

## Weekly Legislative Update: **Growth Management**

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**March 26, 2023**

Thank you to all who signed in PRO on SB 5412. Your voice matters! Several bills are pending action in executive sessions.

### **Action Needed**

One critical bill has had a public hearing but has not been scheduled for executive session. It addresses one of the League's highest priorities – climate change. Please use the Action Alert to ask the Senate Ways & Means Committee to move this bill out of Committee with a do pass recommendation.

**[HB 1181](#) Improving the state's response to climate change by updating the state's planning framework.** This bill passed out of the House on March 3 with a vote of 57-41. It had a public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on March 14 and passed out of committee and referred to the Senate Ways & Means Committee, where it had a public hearing on March 23. It has not been scheduled for executive session as of this writing.

**Please take action on [HB 1181](#) here.**

### **Bills that Passed the House of Origin**

**[HB 1110](#) Increasing middle housing in areas traditionally dedicated to single-family detached housing.** This bill passed the House as a second substitute with a vote of 75-21 on March 6. It has been referred to the Senate Housing Committee, where it had a public hearing on Friday, March 17. See notes at the end of this update regarding contents of this bill as it was passed by the House. It was amended in executive session on March 22 and has been referred to the Senate Ways & Means Committee but no public hearing has been scheduled yet in that committee.

**[HB 1167](#) Concerning residential housing regulations,** establishes a grant program to assist counties and cities adopt preapproved middle housing plans and prohibits a city or county from imposing any regulations, reviews, or standards on multiplex housing that is not applied to detached single family residences. This bill passed the House on March 4 with a vote of 95-0 had a public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on March 14. It passed that committee as a substitute in executive session on March 16 and was referred to the Senate Ways & Means Committee, where it had a public hearing on March 23. It has not been scheduled for executive session as of this writing.

**[HB 1245](#) Increasing housing options through lot splitting,** **HB 1245** passed the House with a vote of 94-2 and had a public hearing in the Senate Local Government, Land Use & Tribal Affairs

Committee on March 14. It had been scheduled for executive session on March 23 but has been rescheduled for March 28.

**HB 1425 Facilitating municipal annexations** would change the number of residents required for annexation in small communities passed the House with a vote of 96-0 on March 3. It has been scheduled for public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on March 21. At the executive session in that committee on March 23, it was passed and referred to the Senate Ways & Means Committee, but no public hearing has been scheduled in Ways & Means as of this writing.

**HB 1620 Concerning the number of inhabitants required for incorporation as a city or town** would remove the requirement that an area must have at least 3,000 inhabitants, instead of the otherwise standard 1,500, to incorporate if it is within 5 air miles of a city with a population of 15,000 or more. This bill passed the House and had a public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee, on March 9. It passed out of committee on March 17 and has been assigned to the Rules Committee.

**SB 5235 Concerning accessory dwelling units.** This passed the Senate on February 27 with a vote of 42-6 and had a public hearing in the House Housing Committee on March 13 and an executive session on March 16, but no action was taken. It has been rescheduled for executive hearing next week, March 27 and 28, so negotiations are underway.

**SB 5412 Reducing local governments' land use permitting workloads.** This bill passed the Senate on March 6 with a vote of 49-0 and has been assigned to the House Local Government Committee. Permitting has been described as one of the barriers to development of affordable housing. League has taken the position that no regulations related to safety or environmental protection should be removed, but that processes to expedite permitting should be enhanced. This bill had a public hearing on March 21 and executive action was taken on March 24, though the action taken has not been posted online as of this writing.

**SB 5466 Promoting transit-oriented development,** passed the Senate with a vote of 40 – 8 and has been referred to the House Housing Committee, where it had a public hearing on March 16. Amendments to the bill are being prepared for discussion at executive session, which is scheduled for next week, March 27 or 28.

## **Bills That Died**

**HB 1133 Establishing limitations on detached accessory dwelling units outside urban growth areas.** (*Recall that League is watching this, in case it is amended to allow more than nominal change in rural areas.*) This bill had a public hearing on January 19 and was passed out of the House Housing Committee as a substitute bill on January 26. It was in the House Rules Committee but died because it was not sent to the floor for a vote by the cutoff date. Its companion bill, SB 5357, also died.

**[HB 1351](#) Encouraging transit-oriented development through a prohibition on the imposition of minimum parking requirements.** This bill passed the House Local Government Committee on February 8 and was in the House Rules Committee but did not make it to the floor for a vote by the cutoff date. Its companion bill, SB 5456, died in committee.

