

Multiple Agency Fiscal Note Summary

Bill Number: 1042 E S HB AMS HSG S2366.3	Title: Use of existing buildings
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Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Commerce	.4	92,308	92,308	92,308	.6	401,701	401,701	401,701	.4	117,084	117,084	117,084
Department of Enterprise Services	.5	163,600	163,600	163,600	.0	0	0	0	.0	0	0	0
Washington State University	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Total \$	0.9	255,908	255,908	255,908	0.6	401,701	401,701	401,701	0.4	117,084	117,084	117,084

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			2,035,200						
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Local Gov. Total			2,035,200						

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
Department of Enterprise Services	.0	0	0	.0	0	0	.0	0	0
Washington State University	.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

NONE

Prepared by: Cheri Keller, OFM	Phone: (360) 584-2207	Date Published: Final 4/ 3/2023
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Individual State Agency Fiscal Note

Bill Number: 1042 E S HB AM; HSG S2366.3	Title: Use of existing buildings	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	0.3	0.4	0.4	0.6	0.4
Account					
General Fund-State 001-1	41,468	50,840	92,308	401,701	117,084
Total \$	41,468	50,840	92,308	401,701	117,084

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: 03/23/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 03/30/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 03/30/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 04/03/2023

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.

Differences between 1042 ESHB AMS HSG S2366.3 (striking amendment) and ESHB 1042:

The striking amendment includes a new requirement for all cities submit reports to the Department of Commerce (department), and the department must compile and draft a legislative report by July 1, 2028 that compiles information provided by the cities regarding the implementation of new requirements under the bill (Section 2(4)).

Section 4 is added, amending the state environmental policy act (SEPA) in RCW 43.21C.250, which characterizes ordinances and regulations adopted in accordance with Sections 1 and 2 of the bill as categorically exempt under SEPA.

Summary of 1042 ESHB AMS HSG S2366.3:

Sections 1 and 2 amend RCW 35A.21 for code cities, and 35.21 RCW, respectively, requiring the same provisions for all cities.

- A city cannot restrict density if all new residential units are inside the existing building envelope in a zone that permit multifamily housing— except as needed for fire and life safety standards.
- A city cannot impose parking requirements for additional dwelling and living units within an existing building.
- A city cannot add permitting requirements or impose design standard requirements, setbacks, lot coverage, and floor area ratio requirements on the residential use of an existing building unless they are requirements generally applicable to all residential development within the zone.
- Exterior design or architectural requirements cannot be applied to the existing building unless necessary for health and safety standards for the interior use of the building.
- A city cannot prohibit a residential unit being added in any specific part of an existing building.
- A building cannot be required to meet the current energy code solely because of the addition of new dwelling units within the building.
- A city cannot deny a building permit application because of nonconformity with parking standards, height, setbacks, elevators, and modulations unless the city council makes a written finding that the nonconformity causes a significant detriment to the surround area or require a transportation concurrency study under the GMA or environmental review under SEPA.

Section 1 and 2 also require, by the next periodic comprehensive plan update required under RCW 36.70A.130, that each city must review the impact of subsection (2)(g) of this bill, and report the impact and any recommended changes to the department. The department must consolidate the information received from the cities into a single report to the legislature by July 1, 2028.

Section 3 adds a new section to RCW 19.27A directing the state building code council to adopt an exemption to the energy code. The exemption would apply when the only reason for bringing a building up to meet the energy code is the addition of a residential unit within the building. The exemption needs to be adopted into Chapter 19.27A RCW Energy Related Building Standards by January 1, 2024.

Section 4 amends the state environmental policy act in RCW 43.21C.250, which characterizes ordinances and regulations adopted in accordance with Section 1 and Section 2 of the bill as categorically exempt under SEPA.

