

HB 2289 A STAFF MEASURE SUMMARY
House Special Committee On Wildfire Recovery

Carrier: Rep. Clem

Action Date: 04/22/21

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 8-2-0-0

Yeas: 8 - Cate, Clem, Evans, Gomberg, Lewis, Meek, Morgan, Post

Nays: 2 - Grayber, Marsh

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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Meeting Dates: 3/29, 4/22

WHAT THE MEASURE DOES:

Specifies that all measure provisions apply only to owners of properties on which structures or uses were destroyed or interrupted by a wildfire identified in an executive order issued by the Governor between August 1 and September 30, 2020. For **nonresidential uses**, authorizes a property owner to alter, restore, or replace the use without further application to a local government if the use was allowed outright as an accessory use, the use was subject to a land use process and a permit was issued for the use, or the use was established before a requirement that the use be subject to a land use process and the replacement conforms as nearly as practicable to specified records. For **dwellings**, requires a local government to approve an application to alter, restore, or replace a dwelling if the local government determines that: the evidence in the record establishes that the **former dwelling** had specified intact walls, roof, indoor plumbing, interior wiring, and a heating system, and was authorized by building permits or another appropriate regulatory approval process, or was assessed as a residential dwelling for taxation purposes for the tax year beginning July 1, 2001, and is not subject to unresolved enforcement proceedings questioning the lawfulness of the dwelling; and the **proposed dwelling** will not exceed the floor area of the destroyed dwelling by more than 10 percent, will be adequately serviced by roads, water, and sanitation, will be located wholly or partially within the footprint of the destroyed dwelling unless the applicant chooses a different location within the same lot or parcel to comply with local flood regulations or to avoid a natural hazards area, and will comply with the building codes in effect the later of January 1, 2008 or the date of the former dwelling's construction. Prohibits a local government from adding conditions to the approval or siting of a dwelling except as necessary to maintain participation in the **National Flood Insurance Program**. Authorizes a local government to **delegate application approval** to a hearings officer, planning commission, or building official. Specifies the application approval is **not a land use decision** and a local government may not require an applicant give notice to any nonparty. Authorizes a local government, through a land use decision, to approve an application for a dwelling built after January 1, 2001 that complies with requirements for the former dwelling and proposed dwelling in this 2021 Act or a nonresidential use or structure, if the required land use application, building permit, or other regulatory approval **record is unavailable**. Requires an application to alter, restore, or replace the structure or use to be filed on or before September 30, 2025, and provides that the application approval expires only if the property owner has not commenced development of the structure or use on or before December 30, 2030. Requires the Department of Environmental Quality (DEQ) to approve a permit to repair or replace a **subsurface sewage disposal system** that serves an approved dwelling provided that a system served the dwelling on July 30, 2020 and system operation would not result in pollution of surface waters or ground water. Requires DEQ issue a decision on a permit without regard to availability of a community or area-wide sewerage system or regard to whether a local government has issued a land use compatibility statement for the dwelling. Specifies provisions do not: apply to a permit for a dwelling for which the owner received state or federal government assistance for repair or replacement of a subsurface sewage disposal

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system; or affect DEQ authority to grant a variance or exemption for a system for a dwelling or other use. Sunsets January 2, 2031. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Reduction of regulatory barriers to rebuilding homes damaged and destroyed by the 2020 wildfires
- Alternative pathway to the typical land use process
- 2008 building code baseline allows for energy efficiency and fire hardening incentives
- Importance of ensuring homes built to 2008 codes are eligible for future FEMA reimbursement
- Potential for further discussion in the Senate regarding fire safety of rebuilt homes

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

The "Labor Day" wildfires of 2020 were the most destructive recorded in state history. They burned over one million acres, cost over \$350 million, and destroyed more than 4,000 homes in the Cascades, coast, and southern regions of the state. Most displaced households have been waiting to rebuild their homes as environmental hazard assessments, hazard tree removal, and debris removal need to occur first, property-by-property.

House Bill 2289 A would, for structures and uses destroyed by the 2020 wildfires, authorize a property owner to alter, restore, or replace certain nonresidential uses without further application to a local government; require a local government to approve an application to alter, restore, or replace certain dwellings; and require the Department of Environmental Quality to approve certain permits to repair or replace a subsurface sewage disposal system that serves an approved dwelling.