

Comparison of House, Senate, and Proposed Conference Committee Amendment Versions of E2SHB 1099

TOPIC	HOUSE (E2SHB 1099)	SENATE (S5164.E) (as passed Senate on March 3, 2022)	PROPOSED CONFERENCE COMMITTEE AMENDMENT (S5423.1)
Sec. 1. Goals of the Growth Management Act (GMA)			
Sec. 2. Shoreline master programs			
"Climate change" is added as a goal under the GMA	<p>Under the added "climate change" goal, comprehensive plans, development regulations, and other specified policies and strategies must accomplish certain goals, including adapting to and mitigating the effects of a changing climate.</p> <p>The number of enumerated goals of the GMA, which is identified in the section related to shoreline master programs, is changed from 14 to 15.</p>	The goal of "climate change" is replaced with a goal of "environmental resiliency", in which comprehensive plans address jurisdictional needs for resilience to changing conditions.	A climate change and resiliency goal is added to the GMA. Under this goal, comprehensive plans, development regulations, and other regional policies, plans, and strategies must, among other things, mitigate effects of a changing climate and support reductions in greenhouse gas emissions and per capita vehicle miles traveled.
Sec. 3. Applicability of certain comprehensive plan elements			
Population criteria for applicability of certain comprehensive plan elements	Population criteria are established to determine the counties and cities that are required to comply with certain new and amended comprehensive plan elements, including the greenhouse gas emissions reduction subelement established in the bill, and amendments to the transportation element, the land use element, and the rural element.	The section that establishes population criteria is stricken in the version that passed the Senate.	<p>The section that establishes population criteria is in Section 4 of the proposed conference committee amendment.</p> <p>The population criteria are similar to the House version except that the baseline date for certain population metrics is changed from January 1, 2021, to April 1, 2021 to reflect the Office of Financial Management's official date of publication of population metrics.</p>

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Sec. 4. Comprehensive plans			
Land use element	<p>The land use element of comprehensive plans is amended to provide that it should: give special consideration to achieving environmental justice; and reduce per capita vehicle miles traveled within the jurisdiction.</p> <p>The land use element is amended to provide that it must: avoid creating or worsening environmental health disparities; and reduce and mitigate the risk posed by wildfire by using land use planning tools.</p>	<p>The section related to comprehensive plans is Section 3 of the version that passed the Senate.</p> <p>The land use element must, rather than should, give special consideration to achieving environmental justice in its goals and policies.</p> <p>The land use element must reduce and mitigate the risk to lives and property posed by wildfires by using land use planning tools, which may include, among other things, appropriate development standards for residential development in the wildland urban interface area.</p>	<p>The section related to comprehensive plans is Section 3 of the proposed conference committee amendment.</p> <p>Similar to the House version except that, with regard to wildfires, the land use element must reduce and mitigate the risk to lives and property posed by wildfires by using land use planning tools, which may include, among other things, protecting existing residential development through community wildfire preparedness and fire adaptation measures.</p>
Rural element	The existing rural element of comprehensive plans is amended to provide that it must protect the rural character of rural areas by, among other things, protecting natural areas.	Removes the requirement that the rural element of the GMA must protect existing natural areas, including native forests, grasslands, and riparian areas.	Same as in Senate version.
Transportation element	The existing transportation element is amended to require that the forecasts of traffic demand contained within the transportation element of comprehensive plans must address forecasts of multimodal transportation	<p>Retains language from House.</p> <p>Adds provisions related to the establishment of level of service standards are amended to provide that they must also address state-</p>	Retains language from both House and Senate.