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 additional statewide technical assistance will be required during the periodic update under RCW 36.70A.130 (FY25-FY28) for outreach to 281 cities for the reporting requirements under Sections 1(4) and 2(4).
- A consultant will be required in FY27-FY28 to assist the department with compiling reports, follow-up and additional outreach and drafting the report to the legislature, to include 281 submitted reports from cities, including consolidating recommendations into a single report to the legislature, required under Sections 1(4) and 2(4).
- Based on similar statewide projects for studies and data collection, a consultant and department staff to manage this project under Section 1(4) 2(4), for local reporting process, template, intake, follow-up, and drafting, will require partial FTE work with planning expertise and contracts coordination. This work will peak in FY27-FY28, with a due date for the final legislative report on July 1, 2028.
- The department anticipates technical amendments to administrative rules in Chapter 365-196 WAC in FY 25-26, completed within agency existing resources.

Sections 1 and 2:

0.3 FTE Commerce Specialist 3 (626 hours) in FY24-FY26; increasing to 0.5 FTE Commerce Specialist 3 (1,044 hours) in FY27-FY28, and reduced to 0.1 FTE (209 hours) in FY29; which will involve additional professional planner outreach and technical assistance for cities statewide, project development to assist with reporting requirements to commerce during the periodic update process, and overall project oversight. The staff increase in FY27-FY28 includes anticipated report and consultant work, compiling city reports received, consolidation of information and data and follow-up with cities to meet the reporting deadlines, and additional FY29 follow-up for the legislative report.

0.1 FTE Management Analyst 4 (209 hours) in FY27-FY28, including data and information compilation and consultant contract management work with preparing the legislative report, administrative support for the project during the report preparation and related support to the program.

Salaries and Benefits:

FY24: \$27,764

FY25-FY26: \$34,454 per fiscal year

FY27-FY28: \$69,415 per fiscal year

FY29: \$11,485

Professional Services Contract:

One professional service contract (1,000 hours) in FY26-FY27 for consultant work on the city reporting requirements statewide, including outreach, specific technical assistance on the subject matter, and assistance to the department for

consolidation and drafting of the legislative report. The department assumes a rate of \$250 per hour for the professional services contracts.

FY26-FY27: \$125,000 per fiscal year

Goods and Services:

FY24: \$2,395
 FY25-FY26: \$2,876 per fiscal year
 FY27-FY28: \$5,753 per fiscal year
 FY29: \$959

Travel:
 Additional statewide travel to cities for project outreach and support for the reporting requirements during the periodic update periodic from FY24-FY26. The department anticipates slightly more travel in FY27-FY28 to coincide with reporting preparation and any necessary technical assistance and follow-up needed with cities statewide.

FY24-FY26: \$2,175 per fiscal year
 FY27-FY28: \$2,855 per fiscal year

Intra-Agency Reimbursements:

FY24: \$9,134
 FY25-FY26: \$11,335 per fiscal year
 FY27-FY28: \$22,838 per fiscal year
 FY29: \$3,779

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

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Total Costs:

FY24: \$41,468
 FY25: \$50,840
 FY26: \$175,840
 FY27: \$225,861
 FY28: \$100,861
 FY29: \$16,223

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	41,468	50,840	92,308	401,701	117,084
Total \$			41,468	50,840	92,308	401,701	117,084

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.4	0.4	0.6	0.4
A-Salaries and Wages	20,514	25,355	45,869	76,494	59,591
B-Employee Benefits	7,250	9,099	16,349	27,375	21,309
C-Professional Service Contracts				250,000	
E-Goods and Other Services	2,395	2,876	5,271	8,629	6,712
G-Travel	2,175	2,175	4,350	5,030	2,855
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	9,134	11,335	20,469	34,173	26,617
9-					
Total \$	41,468	50,840	92,308	401,701	117,084

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Services	111,168	0.0	0.1	0.1	0.1	0.1
Commerce Specialist 3	82,056	0.3	0.3	0.3	0.4	0.3
Management Analyst 4	86,212				0.1	0.1
Total FTEs		0.3	0.4	0.4	0.6	0.4

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 department will revise its technical guidance to cities under WAC 365-196 as part of its annual administrative updates and with existing resources.

