

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1110 E 2S HB	<b>Title:</b> Middle housing
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## Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Local Gov. Total						

## Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Commerce	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
Environmental and Land Use Hearings Office	.1	40,848	40,848	40,848	.3	70,342	70,342	70,342	.3	70,342	70,342	70,342
<b>Total \$</b>	<b>6.7</b>	<b>2,366,552</b>	<b>2,366,552</b>	<b>2,366,552</b>	<b>6.1</b>	<b>1,764,360</b>	<b>1,764,360</b>	<b>1,764,360</b>	<b>6.1</b>	<b>1,771,560</b>	<b>1,771,560</b>	<b>1,771,560</b>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other			2,320,000			867,500			80,000
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			2,320,000			867,500			80,000

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
Office of Financial Management	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Gwen Stamey, OFM	<b>Phone:</b> (360) 790-1166	<b>Date Published:</b> Final 3/16/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1110 E 2S HB	<b>Title:</b> Middle housing	<b>Agency:</b> 103-Department of Commerce
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	6.6	6.6	6.6	5.8	5.8
<b>Account</b>					
General Fund-State 001-1	1,330,325	995,379	2,325,704	1,694,018	1,701,218
<b>Total \$</b>	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: 03/08/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 03/14/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 03/14/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 03/15/2023

## 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 2SHB 1110:

The engrossed second substitute bill would decrease the fiscal impact of the bill to the Department of Commerce (department):

- Section 2 modifies several definitions in the Growth Management Act (GMA), including the removal of the Clean Water Act impaired waterbody watershed critical area definition. The exemption of the bill's requirement to these water bodies is moved to section 3(7) as a more specific exemption rather than a new definition of a critical area.
- Section 3 modifies the density requirements depending on a city's size and proximity to larger cities and imposes new subdivision requirements for residential lots.
- Section 4 establishes an alternative to the density requirements in the bill by allowing cities to implement the density requirements in at least 75% of lots that are primarily dedicated to single-family detached housing if the remaining 25% of lots include certain types of land or meet other conditions.
- Section 5 establishes an alternative to the density requirements in Section 3 for cities with a population of less than 75,000 within a contiguous urban growth area (UGA) with the largest city in a county with a population of more than 275,000.
- Sections 8 and 10 condition the eligibility for implementation extensions due to displacement risk and infrastructure deficiencies on the jurisdiction choosing the new alternative of implementing the density requirements in at least 75% of single-family lots.

Summary of E2SHB 1110:

Section 2 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 with a population of at least 25,000 but less than 75,000 that are not within a contiguous UGA with the largest city in a county with a population of more than 275,000 and requirements for cities with a population of at least 75,000 or any city within a contiguous UGA with the largest city in a county with a population of more than 275,000.

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

Sections 3(4) requires a city to allow zero lot line short 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(10) 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 determinates that the city has reached a triggering population threshold.

Section 3(11) 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(12) 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 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 5 adds a new section to RCW 36.70A creating an alternative to the density requirements of section 3 for 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.

Section 7 adds a new section to RCW 36.70A directing the department to establish a process by which cities may seek approval of alternative local action that are substantially similar to the bill's requirements 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 8 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 10 (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 10(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 18 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 19 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 7 (approval of substantially similar local actions), section 8 (extension for anti-displacement implementation), and section 10 (extension for infrastructure deficiencies).
- The engrossed second substitute's removal of the new critical area definition, and addition of an impaired water body exemption, will remove the fiscal impact associated with the critical area definitional change in the second substitute and related rulemaking.
- 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 second substitute, specifically that the condition that eligible cities adopt the alternative density requirements will not add a new fiscal impact.
- 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 second substitute 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 second substitute.

- The department assumes that the provision in section 18, 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, 7, 8, and 10 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, 7, 8, and 10).
- 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 7 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 7.

