

SB 5580 - H COMM AMD

By Committee on Local Government & Housing

NOT ADOPTED 04/14/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that impact fees are
4 an important source of funding for public facilities, facilities that
5 include school facilities. The legislature recognizes that impact fee
6 provisions, including time limits associated with their use, can affect
7 the operations and choices of developers, including developers of
8 affordable housing. The legislature recognizes also, that facilitating
9 the construction of school facilities and affordable housing are both
10 essential public responsibilities. The legislature, therefore, in
11 recognition of its duties to provide for public education, and to
12 promote the health and well-being of its citizens, intends to
13 acknowledge the financial and administrative challenges that many local
14 governments and private enterprises are experiencing and provide
15 additional flexibility to local governments that choose to impose
16 impact fees.

17 **Sec. 2.** RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each
18 amended to read as follows:

19 The local ordinance by which impact fees are imposed:

20 (1) Shall include a schedule of impact fees which shall be adopted
21 for each type of development activity that is subject to impact fees,
22 specifying the amount of the impact fee to be imposed for each type of
23 system improvement. The schedule shall be based upon a formula or
24 other method of calculating such impact fees. In determining
25 proportionate share, the formula or other method of calculating impact
26 fees shall incorporate, among other things, the following:

27 (a) The cost of public facilities necessitated by new development;

28 (b) An adjustment to the cost of the public facilities for past or
29 future payments made or reasonably anticipated to be made by new

1 development to pay for particular system improvements in the form of
2 user fees, debt service payments, taxes, or other payments earmarked
3 for or proratable to the particular system improvement;

4 (c) The availability of other means of funding public facility
5 improvements;

6 (d) The cost of existing public facilities improvements; and

7 (e) The methods by which public facilities improvements were
8 financed;

9 (2) May provide an exemption for low-income housing, and other
10 development activities with broad public purposes, from these impact
11 fees, provided that the impact fees for such development activity shall
12 be paid from public funds other than impact fee accounts;

13 (3) May exempt housing projects that are affordable to households
14 earning less than eighty percent of the adjusted area median income
15 from impact fees for school facilities. Impact fees exempted under
16 this subsection (3) are not required to be paid from other funds;

17 (4) Shall provide a credit for the value of any dedication of land
18 for, improvement to, or new construction of any system improvements
19 provided by the developer, to facilities that are identified in the
20 capital facilities plan and that are required by the county, city, or
21 town as a condition of approving the development activity;

22 ((+4)) (5) Shall allow the county, city, or town imposing the
23 impact fees to adjust the standard impact fee at the time the fee is
24 imposed to consider unusual circumstances in specific cases to ensure
25 that impact fees are imposed fairly;

26 ((+5)) (6) Shall include a provision for calculating the amount of
27 the fee to be imposed on a particular development that permits
28 consideration of studies and data submitted by the developer to adjust
29 the amount of the fee;

30 ((+6)) (7) Shall establish one or more reasonable service areas
31 within which it shall calculate and impose impact fees for various land
32 use categories per unit of development;

33 ((+7)) (8) May provide for the imposition of an impact fee for
34 system improvement costs previously incurred by a county, city, or town
35 to the extent that new growth and development will be served by the
36 previously constructed improvements provided such fee shall not be
37 imposed to make up for any system improvement deficiencies.

1 **Sec. 3.** RCW 82.02.070 and 1990 1st ex.s. c 17 s 46 are each
2 amended to read as follows:

3 (1) Impact fee receipts shall be earmarked specifically and
4 retained in special interest-bearing accounts. Separate accounts shall
5 be established for each type of public facility for which impact fees
6 are collected. All interest shall be retained in the account and
7 expended for the purpose or purposes for which the impact fees were
8 imposed. Annually, each county, city, or town imposing impact fees
9 shall provide a report on each impact fee account showing the source
10 and amount of all moneys collected, earned, or received and system
11 improvements that were financed in whole or in part by impact fees.

12 (2) Impact fees for system improvements shall be expended only in
13 conformance with the capital facilities plan element of the
14 comprehensive plan.

15 (3)(a) Except as provided otherwise by (b) of this subsection,
16 impact fees shall be expended or encumbered for a permissible use
17 within six years of receipt, unless there exists an extraordinary and
18 compelling reason for fees to be held longer than six years. Such
19 extraordinary or compelling reasons shall be identified in written
20 findings by the governing body of the county, city, or town.

21 (b) School impact fees must be expended or encumbered for a
22 permissible use within ten years of receipt, unless there exists an
23 extraordinary and compelling reason for fees to be held longer than ten
24 years. Such extraordinary or compelling reasons shall be identified in
25 written findings by the governing body of the county, city, or town.

26 (4) Impact fees may be paid under protest in order to obtain a
27 permit or other approval of development activity.

28 (5) Each county, city, or town that imposes impact fees shall
29 provide for an administrative appeals process for the appeal of an
30 impact fee; the process may follow the appeal process for the
31 underlying development approval or the county, city, or town may
32 establish a separate appeals process. The impact fee may be modified
33 upon a determination that it is proper to do so based on principles of
34 fairness. The county, city, or town may provide for the resolution of
35 disputes regarding impact fees by arbitration.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.02 RCW
37 to read as follows:

1 Criteria must be developed by the office of the superintendent of
2 public instruction for extending the use of school impact fees from six
3 to ten years and this extension must require an evaluation for each
4 respective school board of the appropriateness of the extension."

5 Correct the title.

EFFECT: (1) Authorizes counties, cities, and towns that impose
impact fees to exempt housing projects that are affordable to
households earning less than 80 percent of the adjusted area median
income from impact fees for school facilities.

(2) Specifies that these exempted impact fees for school facilities
are not required to be paid from other funds.

(3) Adds intent language.

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