Individual State Agency Fiscal Note

Bill Number: 1042 E S HB AM; HSG S2366.3	Title: Use of existing buildings	Agency: 179-Department of Enterprise Services
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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	1.0	0.0	0.5	0.0	0.0
Account					
General Fund-State 001-1	163,600	0	163,600	0	0
Total \$	163,600	0	163,600	0	0

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/23/2023
Agency Preparation: Michael Diaz	Phone: (360) 407-8131	Date: 03/27/2023
Agency Approval: Ashley Howard	Phone: (360) 407-8159	Date: 03/27/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/27/2023

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.

Sections 1 adds a new section to RCW 35A.21 that requires cities to adopt requirements by July 1, 2024, for multifamily housing without imposing any additional design, parking, or setback requirements, and shall not require a building used for residential purposes to meet the current energy code solely because of the addition of new units within the building, unless more than 10 new dwelling units are created within the existing building. This has no fiscal impact to the Department of Enterprise Services (DES).

Section 2 adds a new section to RCW 35.21 that requires cities to adopt requirements by July 1, 2024, for multifamily housing without imposing any additional design, parking, or setback requirements, and shall not require a building used for residential purposes to meet the current energy code solely because of the addition of new units within the building, unless more than 10 new dwelling units are created within the existing building. This has no fiscal impact to DES.

Section 3 adds a new section to RCW 19.27A that requires the State Building Code Council (SBCC) to adopt rules by January 1, 2024, waiving the current energy code requirements for existing buildings used for residential purposes solely because of the addition of new dwelling units within the building, unless more than 10 new dwelling units are created within the existing building. This has fiscal impact to DES.

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.

Section 3 requires the State Building Code Council (SBCC) to adopt rules to waive current energy code requirements for residential purposes solely because of the addition of new dwelling units within the building. The current implementation date identified in HB 1042 would require off-cycle code adoption by SBCC. Off-cycle rulemaking requires additional Council and Technical Advisory Group (TAG) meetings, public hearings, and testimony.

The SBCC would need to meet for an additional four council meetings with eight council members, twenty-two advisory meetings with one member, two public hearings with one member, and four building, fire and plumbing committee meetings with seven members to establish these codes. Travel costs for an SBCC member to attend a meeting are as follows:

- Round-trip air travel \$527
- Per Diem \$311
- Rental car \$50
- Parking \$12
- Total \$900/day

Two Council Meetings multiplied by eight council members equals \$14,400. Three Advisory Meetings multiplied by one council member equals \$2,700. Two public hearings meetings multiplied by two council member equals \$3,600. One Committee Meeting multiplied by seven council members equals \$6,300. The total fiscal impact for travel costs for DES is estimated to be \$27,000.

Off-cycle rulemaking also impacts the administrative staff that supports the SBCC.

For purposes of this analysis, DES assumes that 1.0 Management Analyst 5 would be required for up to 12 months and the position would start July 1, 2023.

The impact to the administrative staff supporting the SBCC will be reevaluated at the end of the legislative session to determine the combined impact of legislation passed. A supplemental budget request to right-size the staffing levels might be needed for the 2024 session.

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	163,600	0	163,600	0	0
Total \$			163,600	0	163,600	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0		0.5		
A-Salaries and Wages	91,500		91,500		
B-Employee Benefits	31,100		31,100		
C-Professional Service Contracts					
E-Goods and Other Services	14,000		14,000		
G-Travel	27,000		27,000		
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	163,600	0	163,600	0	0

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Management Analyst 5	91,524	1.0		0.5		
Total FTEs		1.0		0.5		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

Bill Number: 1042 E S HB AM; HSG S2366.3	Title: Use of existing buildings	Agency: 365-Washington State University
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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: 03/23/2023
Agency Preparation: Anne-Lise Brooks	Phone: 509-335-8815	Date: 03/28/2023
Agency Approval: Chris Jones	Phone: 509-335-9682	Date: 03/28/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 03/31/2023

Part II: Narrative Explanation

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

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

ES HB 1042, as amended, prohibits cities from imposing certain restrictions or requirements on new housing units constructed within an existing building that is in a zone that permits multifamily housing.

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.

It is unknown at this time if and how code cities adjacent to Washington State University's (WSU) campuses may change their ordinances, regulations, or permitting as a result of the bill, and what effect this may have on WSU. For purposes of the fiscal note, WSU assumes the impact will be indeterminate and under \$50,000 to address any required changes to its capital planning or facilities operations.

