
SUBSTITUTE SENATE BILL 6417

State of Washington

65th Legislature

2018 Regular Session

By Senate Local Government (originally sponsored by Senators Palumbo and Rivers)

1 AN ACT Relating to enabling Washington cities and counties to
2 encourage residential development around transit; amending RCW
3 82.02.060; adding a new section to chapter 36.22 RCW; and adding a
4 new chapter to Title 35 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
7 finds that:

8 (a) Local jurisdictions have the ability to utilize their zoning
9 authority to constrain the delivery of housing by limiting the scale
10 of development, especially in high-opportunity locations;

11 (b) This state is in a housing state of emergency. The department
12 of commerce's 2015 housing needs assessment found that there is a
13 housing supply gap of three hundred thirty-seven thousand nine
14 hundred seventy-four units for households earning zero to fifty
15 percent of area median income across the entire state of Washington.
16 The King county housing affordability task force found that there is
17 a total supply gap of one hundred fifty-six thousand units for 2017
18 above current growth. Their analysis went farther and found that the
19 county requires two hundred forty-four thousand new homes above
20 current growth projects to address countywide affordability by 2040;

1 (c) This housing shortage leads to housing unaffordability and
2 economic displacement, which disproportionally impacts low-income
3 households and historically disadvantaged communities, limits
4 economic growth and productivity, limits economic mobility, and
5 severely curtails the state's ability to meet its climate goals,
6 including carbon reduction; and

7 (d) More compact and efficient development within a one-half mile
8 distance around transit facilities have shown value in providing
9 affordable housing, reducing household spending, reducing greenhouse
10 gas emissions, enhancing walkability, reducing need for automobiles,
11 improving health outcomes, and strengthening local economies.

12 (2) The intent of the legislature is to create an opt-in pilot
13 program for Washington cities and counties to enable and encourage
14 compact and efficient development within a one-half mile distance
15 around transit facilities. This voluntary program which cities and
16 counties may choose to participate in offers the opportunity to
17 access financial resources in exchange for streamlined residential
18 project approval and reduced fees charged to specific housing
19 projects, in order to increase transit-oriented housing production.

20 NEW SECTION. **Sec. 2.** The definitions in this section apply
21 throughout this chapter unless the context clearly requires
22 otherwise.

23 (1) "Affordable unit" means:

24 (a) A rental unit restricted for thirty years to households
25 earning eighty percent or less of median family income; or

26 (b) A for-sale unit restricted for ninety-nine years to
27 households earning one hundred percent or less of median family
28 income.

29 (2) "Housing opportunity zone" means those parcels of land
30 designated as such pursuant to section 3 of this act.

31 (3) "Jurisdiction" means a county or a city within a county that
32 has a population greater than seven hundred thousand but less than
33 eight hundred thousand persons as of January 1, 2017.

34 NEW SECTION. **Sec. 3.** DESIGNATION OF HOUSING OPPORTUNITY ZONES.

35 (1) Any jurisdiction desiring to designate a housing opportunity zone
36 may submit an application to the department of commerce, together
37 with detailed maps describing the parcels of land to be included in
38 the zone.

1 (2) A housing opportunity zone created under subsection (1) of
2 this section must:

3 (a) Include only parcels of land that are intersected within one-
4 half linear mile of a transit service stop with fixed station
5 infrastructure, including heavy rail and Amtrak, commuter rail, light
6 rail, streetcars, and bus rapid transit; and

7 (b) Contain no less than ninety percent of the total land within
8 the one-half linear mile area described in (a) of this subsection.

9 (3) Prior to submitting an application under subsection (1) of
10 this section, the jurisdiction must provide for appropriate area wide
11 environmental mitigation by completing an area environmental impact
12 statement under RCW 43.21C.031 and WAC 197-11-164 for the area of the
13 proposed housing opportunity zone.

14 NEW SECTION. **Sec. 4.** ZONING OF HOUSING OPPORTUNITY ZONE. All
15 parcels that are within a designated housing opportunity zone are, in
16 addition to any other allowed uses, by right developable for
17 residential use.

18 NEW SECTION. **Sec. 5.** BUILDABLE HEIGHTS WITHIN HOUSING
19 OPPORTUNITY ZONE. (1) All cities and unincorporated areas with a
20 population greater than five hundred thousand must have at minimum
21 the following buildable heights within housing opportunity zones:

22 (a) Within one-half mile of each designated transit stop, two
23 hundred feet; and

24 (b) Within one-quarter mile of each designated transit stop, five
25 hundred fifty feet.

26 (2) All cities and unincorporated areas with a population less
27 than five hundred thousand but greater than two hundred thousand must
28 have at minimum the following buildable heights within housing
29 opportunity zones:

30 (a) Within one-half mile of each designated transit stop, one
31 hundred twenty-five feet; and

32 (b) Within one-quarter mile of each designated transit stop, two
33 hundred forty feet.

34 (3) All cities and unincorporated areas with a population of less
35 than two hundred thousand must have at minimum an eighty-five foot
36 buildable height within housing opportunity zone areas that are
37 within one-half mile of each designated transit stop.

