation system safety or operation deficiencies exist in connection with a proposed project.

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

The categorical exemption for housing development in this subsection includes middle housing means fourplexes, attached

and detached accessory dwelling units, cottage housing, stacked flats, townhouses with more than four units, and courtyard apartments.

This bill would take effect 90 days after adjournment of session in which 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 proposed substitute legislation would have determinate and indeterminate expenses for local governments planning under the Growth Management Act (GMA).

Adopting ordinances for objective design review would have costs for all jurisdictions fully planning under the GMA, which may exceed \$2.3 million. The implementation of these ordinances would occur during the next periodic comprehensive update from FY25 to FY28, or with the implementation progress report for jurisdictions that are required to conduct these reports, starting in FY29.

There would be indeterminate costs related to adopting new State Environmental Policy Act (SEPA) provisions for cities and counties that currently have categorical exemptions for infill development within their local code. The number of jurisdictions that have these provisions is currently unknown.

For cities and counties that do not have SEPA categorical exemptions for infill development within their local code, these jurisdictions may adopt the exemptions as a local option, although the costs to implement this provisions may have significant expenses for jurisdictions that choose the local option. For cities and counties that take no action, there would be no impact.

Adopting the Objective Design Review Ordinances:

\$2,356,000 – For expenses that can be estimated at this time, the costs for adopting ordinances for the objective design review of Sec. 1 into GMA planning jurisdiction’s local code may exceed \$2.4 million (see calculations below). However, it is not currently known how many jurisdictions have local code that contain provisions for objective design review that govern exterior design of new development. In these jurisdictions the expenses to comply with the provisions of Sec. 1 may be lower or higher depending on the scope of the work to revise existing code. The objective regulations would require one or more ascertainable guidelines, standards, or criteria by which an applicant can determine whether a given building design is permissible under the development regulations. These guidelines, and the accompanying requirements for no reduction in density, height, bulk, or scale below the generally applicable development regulation for a development proposal in the applicable zone, may be more prescriptive than local code in jurisdictions with existing objective design review.

The Local Government Fiscal Program Unit Cost Model estimates that the cost the typical cost to adopt a complex ordinance with a hearing of the same complexity at \$9,584 per city and \$9,399 for counties. According to the Association of Washington Cities, in review of similar objective design review ordinance specified by HB 1293 (2023) the steps to adopt the local ordinance would be complex and have the following processes:

This work would include a local planner drafting the code amendments by review of exist local code and example model code. These amendments would be vetted with the planning team, which would then be reviewed by the planning manager and the planning director. A planner would then write a minimum of four staff reports. The planning manager, planning director and attorney would review all four staff reports. The two staff reports prepared for the council would also be reviewed by the legislative authorities of the jurisdiction.

The planning commission clerk would prepare advertisements, post comment letters to the web, prepare meeting packets for two meetings and setup for/attend two meetings. They would also review and publish two sets of minutes following these meetings. The clerk would do the same for at a minimum two council meetings. This work would be conducted over four public meetings (one of the meetings would be the public hearing) to update the code. During this work, there would

be two planning commission meetings and two council meetings (at a required minimum). All meetings would be staffed with a clerk, attorney, planner and planning director at a minimum for this item.

Costs for Amended Local Code for Objective Design Review:

218 cities x \$9,600 = \$2,092,800

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

Illustrative Estimate Total: \$2,356,000

FY25 \$824,800

FY26 \$554,800

FY27 \$603,200

FY28 \$373,200

Total \$2,356,000

#### COSTS TO AMEND CODE FOR SEPA CATEGORICAL EXEMPTION FOR INFILL DEVELOPMENT:

Indeterminate – There are 28 counties and 217 cities that plan under the GMA with urban growth areas (UGAs). However, an unknown number of jurisdictions have SEPA categorical exemption for infill development in existing code and the local government expense impact for this provision are indeterminate. Review of municipal code indicate that there are at least 70 cities provide SEPA categorical exemption for infill development, and a survey conducted by the Washington State Association of Counties to planning directors statewide found that at least five counties provide the exemption for infill development in their county code. The actual number is jurisdictions may be higher

The Local Government Fiscal Program Unit Cost Model estimates that the cost the typical cost to adopt a complex ordinance with a hearing of the same complexity at \$9,584 per city and \$9,399 for counties. 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:

Jurisdictions that have existing provisions for SEPA categorical exemption for infill development would likely amend their local code in a way that requires more costly updates than a complex 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 lower costs for these jurisdictions. The number of cities and counties that would choose one option or the other cannot be determined in advance.