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
<b>Total \$</b>			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-						
<b>Total \$</b>		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		
<b>Total FTEs</b>		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 1-8, 10, and 13 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 7 directs the department to develop a process for approval of substantially similar alternative local actions.
- Section 8 directs the department to develop a process for certifying extensions of implementation requirements based on anti-displacement analysis.
- Section 10 directs the department to establish by rule and standards or procedures necessary to implement extension requests based on infrastructure deficiencies.
- Section 18 authorizes the department to establish by rule any standards or procedures necessary to implement the act.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1110 E 2S HB	<b>Title:</b> Middle housing	<b>Agency:</b> 105-Office of Financial Management
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/08/2023
Agency Preparation: Keith Thunstedt	Phone: 360-810-1271	Date: 03/13/2023
Agency Approval: Jamie Langford	Phone: 360-902-0422	Date: 03/13/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/13/2023

## 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 engrossed second substitute version that effected OFM's fiscal impact assumptions from the previous version. Section 4 is now section 6.

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

Revised

<b>Bill Number:</b> 1110 E 2S HB	<b>Title:</b> Middle housing	<b>Agency:</b> 468-Environmental and Land Use Hearings Office
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.3	0.1	0.3	0.3
<b>Account</b>					
General Fund-State 001-1	0	40,848	40,848	70,342	70,342
<b>Total \$</b>	0	40,848	40,848	70,342	70,342

### Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/08/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 03/13/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 03/13/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/14/2023

## 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.*

Revised to include a description. No changes to anticipated impacts from previous version of this bill.

Amendments in this version include:

Section 2. Amends several definitions, including “administrative design review,” “cottage housing,” “courtyard apartments,” “critical areas,” “major transit stop,” and “townhouses.” Removes the definition of “community amenity” and adds a definition of “stacked flat.”

Section 3. Amends this section to allow 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. (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, racially disparate impacts or discriminatory effect, critical areas or buffers exempt from density requirements, etc.

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

Section 9. Changes the standard of the Department of Commerce in approving or rejecting actions by a city implementing Section 3 of the act. The standard is changed from “erroneous” to “clearly erroneous.”

Section 10. Cities choosing the alternative density requirements may request an extension from the Department of 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 12. Amends the categorical exemptions for nonproject actions from SEPA to include amendments to development regulations to align with comprehensive plans or shoreline master programs that were previously subject to environmental review, development regulations that provide increased environmental protection, and amendments to technical codes that align with building, energy, and electrical code minimum standards.

### 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 versions of this bill.

Fiscal Impact to GMHB: Yes

ELUHO estimates 6 GMHB petitions per year resulting from this bill. We assume that cities may challenge the approval or rejection of the Department of Commerce.

ELUHO assumes ELUHO’s work on these appeals begins in FY 25, following the planning other work needed by cities and counties in order to implement.

ELUHO estimates each appeal resulting from this bill will require approximately 60 hours of Hearing Examiner work to complete.

60 hours/appeal x 6 appeals = 360 Hearing Examiner hours per FY, ongoing.

Assume new Hearing Examiner FTE: The GMHB will need approximately 0.25 FTE for a Hearing Examiner with demonstrated knowledge in land use planning and law to assist with the new petitions. RCW 43.21B.005(2) authorizes the ELUHO director to appoint such Hearing Examiners to assist the GMHB. The Hearing Examiner FTE will not serve as a member of the Board, but will assist the board in its hearing function, make conclusions of law and findings of fact, and perform other legal duties to assist the Board.

A Hearing Examiner makes \$100,000 per year, plus related benefits estimated at \$32,021 per year, at current benefits rates. The agency needs a 0.25 FTE Hearing Examiner, so the salary would be \$100,000 x 0.25 FTE = \$25,000, per FY, ongoing. Related benefits would total \$8,005, per FY, ongoing.

Goods and services are estimated at \$1,817 per year, ongoing, and include communications, payroll processing, training, and other staff costs. Estimates include some travel at the low cost per diem rates totaling \$349 per year, ongoing. Also included is one time equipment costs for furniture and computers totaling \$5,557 in fiscal year 2025 (FY25).

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

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	40,848	40,848	70,342	70,342
<b>Total \$</b>			0	40,848	40,848	70,342	70,342



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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.3	0.1	0.3	0.3
A-Salaries and Wages		25,000	25,000	50,000	50,000
B-Employee Benefits		8,005	8,005	16,010	16,010
C-Professional Service Contracts					
E-Goods and Other Services		1,937	1,937	3,634	3,634
G-Travel		349	349	698	698
J-Capital Outlays		5,557	5,557		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	40,848	40,848	70,342	70,342

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

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

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

None

**Part V: New Rule Making Required**

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

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 1110 E 2S HB	<b>Title:</b> Middle housing
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**Part I: Jurisdiction**-Location, type or status of political subdivision defines range of fiscal impacts.

