

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1110 2S HB	<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	8.1	2,772,581	2,772,581	2,772,581	5.8	1,693,858	1,693,858	1,693,858	5.8	1,701,058	1,701,058	1,701,058
Office of Financial Management	.0	0	0	0	.0	0	0	0	.0	0	0	0
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>8.2</b>	<b>2,813,429</b>	<b>2,813,429</b>	<b>2,813,429</b>	<b>6.1</b>	<b>1,764,200</b>	<b>1,764,200</b>	<b>1,764,200</b>	<b>6.1</b>	<b>1,771,400</b>	<b>1,771,400</b>	<b>1,771,400</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			6,709,000			2,407,500			234,000
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			6,709,000			2,407,500			234,000

## 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
Office of Financial Management	.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 3/ 9/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1110 2S HB	<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	8.1	8.1	8.1	5.8	5.8
<b>Account</b>					
General Fund-State 001-1	1,552,956	1,219,625	2,772,581	1,693,858	1,701,058
<b>Total \$</b>	1,552,956	1,219,625	2,772,581	1,693,858	1,701,058

### 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: Jackie Wheeler	Phone: 360-786-7125	Date: 02/28/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 03/07/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 03/07/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 03/07/2023

## 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.*

Differences between the second substitute bill and first substitute bill:

The substitute bill would change the fiscal impact to the Department of Commerce (department):

- Section 2 adds a new type of critical area to the Growth Management Act (GMA).
- Section 3 changes the development regulations required for middle housing and provides that local governments seeking an exemption to the parking provisions must submit an empirical parking study to the department and that the department may certify the exemption, whereas the previous version allowed cities to make this determination on their own, using the department's guidance.
- Section 5 changes the department's certification process for substantially similar comprehensive plans and development regulations and expands the opportunity for cities to participate.
- Section 7 changes the requirements of the infrastructure extension provisions administered by the department.
- A new section 10 establishes a SEPA exemption for government action removing requirements for parking from infill development projects.
- A new section 16 authorizes the department to establish rules necessary to implement the act, in chapter 64.90 RCW.
- A new section 17 includes a null and void clause.

Summary of the second substitute bill:

Section 2 amends RCW 36.70A.030 adding several new housing-related definitions to the GMA and a new type of critical area defined as "a watershed serving a reservoir for potable water if that watershed is listed, or was listed as of the effective date of this section, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d))."

Section 3(1) establishes minimum middle housing density requirements in cities, depending on their population and/or proximity to large cities.

Section 3(2) clarifies that affordable housing incentive programs established RCW 36.70A.540 govern in the event of a conflict between the provisions of that program and the requirements of the bill and that nothing in the bill prohibits a city from expanding those programs to include middle housing. This subsection also includes the affordability provisions required for a property to utilize the bonus density.

Section 3(6) provides that the parking requirements of the bill do not apply if a local government submits to the department an empirical study that clearly demonstrates, and the department finds and certifies, that the application of the parking requirements for middle housing would be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the parking requirements were applied for the same number of detached single family houses; and do not apply to portions of cities within a one-mile radius of a commercial airport in Washington with at least 9 million annual enplanements. The department is directed to development guidance for items to include in the study.

Section 5 adds a new section to RCW 36.70A directing the department to establish a process by which cities may seek approval of alternative local action that are substantially similar to the bill's requirements. This alternative approval process existed in the previous version, but applied to existing comprehensive plans and development regulations; the substitute allows cities to submit alternative comprehensive plans adopted by January 1, 2023 and development regulations adopted within one year of the bill's effective date. The factors the department must consider in approving substantially similar plans has also changed.

Section 6 adds a new section to RCW 36.70A creating a new certification program in which cities apply to the department for an extension in implementing the bill's requirements in areas at risk of displacement as determined by the anti-displacement analysis required to be completed under RCW 36.70A.070(2) (HB 1220 (2022)).

Section 8(1) and (2) establishes an approval program in which the department may certify an extension to cities to implement the bill due to certain infrastructure deficiencies. The only change to the previous version is that fire protection is added to the type of infrastructure deficiency that qualifies for an extension.

Section 8(6) requires the department to provide the legislature with a list of projects identified in a city's capital facilities plan that were the basis for an extension under Section 8, including planning level estimates. This subsection also allows a city that has received an extension to reapply for additional extensions at its subsequent periodic update or implementation progress report, provided it provides the department a list of infrastructure improvements necessary to meet the capacity required to implement the bill. The original version only allowed one additional extension.

Section 10 amends RCW 43.21C.229 establishing a State Environment Protection Act (SEPA) categorical exemption for government action taken to amend development regulations to remove requirements for parking from development proposed to fill in an Urban Growth Area (UGA).

