

Multiple Agency Fiscal Note Summary

Bill Number: 1110 E 2S HB AMS HSG S2555.1	Title: 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	6.6	2,325,704	2,325,704	2,325,704	5.8	1,694,018	1,694,018	1,694,018	5.8	1,701,218	1,701,218	1,701,218
Office of Financial Management	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Ecology	Non-zero but indeterminate cost and/or savings. Please see discussion.											
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
Total \$	6.7	2,366,552	2,366,552	2,366,552	6.1	1,764,360	1,764,360	1,764,360	6.1	1,771,560	1,771,560	1,771,560

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			6,965,000			2,487,500			240,000
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			6,965,000			2,487,500			240,000

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
Department of Ecology	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

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

Prepared by: Gwen Stamey, OFM	Phone: (360) 790-1166	Date Published: Final 3/30/2023
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Individual State Agency Fiscal Note

Bill Number: 1110 E 2S HB AMS HSG S2555.1	Title: Middle housing	Agency: 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	6.6	6.6	6.6	5.8	5.8
Account					
General Fund-State 001-1	1,330,325	995,379	2,325,704	1,694,018	1,701,218
Total \$	1,330,325	995,379	2,325,704	1,694,018	1,701,218

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/24/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 03/29/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 03/29/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 03/30/2023

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 E2SHB 1110 and E2SHB 1110 AMS HSG S2555.1:

The engrossed second substitute bill would not change the fiscal impact of the bill to the Department of Commerce (department):

- Section 2 adds "Community amenity" as a definition to the Growth Management Act (GMA), RCW 36.70A.030.
- Section 3 changes the population and geographic conditions required to comply with the middle housing development regulations in this section and requires a city to allow certain zero lot line long subdivisions, where the previous version only required this for short subdivisions.
- Section 3 of the striker also removes language saying that nothing in the section requires a city to issue a building permit if other federal, state, and local requirements are not met.
- Section 4 removes the displacement risk carve-out as areas that are not included in the 25 percent of lots not needing to comply with the new middle housing regulations under the alternative compliance pathway. The striker also removes the condition that cities must have known at the time of each comprehensive plan update that certain areas were racially exclusive for those areas to not be included in the 25 percent noncompliant areas under the alternative. The striker adds to the areas that cannot be included in the 25 percent noncompliant area any areas within a half mile walking distance of a higher education institution or any areas within a half mile walking distance of a building, shopping center, or business containing at least 100,000 square feet of retail space.
- Section 5, which provides an alternative compliance pathway for certain smaller cities within a contiguous urban growth area of larger cities, is removed. The remaining sections are renumbered.
- New Section 9 amends the language regarding water concurrency.

Summary of E2SHB 1110 AMS HSG S2555.1:

Section amends RCW 36.70A.030 adding several new housing-related definitions to the GMA.

Section 3(1) establishes new middle housing density requirements under the GMA for cities based on their population.

Section 3(2) establishes affordability requirements for the density bonus.

Section 3(3) 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.

Sections 3(4) requires a city to allow zero lot line short or long subdivisions where the number of lots created is equal to the unit density required in the bill and section 3(5) provides a number of new development regulations related to middle housing, including allowing a city to impose a limit of two units on a residential lot of 2,000 square feet or less created through a lot split.

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 3(9) provides that cities must comply with the density requirements on the latter of six months after its next periodic comprehensive plan update or twelve months after the office of financial management determines that the city has reached a triggering population threshold.

Section 3(10) clarifies that, except for specific areas granted an implementation timeline extension, the capital facilities plan element is not required to be updated to accommodate the increased housing and population capacity required by the act until the periodic comprehensive plan update that occurs on or after June 30, 2034.

Section 3(11) provides that any city that adopts development regulations consistent with the density requirements of the bill shall be considered in compliance with RCW 36.70A.070(2)(f) until June 30, 2032 (identifying and implementing policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local land use planning).

Section 4 adds a new section to RCW 36.70A providing an alternative to the density requirements in section 3 by allowing cities to implement the density requirements in at least 75 percent of lots that are primarily dedicated to single-family detached housing if the remaining 25 percent of lots include: any areas within the city for which the department granted an implementation extension due to the risk of displacement or a lack of water, sewer, stormwater, or fire protection service capacity; critical areas or their buffers; any portion of the city within a one-mile radius of a commercial airport with at least nine million annual enplanements; and any areas subject to sea level rise, increased flooding, or geological hazards over the next 100 years. The 25 percent of lots not subject to the density requirements may not include areas: for which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect; historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area; and within one half mile walking distance of a higher education institution or a major transit stop, community amenities, higher education institution, or a building, shopping center, or business area containing at least 100,000 square feet of retail space.