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	<p>demands and needs within cities and urban growth areas, and forecasts of traffic demands and needs outside of cities and urban growth areas.</p> <p>A development approval may not be denied because it fails to meet traffic level of service standards if it is possible to provide for the transportation needs of a development through various specified transportation measures, including increased or enhanced public transportation service.</p>	<p>owned or operated transit routes that serve urban areas if the Department of Transportation (WSDOT) has prepared such standards.</p> <p>Requires the transportation element to include an active transportation component that identifies and designates planned improvements for active transportation facilities and corridors.</p>	
Climate change and resiliency element	A climate change and resiliency element is added to the list of elements that must be included in a comprehensive plan adopted under the GMA. The climate change and resiliency element must be designed to result in reductions in overall greenhouse gas emissions and that must enhance resiliency to and avoid the adverse impacts of climate change.	The climate change and resiliency element is renamed as the resiliency element. The resiliency element must address environmental problems specific to the jurisdiction. It no longer includes language related to reducing climate impacts to vulnerable populations and overburdened communities.	Same as in House version.
Climate change and resiliency element - greenhouse gas emissions (GHG) reduction subelement	A GHG emissions reduction subelement is added to the list of elements that must be included in comprehensive plans adopted under the GMA. The GHG emissions reduction subelement must identify	Removes the greenhouse gas emissions reduction subelement.	<p>Similar to House version.</p> <p>Until December 31, 2034, actions not specifically identified in guidelines adopted by the Department of Commerce must be considered to be sufficient to meet the requirements of</p>

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	<p>the actions the jurisdiction will take during the planning cycle consistent with the guidelines published by the Department of Commerce (Commerce) that will, among other things, result in reductions both in vehicle miles traveled (VMT) within the jurisdiction and in overall GHG emissions generated by the transportation and land use systems within the jurisdiction.</p> <p>Actions not specifically identified in the guidelines published by Commerce may be considered to be consistent with those guidelines only if they are projected to achieve GHG emissions reductions or VMT reductions equivalent to what would be required of the jurisdiction under Commerce's guidelines and they are supported by scientifically credible projections.</p> <p>Until December 31, 2034, actions not specifically identified in the guidelines developed by Commerce, or considered to be consistent with those guidelines according to the process described above, must still be</p>		<p>the GHG reduction subelement if the actions provide for the authorization of the development of middle housing types within one-quarter mile of major transit stops within urban growth areas.</p>

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	<p>considered to be sufficient to meet the requirements of the GHG emissions reduction subelement if the actions provide for the authorization of the development of specified types of middle housing.</p>		
<p>Climate change and resiliency element - resiliency subelement</p>	<p>A resiliency subelement is added to the list of elements that must be included in comprehensive plans adopted under the GMA. The resiliency subelement must, among other things, equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change on people, property, and ecological systems through goals, policies, and programs consistent with the best available science and scientifically credible climate projections and impact scenarios.</p> <p>A natural hazard mitigation plan or similar plan that complies with the applicable requirements of the GMA may be adopted by reference to satisfy those requirements.</p>	<p>The resiliency subelement is amended to provide that it must equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change in human communities and ecological systems through goals, policies, and programs consistent with the best available science and scientifically credible climate projections and impact scenarios that moderate or avoid harm, enhance the resiliency of natural and human systems, and enhance beneficial opportunities.</p> <p>The option to adopt a natural hazard mitigation plan to satisfy the requirements of the resiliency subelement is amended to provide, among other things, that to the extent any of the substantive requirements of the resiliency subelement are not addressed, or are inadequately</p>	<p>Similar to House version, with amended language related to natural hazard mitigation plan requirements. This includes changing the length of the extension a county or city may request in order to submit such mitigation plans, from 36 months to 48 months.</p>

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		<p>addressed, in the referenced natural hazard mitigation plan, a county or city must supplement the natural hazard mitigation plan accordingly.</p> <p>A process by which a planning jurisdiction may seek an extension of time in which to submit a natural hazard mitigation plan is established.</p>	
Sec. 5. Department of Commerce guidelines			
Adoption of planning measures to reduce greenhouse gas emissions	Commerce, in consultation with specified state agencies, must publish guidelines that specify a set of measures that counties and cities have available to them to take through updates to their comprehensive plans and development regulations that have a demonstrated ability to reduce GHG emissions in order to achieve statewide GHG emissions reductions required by the state Clean Air Act	The section related to the adoption of guidelines by Commerce is stricken in the Senate version.	Similar to House version, with added language that Commerce's guidelines may include measures that have a demonstrated ability to increase housing capacity within urban growth areas.
Planning measures to reduce vehicle miles traveled	Commerce, in consultation with the Department of Transportation (WSDOT), must publish guidelines that specify a set of measures that counties and cities have available to them to take through updates to their comprehensive plans and	The section related to the adoption of guidelines by Commerce is stricken in the Senate version.	Same as in House version.

