

HOUSE BILL REPORT

2SHB 1625

As Passed House:

February 9, 1996

Title: An act relating to payment of impact fees.

Brief Description: Regulating payment of impact fees.

Sponsors: By House Committee on Government Operations (originally sponsored by Representatives Reams, Brumsickle, Casada, Morris, Hargrove, Buck, Radcliff, Benton, Grant, Talcott, Hymes, Thompson, Elliot and Huff).

Brief History:

Committee Activity:

Government Operations: 1/24/96,1/26/96 [DP2S];

Appropriations: 2/3/96 [DP2S].

Floor Activity:

Passed House: 2/9/96, 71-27.

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 9 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Goldsmith, Vice Chairman; Hargrove; Honeyford; Hymes; Mulliken; D. Schmidt and Van Luven.

Minority Report: Do not pass. Signed by 6 members: Representatives Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Conway; R. Fisher; Scheuerman and Wolfe.

Staff: Steve Lundin (786-7127).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 19 members: Representatives Huff, Chairman; Clements, Vice Chairman; Pelesky, Vice Chairman; Beeksma; Brumsickle; Carlson; Chappell; Crouse; Dyer; Foreman; Grant; Hargrove; Hickel; Lambert; McMorris; Reams; Sehlin; Sheahan and Talcott.

Minority Report: Do not pass. Signed by 11 members: Representatives H. Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Cooke; Dellwo; Jacobsen; Kessler; Linville; Poulsen; Rust and Wolfe.

Staff: Nancy Stevenson (786-7137).

Background:

1. Growth Management Act.

Counties and cities planning under all requirements of the Growth Management Act are authorized to impose impact fees on development activity to finance the proportionate share of the cost of certain public facilities necessitated by the development activities. Impact fees may be imposed to finance (a) streets and roads, (b) parks and open spaces, (c) schools, and (c) city fire protection facilities.

Impact fees under the Growth Management Act are restricted by a number of factors. Among other limitations, impact fees may be imposed only for system improvements "reasonably related to the new development," shall not exceed the "proportionate share" of the costs of the facilities reasonably related to the new development, and shall be used for system improvements that will "reasonably benefit" the new development. When imposing impact fees, credit must be given for "past and future payments made or reasonably anticipated to be made by the new development." If impact fees are paid under these provisions, impact fees may not be imposed under the State Environmental Policy Act (SEPA) for the same system improvements.

The Growth Management Act includes concurrency requirements, which provide that public facilities necessary to support new development should be adequate to serve the development at the time the development is available for occupancy without decreasing current service levels below locally established minimum standards.

2. Subdivision and Platting Act.

The Subdivision and Platting Act requires counties and cities to review most proposed divisions of land. A proposed division of land shall not be approved unless the county or city makes written findings that the public interest will be served and appropriate provisions are made for various public facilities, including water supplies, sewage disposal, roads and streets, and schools. Dedication of land, provision of facilities, and payment of impact fees under the Growth Management Act are used to meet these requirements.

3. State Environmental Policy Act.

The State Environmental Policy Act (SEPA) requires local governments and state agencies to prepare a detailed statement or environmental impact statement if proposed legislation or other major action may have a probable significant, adverse impact on the environment.

The determination of whether a detailed statement must be prepared involves a threshold determination and use of an environmental checklist. A detailed statement inquires into a variety of matters, including environmental and public facility impacts. Some matters are categorically exempted from a threshold determination, as provided in rules adopted by the Department of Ecology. Among other classifications, the categorically exempted matters are classified as being minor new construction or minor land use decisions.

If it appears that a probable significant adverse environmental impact may result, the proposal may be altered, or its probable significant adverse impact mitigated, to remove the adverse impact. Mitigation could arise from providing facilities or paying moneys to be used to lessen the impact. If the probable significant adverse environmental impact remains, then a detailed statement or environmental impact statement is prepared. The environmental impact statement is limited, or scoped, to address only the matter(s) determined under the threshold determination process to have a probable significant adverse environmental impact.

If impact fees are paid under SEPA, impact fees may not be imposed under the Growth Management Act for the same system improvements.

Summary of Bill: Payment of an impact fee under the Growth Management Act for a type of public facility is declared to constitute full and complete compliance with concurrency requirements in the act for that facility.

Impact fees imposed under SEPA and the Subdivision and Platting Act are subject to the same procedures and limitations as impact fees imposed under the Growth Management Act and may be imposed only to finance the same four types of public facilities, i.e., roads and streets, parks and open space, schools, and city fire protection services.

The payment of impact fees under SEPA or the Subdivision and Platting Act constitutes full and complete compliance with fee requirements of those laws and any other law for the provision of the facility for which the impact fee may be imposed.

SEPA, the Subdivision and Platting Act, and the Growth Management Act statutes relating to impact fees are amended to provide that the total cost of all fees, including impact fees and water and sewer hookup charges, shall not exceed 3 percent of the value of the project as indicated on the construction or building permit.

General city utility law is amended to establish the restriction that the total cost of fees, including impact fees, water and sewer hookup charges, and off-site improvements imposed on a residential project, may not exceed 3 percent of the value of the project as indicated on the construction or building permit.

The requirement for persons whose property is connected to public water or sewer facilities that have been financed by a developer to pay the developer for his or her pro rata share of the cost of these facilities is restricted so that the total cost of fees, including impact fees, water and sewer hookup charges, and off-site improvements imposed on a residential project may not exceed 3 percent of the value of the project as indicated on the construction or building permit.

Impact fees under the Growth Management Act on residential construction shall be collected at the time of home title transfer to the occupant or certificate of occupancy, or 12 months after the building permit is issued.

Impact fees under the Growth Management Act for nonresidential construction must be identified on an itemized basis for each planned public project, based upon adopted polices and procedures, and shall set forth the itemized fees as a condition of approval of the development project. Within 90 days prior to the scheduled start of construction on any specified public project for which mitigation fees have been set, the jurisdiction may require the owner of the development project to pay the amount set forth for that public project in the approval conditions.

Appropriation: None.

Fiscal Note: Requested on January 31, 1996.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Government Operations) This is pay and go. Limit impact fees under SEPA & the Platting & Subdivision Act. Paying impact fees at the end of a project reduces costs to purchasers. The sum of \$12,000 is paid on a single family residence. Our taxes have increased. Commercial construction takes two to three years to get approved.

(Appropriations) None.

Testimony Against: (Government Operations) Very few counties impose impact fees. This is a loss of local control. School districts leverage this money and property taxes are reduced. Restricting impact fees shifts costs to the general public.

(Appropriations) None.

Testified: (Government Operations) Rep. Reams, prime sponsor; Wally Costello, National Association of Industrial and Office Products; Dick Ducharme and Bill Huyette, Building Industry Association; Roger Valdez, Washington State School Directors Association; Mike Ryherd, 1,000 Friends; Ken Johnson, Association of Washington Business; Scott Merriman, Washington Environmental Council; and Paul Parker, Washington State Association of Counties.

(Appropriations) None.