Section 11 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) until June 20, 2032. This provision was section 10 in the previous version.

Section 16 amends chapter 64.90 RCW (Uniform Common Interest Ownership Act) by provided that the department may establish by rule any standards or procedures necessary to implement the act.

Section 17 includes a null and void clause that provides that if specific funding for the purposes of the act is not provided by June 30, 2023 in the omnibus appropriations act, the bill is null and void.

## **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 the middle housing model ordinances, changes to the critical areas definition, certification programs, and other processes as well as ongoing work monitoring, approving, or denying local actions to implement the bill.

- Development of a middle housing model ordinance by six months after the bill's effective date would likely involve retaining consultant services with expertise. The department assumes that the fiscal impact would be the same as in the substitute version's fiscal note: 1,250 hours with a billable rate of \$200 per hour, \$250,000 in total cost in FY24.
- The department assumes ongoing monitoring of local housing plans and comprehensive plan updates, including related technical assistance and training statewide with development of new certification processes in section 3 (exemption from parking limitations), section 5 (approval of substantially similar local actions), section 6 (extension for anti-displacement implementation), and section 8 (extension for infrastructure deficiencies).
- The department assumes the additional definition of a critical area in section 1 will require rulemaking updates to, at

minimum, chapter 365-190 WAC (minimum guidelines to classify critical areas), -195 (best available science), and WAC 365-196-485 (critical areas). The department assumes staff time will be required to consult with the department of ecology on properly defining the new critical area, updating critical area guidance documents, and providing technical assistance to jurisdictions for implementation. The department makes the following fiscal assumptions for this provision: 1.0 FTE Commerce Specialist 3 (FY24-FY25) for collaboration with ecology on rule and guidance development, preparing guidance document updates, and providing technical assistance to jurisdictions; 0.3 FTE Management Analyst 4 (FY24-FY25) for rulemaking and associated guidance; and 50 hours of AAG consultation (\$10,500 total based on \$210 per hour) in FY24-FY25.

- The department assumes that the costs associated with the certification processes for the anti-displacement extension and infrastructure deficiency extension would remain the same as in the previous version, as the changes in the second substitute are minimal.

- The department assumes that the number of jurisdictions that would seek certification of an exemption for the parking restrictions is indeterminate. The department assumes that the requirement to develop guidance to assist cities on items to include in a parking study will likely involve retaining consultant services with expertise in FY24. The fiscal assumption of a professional services contract of \$100,00 (based on 500 hours at \$200 per hour) to development guidance is unchanged. The previous fiscal note did not assume any rulemaking for this provision. However, with the new department certification process, rulemaking for this provision is now assumed. The department assumes that new rulemaking and certification process will slightly increase the workloads for the Commerce Specialist 3, Commerce Specialist 4, and Management Analyst 4 over the workload assumptions in the first substitute's fiscal note, in addition to attorney general costs.

- The department assumes that the number of jurisdictions that would seek certification of a substantially similar local action by January 1, 2023 (comprehensive plans) and one year after the bill's effective date (development regulations) is indeterminate, but likely greater than the number of jurisdictions that would have been eligible for a substantially similar finding under the first substitute, since that version applied only to existing local actions. However, the department assumes that any increase in cost or workload associated with additional jurisdiction submittals can be absorbed into the fiscal assumptions made in the first substitute's fiscal note.

- The department assumes that the provision in section 16, amending chapter 64.90 RCW to authorize the department to adopt rules necessary to implement the act, will have no new fiscal impact, as the department already assumed significant rulemaking for that purpose.

- The department assumes \$27,510 per fiscal year, FY24-FY25, and \$10,000 in FY26-FY29 in AAG rulemaking review and consultation for rulemaking and general guidance required throughout this bill, including guidelines in sections 3, 5, 6, and 8 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 5. The department assumes that the added AAG costs for rulemaking review and consultation for rulemaking and general guidance over the first substitute are due to the new certification process in section 3 (parking exemption).

- 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, 5, 6, and 8).

- Grant assumptions: Between 60 and 80 communities will be updating their plans and regulations, and a total of 330 jurisdictions between FY24 and FY28. Previous 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. The department assumes 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 jurisdictions to complete updates after this year,

and about 120 potentially applying for and getting grants of about \$75,000 each equals \$9 million along with \$2 million in administrative and technical assistance to assist over the subsequent four-year period. The total amount is \$5.5 million for each biennium, or \$4.5 million in grants and \$1 million in technical assistance.

1.3 FTE Commerce Specialist 4 (3,341 hours) in FY24-FY29, ongoing, to serve as the statewide expert in middle housing planning and oversee implementation and management of the new review and certification programs.