**[HB 1401](#) Allowing cities and counties to create a simple, standardized housing permit process for affordable housing units in areas designated for housing.** This bill passed the House Housing Committee on February 2 and was referred to the Rules Committee but died because it was not sent to the floor for a vote by the cutoff date.

**[HB 1611](#) Local government permitting.** This bill passed the House Housing Committee on February 7 and has been referred to the Finance Committee but it did not pass out of that committee by the cut-off date.

**[HB 1723/ SB 5651](#) Concerning equity and environmental justice in the growth management act** would add environmental justice and equity as a goal in the Growth Management Act and as an element in local comprehensive plans. Both bills died because they were not passed out of the committees by the cut-off dates.

**[HB 1735](#) Adding net ecological gain as a voluntary element of comprehensive plans under the growth management act** passed the House Environment and Energy Committee on February 13 and was referred to the Appropriations Committee, but it died there because it did not pass by the cut-off date.

**[SB 5190](#) Increasing middle housing in areas traditionally dedicated to single-family detached housing** was passed from the Senate Local Government, Land Use & Tribal Affairs on January 12 and referred to the Senate Housing Committee, where it was moved out of committee as a substitute bill and has been referred to the Ways & Means Committee but was never scheduled for public hearing in that committee. So it died because it did not pass out of the policy committee by the cut-off date.

**[SB 5203](#) Improving the state's response to climate change by updating the state's planning framework.** This bill passed the Senate Local Government, Land Use and Tribal Affairs Committee as a substitute and has been referred to the Senate Ways & Means Committee but did not pass out of that committee by the fiscal cut-off date.

**[SB 5364](#) Increasing housing options through lot splitting,** passed the Senate Local Government, Land Use & Tribal Affairs Committee as a substitute and died in the Senate Rules Committee. Its companion bill, HB 1245, is described above.

**[SB 5357](#) Establishing limitations on detached accessory dwelling units outside urban growth areas.** This bill had a public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on January 26 was never scheduled for executive session, so it died.

**[SB 5456](#) Encouraging transit-oriented development through a prohibition on the imposition of minimum parking requirements.** SB 5456 had a public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee but no action was taken in executive session. It died because it did not pass out of the committee by the cut-off date.

## Description of HB 1110

This description pertains to the bill as it passed the House of Representatives. Additional amendments were made in the Senate Housing Committee but have not been posted online as of this writing.

**[HB 1110](#) Increasing middle housing in areas traditionally dedicated to single-family detached housing.** As Passed by House of Representatives, March 6, 2023, vote of 75-21

**Any city required to have a comp plan must provide as follows:**

- At six months, or after comp plan update, or 12 months after determination by OFM of eligibility (size), unless an exception is granted or alternative density requirements are met
  - Then in compliance until June 30, 2032
- Cities between 25,000 and 75,000 and not within a contiguous urban growth area (UGA) with a city of more than 275,000, must provide for development of:
  - At least 2 units per lot in all residential zones
  - At least 4 units per lot in all residential zones
    - Within ½ mile walking distance of a major transit stop; and
    - If at least one is affordable housing
- Cities with at least 75,000 or any city within a contiguous UGA with the largest city in a county of more than 275,000, must provide for development of:
  - At least 4 units per lot in all residential zones
  - At least 6 units per lot within ¼ mile walking distance of a major transit stop; and
  - At least 6 units per lot if at least two units are for affordable housing
- Exception is if city has enacted its own program under RCW 36.70A.540
- At least six of the nine types of middle housing must be allowed
- City must not allow lot line short subdivision where the number of lots created is equal to the unit density required by this bill
- Design standards for middle housing must be objective
  - May not be more restrictive than standards for single family detached units, including set-back and tree canopy and retention requirements
- Same development permit and environmental review processes as for single-family residences
- Off-street parking shall not be required as condition of development within one-half mile walking distance of a major transit stop or on lots for middle housing less than 6,000 square feet – except
  - If the city has an empirical study stating that the parking limits will be less safe
  - If the development area is within one mile of a commercial airport in WA with at least 9 million annual enplanements (Sea-Tac)
  - Lots designated with critical areas or buffers to a watershed for potable water
- A limit of two units may be imposed on residential lots of 2,000 square feet or less

- Nothing prohibits a city from permitting detached single-family residences
- Cities are not required to issue a building permit if other federal, state and local requirements are not met
- Any city that does not comply with adoption of ordinances, regulations, etc., by time frames in this bill will be subject to the model ordinance that Dept. of Commerce will develop.
  - Amendments to development regulations and other nonproject actions taken by a city to implement the requirements of this act are not subject to administrative or judicial appeals under this RCW 43.21C.495.