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	development regulations that have a demonstrated ability to reduce VMT.		
Updates to guidelines	In any updates to the guidelines published after 2025, Commerce must include a determination of whether adequate progress has been made toward the statewide greenhouse gas and per capita vehicle miles traveled reduction goals. If adequate progress is not being made, Commerce must identify in the guidelines what additional measures cities and counties must take in order to make further progress.	The section related to the adoption of guidelines by Commerce is stricken in the Senate version.	Updates to guidelines must include an evaluation of the impact that locally adopted climate change and resiliency elements have had on local GHG emissions and per capita vehicle miles traveled reduction goals, as well as on zoned housing capacity. Updates must also include estimated impacts on future reduction goals, as well as impact on zoned housing capacity. Provides that Commerce may include recommendations for what additional measures cities and counties should take to make additional progress on local reduction goals, including any measures that increase housing capacity and middle housing capacity within UGAs.
Sec. 6. Approval of GHG emissions reduction subelement			
Sec. 7. Presumption of validity of comprehensive plans			
Process by which a GHG reduction subelement takes effect	A GHG emissions reduction subelement takes effect once approved by Commerce according to the process set forth in the bill. Among other things, Commerce must provide notice and an opportunity to comment of at least 30 days before	The section establishing a process for the approval of a GHG reduction subelement is removed. The section amending existing law regarding the presumption of validity of comprehensive plans is removed.	Similar to House version, except that a GHG reduction subelement takes effect either when approved by Commerce, if the planning jurisdiction submits the subelement to Commerce for approval, or upon the date of adoption of the comprehensive plan, if the planning jurisdiction does not

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	<p>approving a planning jurisdiction's GHG reduction subelement.</p> <p>Commerce's final decision to approve or reject a proposed GHG emissions reduction subelement or amendment may be appealed to the Growth Management Hearings Board.</p>		<p>submit the subelement to Commerce for approval.</p>
Sec. 8. Technical assistance			
<p>Technical assistance - Development of model climate change and resiliency element</p>	<p>Commerce must develop, in collaboration specified state agencies, and adopt by rule a model climate change and resiliency element that may be used by counties, cities, and multiple-county planning regions for developing and implementing climate change and resiliency plans and policies.</p>	<p>The section related to technical assistance is Section 4 of the Senate version.</p> <p>The direction to Commerce to adopt guidelines is modified to provide that Commerce must adopt by rule a model resiliency element which must address, among other things, changing conditions and extreme weather events.</p>	<p>Similar to House version. Includes factors that Commerce must consider when it prioritizes allocation of technical and financial assistance, as well as a provision that Commerce is required to establish funding levels for grants to community-based organizations for the specific purpose of advancing participation of vulnerable populations and overburdened communities in the planning process.</p> <p>The model climate change and resiliency model is amended to also include voluntary cross-jurisdictional strategies.</p> <p>The scope of cobenefits of climate resilience that the model element must recognize is expanded to include</p>

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			climate change mitigation and socioeconomic health and resilience.
Sec. 9. Summary of per capita vehicle miles traveled			
Summary of per capital vehicle miles traveled	WSDOT must compile, maintain, and publish a summary of the per capita VMT annually in each city in the state, and in the unincorporated portions of each county in the state.	The section related to a summary of per capita vehicle miles traveled is removed.	Same as in House version.
Sec. 10. Shoreline master program guidelines			
Required updates to shoreline master program guidelines	The Department of Ecology (Ecology) must update its shoreline master program guidelines to require shoreline master programs to address the impact of sea level rise and increased storm severity on people, property, and shoreline natural resources and the environment.	Same as in House version	Same as in House version.
Sec. 11. Definitions			
"Per capita vehicle miles traveled"	"Per capita vehicle miles traveled" means the number of miles traveled using cars and light trucks in a calendar year divided by the number of residents in Washington. The calculation of this value excludes vehicle miles driven conveying freight.	The section related to definitions is Section 6 of the Senate version. The definition of per capita vehicle miles traveled is removed.	The section related to definitions is Section 14 of the proposed conference committee amendment. Same as in House version.
"Active transportation"	"Active transportation" means forms of pedestrian mobility including walking or running, the use of a mobility assistive device such as a	Same as in House version	Same as in House version