Section 6 adds a new section to RCW 36.70A directing the department to develop a model middle housing ordinance and establish a process by which cities may seek approval of alternative local action that are substantially similar to the bill's requirements for e comprehensive plans adopted by January 1, 2023 and development regulations adopted within one year of the bill's effective date. This section establishes the factors that the department must consider in approving substantially similar plans.

Section 7 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)), so long as the city chooses the alternative density requirement in section 4.

Section 9 (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, so long as the city chooses the alternative density requirement in section 4. The department may grant additional extensions provided the applicant city meets certain criteria.

Section 9(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, including planning level estimates.

Section 12 amends RCW 43.21C.450 adding the following nonproject actions as a categorical exemption from the requirements of the State Environmental Policy Act (SEPA): Amendments to development regulations to remove

requirements for parking from development proposed to fill in a designated UGA.

Section 13 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.

Section 17 adds a new section to RCW 64.90 (Uniform Common Interest Ownership Act) by provided that the department may establish by rule any standards or procedures necessary to implement the act.

Section 18 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.

Agency assumptions:

The department assumes significant administrative rulemaking for the middle housing model ordinances, certification programs, and other processes as well as ongoing work to monitor, approve, or deny local actions to implement the proposed legislation.

- Development of a middle housing model ordinance by six months after the bill's effective date would require consultant services with expertise in this area. The department assumes that the fiscal impact would be the same as in the second 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 6 (approval of substantially similar local actions), section 7 (extension for anti-displacement implementation), and section 9 (extension for infrastructure deficiencies).
- 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 fiscal note.
- 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 \$100,000 (based on 500 hours at \$200 per hour) to develop guidance is unchanged. The department assumes fiscal impacts associated with rulemaking on the development of the certification process, including staff time and assistant attorney general costs, remains unchanged from the previous fiscal note.
- 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 and the fiscal assumptions are unchanged from the previous fiscal note.
- The department assumes that the provision in section 17, 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 \$17,010 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, 6, 7, and 9 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.

- 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, 6, 7, and 9).

- 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.

2.8 FTE Commerce Specialist 3 (5,846 hours) in FY24-FY29, ongoing, to assist Commerce Specialist 4 in above activities to manage grants, work with local governments on their housing elements and development regulations specifically related to middle housing.

0.5 FTE Management Analyst 4 (1,044 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 (1,044 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: \$667,008

FY25: \$689,594

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 6 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 \$17,010 in FY24-FY25 (81 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 \$10,080 in FY26-FY29 (48 hours at \$210 per hour each fiscal year) for legal services and ongoing appeals of department decisions under section 6.

FY24: \$70,942

FY25: \$70,980

FY26-FY29: \$57,118 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: \$17,520

FY25-FY27: \$2,520 each fiscal year

FY28: \$9,720

FY29: \$2,520

Interagency reimbursements:

FY24: \$219,446

FY25: \$226,876

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: \$1,330,325

FY25: \$995,379

FY26-FY27: \$847,009 each fiscal year

FY28: \$854,209

FY29: \$847,009

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	1,330,325	995,379	2,325,704	1,694,018	1,701,218
Total \$			1,330,325	995,379	2,325,704	1,694,018	1,701,218

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	6.6	6.6	6.6	5.8	5.8
A-Salaries and Wages	497,371	512,292	1,009,663	878,464	878,464
B-Employee Benefits	169,637	177,302	346,939	306,444	306,444
C-Professional Service Contracts	350,000		350,000		
E-Goods and Other Services	70,942	70,980	141,922	114,236	114,236
G-Travel	5,409	5,409	10,818		
J-Capital Outlays	17,520	2,520	20,040	5,040	12,240
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	219,446	226,876	446,322	389,834	389,834
9-					
Total \$	1,330,325	995,379	2,325,704	1,694,018	1,701,218

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	1.0	1.0	1.0	0.9	0.9
Commerce Specialist 3	82,056	2.8	2.8	2.8	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	0.5	0.5	0.5		
Total FTEs		6.6	6.6	6.6	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 1-7, 9, and 12 contain revisions to the GMA that would require updated technical assistance and guidance for cities through rulemaking.
- Section 3 directs the department to develop a process for approval of exemptions to the parking requirements of the bill.
- Section 6 directs the department to develop a process for approval of substantially similar alternative local actions.
- Section 7 directs the department to develop a process for certifying extensions of implementation requirements based on anti-displacement analysis.
- Section 9 directs the department to establish by rule and standards or procedures necessary to implement extension requests based on infrastructure deficiencies.
- Section 17 authorizes the department to establish by rule any standards or procedures necessary to implement the act.