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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1042 E S HB AM; HSG S2366.3	Title: Use of existing buildings
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

Cities: Code cities and cities would be required to pass new ordinances for increased residential density within existing buildings. These cities would be required to report about current energy code to the Department of Commerce with their next periodic comprehensive plan update.

Counties:

Special Districts:

Specific jurisdictions only: Code cities and cities.

Variance occurs due to:

Part II: Estimates

No fiscal impacts.

Expenditures represent one-time costs: Ordinance adoption costs. Energy code reporting costs to the Department of Commerce.

Legislation provides local option:

Key variables cannot be estimated with certainty at this time: Number of code cities and cities that would not pass the ordinance by required deadline; energy code reporting costs to the Department of Commerce.

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	2,035,200		2,035,200		
TOTAL \$	2,035,200		2,035,200		
GRAND TOTAL \$					2,035,200

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: 03/28/2023
Leg. Committee Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/23/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/28/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/28/2023

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 ES HB 1042 AMS HSG S2366.3, 2023 Legislative Session.

CHANGES FROM PRIOR VERSION OF BILL:

The amended engrossed substitute house bill would modify numerous provisions from the prior bill related to new dwelling units with existing buildings, including: a maximum 50% increase in the underlying density of a development in a multifamily zone, non-residential use parking requirements, exterior design and architectural requirements, and permitting requirements for use of existing emergency and transitional housing uses, among other changes. All cities would be required to report impacts and recommendations related to the need to meet current energy code requirements to the Department of Commerce by the city's next comprehensive plan update. Exempts adoption or amendment of ordinances, development regulations, zoning regulations, and other official controls necessary to comply with the act from the State Environmental Policy Act (SEPA).

SUMMARY OF CURRENT BILL:

This amended engrossed substitute house bill would prohibit cities from placing certain restrictions or requirements on existing buildings, which would provide for increased residential density in multifamily zones. These requirements include provisions for maximum density, existing non-residential parking spaces, exterior design and architecture, energy code, and permitting decisions in instances of non-conformity to building code. Cities would be authorized to impose permitting requirements on the use of existing emergency housing and transitional housing uses. Cities would be required to adopt these increased residential density provisions into their local code through ordinances, development and zoning regulations, or other official controls by July 1, 2024. Adopting or amending ordinances, development regulations, zoning regulations, and other official controls necessary to comply with the bill would be exempt from SEPA for non-project actions.

In cities that do not adopt the regulations allowing increased density within existing buildings, the local code is superseded, preempted, and invalidated by this act beginning July 1, 2024.

A city must report impacts and recommendations related to the need to meet current energy code requirements to the Department of Commerce by the city's next comprehensive plan update.

Sec. 1 would be a new section added to chapter 35A.21 RCW

By July 1, 2024, code cities must incorporate the following provisions into their development and zoning regulations, and other official controls:

--Limits the maximum increased density to 50% of the underlying multifamily zone if the new units are contained within the existing building.

--Cities may not impose parking requirements on units added to the building but may require retention of existing parking that is required under local law for non-residential uses.

--Cities may impose permitting requirements on the use of existing emergency and transitional housing uses.

--Cities cannot impose exterior design or architectural requirements unless the building is a designated landmark or within a city's historic district that has been established through a local preservation ordinance.

--Clarifies that in instances where ten new dwelling units are added to an existing building, these new units would be required to meet current energy code. Additions in existing buildings of fewer than ten units would not be required to meet current energy code.

--A city official with decision-making authority would be authorized to make written findings that nonconformity is causing a significant detriment to the surrounding area.

If any conflicting local development regulations are not amended to incorporate the provisions of this section by July 1, 2024, the local code is superseded, preempted, and invalidated by this act.

Code cities would be required to report the impact and any recommended changes to the provisions relating to the need to meet the current energy code requirements to Department of Commerce by the city's next comprehensive plan update.

Sec. 2 would be a new section added to chapter 35.21 RCW
New section with the same language as Sec. 1.