3.8 FTE Commerce Specialist 3 (7,934 hours) in FY24-FY25, to assist Commerce Specialist 4 in above activities and implementation of the new critical area designation, including collaboration with ecology and developing guidance material, and 2.8 FTE (5,846 hours) in FY26-FY29, to manage grants, work with local governments on their housing elements and development regulations specifically related to middle housing and any follow up critical area assistance.

0.8 FTE Management Analyst 4 (1,670 hours) in FY24-FY25, to provide professional and technical advice to management for rulemaking administration and technical support for approval processes and timeline extension programs.

0.2 FTE Administrative Assistant 3 (418 hours) in 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.

0.5 FTE IT Business Analyst Expert (1,086 hours) in FY24 and FY25, and 0.3 FTE (626 hours) in FY26-FY29, for significant system maintenance and upgrades to the plan review data and program tracking system, including major data system upgrades for new programs and ongoing maintenance and periodic upgrades thereafter.

0.3 FTE IT Application Developer (626 hours) in FY24-FY29, for system maintenance for upgrades to the data and program tracking database.

#### Salaries and Benefits:

FY24: \$812,857

FY25: \$840,414

FY26-FY29: \$592,454 each fiscal year

#### Professional Services Contract

Section 3 requires a contract in FY24 to provide professional expertise for guidance to assist cities on items to include in the parking study at 500 hours with a billable rate of \$200 per hour, \$100,000 in total cost in FY24. Section 5 requires a contract in FY24 to provide professional expertise for model ordinance development at 1,250 hours with a billable rate of \$200 per hour, \$250,000 in total cost in FY24.

FY24: \$350,000

#### Goods and Services

Includes \$27,510 in FY24-FY25 (131 hours at \$210 per hour each fiscal year) for AAG and legal review of draft administrative rules required by the bill and model ordinance review. Ongoing \$10,000 in FY26-FY29 (48 hours at \$210 per hour each fiscal year) for legal services and ongoing appeals of department decisions under section 5.

FY24: \$93,900

FY25: \$93,946

FY26-FY29: \$57,038 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: \$5,409 each fiscal year

Equipment:

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

FY24: \$23,360

FY25: \$3,360

FY26-FY27: \$2,520 each fiscal year

FY28: \$9,720

FY29: \$2,520

Interagency Reimbursements:

FY24: \$267,430

FY25: \$276,496

FY26-FY29: \$194,917 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: \$1,552,956

FY25: \$1,219,625

FY26-FY27: \$846,929 each fiscal year

FY28: \$854,129

FY29: \$846,929

**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	1,552,956	1,219,625	2,772,581	1,693,858	1,701,058
<b>Total \$</b>			1,552,956	1,219,625	2,772,581	1,693,858	1,701,058

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	8.1	8.1	8.1	5.8	5.8
A-Salaries and Wages	605,291	623,449	1,228,740	878,464	878,464
B-Employee Benefits	207,566	216,965	424,531	306,444	306,444
C-Professional Service Contracts	350,000		350,000		
E-Goods and Other Services	93,900	93,946	187,846	114,076	114,076
G-Travel	5,409	5,409	10,818		
J-Capital Outlays	23,360	3,360	26,720	5,040	12,240
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	267,430	276,496	543,926	389,834	389,834
9-					
<b>Total \$</b>	1,552,956	1,219,625	2,772,581	1,693,858	1,701,058

**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	1.2	1.2	1.2	0.9	0.9
Commerce Specialist 3	82,056	3.8	3.8	3.8	2.8	2.8
Commerce Specialist 4	86,212	1.3	1.3	1.3	1.3	1.3
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	0.8	0.8	0.8		
<b>Total FTEs</b>		8.1	8.1	8.1	5.8	5.8

**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.*

The bill requires rulemaking activities:

- Sections 1-6, 8., and 11 contain revisions to the GMA that would require updated technical assistance and guidance for cities through rulemaking.
- Section 1 contains revisions to the definition of critical areas that will require rulemaking updates to, at minimum, chapter 365-190 WAC (minimum guidelines to classify critical areas), -195 (best available science), and WAC 365-196-485 (critical areas).
- Section 3 directs the department to develop a process for approval of exemptions to the parking requirements of the bill.
- Section 5 directs the department to develop a process for approval of substantially similar alternative local actions.
- Section 6 directs the department to develop a process for certifying extensions of implementation requirements based on anti-displacement analysis.
- Section 8 directs the department to establish by rule and standards or procedures necessary to implement extension requests based on infrastructure deficiencies.
- Section 16 authorizes the department to establish by rule any standards or procedures necessary to implement the act.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1110 2S HB	<b>Title:</b> Middle housing	<b>Agency:</b> 105-Office of Financial Management
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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: Jackie Wheeler	Phone: 360-786-7125	Date: 02/28/2023
Agency Preparation: Keith Thunstedt	Phone: 360-810-1271	Date: 03/03/2023
Agency Approval: Jamie Langford	Phone: 360-902-0422	Date: 03/03/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/03/2023

## 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.*

There were no changes in this second substitute version that changed OFM's fiscal impact assumptions from the previous version.