**Legislation Impacts:**

- Cities:** Cities that meet certain population criteria would be required to increase density in residential zones, near major transit stops, and for affordable housing. Cities would amend existing Growth Management Act (GMA) comprehensive plans to accommodate these new density requirements in certain circumstances and extensions are provided for alternative compliance pathways.
- Counties:**
- Special Districts:**
- Specific jurisdictions only:** Cities that are fully planning under the GMA with a population of 25,000 or more, and any city within a contiguous urban growth area with the largest city 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 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. They 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.

**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		2,320,000	2,320,000	867,500	80,000
<b>TOTAL \$</b>		2,320,000	2,320,000	867,500	80,000
<b>GRAND TOTAL \$</b>					<b>3,267,500</b>

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

### **Part III: Preparation and Approval**

Fiscal Note Analyst: Jordan Laramie	Phone: 360-725-5044	Date: 03/16/2023
Leg. Committee Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 03/08/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/16/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 03/16/2023

## **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, 2023 Legislative Session.

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

The engrossed second substitute amends the applicability provisions of Sec. 3(1), increasing the number of cities that are required to adopt middle housing ordinance at the higher base density. This bill also provides four alternatives for the density requirements in the middle housing ordinance in Sec. 3(3) Sec. 4, Sec. 5, and Sec. 7(3). Sec. 3(11) and 3(12) may allow for delayed updates for a city's capital facilities plan element due to increased residential density and housing capacity, depending on which middle housing density provisions a city chooses to adopt.

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

For cities fully planning under the Growth Management Act (GMA) that meet the following population criteria, middle housing ordinances that increase residential density and population capacity with escalating densities near major transit stops would be a requirement six months after the submission deadlines of their 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 density requirements do not apply to lots designated with critical areas or their buffers or to a watershed serving a reservoir for potable water if that watershed is listed as impaired or threatened under the federal Clean Water Act. A city may not approve a building permit if other federal, state, and local requirements for a building permit are not met, including compliance with the adequate water supply requirements in the State Building Code

The middle housing ordinance may only adopt 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 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. 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.

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.

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 proposed engrossed second substitute legislation amends the applicability provisions of Sec. 3(1), increasing the number of cities that are required to adopt middle housing ordinances at a higher base density compared to the prior bill. However, the alternative compliance pathways to the middle housing ordinance in this legislation increase the discretionary capacity of cities to implement these ordinances. The overall number of cities that are required to adopt these ordinances remains the same at 79 cities, although Bainbridge Island is exempted through the provision in Sec. 3(7) for impaired or threatened watersheds serving a reservoir for potable water, and Port Orchard is included because of the amended county population threshold.

The number of middle housing ordinance alternatives in this bill creates a variety of indeterminate factors with costs that would vary depending on whether a city chooses the middle housing ordinance in Sec. 3 or one of the other options. It may be more preferable for cities to implement an affordable housing incentive program in Sec. 3(3) or adopt the 75% lot requirements in Sec. 4. For the 55 cities with populations under 75,000 impacted by Sec. 3(1)(b), it may be preferred to adopt the alternative ordinance in Sec. 5, as it is a lower base density. The number of jurisdictions that would choose one option over another, cannot be known in advance.

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

This legislation would have determinate and indeterminate impact on cities that fully plan under the Growth Management Act (GMA). Population estimates from Office of Financial Management (OFM) indicate that there are 79 cities meeting the population thresholds in Sec. 3(1) that require them to incorporate increased density and middle housing in residential zones, with escalating density near major transit stops, into their local code.

For determinate expenses that can be estimated at this time, the ordinances required by this act would have costs related to transportation analysis and updating zoning documents, which would be approximately \$3.4 million from FY25 and FY28. The Association of Washington Cities (AWC) identified these as necessary costs for every city that would be incurred irrespective of the Sec. 3(1) ordinance or alternative compliance pathways that these cities choose to adopt.