Individual State Agency Fiscal Note

Bill Number: 1110 E 2S HB AMS HSG S2555.1	Title: Middle housing	Agency: 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: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/24/2023
Agency Preparation: Keith Thunstedt	Phone: 360-810-1271	Date: 03/28/2023
Agency Approval: Kathy Cody	Phone: (360) 480-7237	Date: 03/28/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/28/2023

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 amended version that effected OFM's fiscal impact assumptions from the previous version.

Engrossed Second Substitute:

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

Section 6 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

Bill Number: 1110 E 2S HB AMS HSG S2555.1	Title: Middle housing	Agency: 461-Department of Ecology
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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: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/24/2023
Agency Preparation: Jessica Moore	Phone: 360-529-7583	Date: 03/30/2023
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 03/30/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/30/2023

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.

Under current law, Ecology works in partnership with local governments to implement chapter 90.58 RCW (Shoreline Management Act) to promote public access, encourage water-dependent uses, protect shoreline resources, and develop, adopt, and administer shoreline master programs. Department of Commerce (Commerce) is the lead agency for rule-making and technical assistance to local governments under the Growth Management Act (GMA), chapter 36.70A RCW. Under current law, the State Environmental Policy Act (SEPA), chapter 43.21C RCW, provides a way to identify possible environmental impacts that may result from governmental decisions. Ecology is responsible for SEPA Rules (Chapter 197-11 WAC).

This bill amends the Growth Management Act (GMA) to require cities to authorize minimum development densities on lots zoned predominately for residential use and include specific provisions related to middle housing in their development regulations. It requires Commerce to develop model middle housing ordinances, a process for cities to seek approval of required local actions, guidance to assist cities on items to include in a parking study and provide technical assistance to cities to implement the requirements.

Section 3 would add a new section to GMA chapter 36.70A RCW that would require a city fully planning under GMA with a population of at least 25,000 but less than 75,000, that are not within a contiguous urban growth area with the largest city in a county with a population of more than 275,000, to provide by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the development of additional units per lot on all lots zoned predominately for residential use, unless the lot is designated with critical areas or their buffers. The section includes separate minimum densities for cities of different sizes, including higher densities near major transit stops and community amenities. Extra density must be allowed for qualifying affordable housing.

Section 3(5) would require that middle housing types have the same development permit and environmental review processes that would apply to detached single-family residences, unless otherwise required by state law including shoreline regulations under SMA. Section 3(7) clarifies provisions of this section would not apply to lots designated with critical areas or their buffers.

Section 10 would add a new section to chapter 36.70A RCW (GMA). Subsection 9 would allow cities that do not have an adequate water supply to serve the housing required under section 3 or 4 of this act to limit the areas subject to the requirements to match the increased housing capacity with the water supply. The city would be required to document and the Department of Ecology would be required to certify the water supply capacity and the water demand reduced by the areas not subject to the requirements under section 3 or 4 of this act in the record of the regulations adopted to implement this act.

Section 11 would amend SEPA at RCW 43.21C.495 to provide that local actions taken to comply with section 3 of this bill are not subject to either administrative or judicial appeals under SEPA.

Section 12 would amend SEPA at RCW 43.21C.450 to add a categorical exemption to remove parking minimums from development regulations.

Section 19 would make this act null and void if funding is not provided by June 30, 2023.

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.

The expenditure impact to Ecology under this bill is estimated to be indeterminate to implement the requirements of section 10.

Section 3 would require that middle housing types have the same development permit and environmental review processes that would apply to detached single-family residences, unless otherwise required by state law including shoreline regulations under SMA. These changes would not conflict with implementation of or the rule for SMA, and no new work for Ecology as a result. Therefore, there is no fiscal impact to Ecology as a result of this section of the bill.

Section 10 would add a new section to the GMA that would require the Department of Ecology to certify water supply capacity and the water demand reduced by the areas not subject to the requirements under section 3 or 4 of this act in the record of the regulations adopted to implement this act. Ecology, in consultation with the Department of Health would need to review and consider applicable water rights and the locally approved water system plan to determine whether sufficient legal water availability exists. However, the number of jurisdictions that would require additional analysis of the water rights by Ecology is unknown, and the submittal schedule of jurisdictions requiring additional analysis of water rights by Ecology is unknown. Therefore, the fiscal impact to implement this section of the bill is indeterminate.

Section 11 would amend SEPA to provide that local actions taken to comply with section 3 of this bill are not subject to either administrative or judicial appeals under SEPA. These changes would not conflict with implementation of or the rule for SEPA, and no new work for Ecology as a result. Therefore, there is no fiscal impact to Ecology as a result of this section of the bill.

Section 12 would amend SEPA to add a new categorical exemption. Ecology assumes that this change would not require an amendment to Ecology's categorical exemption rules at WAC 197-11-800, as statutory exemptions contained in SEPA are not included in Ecology rules. Therefore, Ecology does not have a fiscal impact as a result of this section of the bill.