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	<p>wheelchair, bicycling and cycling irrespective of the number of wheels, and the use of small personal devices such as foot scooters or skateboards. Active transportation includes both traditional and electric assist bicycles and other devices. Planning for active transportation must consider and address accommodation pursuant to the Americans with disabilities act and the distinct needs of each form of active transportation.</p>		
<p>"Transportation system"</p>	<p>"Transportation system" means all infrastructure and services for all forms of transportation within a geographical area, irrespective of the responsible jurisdiction or transportation provider.</p>	<p>Same as in House version</p>	<p>Same as in House version</p>
<p>"Environmental justice"</p>	<p>"Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to development, implementation, and enforcement of environmental laws, regulations, and policies; with a focus on the equitable distribution of resources, benefits, and burdens in a manner that prioritizes communities that experience the</p>	<p>Same as in House version</p>	<p>Same as in House version</p>

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	greatest inequities, disproportionate impacts, and have the greatest unmet needs.		
"Active transportation facilities"	"Active transportation facilities" means facilities provided for the safety and mobility of active transportation users including, but not limited to, trails, as defined in RCW 47.30.005, sidewalks, bike lanes, shared-use paths, and other facilities in the public right-of-way.	Same as in House version	Same as in House version
"Greenspace"	Not included	"Greenspace" means an area of land, vegetated by natural features such as grass, trees, or shrubs, within an urban context and less than one acre in size that creates public value through one or more of several specified attributes, including that it promotes recreational and aesthetic values.	Same as in Senate version
"Green infrastructure"	Not included	"Green infrastructure" means a wide array of natural assets, built structures, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.	Same as in Senate version

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"Cottage housing"	Not included	Not included	"Cottage housing" means at least four residential units on a lot with a common open space that is either owned in common, or has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.
"Courtyard apartments"	Not included	Not included	"Courtyard apartments" means up to four attached dwelling units arranged on two or three sides of a central courtyard or lawn area.
"Major transit stop"	Not included	Not included	"Major transit stop" means: (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; (d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; (e) Stops for a bus or other transit mode providing actual fixed route service at intervals of at least 15 minutes for at least five hours during the peak hours of operation on weekdays; or (f) Washington state ferry terminals.

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"Middle housing"	Not included	Not included	"Middle housing" means duplexes, triplexes, fourplexes, attached and detached accessory dwelling units, cottage housing, stacked flats, townhouses, and courtyard apartments.
"Stacked flat"	Not included	Not included	"Stacked flat" means dwelling units in a two or three story residential building on a residential zoned lot in which each floor may be separately rented or owned and is a discrete dwelling unit.
"Townhouses"	Not included	Not included	"Townhouses" means dwelling units constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit.
Sec. 12. Comprehensive flood management plans			
Required elements of a comprehensive flood management plan	The required elements of a comprehensive flood control management plan, if a county chooses to adopt such a plan, are expanded to include a consideration of climate change impacts, including the impact of sea level rise and increased storm severity on people, property, natural resources, and the environment.	The section related to comprehensive flood management plans is Section 7 of the Senate version. Same as in House version	The section related to comprehensive flood management plans is Section 11 of the proposed conference committee amendment. Same as in House version
Sec. 13. State Environmental Policy Act (SEPA) exemptions from appeal			