For indeterminate expenses that can be estimated at this time, the provisions in this bill would have costs exceeding \$6.1 million if every impacted city chose to implement the ordinance specified by Sec. 3(1). The timing of these costs would occur six months after the submission deadline of cities' periodic comprehensive update, between FY25 and FY28. However, this act has numerous alternatives to meant to increased density in the affected cities. Depending on the choice a city makes it could increase or decrease the ordinance adoption costs associated with this act.

There would be further indeterminate costs for cities to update certain comprehensive plan elements to account for housing allocations and utility system demand to support higher residential density. These element amendments would include, at minimum, the Housing and Capital Facilities Plan elements. The timing of these updates may occur from FY25 to FY29 depending on if the city chooses the Sec. 3(1) ordinance, if a timeline extension is pursued by the city, or if one of the alternatives is selected.

For example, cities implementing the ordinances specified in Sec 3 and Sec. 4 would not be required to update their Capital Facilities Plan elements until their next periodic comprehensive update, on or after June 30, 2034. But cities choosing to file an implementation timeline extension with the Department of Commerce would be required to complete an updated Capital Facilities Plan element as part of the extension determination. If a city chooses to adopt the Sec. 5 ordinance that city also have to update their Capital Facilities Plan element to account for increased density and population capacity.

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 unsafe for drivers, passengers, pedestrians, or bicyclists. Conducting an empirical parking study to determine if the limits to off-street parking would be a local option for cities that are required to implement the middle housing ordinance. There would be no cost for cities that took no action.

#### LOCAL GOVERNMENT FISCAL NOTE PROGRAM ASSUMPTIONS:

##### Number of Impacted Cities

The provisions of Sec. 3(1) and 3(10) indicate the cities that must adopt the increased density and middle housing near transit requirements of Sec. 3(1). For these estimates, the Local Government Fiscal Note program assumes that the determination by 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 2022 OFM intercensal 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

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

Cities impacted by this bill may apply for an approved alternative local action from the Department of Commerce (Commerce) through Sec. 7(3). This subsection establishes that to determine compliance, Commerce must view comprehensive plans and permanent regulations that authorize an overall increase in density throughout the city, in units allowed per single family lot, which is at least 75% 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 of the impacted 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.

This fiscal note assumes that all cities would be required to implement the Sec. 3(1) ordinance or one of the alternative compliance pathways in Sec. 3(3), Sec. 4, or Sec. 5.

#### IMPACT OF SECTION 3(1), 3(4), and 3(5)

Indeterminate – 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. However, the number of affected fully planning cities that would choose to adopt this middle housing ordinance over the ordinances in Sec. 4 and Sec. 5 cannot be known in advance.

This work would involve modifying existing local zoning designation and residential use for any residential lot that applies to Sec. 3(1) and create a new designation and use. It would also extend to any permitting process (site development plan review, variance, conditional use permits), environmental review, and zoning overlays. Sec. 3(4) would authorize six of the nine configurations of middle housing to support the increased residential density established through Sec. 3(1). Sec. 3(5) specifies that the ordinances must apply objective development and design standards, administrative design review, and design standards that are not as restrictive as those for single-family detached residences, and specific parking considerations for middle housing authorized in residential zones. Cities impacted by this bill would have to determine which zones are impacted and which ones already comply. According to AWC amending existing code generally carry higher costs than implementing new code.

Costs for provisions in Sec. 3(1), 3(4), and 3(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.

Costs to amend each portion of local code to conform to the requirements of this section may be similar to the grant averages provided by Commerce in S HB 2343 (2020) where \$4 million in had been awarded to 52 fully planning cities with populations over 20,000 to increase residential building capacity under RCW 36.70A.600. The average grant award was \$77,000 per city. The implementation of the ordinances to amend local code may begin in 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. The timing of adopting increased density into local code would vary based on periodic review and revisions schedule of a city’s comprehensive plan as specified by RCW 36.70A.130. It may also depend on the planning capacity of cities required to adopt such ordinances, their existing work to develop middle housing ordinances, and the whether a city has developed substantially similar development regulations per Sec. 5(3)(b). When the updates to local code are required, but not yet adopted, the model ordinance developed by Commerce would supersede, preempt, and invalidate local code per Sec. 5(2)(b).