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: 1110 E 2S HB AMS HSG S2555.1	Title: Middle housing	Agency: 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
Account					
General Fund-State 001-1	0	40,848	40,848	70,342	70,342
Total \$	0	40,848	40,848	70,342	70,342

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/24/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 03/29/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 03/29/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/30/2023

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.

Section 2. Adds several definitions, including “administrative design review,” “cottage housing,” “courtyard apartments,” “major transit stop,” “middle housing,” “stacked flat,” and “townhouses.”

Section 3. Allows alternatives to the requirements that certain sized cities develop by ordinance and incorporate into their development regulations, zoning regulations, and other official controls, authorization for specific higher density zoning. (9) Nothing in this section requires a city to issue a building permit if other federal, state, and local requirements for a building permit are not met. (10) timelines are imposed for implementation of section 4. (11) Except in certain circumstances, the capital facilities plan element is not required to be updated to accommodate the increased housing and population capacity required by the act until the periodic comprehensive plan update on or after June 30, 2034. (12) Cities that adopt development regulations consistent with Section 3 of this act are considered to be in compliance with RCW 36.70A.070(2) (f) until June 30, 2032.

Section 4. As an alternative to the density requirements in Section 3, a city can implement the density requirements in that section for at least 75% of lots primarily dedicated to single family detached housing. The other 25% that are not implemented must include certain characteristics, such as risk of displacement, lack of infrastructure capacity, critical areas or buffers exempt from density requirements, etc. (3) Unless the 25% of lots are at higher risk of displacement, they may not include areas that would result in zoning with discriminatory effect or increased racially disparate impacts if excluded, areas within a half mile walking distance of a major transit stop, or areas with historic racially restrictive covenants or deeds.

Section 5. Allows 3 alternatives to the density requirements under the act. The alternatives allow the city to authorize development of a prescribed number of units on lots zoned primarily for residential use in various circumstances.

Section 6. Population associated with permits for middle housing units are exempt from the threshold of an Office of Financial Management (OFM) population projections to a county or county population allocation to a city.

Section 7. (1) Requires the Department of Commerce (Commerce) to provide technical assistance to local governments. (2) Commerce must publish a model ordinance. (3)(a) Commerce must establish a process for cities implementing the requirements of section 3 of this act to seek approval of alternative local action necessary to meet the requirements of this act. (b) Commerce may approve actions under this section for cities that have, by January 1, 2023, adopted a comprehensive plan that is substantially similar to the requirements of this act and have adopted permanent development regulations substantially similar to the act’s requirements. Criteria for determining “substantially similar” are provided. (c) Commerce may determine that a comprehensive plan and development regulations that do not meet these criteria are otherwise substantially similar to the requirements of this act if the cities can prove there would be a greater increase in middle housing production within single family zones. (d) Exempts any local actions approved by Commerce pursuant to (a) of this subsection to implement the requirements under section 3 of this act are exempt from appeals under this chapter and chapter 3543.21C RCW. However: (e) Commerce’s final decisions to approve or reject actions by cities implementing section 3 of this act may be appealed to the Growth Management Hearings Board (GMHB).

Section 8. Cities choosing the alternative density requirements may request an extension from Commerce for areas at risk of displacement.

Section 9. Adds a type of allegation that may be heard by the GMHB. Petitions may allege that Commerce’s final decision to approve or reject actions by a city implementing Section 3 of the act is clearly erroneous.

Section 10. Cities choosing the alternative density requirements may request an extension from Commerce of the timeline for implementation. Prohibits building permits for housing under Sections 3 or 4 without compliance with adequate water supply requirements of RCW 19.27.097.

Section 11. (2) Amendments to development regulations and other nonproject actions taken by a city to implement the requirements under section 3 of this act pursuant to section 7(3)(b) of this act are not subject to administrative or judicial appeals under this chapter.

Section 12. Amends the categorical exemptions for nonproject actions from SEPA to include amendments to development regulations to remove requirements for parking from development proposed to fill in an urban growth areas designated according to RCW 36.70.110.

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
Total \$			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-					
Total \$	0	40,848	40,848	70,342	70,342

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

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

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

None

Part V: New Rule Making Required

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

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1110 E 2S HB AMS HSG S2555.1	Title: 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, and for affordable housing. Cities would amend existing Growth Management Act (GMA) comprehensive plans elements to accommodate these new density requirements. In certain circumstances, extensions are provided for alternative compliance pathways.
- Counties:**
- Special Districts:**
- Specific jurisdictions only:** Cities that fully plan under the GMA with a population of 25,000 to 75,000 that are within a county that has a population less than 275,000. Any fully planning city with a population greater than 75,000, or any fully planning city within a contiguous urban growth area with the largest city that is in a county that has a population of more than 275,000.
- Variance occurs due to:**

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:** Ordinance adoption, accompanying transportation analysis costs, and updating zoning and outreach documents.
- Legislation provides local option:** Fully planning cities are able to choose between various ordinance options that allow for increased housing density in residential zones with escalating density near major transit stops. Cities are also able to apply for implementation extensions and alternative local action determination from the Department of Commerce. These cities may also conduct an empirical study for off-street parking requirements for middle housing near transit.
- Key variables cannot be estimated with certainty at this time:** Number of cities that would choose the alternative compliance pathways for the middle housing ordinance; 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, and the number cities that would implement the required ordinances by the specified deadline.