Sec. 4 would amend 43.21C.450 RCW
Exempts adoption or amendment of ordinances, development regulations, zoning regulations, and other official controls necessary to comply with the bill from the SEPA.

This bill would go into effect 90 days after adjournment of 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 IN EXPENDITURE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The amendments to the ordinance for cities and code cities required by this act does not change to expenditure impact of the prior bill. There are new reporting requirements for these cities that would accompany the completion of their next comprehensive plan. The cost of this reporting would be indeterminate, but likely minor, and vary by impacted city.

EXPENDITURE IMPACTS OF CURRENT BILL:

This amended engrossed substitute house bill would have determinate and indeterminate expenditure impacts by requiring 212 cities and code cities to adopt increased residential density within existing buildings into their local code through ordinances that modify development and zoning regulations, or other official controls.

For expenses that can be estimated at this time, there would be at least \$2.0 million in ordinance adoption for the 212 cities impacted by this bill to increased density within existing building envelopes in cities and code cities (see calculations below). These cities would adopt ordinances in FY24 to comply with the July 1, 2024 deadline established in Sec. 1(1) and Sec. 2(1). There would be an unknown number of cities that this bill applies to, which would not implement the amendments in this bill by the July 1, 2024 deadline. There would be indeterminate costs for cities or code cities that did not implement the ordinances established in this act by the applicable deadline.

There would be further indeterminate costs for cities and code cities to report the impact and any recommended changes needed to meet the current energy code requirements to Department of Commerce (Commerce) by the city's next comprehensive plan update. This reporting would occur from FY24 until FY27 to align with the Commerce report that is due July 1, 2028. The number of cities that would report cannot be known in advance, and the costs for those cities that do report would range from de minimis to more substantive depending on the impact and recommended changes of energy code for each city. For illustrative purposes, if 25% of impacted cities and code cities report in a substantive manner the costs may be approximately \$42,000 between FY24 and FY27 (see calculations below).

Adopting the Increased Residential Density within Existing Building Ordinances:

\$2,035,200 – For expenses that can be estimated at this time, the costs for cities and code cities to adopt ordinances for the increased residential density in existing buildings may exceed \$2.4 million (see calculations below). The guidelines within the ordinance cannot impose parking, permitting, design standards, or exterior or architectural standards that are more restrictive than those found in other developments within the multifamily zone, so long as health and safety requirements can be met. These requirements may be more prescriptive than existing local code in jurisdictions that allow development within a building envelope.

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

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

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

Costs for Amended Local Code for Increased Residential Density within Existing Building Ordinances:

212 cities x \$9,600 = \$2,035,200

Estimate Total: \$2,035,200

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 statute authorized in this act, there would be increased workload for city 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.

Energy Code Reporting Requirements for Cities:

Indeterminate - The number of cities that would report cannot be known in advance and the costs for those cities that do report would range from de minimis to more substantive depending on the impact and recommended energy code changes for each city.

For illustrative purposes, if 25% of impacted cities and code cities report in a substantive manner to complete the reporting of at least ten hours, the costs may be approximately \$42,000 between FY24 and FY27. The Association of Washington Cities 2022 Salary Survey indicates that city building officials have an average salary of \$50 per hour. If 25% of impacted cities (25% x 212 cities = 53 cities) report to Commerce in between FY24 and FY27, the following costs could be assumed.

Building official reporting costs: \$50 per hour x 1.58 benefits multiplier x 10 hours = \$790 per city x 53 cities = \$41,880

FY2024: \$10,470

FY2025: \$10,470

FY2026: \$10,470

FY2027: \$10,470

Total: \$41,880

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 IN REVENUE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The amendments to this act do not change the revenue impact of the prior bill.

REVENUE IMPACTS OF CURRENT BILL:

This legislation is not anticipated to impact local government revenue.

SOURCES:

Association of Washington Cities

Association of Washington Cities City Salary Survey (2022)

American Planning Association – Washington

Department of Commerce

Local Government Fiscal Note Program, FN HB 1337 (2023)

Local Government Fiscal Note Program, FN HB 1293 (2023)

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

Municipal Research and Services Center, Cities and Town Classification