1 (4) All parcels that are within a designated housing opportunity
2 zone are developable to the minimum buildable heights provided in
3 this section, without restriction on the number of units allowed, lot
4 coverage, or other restrictions that limit the developability of the
5 parcel except as provided in section 9 of this act.

6 NEW SECTION. **Sec. 6.** HOUSING OPPORTUNITY ZONE MULTIFAMILY TAX
7 EXEMPTION REQUIREMENT. (1) All residential developments within a
8 designated housing opportunity zone may participate in a city's or
9 county's multifamily tax exemption program, or similar program
10 authorized under chapter 84.14 RCW, even if outside of a designated
11 residential target area.

12 (2) If the jurisdiction designating a housing opportunity zone
13 does not have a multifamily tax exemption program, or similar program
14 authorized under chapter 84.14 RCW, the jurisdiction must authorize a
15 multifamily tax exemption program with:

- 16 (a) An eight-year tax abatement for residential development; and
17 (b) A twelve-year tax abatement for twenty percent of the total
18 housing units being affordable to moderate-income households earning
19 eighty percent of median income.

20 NEW SECTION. **Sec. 7.** IMPACT FEES, LINKAGE FEES, AND OTHER
21 CHARGES. (1) Impact fees. Development that conforms to this chapter
22 and is in a designated housing opportunity zone may not be charged
23 impact fees under chapter 82.02 RCW. The legislature finds that this
24 fee exemption is appropriate because transit-oriented development has
25 shown to have a reduced impact on public infrastructure in the long
26 run.

27 (2) State environmental policy act mitigation fees. Any state
28 environmental policy act mitigation fees as a result of the
29 environmental impact statement required under section 3(3) of this
30 act may not be charged to development within the housing opportunity
31 zone, but is instead funded pursuant to section 8(1)(c) of this act.

32 (3) Other charges. No other charges imposed by the state, a
33 county, a city, or another jurisdiction, beyond reasonable fees
34 related exclusively to the processing of a building permit, may be
35 assessed to development that conforms to this chapter and is in a
36 designated housing opportunity zone.

1 NEW SECTION. **Sec. 8.** REIMBURSEMENT OF FUNDS. (1)(a) Until
2 December 31, 2023, for impact fees, including impact fees for parks,
3 transportation, fire services, and other impact fees authorized under
4 chapter 82.02 RCW, waived within housing opportunity zones under
5 section 7(1) of this act, jurisdictions may request reimbursement for
6 funding lost by operation of section 7(1) of this act, at the impact
7 fee rate established on January 1, 2018. Jurisdictions must have
8 established fee rates and collection procedures on January 1, 2018,
9 to request reimbursement.

10 (b) Until December 31, 2023, school districts may request
11 reimbursement for funding lost by operation of section 7(1) of this
12 act, at the impact fee rate established on January 1, 2018. School
13 districts must have established fee rates and collection procedures
14 with local jurisdictions on January 1, 2018, to request
15 reimbursement.

16 (c) Jurisdictions may request reimbursement for environmental
17 impact statement costs, state environmental policy act mitigation
18 fees, and planning activities as required under section 3(2) of this
19 act.

20 (d) Jurisdictions may request funding in the amount of two
21 thousand dollars per unit developed under this chapter.

22 (2) Funding and reimbursements under this section are limited to
23 fifteen million dollars per fiscal year. Requests for funding or
24 reimbursement under this section must be submitted to the department
25 of commerce, to be paid from the services for transit-oriented
26 communities special account. If requests for funding and
27 reimbursement under this section exceed the balance of the account or
28 the limit imposed by this subsection, then the department of commerce
29 shall reduce the amount of funding and reimbursement paid in a manner
30 prescribed by rule.

31 NEW SECTION. **Sec. 9.** BUILDING STANDARDS. All development within
32 housing opportunity zones must conform to the codes described in RCW
33 19.27.031 (1) through (4), as most recently adopted pursuant to RCW
34 19.27.031.

35 NEW SECTION. **Sec. 10.** CHAPTER WILL CONTROL OVER CONFLICTING
36 LOCAL STATUTES AND REGULATIONS. This chapter controls over
37 conflicting local statutes and regulations.

1 NEW SECTION. **Sec. 11.** MAINTENANCE OF ZONES. The department of
2 commerce shall maintain maps of housing opportunity zones, and areas
3 eligible for designation as housing opportunity zones, and update
4 them annually.

5 NEW SECTION. **Sec. 12.** The services for transit-oriented
6 communities special account is created in the custody of the state
7 treasurer. The state's portion of the surcharge established in
8 section 14 of this act must be deposited in the account. Expenditures
9 from the account may only be used for section 8 of this act. Only the
10 director of the department of commerce or the director's designee may
11 authorize expenditures from the account. The account is subject to
12 allotment procedures under chapter 43.88 RCW, but an appropriation is
13 not required for expenditures.