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		6,965,000	6,965,000	2,487,500	240,000
TOTAL \$		6,965,000	6,965,000	2,487,500	240,000
GRAND TOTAL \$					9,692,500

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: 03/30/2023
Leg. Committee Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/24/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/30/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 03/30/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

This fiscal note reflects language in E2S HB 1110 AMS HSG S2555.1, 2023 Legislative Session.

CHANGES FROM PRIOR VERSION OF BILL:

Cities can include accessory dwelling units to achieve the unit density of the Sec. 3(1) middle housing ordinance. Cities that implement the middle housing ordinance can only apply objective development and design standards, as well as administrative design review for middle housing. Clarifies the exemption to updates for certain comprehensive plan elements in cities that implement the middle housing ordinance in Sec. 3. Provisions related to community amenities in the prior bill are removed from this act. Modifies the alternative middle housing ordinance in Sec. 4 by amending the zoning buffer near major transit stops to one-quarter mile and removes areas within one-half mile of retail space with greater than 100,000 square feet from the list of areas that must allow the minimum density requirements. Amends the Department of Commerce's guidelines for approving substantially similar comprehensive plans and development regulations. Provides an exemption for certain areas of cities that have insufficient water supply capacity, using the most recent water system plans of these cities, which would be verified by the Department of Ecology.

SUMMARY OF CURRENT VERSION OF BILL:

For cities fully planning under the Growth Management Act (GMA) that meet the following population criteria, zoning and development regulations that increase residential density with escalating densities near major transit stops would be a requirement six months after the submission deadline of the city's next comprehensive plan:

A fully planning city with a population of at least 25,000 but less than 75,000 that is not within a contiguous urban growth area (UGA) with the largest city in a county with a population of more than 275,000 must include authorization for at least: two units per lot, four units per lot if at least one unit is affordable housing, and four units per lot within one-half mile walking distance of a major transit stop. A fully planning city with a population of at least 75,000, or any city located within a contiguous UGA with the largest city in a county with a population of more than 275,000, must include authorization for at least four units per lot, six units per lot if at least two of the units are affordable housing, and six units per lot within one-quarter mile walking distance of a major transit stop.

The middle housing ordinance may only apply objective development and design standards on the development of middle housing and may only apply administrative design review where an application is reviewed, approved, or denied by the planning director or the planning director's designee based solely on objective design and development standards. This process would not involve a public meeting or hearing unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. Cities impacted by this act may not require standards for middle housing that are more restrictive than those required for detached single-family residences. Unless otherwise required by state law, cities must apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences.

A city that meets the density and middle housing requirements in this act is not required to update its capital facilities plan to accommodate the increased housing and population capacity until its comprehensive plan update required on or after June 30, 2034. In addition, any city adopting development regulations to fully implement the density requirements in the bill would be considered in compliance with certain housing element requirements that require adequate provisions for existing and projected needs of all economic segments of the community, and with certain antidisplacement policies, until June 30, 2032.

This act provides four alternatives to the requirements of the middle housing ordinance in Sec. 3:

Sec. 3(3) If a city has adopted an affordable housing incentive program, then the minimum density requirements of the program and its terms govern the extent they vary from the density in the act.

Sec. 4 Cities subject to the minimum density requirements may choose to implement the requirements of Sec. 3 of this act

for at least 75% of lots in the city that are primarily dedicated to single, with specific lot exemption requirements for the remaining 25% of lots. A city choosing this option may file for an extension from implementing the middle housing ordinance in areas of the city that are at risk of displacement or that lack essential public services to support increased residential density.

Sec. 5 Cities with a population of less than 75,000 within a contiguous UGA with the largest city in a county with a population of more than 275,000 may authorize at least: three units per lot, four units per lot if at least one unit is affordable housing, and six units per lot within one-half mile walking distance of a major transit stop.

Sec. 7(3) Cities may apply to the Department of Commerce to determine if an adopted comprehensive plans and development regulations are substantially similar to requirements of this act.

This act is a null and void if funding is not appropriated by the legislature for the specific purposes of this act with the omnibus appropriations act by June 30, 2023.