#### Illustrative Example of Costs:

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

Sec. 3(1)(a) – 7 cities x \$77,000 = \$539,000

Sec. 3(1)(b) – 72 cities x \$77,000 = \$5,544,000

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

FY25	\$4,389,000
FY26	\$616,000
FY27	\$924,000
FY28	\$154,000
Total:	\$6,083,000

Some jurisdictions may elect not to bring their codes into conformance with the requirements of this legislation prior to the applicable deadline. In these jurisdictions, the model middle housing ordinance developed by the Department of Commerce would automatically apply and take effect. It is unclear if these jurisdictions would incur any legal costs based upon codes that do not conform to the required code measures. Such costs cannot be anticipated in advance and are indeterminate.

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

Transportation Evaluations:

\$2,977,500 - Costs that can be estimated at this time approximate to \$3.0 million (see calculations below). This bill would also impact the transit evaluation of modified single-family zoning districts in impacted cities. Costs would be more extensive in jurisdictions with a greater number of single-family zones. Costs estimates for transportation evaluations conducted during jurisdiction’s planned actions in Association of Washington Cities 2020 Planning Cost Survey indicate that city costs have a range of \$35,000 to \$63,000. This work would occur concurrently with the updated local code starting in FY25.

According to the Victoria Transport Policy Institute, transportation evaluations consider a wide number of variables in the potential effect of a proposed rezone, including but not limited to: vehicle ownership, vehicle operation, travel time, potential traffic collision impacts, health impacts, parking considerations, congestion impacts, road facilities capacity, land value, traffic services, transport diversity, air pollution, greenhouse gas emissions, noise pollution, land use impacts, water pollution, and waste generation.

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

Sec. 3(1)(a) - 7 Cities x \$35,000 = \$245,000

Population of 75k or within a UGA within a county with 275k in population – 72 cities = \$2,732,500

Sec. 3(1)(b) - 17 cities with greater than 75k in population – 17 x \$47,500 = \$807,500

Sec. 3(1)(b) - 55 cities within a contiguous UGA within a county with 275k in population – 55 x \$35,000 = \$1,925,000

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

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

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

\$395,000 - This bill impacts all single-family zoned lots and their use designations as well as the cities’ zoning maps. These



documents would need to be amended to reflect the changes this legislation proposes, which would take staff time or hiring a consultant to perform the work. AWC estimate that the costs for updating zoning documents and planning maps would start at approximately \$5,000 per impacted jurisdiction. This work would occur concurrently with the updated local code starting in FY25.

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

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

Amended Mandatory GMA Elements:

Indeterminate - Due to the changes this bill makes to increased density in portions of impacted cities, there would be impacts that have to be accounted for through updates to mandatory elements of city's comprehensive plans. However, 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. 5 ordinance or the Sec. 4 ordinance and that choose to file an implementation extension in Sec. 10, would be required to complete an updated Capital Facilities Plan element.

AWC assume that these element updates would be complex and may extend to the Housing and Capital Facilities Plans elements, at minimum. These amended elements may have costs that exceed \$8,356,900 if all impacted jurisdiction selected the Sec. 3 ordinance. An example of how this bill would impact a fully planning city is the City of Mukilteo, which would be required to up-zone its entire historic district. The city assumes that it would then have to update its Housing and Land Use elements since the growth it had planned for in the other portions of the city would be moved to the other side of town. The city indicated that existing planning for utilities and transportation were more difficult in this area due to geography, which may also need to be address through updates.

Illustrative Example of Comprehensive Plan Element Update Costs:

These mandatory comprehensive plan element costs use estimates for complex element updates from E2S HB 1099 (2022). Large cities are cities with greater than 100,000 in population, while medium size cities have populations between 10,000 and 100,000 in population, and small cities have less than 10,000 in population.

Two complex element amendments:

Small sized cities:  $\$32,475 \times 2 = \$64,950$   
Medium sized cities:  $\$54,125 \times 2 = \$108,250$   
Large sized cities:  $\$108,250 \times 2 = \$216,500$

16 small cities  
 $16 \times \$64,950 = \$1,039,200$

53 medium cities  
 $53 \times \$108,250 = \$5,737,250$

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

Total mandatory element update costs: \$8,941,450

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

Based on the periodic update schedule in RCW 36.70A.130, the cities that would have to update their comprehensive plans to account for the increased density provisions of this act into their local code may have the following costs on a state fiscal year basis. The cost distributions are estimated based assessments by AWC and the Department of Commerce, where work on GMA comprehensive plans periodic updates usually begins two years prior to the submission deadline. For example, jurisdictions with comprehensive plans due June 30, 2025, may start on or before June 30, 2023.