Second Substitute:

Section 3 defines city population thresholds related to the bill are based on OFM population estimates.

Section 4 exempts middle housing units from the threshold of an OFM population projection to a county or a county population allocation to a city.

These actions can be completed within existing staffing and resources. There is no fiscal impact to OFM.

### 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

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

## **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

<b>Bill Number:</b> 1110 2S HB	<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: Jackie Wheeler	Phone: 360-786-7125	Date: 02/28/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 03/06/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 03/06/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/08/2023

## 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.*

No changes to anticipated impacts from previous version of this bill.

Amendments in this version include:

Section 2. (10) This version of the bill amends the definition of “critical areas” to include: a watershed serving a reservoir for potable water if that watershed is listed, or was listed as of the effective date of this section, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d)). This is a narrow definition and is unlikely to produce more than one appeal to the Growth Management Hearings Board (GMHB).

Section 3. (1)(b)(ii) This version of the bill changes the walking distance of a major transit stop or community amenity from one-half to one-quarter mile. This is unlikely to result in fiscal impact.

(2)(b) requires units dedicated as affordable must be provided in a range of sizes comparable to other units in the development, with other requirements.

(c) If a city has enacted a program under RCW 36.70A.540, the terms of that program govern to the extent they vary from the requirements of this subsection.

(3) If a city has enacted a program under RCW 36.70A.540, subsection (1) of this section does not preclude the city from requiring any development, including development described in subsection (1) of this section, to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand such a program or modify its requirements

(4) A city must allow at least six of the eight types of middle housing to achieve the unit density required in subsection (1) of this section.

A new Section 10 is added that merely reformats RCW 43.21C.229 – Categorical exemption from the chapter.

New Section 16. Grants Commerce authority to develop rules to implement this chapter.

New Section 17. This bill must be funded by June 30, 2023 in the omnibus appropriations act, or the bill is null and void.

### 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.*

No changes to anticipated impacts from previous version of this bill.

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).

Assume no capital budget impact: Currently, ELUHO leases space on the top floor of the State Parks building, Parsons Plaza. We assume we can repurpose space to include the FTE if they have a workstation at the ELUHO office. We assume the 0.25 Hearing Examiner FTE would be offered the option of working remotely.

**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
Hearings Examiner			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

Revised

Department of Commerce

<b>Bill Number:</b> 1110 2S HB	<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 be required to increase density in residential zones, near major transit stops, community amenities, and for affordable housing. Cities would amend existing Growth Management Act (GMA) comprehensive plans to accommodate these new density requirements.
- Counties:**
- Special Districts:**
- Specific jurisdictions only:** Cities that are fully planning under the GMA with a population of 25,000 or more, and any city bordering an urban growth area with a population above 200,000.
- Variance occurs due to:**

**Part II: Estimates**

- No fiscal impacts.
- Expenditures represent one-time costs:** Ordinance adoption, accompanying transportation analysis costs, and updating zoning documents.
- Legislation provides local option:** Applying for implementation extensions. Applying for alternative local action determination from the Department of Commerce. Conducting an empirical study for off-street parking requirements for middle housing near transit.
- Key variables cannot be estimated with certainty at this time:** Scope and scale of comprehensive plan element amendments; timing of comprehensive plan element amendments; number of cities that would qualify for the alternative local action determination.

**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		6,709,000	6,709,000	2,407,500	234,000
<b>TOTAL \$</b>		6,709,000	6,709,000	2,407,500	234,000
<b>GRAND TOTAL \$</b>					<b>9,350,500</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: 03/08/2023
Leg. Committee Contact: Jackie Wheeler	Phone: 360-786-7125	Date: 02/28/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/08/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 03/09/2023

## **Part IV: Analysis**

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

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

#### **CHANGES FROM PRIOR VERSION OF BILL:**

Sec. 3(1) would amend the zoning buffer for higher density requirements near major transit stop or community amenity for cities impacted by Sec. 3(1)(b). The zoning buffer is changed from one-half mile to one-quarter mile.

(2) Amends the layout and configuration of affordable housing units permissible under the density bonus established by this section.

(4) Cities must allow at least six of the eight types of middle housing described in Sec. 2(22) to achieve density requirements.

