

HOUSE BILL REPORT

HB 2604

As Reported by House Committee On: Local Government

Title: An act relating to exempting low-income housing and development activities with broad public purposes from impact fees.

Brief Description: Exempting low-income housing and development activities with broad public purposes from impact fees.

Sponsors: Representatives Simpson, Ormsby and Chase.

Brief History:

Committee Activity:

Local Government: 1/24/08, 2/1/08 [DPS].

Brief Summary of Substitute Bill

- Deletes a provision obligating local governments to pay impact fees from qualifying public funds upon exempting low-income housing or other broad public purpose development activities from fee requirements.
- Specifies that impact fee exemptions for low-income housing or development activities with broad public purposes may only be granted if the developer records a covenant prohibiting conversion of the property unless applicable impact fees are paid.
- Prohibits local governments from collecting mitigation fees under the State Environment Policy Act for low-income housing and other qualifying development activities in place of exempted impact fees.
- Defines "development activities with broad public purposes" for purposes of impact fee exemptions, as including, but not limited to, constructing or modifying facilities for a high-capacity transportation service.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Simpson, Chair; Takko, Vice Chair; Eddy and Nelson.

Minority Report: Do not pass. Signed by 3 members: Representatives Warnick, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Schmick.

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act

The Growth Management Act (GMA or Act) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the Act (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

Impact Fees

Planning jurisdictions may impose impact fees on development activity as part of the financing of public facilities needed to serve new growth and development. This financing must provide a balance between impact fees and other sources of public funds and cannot rely solely on impact fees. Additionally, impact fees:

- may only be imposed for system improvements, a term defined in statute, that are reasonably related to the new development;
- may not exceed a proportionate share of the costs of system improvements; and
- must be used for system improvements that will reasonably benefit the new development.

Impact fees may be collected and spent only for qualifying public facilities that are included within a capital facilities plan element of a comprehensive plan. "Public facilities," within the context of impact fee statutes, are the following capital facilities that are owned or operated by government entities:

- public streets and roads;
- publicly owned parks, open space, and recreation facilities;
- school facilities; and
- fire protection facilities in jurisdictions that are not part of a fire district.

County and city ordinances by which impact fees are imposed must conform with specific requirements. Among other obligations, these ordinances:

- must include a schedule of impact fees for each type of development activity for which a fee is imposed;

- may provide an exemption for low-income housing and other development activities with broad public purposes. The impact fees for this development activity, however, must be paid from public funds other than impact fee accounts; and
- must allow the imposing jurisdiction to adjust the standard impact fee for unusual circumstances in specific cases to ensure that fees are imposed fairly.

Summary of Substitute Bill:

New provisions relating to exempting low-income housing and development activities with broad public purposes from impact fees are specified. A provision requiring local governments to pay impact fees from qualifying public funds upon exempting low-income housing or other broad public purpose development activities from impact fees is deleted. Impact fee exemptions for low-income housing or development activities with broad public purposes may only be granted by a local government if the developer records a covenant prohibiting conversion of the property to other non-exemption uses. Conversion would be allowed, however, if applicable impact fees are paid by the property owner at the time of conversion. Local governments may not collect mitigation fees under the State Environmental Policy Act (SEPA) for low-income housing and other qualifying development activities in place of exempted impact fees.

"Development activities with broad public purposes," for purposes of impact fee exemptions, are defined as including, but not limited to, the construction or modification of facilities for a qualifying high-capacity transportation service.

Substitute Bill Compared to Original Bill:

Additional impact fee exemption provisions are established. Specifies that impact fee exemptions for low-income housing or development activities with broad public purposes may only be granted if the developer records a covenant prohibiting conversion of the property to other non-exemption uses. Conversion would be allowed if applicable impact fees are paid by the property owner at the time of conversion. Prohibits local governments from collecting mitigation fees under the SEPA for low-income housing and other qualifying development activities in place of exempted impact fees. Defines "development activities with broad public purposes" for purposes of impact fee exemptions, as including, but not limited to, constructing or modifying facilities for a qualifying high-capacity transportation service.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill exempts affordable housing from impact fees and was prompted by assertions that the fees negatively affect affordable housing. Housing costs are driven by market forces, not regulatory actions. Impact fees are an important source of funding for school construction. The bill should be amended to specify that if low-income housing is converted to market-rate housing, the then applicable impact fees must be paid. This bill will allow cities to waive impact fees for one classification of development. Cities are looking for ways to create additional affordable housing through mixed-use development. This bill may promote affordable housing and increased residential density. Impact fees do impact low-income housing costs. If the fees can be lowered, low-income housing may be made more affordable.

(Opposed) This bill demonstrates that impact fees, as with other regulatory constraints, do affect housing affordability. It is unclear as to how jurisdictions that waive impact fee exemptions will make up for lost revenue.

Persons Testifying: (In support) Representative Simpson, prime sponsor; Charlie Brown, Puget Sound School Coalition; Dave Williams, Association of Washington Cities; and Nick Federici, Washington Low-Income Housing Alliance.

(Opposed) Eric Lohnes, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying: None.