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 amended engrossed second substitute bill clarifies the compliance exemptions for impacted cities that choose the Sec. 3 density requirements or alternative density requirements in Sec. 4 and Sec. 5. These changes may lead to a reduction in the costs to update the Housing element by allowing certain provisions of the element to be in compliance until 2034 through adoption of the middle housing ordinance in Sec. 3. The Capital Facilities Plan element update could be delayed until the next comprehensive update cycle starting in 2034 depending on if the density or alternative density requirement are selected. These updates would still have indeterminate costs but the expenses have been recalculated based on the clarifications provided in this act.

EXPENDITURE IMPACT OF CURRENT VERSION OF BILL:

SUMMARY:

This legislation would have determinate and indeterminate expenditure impacts for 79 cities that fully plan under the Growth Management Act (GMA).

According to the Association of Washington Cities (AWC), there are determinate costs to implement one of the middle housing ordinance options, transportation analysis associated with the selected ordinance, updating planning maps and outreach documents, as well as incorporating new State Environmental Policy Act categorical exemptions for infill development into local code. These actions would have expenses of approximately \$120,000 to \$132,500 per city depending on its population size, with an estimated cost of \$9.7 million between FY25 and FY28 (see calculations below). These determinate costs assume that the Sec. 3 ordinance and the alternative density ordinances in Sec. 4 and Sec. 5 have similar planning and implementation expenses for all impacted cities.

Additionally, there would be indeterminate costs for cities to update certain comprehensive plan elements to account for housing allocations and utility system demand to support the higher residential density proposed by this act. All applicable cities would be required to update their Housing element, while for some jurisdictions, conducting an update to their Capital Facilities Plan element could be delayed until the next periodic comprehensive update cycle beginning in 2034. The scope and scale of these updates would vary based on which density or alternative density requirements were selected. There are compliance pathways to certain provisions of the Housing element depending on the selected density ordinance, which may reduce the cost to update this element compared to the prior bill. Another compliance pathway available to cities is the option to file an implementation extension with the Department of Commerce, and this extension would require a city to account for capacity improvements to deficient infrastructure in a city's updated Capital Facilities Plan element. It is assumed that not all cities would take this extension.

The number of cities that would require a complex update to either of these elements, and the total number of cities that would update their Capital Facilities Plan to account for infrastructure deficiencies is currently unknown. The Local Government Fiscal Note Program assumes that all of the impacted cities would conduct a moderately complex element update to their Housing element, and half of the impacted cities would update their Capital Facilities Plan element with a similarly complex element update. In this scenario the indeterminate expenses of this proposed legislation would be approximately \$4.7 million between FY24 and FY27 (see calculations below).

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 unsafe for drivers, passengers, pedestrians, or bicyclists. Conducting an empirical parking study to determine if the limits to off-street parking would make on-street parking less safe for the public 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.

DISCUSSION:

Local Government Fiscal Note Program Assumptions:

Number of impacted cities:

For these estimates, the Local Government Fiscal Note program assumes that determination by Office of Financial Management (OFM) that a city reached the population threshold would occur on the effective date of the bill. Therefore, there are at least 79 cities impacted by this bill based on April 1, 2022 OFM population estimates.

Applicability for cities meeting the population and urban growth area (UGA) boundary criteria:

Sec. 3(1)(a) – 7 cities

Sec. 3(1)(b) – 72 cities

Middle housing density and alternative density requirement provisions:

This fiscal note assumes that all cities would implement the Sec. 3 ordinance or the alternative density requirements in Sec. 4 or Sec. 5. Cities can also comply with the requirements of this act through an affordable housing incentive program specified in Sec. 3(3) but the number of cities that this provision applies to is currently unknown. The number of cities that qualify under the approved local action provision in Sec. 7(3) is currently unknown.

Impact of Residential Density and Alternative Density Requirements in Section 3, 4, and 5:

\$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, Sec. 4, or Sec. 5 and create a new designation and use. It would also extend to any permitting process (site development plan review, variance, conditional use permits), environmental review, and zoning overlays. Cities impacted by this bill would have to determine which zones are impacted and which ones already comply. These cities would also need to authorize six of the nine configurations of middle housing to support the increased residential density established through Sec. 3(1) which also includes accessory dwelling units (ADUs) in satisfying the overall density increase. Sec. 3(5) specifies that the ordinances must apply objective development and design standards that are not as restrictive as those for single-family detached residences, administrative design review, and specific parking considerations for middle housing authorized in residential zones.

Costs to implement the provisions in Sec. 3, Sec. 4, and Sec. 5 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.

City expenditures to amend each portion of local code to conform to the requirements of this section may be similar to the grants awarded by Commerce in S HB 2343 (2020) where \$4 million in had been disbursed 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 planning and implementation of the ordinances to amend local code may begin in 2025 based on Sec. 3(10)(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, which could be used as a reference. 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. 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. 7(2)(b).