Local Government Fiscal Note assumptions:

For cities with comprehensive plan review and revision submission deadlines in 2025 through 2027, the figures below assume all cities revise and review their comprehensive plans to account for increased residential density two years in advance of the submission deadline and encompass two years' worth of expenditures per planning city. For jurisdictions with comprehensive plan implementation progress reports due in 2029 specified by RCW 36.70A.130(9), these jurisdictions may begin work to update their comprehensive plan element updates two years in advance of the due date of the progress report, starting in FY28. The jurisdictions under 6,000 in population that are not required to conduct an implementation progress report are excluded from the totals below. These cities may update their comprehensive plans during the next periodic review cycle in 2034.

Illustrative cost estimates:

FY2024: \$487,125

FY2025: \$1,223,225

FY2026: \$844,350

FY2027: \$108,250

FY2028: \$2,846,975

FY2029: \$2,846,975

Total: \$8,356,900

#### IMPACT OF SECTION 3(2)

Recording Affordable Housing Terms in Deeds or Covenants

No Impact –The Washington State Association of County Auditors indicate that auditors are already conducting this work and there would not be an increase in workload.

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

Conducting an Empirical Parking Analysis Study:

Local Option – Cities may be exempt from the parking provisions if the city 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 4

Indeterminate – Cities may choose to adopt an alternative compliance pathway to the Sec. 3 ordinance by adopting the Sec. 3 ordinance for at least 75% of lots in the city that are primarily dedicated to single-family detached housing. There would be specific requirements for the remaining 25% percent of lots zoned for residential use. The number of cities that would choose this option over the others is currently unknown. This section may have costs similar to those to enact the Sec. 3 ordinance and would vary by jurisdiction.

## IMPACT OF SECTION 5

Indeterminate – Cities with populations under 75,000 that are impacted by Sec. 3(1)(b) may choose to adopt an alternative compliance pathway to the Sec. 3 ordinance by adopting the ordinance in Sec. 5. The number of cities that would choose this option over the others is currently unknown. This section may have costs similar to those to enact the Sec. 3 ordinance and would vary by jurisdiction.

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

## IMPACTS OF SECTION 12

Costs to Amend Existing Categorical Exemptions:

Indeterminate – 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 \$2,958 for a simple ordinance to \$9,492 for a complex ordinance. These estimates include costs for draft ordinances, advisory commission meeting and recommendation, finalized ordinance, publication of ordinance, and general public information. For jurisdictions that chooses to adopt the categorical exemption in this act by reference there would be costs starting at \$2,958 per jurisdiction. There would be starting costs of

at least \$9,492 for each city and county that adopts the categorical exemption in a more substantive manner.

#### Costs to Adopt New Categorical Exemptions:

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

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

Local Option - The number of jurisdictions that lack a SEPA infill development categorical exemption is unknown, but in these jurisdictions, a supplemental Environmental Impact Statement (EIS) may be a requirement to implement this section. Estimates from the Association of Washington Cities' City Planning Cost Survey (2020) indicate that the cost of an EIS to be approximately \$100,000 per city that chooses to undergo the infill development within their municipality. These costs include EIS alternative analysis and preferred alternative selection, and increasing the SEPA exemption threshold for residential and mixed use development within the UGA as it pertained to a planned action under RCW 43.21C.440.

There may be instances where cities determine that their EIS is insufficient or needs refinements; especially if such refinements 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 amendments to the engrossed second substitute version of this legislation does 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  
City of Mukilteo  
Department of Commerce, FN S HB 2343 (2020)  
Department of Ecology, SEPA Handbook (2018)  
House Local Government Committee Testimony (12/02/2022)  
Local Government Fiscal Note Program, FN E2S HB 1099 (2022)  
Local Government Fiscal Note Program, FN S HB 1782 (2022)  
Local Government Fiscal Note Program, FN HB 1245 (2023)  
Local Government Fiscal Note Program, Unit Cost Model (2022)  
MRSC, Missing Middle Housing  
Victoria Transport Policy Institute, Transportation Cost Analysis  
Washington State Association of County Auditors