#### 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 half of all planning jurisdictions (109 cities and 14 counties) would amended their existing code to conform to the new SEPA categorical exemption, as described in this legislation, the following costs could be estimated.

Costs for Amended Local Code for SEPA Residential Infill Development within UGAs:

109 cities x \$9,600 = \$1,046,400

14 counties x \$9,400 = \$131,600

Illustrative Estimate Total: \$1,117,800

All project actions for residential housing construction within the incorporated UGA and all middle housing within the unincorporated 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.

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 cities.

#### COSTS TO ADOPT NEW CATEGORICAL EXEMPTIONS:

##### Adopting Ordinances for SEPA Categorical Exemption for Residential Infill Development:

Local Option – For jurisdictions that do not currently have SEPA categorical exemptions for infill development provisions in their in their local code, adopting these regulations may start at approximately \$25,146 per impacted city. These costs are based on assessment of grants provided by the Department of Commerce to support middle housing ordinances, including SEPA categorical exemptions for infill development through HB 1923 (2019). The costs for counties may be similar to those found in HB 1402 (2023) where changes to development regulations also required SEPA analysis. These costs were approximately \$65,000 for urban counties, which are more likely to adopt SEPA categorical exemption for infill development based on a survey conducted by the Washington State Association of Counties to planning directors statewide. Additional costs may be incurred to comply with the environmental review components of Sec. 3(2)(d) and Sec. 3(3)(b) that authorize the infill development provisions if they have not been conducted for UGA.

In order to complete the categorical exemption provided in this substitute legislation, a local government would begin by determining SEPA categorical exceptions in existing local code for residential or middle housing development as provided in RCW 43.21C.229. The planning department would review existing code and may compare existing codes from other jurisdictions to develop a project outline and scope of work. After this work is complete, a project outline would be presented to the planning commission. Draft code revisions would occur after the introduction and project scope of work to the planning commission. Following the draft code revisions, the planning department and planning commission would introduce the draft code revision to the city or county council. All planning commission and council meetings would be staffed with a clerk, attorney, planner and planning director at a minimum.

Following the city or county council introduction, there would be a second planning commission briefing and briefing of the code adjustments. SEPA review, draft, and final analysis would be conducted which include submitting revisions to the Department of Commerce for review. During this time, the planning department would develop findings of consistency in its local comprehensive plan and develop recommendations to the planning commission. The city or county planning commission would then prepare a notice for the hearing. The planning department would draft a staff report to planning commission and complete the draft infill ordinance.

The local government would then hold a planning commission public hearing and receive public testimony. The planning department and planning commission would incorporate any changes from the public hearing and prepare planning commission recommendation for city or county Council. There would be a public notice for a council hearing to adopt the final categorical exemption for infill development. The planning department would prepare the final ordinance for the Council hearing. Next the city or county Council would conduct a public hearing and receive public testimony on the final ordinance. Pending no additional changes, the infill development ordinance would be adopted by the city or county council.

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

Local Option - 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 the incorporated UGA and all middle housing within the unincorporated 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 indicates that 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 may exceed \$100,000 per city that chooses to undergo the infill development within their municipality. In HB 2066 (2020) the Department of Commerce indicate these costs may approximate to \$300,000 for larger jurisdictions such as the largest municipalities and counties. 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 cities.

#### 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 is not anticipated to impact local government revenue.

#### SOURCES:

Association of Washington Cities  
Department of Commerce, Review of HB 1923 Grants (2021)  
Department of Ecology, State Environmental Policy Act  
Local Government Fiscal Note Program, FN HB 1293 (2023)  
Local Government Fiscal Note Program, FN HB 1402 (2023)  
Local Government Fiscal Note Program, FN HB 2066 (2020).  
Municipal Research and Services Center, Planning Commissions  
Municipal Research and Services Center, State Environmental Policy Act  
Office of Financial Management, Unincorporated Urban Growth Area Maps  
Puget Sound Regional Council, State Environmental Policy Act  
Senate Bill Report, SB 5412 (2023)  
WAC 197-11-800