(6) Cities may be exempt from the parking provisions if the city determines through a study that the lack of minimum parking requirements for middle housing in a defined area would make on-street parking unsafe for drivers, passengers, pedestrians, or bicyclists. This study must be supported by empirical evidence and best practices, and be prepared by a credentialed transportation or land use planning expert. The parking provisions of Sec. 5 do not apply to portions of cities within a one-mile radius of a commercial airport in Washington with at least nine million annual enplanements.

Sec. 5 Amends the Department of Commerce's responsibility to approve substantially similar comprehensive plans and permanent development regulations that satisfy the requirements of the middle housing near major transit stops and community amenities ordinance in Sec. 3.

Sec. 5 would require the Department of Commerce (Commerce) to approve alternative local actions to determine compliance with the increased density requirements of Sec. 3. Commerce may favorably view plans and regulations that authorize an overall increase in density throughout the city, allow for additional density near major transit stops and community amenities, and result in increased housing units in single family zones.

Sec. 8 would amend the requirements for the extension certified by this section to include deficient fire protection services to support the increased residential density established in Sec. 3.

Sec. 10 is a new section added to the second substitute version of this legislation. This section would amend the State Environmental Policy Act categorical exemptions for infill development to allow local governments to remove development regulations for parking from infill development proposed in an urban growth area.

Sec. 17 is a new section added to the second substitute version of this legislation. This section is a null and void clause requiring funding to be appropriated by the legislature for the specific purposes of this act with the omnibus appropriations act by June 30, 2023.

#### **SUMMARY OF CURRENT VERSION OF BILL:**

For cities fully planning under the Growth Management Act (GMA) with a population of at least 25,000, or any city located within a contiguous urban growth area with a city population above 200,000, must authorize increased density in residential zones, with increased density near major transit stops and community amenities. There would be a minimum of two units per lot authorized in all residential zones in cities with 25,000 to 75,000 in population, with escalating densities if the zone is within a half-mile walking distance of a major transit stop, community amenity, or if affordable housing is a component of the housing units developed on a property. Cities with at least 75,000, or any city located within a contiguous urban growth area with a city population above 200,000, would have four unit per residential lot minimums, with escalating densities within one-quarter mile proximity to a major transit stop, community amenity, and affordable housing development.

The implementation deadline for cities currently meeting the population thresholds would be six months after a city's next

required comprehensive plan update, or one year after the Office of Financial Management determines that a city has reached a population threshold.

In creating local ordinances and development regulations, cities must not require standards for middle housing that are more restrictive than those required for detached single-family residences. Cities subject to the requirements of this act may only adopt objective development regulations and design standards. These cities may also only apply administrative design review for middle housing unless such review is otherwise required by state or federal law or the structure is listed on the local historic register through a local preservation ordinance.

Reduced parking requirements for middle housing developments are not a requirement for cities with commercial airports with more than nine million annual enplanements. These requirements would not be enforced in cities where an empirical study demonstrates that the parking requirements would make drivers, passengers, pedestrians, and bicyclists less safe.

A temporary exemption from the requirements of Sec. 3 would be allowed for areas of the city that are found to have inadequate water, sewer, stormwater, or fire protection services or areas of the city where residents may face displacement though increased density in residential zones through market forces.

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.*

### **CHANGES FROM PRIOR VERSION OF BILL:**

This proposed second substitute legislation includes new provisions for removing parking requirements for infill development from the State Environmental Policy Act categorical exemption for infill development statute. This increased the costs of this bill be an indeterminate amount due to cities adopting such provisions into their local code at varying degrees of complexity.

There are potential cost savings in the second substitute version of this legislation related to the alternative local action provision in Sec. 5(3) that are similar to the prior version of this act. This section authorizes the Department of Commerce to determine if a city's existing comprehensive plan and permanent development regulations for middle housing or residential density near transit and community amenities are substantially similar to criteria established in Sec. 3. If plans and regulations are substantially similar, cities impacted by this bill may not be required to implement all provisions of Sec. 3. However, the number of such instances is indeterminate. For the purposes of this fiscal note the expenditure impacts assume that all cities affected by Sec. 3(1) would need to amend local code.

### **EXPENDITURE IMPACT OF CURRENT VERSION OF BILL:**

This legislation would have a determinate and indeterminate impacts on cities that fully plan under the Growth Management Act (GMA). As of the most recent intercensal population estimate from Office of Financial Management (OFM), there are 79 cities meeting the population thresholds that require them to incorporate the increased density and middle housing near transit and community amenities 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 \$9.3 million (\$6,083,000 ordinance amendments and adoption + \$2,977,500 transportation analysis + \$395,000 in updated zoning documents), and the timing of these costs would occur six months after the submission deadline of cities' periodic comprehensive update, between FY25 and FY28.