Estimated costs for cities by state fiscal year:

FY25: 57 cities x \$77,000 = \$4,389,000

FY26: 8 cities x \$77,000 = \$616,000

FY27: 12 cities x \$77,000 = \$924,000

FY28: 2 cities x \$77,000 = \$154,000

Total: 79 cities x \$77,000 = \$6,083,000

Some cities may not to bring their codes into conformance with the requirements of this legislation prior to the applicable deadline. In these jurisdictions, the model middle housing ordinance developed by Commerce would automatically apply and take effect. It is unclear if these cities 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 city 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 municipal 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 – According to AWC the middle housing ordinance would require an evaluation of the re-zone on existing transit networks for modified single-family zoning districts in impacted cities. Costs that can be estimated at this time approximate to \$3.0 million (see calculations below). Costs may be more extensive in jurisdictions with a greater number of single-family zones. According to the Victoria Transport Policy Institute, transportation evaluations consider a wide number of variables in the potential effects of a proposed rezone, including but not limited to: vehicle ownership, travel time, 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.

Costs estimates for transportation evaluations were calculated from the Association of Washington Cities 2020 Planning

Cost Survey from evaluations conducted to accompany a city's planned action. These survey results indicate that cities have expenses that range from \$35,000 to \$63,000. The estimates from this survey are applied to the cities impacted by this act based on their total population, with cities under 75,000 in population with estimated costs of \$35,000 and cities with populations greater than 75,000 in population with estimated costs of \$47,500 $((\$35,000 + \$63,000) / 2)$.

The planning and implementation of the transportation evaluation may begin in early 2025 based on Sec. 3(10)(a) and be complementary to the ordinances developed by the impacted cities. The timing of these evaluations would be staggered based on the periodic review and revisions schedule of a city's comprehensive plan as specified by RCW 36.70A.130.

Costs for cities by state fiscal year:

FY25: $(10 \text{ cities} \times \$47,500) + (47 \text{ cities} \times \$35,000) = \$2,120,000$

FY26: $(2 \text{ cities} \times \$47,500) + (6 \text{ cities} \times \$35,000) = \$305,000$

FY27: $(5 \text{ cities} \times \$47,500) + (7 \text{ cities} \times \$35,000) = \$482,500$

FY28: $2 \text{ cities} \times \$35,000 = \$70,000$

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, outreach materials, and planning maps would start at approximately \$5,000 per impacted city and the work would occur concurrently with the updated local code starting in FY25.

$79 \text{ cities} \times \$5,000 = \$395,000$

Costs for cities by state fiscal year:

FY25: $57 \text{ cities} \times \$5,000 = \$200,000$

FY26: $8 \text{ cities} \times \$5,000 = \$35,000$

FY27: $12 \text{ cities} \times \$5,000 = \$45,000$

FY28: $2 \text{ cities} \times \$5,000 = \$10,000$

Total: $79 \text{ cities} \times \$5,000 = \$395,000$

Updated GMA elements:

Indeterminate – Assuming all of the impacted cities conduct a moderately complex element update to their Housing element, and half of the impacted cities would update their Capital Facilities Plan element with a similarly complex element update, the indeterminate expenses would be approximately \$4.7 million between FY24 and FY27 (see calculations below).

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 cities' comprehensive plans. However, there are several compliance pathways to certain provisions of the Housing element depending on the density requirement selection which may reduce the overall costs of this update compared to the prior bill. There is also an exemption to update the Capital Facilities Plan element, except in circumstances where a city would file an implementation extension through Sec. 10(2) (a). If cities choose the Sec. 3 ordinance they would not be required to update their Capital Facilities Plan element until the next periodic update due on or after June 30, 2034. Certain cities that choose the Sec. 4 ordinance or the Sec. 5 ordinance and that choose to file an implementation extension in Sec. 10, would be required to complete an updated Capital Facilities Plan element indicating how infrastructure deficiencies would be adequately corrected.

Illustrative example of comprehensive plan element update costs:

These mandatory comprehensive plan element costs use an average of minor and complex GMA element update estimates from E2S HB 1099 (2022) and E2S 1181 (2023). Large cities are cities with greater than 100,000 in population which would have costs of approximately \$70,000 per element; medium size cities have populations between 10,000 and 100,000 in population and would have costs of \$39,000 per element, and small cities have less than 10,000 in population and would have costs of \$24,000 per element.