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Certain actions are exempt from appeal under the State Environmental Policy Act	The adoption of ordinances, amendments to comprehensive plans, and other related nonproject actions taken by a county or city to implement the planning guidelines published by Commerce are not subject to appeal under SEPA.	The section related to SEPA appeal exemptions is removed in the Senate version.	The SEPA appeal exemption section is Section 12 in the proposed conference committee amendment. Same as in House version
Sec. 14. Funding			
Compliance with certain provisions of the bill is subject to funding	<p>The obligation of local governments to comply with the requirements established in the amendments to the requirements of comprehensive plans under the GMA and the updated shoreline master program guidelines adopted by Ecology is contingent on the provision of state funding to local governments for the specific purpose of complying with these requirements.</p> <p>The obligation of local governments to comply with the requirements listed above takes effect two years after the date the Legislature appropriates state funding to provide to local governments for the purpose of complying with these requirements.</p>	<p>The section related to funding is Section 8 of the Senate version.</p> <p>Same as in House version</p>	<p>The section related to funding is Section 13 of the proposed conference committee amendment.</p> <p>Same as in House version</p>
Sec. 15. Null and void clause			

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Null and void clause	If specific funding for the purposes of the act, referencing the act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, act is null and void.	The null and void clause is Section 9 of the Senate versions. The null and void clause is amended to change the deadline to June 30, 2022.	The null and void clause is Section 18 of the proposed conference committee amendment. Same as in Senate version.
Sec. 15 (of proposed conference committee amendment). Real estate excise tax density incentive zones			
Authority	Not included in House version	Not included in Senate version	Planning counties and cities are authorized to establish real estate excise tax (REET) density incentive zones. A REET density incentive zone is an area within an urban growth area where the city or county adopts zoning and development regulations to increase housing supply by allowing construction of additional housing types as outright permitted uses. Upon establishing an incentive zone, the local government receives a portion of the state REET imposed for sales of qualified residential dwelling units within the incentive zone.
Qualified residential dwelling units	Not included in House version	Not included in Senate version	A qualified residential dwelling is either an individual residential dwelling unit or a residential building of two or more dwelling units constructed within an incentive zone that achieves a net increase in the total number of residential dwelling units compared to the maximum number of residential dwelling units that could have been built prior to the adoption of zoning and development

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			regulations creating the incentive zone. To be included as qualified residential dwelling units, the units must be restricted from being offered as short-term rentals for more than 30 days a year for the first 15 years after construction, and the county or city must determine how the residential dwelling units are to be restricted from being short-term rentals within their respective jurisdictions.
Timing to designate an incentive zone	Not included in House version	Not included in Senate version	An incentive zone may not be established later than one year after the date by which a city or county is required to update its comprehensive plan. Once an incentive zone is established, a qualified residential dwelling unit may be constructed at any time.
Sec. 16 (of proposed conference committee amendment). Real estate excise tax			
Distribution of real estate excise tax	Not included in House version	Not included in Senate version	Beginning July 1, 2023, the REET collected within an incentive zone is distributed to a county or city as follows: -for a qualified residential dwelling unit located less than or equal to 0.25 miles from a mass transit stop, 50 percent of the amounts collected to the city or county where the dwelling is located; and -for a qualified residential dwelling unit located more than 0.25 miles

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			<p>from a mass transit stop, 25 percent of the amounts collected to the city or county where the dwelling is located.</p> <p>The distribution to a city or county applies to both the initial and all subsequent sales of a qualified residential dwelling unit if the residential dwelling unit continues to meet the original requirements of a qualified residential dwelling unit. Counties must revalidate that the residential dwelling unit continues to meet the original applicable requirements on each subsequent sale of the residential dwelling unit.</p>
Uses by city and county of real estate excise tax proceeds			<p>The amounts distributed to a city and county may only be used for:</p> <ul style="list-style-type: none"> -implementation of the housing element of the comprehensive plan under the GMA; -costs for infrastructure, construction, and service support for moderate, low, very low, and extremely low-income housing; -construction of capital facilities that promote livable and walkable neighborhoods; or -creation of permanently affordable homeownership.
Sec. 17 (of proposed conference committee amendment). Deposits of real estate excise tax funds			

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Deposit of real estate tax funds into the General Fund			The required percentage of REET funds that are required to be deposited into the General Fund is reduced by the portion of REET funds that may be retained by cities and counties pursuant to Section 16 of the proposed conference committee amendment.