There would be indeterminate costs of \$6.3 million between FY24 and FY29, for cities to update certain comprehensive plan elements to account for housing allocations and utility system demand 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 FY29, although the implementation of amendments may be different than the periodic

update schedule specified by RCW 36.70A.130.

The second substitute bill also allows for cities to be exempt from the parking provisions if a city makes a determination that the lack of minimum parking requirements in a defined area would make on-street parking unsafe for drivers, passengers, pedestrians, or bicyclists. Conducting an empirical parking study to determine if the limits to off-street parking would not be required for middle housing would be a local option for cities that are required to implement the middle housing ordinance. There would be no cost for cities that took no action.

#### LOCAL GOVERNMENT FISCAL NOTE PROGRAM ASSUMPTIONS:

##### Number of Impacted Cities

The provisions of Sec. 3(1) and 3(9) indicate the cities that must adopt the increased density and middle housing near transit and community amenities requirements of Sec. 3. For these estimates, the Local Government Fiscal Note program assumes that for these cities, determination by OFM that a city reached the population threshold would occur on the effective date of the bill. The Association of Washington Cities (AWC) indicate that Vancouver would likely reach the 200,000 population before 2025, and increase the number of cities that would be required to implement the provisions of this bill for adjoining cities bordering its urban growth area. Therefore, there are at least 79 cities impacted by this bill based on 2022 OFM intercensal population estimates and AWC's assumption of Vancouver meeting the Sec. 3(1)(b) threshold within the next two years.

For the purposes of this fiscal note, costs are applied to all impacted cities, although there may be cities that are not required to develop new middle housing ordinances if they are approved through the alternative local action review in Sec. 5(3).

##### Applicability for cities meeting the population thresholds:

Population of 25k to 75k - 29 Cities

Population of more than 75k or bordering a UGA with more than 200k in population – 50 Cities

##### Impacted Cities with Existing Middle Housing Code and Up-zoned Residential Designations:

Cities impacted by this bill may apply for an approved alternative local action from the Department of Commerce (Commerce) through Sec. 5(3). This subsection establishes that to determine compliance, Commerce must view comprehensive plans and permanent regulations that authorize an overall increase in density throughout the city, in units allowed per single family lot, which is at least 75 percent of the overall single-family density throughout the city in units allowed per lot.

The Association of Washington Cities (AWC) analyses of municipal code indicate that for cities impacted by Sec. 3(1)(a), 11 of 27 impacted cities have up-zoned 75 percent of their residential single-family land use designations, and 24 of these cities allow middle housing in single-family zones. For cities impacted by Sec. 3(1)(b) 8 of the 31 cities have up-zoned 75 percent of their residential single-family land use designations and 26 allow middle housing in single-family zones. The number of these cities that would qualify for alternative local action provisions of Sec. 5(3) cannot be known in advance, as the determination of which plans and regulations would be sufficient to meet the requirements of this bill would be conducted by Commerce. This determination may begin after the publication of the model middle housing near transit and community amenity ordinance.

##### IMPACT OF SECTION 3(1), 3(3), and 3(4)

\$6,083,000 – Costs that can be estimated at this time would be approximately \$6.1 million (see calculations below) for 79 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. Sec. 3(3) would authorize any configuration of middle housing to support the increased residential density established through Sec. 3(1). Sec. 3(4) specifies that the ordinances must apply objective development and design standards, administrative design review, and design standards that are not as restrictive as those for single-family detached residences, and specific parking considerations for middle housing authorized in residential zones. Cities impacted by this bill would have to determine which zones are impacted and which ones already comply. According to AWC amending existing code generally carry higher costs than implementing new code.

Costs for provisions in Sec. 3(1), 3(3), and 3(4) 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. objective design regulations to ensure compatibility with existing code) 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 (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 may begin in 2024 based on Sec. 3(8)(a) and may coincide with the publication of the model middle housing ordinance developed by Commerce six months after the effective date of this act. The timing of adopting increased density into local code would vary based on periodic review and revisions schedule of a city's comprehensive plan as specified by RCW 36.70A.130. It may also depend on the planning capacity of cities required to adopt such ordinances, their existing work to develop middle housing ordinances, and the whether a city has developed substantially similar development regulations per Sec. 5(3)(b). When the updates to local code are required, but not yet adopted, the model ordinance developed by Commerce would supersede, preempt, and invalidate local code per Sec. 5(2)(b).

Six Months after Periodic Review and Update of Comprehensive Plans are due:

Population of 25k to 75k in pop. - 29 Cities x \$77,000 = \$2,233,000

Population of 75k and bordering UGA with a city having more than 200k pop. - 50 Cities x \$77,000 = \$3,850,000

79 Cities adopting various ordinance with hearing of same complexity: (79 cities x \$77,000) = \$6,083,000

FY25 \$4,389,000

FY26 \$616,000

FY27 \$924,000

FY28 \$154,000

Total: \$6,083,000

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 would 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.

