

HOUSE BILL REPORT

HB 2730

As Reported by House Committee On:
Local Government

Title: An act relating to impact fees for residential construction.

Brief Description: Modifying impact fee provisions.

Sponsors: Representatives Clibborn, Ericksen, Moeller, Schindler, Morris, Ahern, Fromhold, Mielke, Quall and Talcott.

Brief History:

Committee Activity:

Local Government: 2/5/04 [DPS].

Brief Summary of Substitute Bill

- Adds identical provisions to both the excise tax code and to state environmental policy statutes requiring that impact fees for residential construction be collected by the local governmental authority either: a) at the time of final inspection of the residence; or b) at time of issuance of the certificate of occupancy.
- Requires that the impact fees be paid before the final inspection of the residence takes place or the certificate of occupancy is issued.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Schindler, Ranking Minority Member; Jarrett, Assistant Ranking Minority Member; Ahern, Clibborn, Edwards, Ericksen, Mielke and Moeller.

Minority Report: Without recommendation. Signed by 3 members: Representatives Romero, Chair; Simpson, D., Vice Chair; and Upthegrove.

Staff: Thamas Osborn (786-7129).

Background:

Impact fees generally. Under chapter 82.02 RCW (the excise tax code), counties, cities, and towns that plan under the major provisions of the Growth Management Act (GMA) are authorized to impose impact fees on development activity as part of the financing of public facilities. Impact fees are payments of money required of developers as a condition of development approval. Local governments are required to use impact fees to pay for certain public facilities that are made necessary as the result of a development and must ensure that such fees are:

- used only for system improvements that are reasonably related to the impact of the development on the use of public facilities;
- do not exceed a proportionate share of the cost of system improvements made necessary by the development; and
- are used for system improvements that reasonably benefit the new development.

Furthermore, in determining how system improvements are to be financed, a local government must provide for a balance between impact fees and other sources of public funds, and cannot rely solely on impact fees.

Environmental impact fees. The State Environmental Policy Act of 1971 (chapter 43.21C RCW) also allows local governments to assess impact fees for the costs associated with the mitigation of specific adverse environmental impacts that may result from a development.

Summary of Substitute Bill:

Impact fees for residential construction that are collectible under the excise tax code (chapter 82.02 RCW) or the state environmental policy act (chapter 43.21C RCW) shall only be collected either: a) at the time of the final inspection of the residence; or b) at the time the certificate of occupancy is issued. However, the requisite impact fees must be paid before the final inspection of the residence takes place or the certificate of occupancy is issued.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- Requires that impact fees be collected by a local government either: a) at the time of the final inspection of the residence or b) at the time that the certificate of occupancy is issued;
- Requires that the impact fees be paid before the final inspection of the residence takes place or the certificate of occupancy is issued; and
- Deletes provisions allowing the collection of impact fees a) at the time of title transfer, or b) 12 months after building permit issuance.

Appropriation: None.

Fiscal Note: Requested on February 5, 2004.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The bill only changes the timing of the payment of impact fees and is not intended to impact the ability of local governments to collect fees. Schools should not experience adverse impacts, since the bill merely delays when fees are collected. The bill would have beneficial affects on both builders and homeowners. Paying fees at the beginning of the development process unduly burdens builders, since it forces them to finance the cost of the fees, which causes them to incur interest expenses. These financing costs are quite large and have the effect of significantly increasing the cost of new homes. Allowing builders to delay the payment of impact fees would reduce the costs of homes, thus increasing the amount of affordable housing that is available. The passage of the bill might reduce the price of new homes by as much as \$1,500. Also, delaying fee payments would not have significant local impacts, since most development projects are completed within 90 to 120 days.

Testimony Against: The deferred payment approach proposed by the bill has been tried in some jurisdictions and has failed. When payments are deferred they become much more difficult to collect. In fact, in many cases deferred fees are impossible to collect and thus local jurisdictions have lost a great deal of money. The default rate is very high when fees are not collected at the time of permit issuance. The fairest and most efficient way to collect the fees is to do it at the outset of the development process; i.e., at the time of the issuance of the development permits. If fees are not collected at this point, local governments lose the leverage they need to ensure that the developer follows through with payment. The costs incurred by builders in financing fees is minimal and does not place a significant burden on them. Furthermore, allowing deferred payment greatly increases the administrative costs incurred by cities in keeping track of the outstanding fees and pursuing collection. The bill would decrease the predictability of collection and make the entire process much more problematic. If some version of this bill is passed, there should be some sort of surety or escrow provisions built into the process so as to ensure collection at a later date. Sixteen school districts in this state oppose the bill. School systems depend upon advance payment of impact fees, insofar as they benefit from the interest earned by the account in which the fees are placed.

Persons Testifying: (In support) Bryan Wahl, Washington State Association of Realtors; Damon Doyle, Office of Management and Budget, Building Industry Association of Washington; and Trent Matson, Building Industry Association of Washington.

(Opposed) Genesee Adkins, 1000 Friends of Washington; Mayor Mark Foutch, City of

Olympia; Subir Mukerjee, City of Olympia; and Grace Yuan, King County School Coalition.

Persons Signed In To Testify But Not Testifying: None.