



American Planning Association  
**Washington Chapter**

*Making Great Communities Happen*

March 5, 2019

Representative Fitzgibbon

The Washington State Chapter of the American Planning Association (APA Washington) respectfully submits comments regarding **Second Substitute House Bill 1923**, which expands housing choices and addresses planning for housing.

APA Washington is a 1,400 member association of public and private sector professional planners, planning commissioners and elected officials, among others. We work every day to implement the state's growth management and planning framework and hope that our input can help improve it.

When our members were surveyed about priorities for this year's [APA-WA 2019 Legislative Agenda](#), addressing the state's housing challenges was the #1 response. The issue is not limited to Washington either – the American Planning Association has launched a nationwide initiative called [Planning Home](#) to help reshape the way planning is used to address America's broad and worsening housing affordability crisis. Locally, the Washington Chapter endorsed the [Housing Affordability Response Team's 2017 Recommendations](#) as a set of balanced, achievable, and collaboratively-developed set of legislative and budgetary action items that will make progress towards one of the state's biggest challenges.

We have been following a number of housing bills this session and understand that this bill is likely the vehicle for state legislation this year to address the shortage of housing and housing choices in most communities in Washington. We broadly support the thrust of the bill in its latest form, but have a few technical comments and policy recommendations that could improve it even further.

We are open to discussion and would be happy to provide additional information. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rick Sepler', written over a horizontal line.

Rick Sepler, AICP  
President, Washington Chapter of the American Planning Association

The following comments reference page and line numbers from the [second substitute bill](#) posted on the legislative website as of March 1, which as we understand it is the version that passed out of House Appropriations committee on February 27.

Location	Notes	Recommendation
P. 2 Line 14-15	There may not be much gain in housing options from this provision, since most jurisdictions already allow <u>attached</u> ADUs (with a range of conditions that can limit how many can actually be built) but not a many yet allow detached ADUs.	Suggest adding “attached and detached” after “Authorize”.
P. 2 Line 17-19	While RCW 43.21C.420 covers a similar tool (advanced programmatic environmental review), our understanding is that the term “planned action” commonly refers to the provisions of RCW 43.21C.440.	Confirm the appropriate terminology with state agency staff.
P. 2 Lines 1-3	<p>The provision requiring 10% of the “new housing capacity directed by this act” to be affordable may be difficult to implement for certain types of new housing capacity, particularly single units or smaller developments. Item (l), for example (p. 2, lines 34-35), would newly authorize duplexes on corner lots, a type of small infill project that would be very difficult to implement inclusionary zoning on.</p> <p>One way to interpret the 10% affordability, then, would be to first calculate the new capacity within a city from implementing the Act and then developing an inclusionary program that would exempt ADUs, duplexes, triplexes, etc., and then result in bigger developments having to provide more than 10% affordable (to meet the jurisdiction’s total new capacity).</p>	<p>APA supports inclusionary growth to ensure fair opportunities to access affordable housing and economic prosperity while addressing the negative effects of gentrification. Fair share increases opportunity such as access to jobs, education, cultural opportunities, and the best mobility options.</p> <p>Implementation of the inclusionary zoning provision in this bill could be simplified by clarifying how it should connect to new capacity directed by this act, such as directing the program to apply to a percentage of development only for projects above a minimum size.</p> <p>APA would also support broadening the requirement to implement inclusionary zoning to more than just the subset of jurisdictions that chose the menu item.</p>
Section 2 (pages 4-5)	<p>The housing planning requirements in section 2 would go a long way towards addressing housing challenges in every jurisdiction that implemented them. They would serve to improve local jurisdictions’ understanding of housing needs and challenges, would require action steps to address those needs, and would require accountability via a look back at how well the previous plan was implemented.</p> <p>This work takes resources, which could be mitigated by state funding, but also creates lasting value (and tax revenue) in communities and addresses a tragedy of the commons-type problem where everyone wants housing choices regionally but would rather a different neighborhood or jurisdiction do the work.</p>	<p>APA supports modernizing the state’s planning framework to require binding comprehensive plans that both understand current and future housing trends and actively plan for the availability and affordability of housing. State involvement and resources are needed to ensure consistency and universal participation among municipalities.</p> <p>We recommend making section 2 apply to all jurisdictions planning under the Growth Management Act, or at least all buildable lands jurisdictions.</p>

Location	Notes	Recommendation
Section 2 (pages 4-5)	It appears that subsection (5) under section 2 of the bill (page 4, lines 30-34) would create a <i>permanent</i> requirement for Commerce to approve the housing elements of cities that choose to go the housing planning route in section 2. Is this intended?	We don't have a recommendation on whether Commerce should approve housing elements or not – although we note that the hearings boards have worked well at adjudicating challenges to compliance with planning requirements – but creating the procedural infrastructure for a permanent Commerce role in approving housing elements only for cities that failed to implement section 1 of the bill as required may not be a good use of agency resources.
P. 4 Lines 21-22	Would local governments have data to compare “level of payment with ability to pay” for all its housing?	Consider terminology that matches available data sources.
P. 4 Lines 23-24	The provision that requires conservation and preservation of existing market and subsidized affordable housing may be a problem for jurisdictions that don't have much vacant land – meaning most cities. This means one provision in the bill calls for preserving existing affordable housing while other provisions call for jurisdictions to add more housing. If a city really had to preserve <i>all</i> existing “affordable housing”, it might not be able to add much, which impacts affordability all around.	<p>APA recognizes that preservation of the existing housing stock is critical for protecting older owner-occupied and renter-occupied housing, especially in many inner-ring neighborhoods, and supports preservation or replacement of these units at a 1:1 ratio.</p> <p>It is a fine line to walk between preservation of individual affordable housing units and regulations that hamper redevelopment and create much broader affordability problems.</p> <p>We are concerned about implications that <i>all</i> existing affordable housing must be preserved. Inclusionary zoning programs, however, can be tailored to address displacement that occurs through redevelopment and gentrification.</p>
Section 17	<p>Larger projects generate proportionally larger demands on capital facilities like schools and transportation, park, and fire facilities. Limiting impact fees to \$50,000 for developments, regardless of size and across all types of capital facilities, would exempt buyers of new houses in larger projects from contributing to the capital facilities necessary to serve them.</p> <p>This also puts smaller single-family projects and all other types of housing such as apartments, condos, and missing middle housing at a competitive disadvantage. It's unclear what the policy goal is with this provision.</p>	<p>Capital facilities necessary to support growth are paid by general property tax-payers in a scenario without impact fees. When impact fees are adopted, research* shows that owners of developable land and first buyers of new construction ultimately pay the majority of those fees.</p> <p>Local jurisdictions already have tools in state law to make policy decisions on how the cost of new capital facilities should be split between these two groups without changing the proportional formula into one with a special exemption for large housing subdivisions.</p> <p>We recommend removing this provision.</p> <p><small>* see, e.g., <a href="#">Yinger, John. “The Incidence of Development Fees and Special Assessments.” <i>National Tax Journal</i> 51 No. 1 (March 1998) 23-41</a></small></p>
P. 28 Line 10-12	Impact fees are to be calculated based on a formula that identifies the projected demand for new capital facilities as a result of new residential construction. If impact fees are higher for multifamily units, it's because the formula indicates that a multifamily unit is expected to generate a proportionally larger demand for the capital facility than a single family house.	If the policy goal is to reduce barriers to construction of multifamily units, there may be better ways to accomplish the goal, such as a multifamily tax exemption, without changing the proportional impact formula into one with special exemptions.