14 NEW SECTION. **Sec. 13.** Beginning in the following calendar year
15 after the first designation of a housing opportunity zone, the
16 department of commerce by December 1st of each year must make an
17 annual report to the appropriate committees of the legislature, in
18 compliance with RCW 43.01.036, on the progress of designated housing
19 opportunity zones in the state.

20 NEW SECTION. **Sec. 14.** A new section is added to chapter 36.22
21 RCW to read as follows:

22 (1) In addition to the surcharges authorized in RCW 36.22.178 and
23 36.22.179, an additional surcharge in the amount determined under
24 subsection (2) of this section shall be charged by the county auditor
25 for each document recorded, which will be in addition to any other
26 charge allowed by law. The auditor shall retain two percent for
27 collection of the fee, and shall remit the remainder to the state to
28 be deposited into the services for transit-oriented communities
29 special account.

30 (2) The surcharge imposed by subsection (1) of this section must
31 be sufficient to provide fifteen million dollars of deposits to the
32 services for transit-oriented communities special account each fiscal
33 year. The office of financial management shall establish, and
34 periodically adjust, the surcharge at an amount no higher than
35 necessary to meet this requirement.

1 **Sec. 15.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to
2 read as follows:

3 The local ordinance by which impact fees are imposed:

4 (1) Shall include a schedule of impact fees which shall be
5 adopted for each type of development activity that is subject to
6 impact fees, specifying the amount of the impact fee to be imposed
7 for each type of system improvement. The schedule shall be based upon
8 a formula or other method of calculating such impact fees. In
9 determining proportionate share, the formula or other method of
10 calculating impact fees shall incorporate, among other things, the
11 following:

12 (a) The cost of public facilities necessitated by new
13 development;

14 (b) An adjustment to the cost of the public facilities for past
15 or future payments made or reasonably anticipated to be made by new
16 development to pay for particular system improvements in the form of
17 user fees, debt service payments, taxes, or other payments earmarked
18 for or proratable to the particular system improvement;

19 (c) The availability of other means of funding public facility
20 improvements;

21 (d) The cost of existing public facilities improvements; and

22 (e) The methods by which public facilities improvements were
23 financed;

24 (2) May provide an exemption for low-income housing, and other
25 development activities with broad public purposes, from these impact
26 fees, provided that the impact fees for such development activity
27 shall be paid from public funds other than impact fee accounts;

28 (3) May provide an exemption from impact fees for low-income
29 housing. Local governments that grant exemptions for low-income
30 housing under this subsection (3) may either: Grant a partial
31 exemption of not more than eighty percent of impact fees, in which
32 case there is no explicit requirement to pay the exempted portion of
33 the fee from public funds other than impact fee accounts; or provide
34 a full waiver, in which case the remaining percentage of the exempted
35 fee must be paid from public funds other than impact fee accounts. An
36 exemption for low-income housing granted under subsection (2) of this
37 section or this subsection (3) must be conditioned upon requiring the
38 developer to record a covenant that, except as provided otherwise by
39 this subsection, prohibits using the property for any purpose other
40 than for low-income housing. At a minimum, the covenant must address

1 price restrictions and household income limits for the low-income
2 housing, and that if the property is converted to a use other than
3 for low-income housing, the property owner must pay the applicable
4 impact fees in effect at the time of conversion. Covenants required
5 by this subsection must be recorded with the applicable county
6 auditor or recording officer. A local government granting an
7 exemption under subsection (2) of this section or this subsection (3)
8 for low-income housing may not collect revenue lost through granting
9 an exemption by increasing impact fees unrelated to the exemption. A
10 school district who receives school impact fees must approve any
11 exemption under subsection (2) of this section or this subsection
12 (3);

13 (4) Shall provide a credit for the value of any dedication of
14 land for, improvement to, or new construction of any system
15 improvements provided by the developer, to facilities that are
16 identified in the capital facilities plan and that are required by
17 the county, city, or town as a condition of approving the development
18 activity;

19 (5) Shall allow the county, city, or town imposing the impact
20 fees to adjust the standard impact fee at the time the fee is imposed
21 to consider unusual circumstances in specific cases to ensure that
22 impact fees are imposed fairly;

23 (6) Shall include a provision for calculating the amount of the
24 fee to be imposed on a particular development that permits
25 consideration of studies and data submitted by the developer to
26 adjust the amount of the fee;

27 (7) Shall establish one or more reasonable service areas within
28 which it shall calculate and impose impact fees for various land use
29 categories per unit of development; (~~and~~)

30 (8) May provide for the imposition of an impact fee for system
31 improvement costs previously incurred by a county, city, or town to
32 the extent that new growth and development will be served by the
33 previously constructed improvements provided such fee shall not be
34 imposed to make up for any system improvement deficiencies; and

35 (9) Shall provide for the exemptions required by section 7 of
36 this act.

37 For purposes of this section, "low-income housing" means housing
38 with a monthly housing expense, that is no greater than thirty
39 percent of eighty percent of the median family income adjusted for

1 family size, for the county where the project is located, as reported
2 by the United States department of housing and urban development.

3 NEW SECTION. **Sec. 16.** Sections 1 through 13 of this act
4 constitute a new chapter in Title 35 RCW.

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