If a jurisdiction were unable to update their code by the applicable deadlines, and their code were superseded by the model

ordinance, there would be increased workload for local government staff to parse their code and differentiate which portions were still enforceable and which were superseded. This would increase the staff time needed to administer their code by an unknown amount, and only impact cities that did not implement the ordinance established by this act by the applicable deadline.

Transportation Evaluations:

\$2,977,500 Costs that can be estimated at this time approximate to \$3.0 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.

According to the Victoria Transport Policy Institute, transportation evaluations consider a wide number of variables in the potential effect of a proposed 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.

Six Months after Periodic Review and Update of Comprehensive Plans are due:

Population of 25k to 75k in pop. - 29 Cities x \$35,000 = \$1,015,000

Population of 75k or bordering UGA with a city having more than 200k pop. – 50 cities = \$1,297,500

17 cities with greater than 75k in population – 17 x \$47,500 = \$807,500

33 cities bordering a UGA with at least 200k in population – 33 x \$35,000 = \$1,155,000

79 Cities adopting transportation evaluations to support increased residential density: \$2,977,500

FY25	\$2,120,000
FY26	\$305,000
FY27	\$482,500
FY28	\$70,000
Total	\$2,977,500

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

\$395,000 - This bill impacts all single-family zoned lots and their use designations as well as the cities' 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 FY25.

79 cities x \$5,000 = \$395,000

FY25	\$200,000
FY26	\$35,000
FY27	\$45,000
FY28	\$10,000
Total	\$290,000

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. AWC 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 \$7,891,200 from fiscal years 2024 to fiscal years 2029, however the timing of these amendments is currently unknown.

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.

An illustrative example of costs is provided below if the amendments follow the periodic comprehensive update cycle specified by RCW 36.70A.130, and the jurisdictions that must review and revise their comprehensive plans due December 31, 2024 complete these element updates with their implementation progress reports. Smaller jurisdictions with populations less than 6,000 that are not required to complete an implementation progress report, such as the ones that border a UGA with greater than 200k in population, may not implement comprehensive plan updates until the next periodic review cycle in 2034. The estimates for total mandatory update costs reflect the costs through 2034.

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.

Two complex element amendments:

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

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

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

33 small cities

$33 \times \$64,950 = \$2,143,350$

34 medium cities

$34 \times \$108,250 = \$3,897,000$

10 large cities,

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

Total mandatory element update costs: \$8,205,350

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 may have the following costs on a state fiscal year basis. The cost distributions are estimated based assessments by AWC and the Department of Commerce, where work on GMA comprehensive plans periodic updates usually begins two years prior to the submission deadline. For example, jurisdictions with comprehensive plans due June 30, 2025, may start on or before June 30, 2023.

Local Government Fiscal Note assumptions:

For cities with comprehensive plan review and revision submission deadlines in 2025 through 2027, the figures below

assume all cities revise and review their comprehensive plans to account for increased residential density two years in advance of the submission deadline and encompass two years' worth of expenditures per planning city. For jurisdictions with comprehensive plan implementation progress reports due in 2029 specified by RCW 36.70A.130(9), these jurisdictions may begin work to update their comprehensive plan element updates two years in advance of the due date of the progress report, starting in FY28. The jurisdictions under 6,000 in population that are not required to conduct an implementation progress report are excluded from the totals below. These cities may update their comprehensive plans during the next periodic review cycle in 2034.

Illustrative cost estimates:

FY2024: \$480,500

FY2025: \$1,213,750

FY2026: \$888,750

FY2027: \$155,500

FY2028: \$2,576,350

FY2029: \$2,576,350

Total: \$7,891,200

#### IMPACT OF SECTION 3(2)

Recording 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.

#### IMPACT OF SECTION 3(6)(a)

Conducting an Empirical Parking Analysis Study:

Local Option – Cities may be exempt from the parking provisions if the city makes a determination that the lack of minimum parking requirements in a defined area would make on-street parking infeasible or unsafe for the authorized units. Conducting parking analysis to determine if the limits to off-street parking would not be required for middle housing specified by Sec. 3(5)(e) through (f) would be a local option for cities that are required to implement the middle housing ordinance. There would be no cost for cities that took no action.

#### IMPACT OF SECTION 4

Middle Housing and Cities' Allocated Population Projection:

Indeterminate - Sec. 4 would establish that middle housing does not count towards the projection which would allow more middle housing units to be developed. The Local Government Fiscal Note Program assumes that at least some developers that would otherwise build multifamily structures would start to develop middle housing and the rate of new starts for multifamily would decline, if this proposed substitute bill were to become law. The scale of the impact on local government permitting due to the number of middle housing starts cannot be known in advance.