Two moderately complex element amendments:

Small sized cities: $\$24,000 \times 2 = \$48,000$

Medium sized cities: $\$39,000 \times 2 = \$78,000$

Large sized cities: $\$70,000 \times 2 = \$140,000$

16 small cities (with 50% of cities conducting both Housing and Capital Facilities Plan element updates)

8 cities x \$48,000 = \$384,000

8 cities x \$24,000 = \$192,000

53 medium cities (with 50% of cities conducting both Housing and Capital Facilities Plan element updates)

27 cities x \$78,000 = \$2,106,000

26 cities x \$39,000 = \$1,014,000

10 large cities (with 50% of cities conducting both Housing and Capital Facilities Plan element updates)

5 cities x \$140,000 = \$700,000

5 cities x \$70,000 = \$350,000

Illustrative total GMA element update costs: \$4,746,000

Illustrative city comprehensive plan element update costs by state fiscal year:

The figures below assume all cities with comprehensive plan submission deadlines in December 2024 through June 2027, update their Housing elements, and 50% of these cities update their Capital Facilities Plan elements, to account for increased residential density and increased capital facilities demand. For cities with comprehensive plans due in 2025 through 2027, these costs would be incurred two years in advance of the submission deadline and encompass two years' worth of expenditures per planning city. For cities with comprehensive plans due in 2024, these costs would be incurred between the effective date of this act and their submission deadline.

Illustrative city cost estimates by state fiscal year:

FY2024: \$1,854,000

FY2025: \$2,295,000

FY2026: \$519,000

FY2027: \$78,000

FY2028: \$0

FY2029: \$0

Total: \$4,746,000

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 or county 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 6

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 permitting and review costs for cities impacted by this legislation.

Impact of Section 7

Impacted cities with existing middle housing code and up-zoned residential designations:

Local Option - Cities impacted by this bill may apply for an approved alternative local action from the Department of Commerce (Commerce) through Sec. 7(3). This subsection establishes that to determine compliance, Commerce must consider 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% of the overall single-family density throughout the city in units allowed per lot.

The Association of Washington Cities' analyses of municipal code indicate that for cities impacted by Sec. 3(1)(a), five out of seven cities have up-zoned 75% of their residential single-family land use designations, and all of these cities allow middle housing in single-family zones. For cities impacted by Sec. 3(1)(b) 17 of the 72 cities have up-zoned 75% of their residential single-family land use designations and 59 allow middle housing in single-family zones.

Cities that apply for approved local alternative action may have reduced costs associated with this act if Commerce determines that these cities have implemented substantially similar planning and development regulations that would increase residential density throughout the UGA on 75% of lots zoned for residential use. The number of these cities that would qualify for alternative local action provisions of Sec. 7(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 one year after the effective date of this act, in June 2024.

Impact of Section 10

Ordinance implementation extension:

Local Option - Cities choosing the alternative density ordinance in Sec. 4 may file for extensions to implement the 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. 10 of this act authorizes Commerce to issue an implementation extension for the middle housing 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 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 12

Costs to amend existing categorical exemptions:

\$237,000 – Under this section, amending development regulations for parking requirements for infill development within a UGA would be categorically exempt from non-project under the State Environmental Policy Act (SEPA). There would be costs to incorporate the provisions of Sec. 12 into local code for the 79 cities that are impacted by this act. Many jurisdictions have adopted SEPA categorical exemptions by referencing the Washington Administrative Code and incorporating the provisions of this act to remove parking requirements from development regulations to facilitate 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 \$3,000 for a simple ordinance to \$9,500 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 \$3,000 per jurisdiction. There would be starting costs of approximately \$9,500 for each city and county that adopts the categorical exemption in a more substantive manner.

Starting costs for all impacted cities:

79 cities x \$3,000 = \$237,000

Illustrative example of costs for 50% of applicable cities adopting Sec. 12 with a complex ordinance and hearing:

39 cities x \$3,000 = \$117,000

40 cities x \$9,500 = \$380,000

Illustrative total: \$117,000 + \$380,000 = \$497,000

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 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.

All project actions for residential housing construction within a UGA would be categorically exempt from SEPA if the proposed development is consistent with the jurisdiction's comprehensive plan; the proposed development would not

exceed the density or intensity of use called for in the goals and policies of that applicable comprehensive plan; and the city or county's comprehensive plan was previously subjected to an EIS, or the city or county has an EIS that considers the proposed use or density and intensity of use in the area.

The cost to 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 changes to the amended engrossed second substitute version of this legislation do not change the prior revenue impact of this act.

REVENUE IMPACT OF CURRENT BILL:

The proposed engrossed second substitute legislation includes a null and void clause requiring 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 funding is not appropriated by the legislature by June 30, 2023, for the specific purposes of this act, there would be no impact associated with this legislation as the act would be null and void.

SOURCES:

Association of Washington Cities
Association of Washington Cities, City Planning Cost Survey (2020)
American Planning Association – Washington
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 E2S HB 1181 (2023)
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