**“Major Transit Stop” modified from original bill and now reads:**

- (a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;
- (b) Commuter rail stops;
- (c) Stops on rail or fixed guideway systems, including transitways; or
- (d) Stops on bus rapid transit routes.

**“Affordable” requires:**

- Applicant must commit to renting or selling the required number of units as affordable housing
- And maintained as affordable for a term of at least 50 years
- Comply with all required affordability and income eligibility conditions adopted by the local government
- Applicant must record the 50-year deed restriction or covenant or deed restriction
- Units must be in sizes and number of bedrooms comparable to other units in the development and distributed throughout the development

**Alternative Density Option Added to GMA:**

- A city may implement the density requirements for at least 75 percent of lots in the city that are primarily dedicated to single-family detached housing units. Then the 25 percent of lots for which this is not implemented must include certified extension of timelines because of risk of displacement or lack of infrastructure capacity; or any...
  - Lots designated with critical areas or buffers; or
  - Areas subject to sea level rise, increased flooding, or geological hazards over the next 100 years;
- This may not include:
  - When racially disparate impacts would be increased or zoning would result in discriminatory effect
  - Areas within ½ mile walking distance of 100,000 square feet of retail space
  - Areas historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area.
- Cities under 75,000 within a contiguous UGA of largest city of more than 275,000 may authorize development of:
  - At least six units per lot in residential zoned areas within ½ mile walking distance of a major transit stop
  - At least four units per lot if at least one is affordable housing
- Population associated with permits for middle housing units are exempt from the threshold of an OFM population projection to a county or a county population allocation to a city.

- Cities may not approve building permits for housing without compliance with adequate water supply requirements in RCW 19.27.097.

**Department of Commerce Obligations:**

- Develop guidelines for city study of safety with off-street parking requirements
- Provide technical assistance to cities
- Publish model middle housing ordinances (within six months)
- Establish a process for cities to get approval of:
  - Alternative local actions allowed under this bill
  - comp plans similar to these requirements in place by January 2023
  - Regulations that result in overall increase of housing units in single-family zones that achieves at least 75% of the requirements of this bill
  - Regulations that allow middle housing throughout the city, not just in targeted locations
  - Density allowed near major transit stops and amenities
  - Projects that incorporated dedicated affordable housing
  - Specific areas where a city can demonstrate that water, sewer, stormwater, or fire protection services lack capacity to accommodate the density required
- Report to Legislature on projects identified in city capital facilities plans that are the basis for extensions
- Commerce decisions are subject to appeal to the GM Hearings Board

**Non-GMA RCWs affected or added:**

- New Section added to **Ch 64.34 RCW (Condominium Act)**: A declaration created after the effective date of this section and applicable to an area within a city subject to the middle housing requirements in section 3 of this act may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.
- Adds new Section to **Ch 64.32 RCW (Horizontal Property Regimes)**: A declaration created after the effective date of this section and applicable to an association of apartment owners located within an area of a city subject to the middle housing requirements in section 3 of this act may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.
- Adds new Section to **Ch 64.38 RCW (Homeowners' Associations)**: Governing documents of associations within cities subject to the middle housing requirements in section 3 of this act that are created after the effective date of this section may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.
- Amends **RCW 43.21C.495** to provide that probable significant adverse impacts on fish are not subject to administrative or judicial appeal.
- Adds new Sections to **Ch 64.90 RCW (Uniform Common Interest Ownership Act)**:
  - Declarations and governing documents of a common interest community within cities subject to the middle housing requirements in section 3 of this act that are created after the effective date of this section may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.
  - The department of commerce may establish by rule any standards or procedures necessary to implement this act.

**Funding:**

If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

The Fiscal Note estimates:

- Operating costs for Commerce, OFM & Env & Land Use Hearings Office: \$2,169,580 in FY 2023-25 and \$1.6 million in later FYs
- Operating costs for local governments: \$6.7 million in FY 2023-25; \$2.4 million in FY 2025-27; \$234 K in FY 2027-29
- No capital costs

## How You Can Be Involved

- Respond to Action Alerts in the legislative newsletter. These will primarily appear in the section of the newsletter related to growth management.
- Contact Cynthia Stewart, [cstewart@lwwwa.org](mailto:cstewart@lwwwa.org), to receive additional information.