The ordinance requirements in Sec. 3(5) establishes that cities may only adopt objective development regulations and design standards as well as only apply administrative design review. These requirements may streamline the permitting process and reduce costs for cities impacted by this legislation.

#### IMPACT OF SECTION 8

Ordinance implementation extension:

Local Option - Cities may file for extensions to implement the middle housing near transit and community amenities ordinance if the city identifies deficient fire protection services or infrastructure to support the density increases. If a city determines that there are infrastructure deficiencies to support increased residential density, Sec. 8 of this act authorizes Commerce to issue an implementation extension for the middle housing near transit and community amenities ordinance.

An extension would be issued if a city includes necessary improvements in its Capital Facilities Plan elements or identifies the special purpose district that is responsible for necessary infrastructure, and a plan is put in place to correct the deficiencies. This extension would last until infrastructure improvements are complete, or until the next submission deadline of the city's comprehensive period update, or the submission of its implementation progress report. The number of cities that would have infrastructure deficiencies, and the length of time to correction these deficiencies cannot be known in advance.

## IMPACTS OF SECTION 10

### Costs to Amend Existing Categorical Exemptions:

Indeterminate - For local governments that have State Environmental Policy Act (SEPA) categorical exemptions for infill development, there would be costs to incorporate the provisions of Sec. 10 into their local code. Many jurisdictions have adopted SEPA categorical exemptions by reference and incorporating the provisions of this act to allow remove parking requirements for infill development may be carry minimal costs for these jurisdictions. However, other jurisdictions may need to amend other development and zoning regulations to incorporate the changes to existing infill development exemptions, which would have more significant costs. The number of cities that would choose one option or the other cannot be determined in advance.

The Local Government Fiscal Program Unit Cost Model estimates that the cost the typical cost per jurisdiction to adopt an ordinance with a hearing of the same complexity from \$2,958 for a simple ordinance to \$9,492 for a complex ordinance. These estimates include costs for draft ordinances, advisory commission meeting and recommendation, finalized ordinance, publication of ordinance, and general public information. For jurisdictions that chooses to adopt the categorical exemption in this act by reference there would be costs starting at \$2,958 per jurisdiction. There would be starting costs of at least \$9,492 for each city that adopts the categorical exemption in a more substantive manner.

### Costs to Adopt New Categorical Exemptions:

Local Option – Estimate for each jurisdiction that would adopt categorical exemption for removing parking requirement from development regulations for infill development would start at approximately \$9,492 per jurisdiction that do not currently have these provisions in their in their local code. Additional costs may be necessary to comply with the environmental review components of this section that authorize the infill development provisions.

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

Local Option - The number of jurisdictions that lack a SEPA infill development categorical exemption is unknown, but in these jurisdictions, a supplemental Environmental Impact Statement (EIS) may be a requirement to implement this section. Estimates from the Association of Washington Cities' City Planning Cost Survey (2020) indicate that the cost of an EIS to be approximately \$100,000 per city that chooses to undergo the infill development within their municipality. 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 determine that their EIS is insufficient or needs refinements; especially if such refinements would 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.

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

The cost to 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 would influence the cost of development under the GMA planning provisions. Assessment from the Department of Commerce and the Association of Washington Cities in HB 2066 (2020) 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 vary significantly from city to city.

### **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.*

#### **CHANGES FROM REVENUE IMPACT OF PRIOR BILL:**

The proposed second substitute legislation includes a null and void clause for funding for the specific purposes of this act to be appropriated by June 30, 2023, in the Omnibus Appropriations Act. Should funding be appropriated by the legislature for the purposes of this act there would be indeterminate revenue impacts for cities affected by the legislation. If the legislature does not appropriate funding by June 30, 2023, this bill would have no impact on cities.

#### **REVENUE IMPACT OF CURRENT BILL:**

This legislation would have indeterminate revenue impacts for cities impacted by Sec. 3(1). If funding is not appropriated by the legislature by June 30, 2023, for the specific purposes of this act, this act is null and void.

#### **SOURCES:**

Association of Washington Cities  
Association of Washington Cities, City Planning Cost Survey (2020)  
American Planning Association – Washington  
City of Mukilteo  
Department of Commerce, FN S HB 2343 (2020)  
House Local Government Committee Testimony (12/02/2022)  
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, FN HB 1245 (2023)  
Local Government Fiscal Note Program, Unit Cost Model (2022)  
MRSC, Missing Middle Housing  
Victoria Transport Policy Institute, Transportation Cost Analysis  
Washington State Association of County Auditors