

ESHB 3067 - S COMM AMD

By Committee on Financial Institutions, Housing & Insurance

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

3 "Sec. 1. RCW 82.02.050 and 1994 c 257 s 24 are each amended to
4 read as follows:

5 (1) It is the intent of the legislature:

6 (a) To ensure that adequate facilities are available to serve new
7 growth and development;

8 (b) To promote orderly growth and development by establishing
9 standards by which counties, cities, and towns may require, by
10 ordinance, that new growth and development pay a proportionate share of
11 the cost of new facilities needed to serve new growth and development;
12 and

13 (c) To ensure that impact fees are imposed through established
14 procedures and criteria so that specific developments do not pay
15 arbitrary fees or duplicative fees for the same impact.

16 (2) Counties, cities, and towns that are required or choose to plan
17 under RCW 36.70A.040 are authorized to impose impact fees on
18 development activity as part of the financing for public facilities,
19 provided that the financing for system improvements to serve new
20 development must provide for a balance between impact fees and other
21 sources of public funds and cannot rely solely on impact fees.

22 (3)(a) Counties, cities, and towns collecting impact fees for
23 residential development projects must make available to applicants for
24 building permits issued for a lot or unit within a subdivision, short
25 subdivision, or site development permit issuance a process by which the
26 applicant may record a lien against title to the property that requires
27 payment equal to one hundred percent of the impact fee rates in effect
28 at the time of issuance of the building permit, less a credit for any
29 deposits paid. Liens recorded in accordance with this subsection (3)
30 must provide for payment through escrow of the impact fee due and owing

1 to be paid at the time of closing of sale of the lot or unit that is
2 the subject of the building permit or within twelve months of permit
3 issuances, whichever is earlier. Payment of such fees must be made
4 from seller's proceeds or otherwise paid by the seller, unless an
5 agreement to the contrary is reached between buyer and seller. In the
6 absence of an agreement to the contrary, the seller shall bear strict
7 liability for the payment of said fees. Escrow is not liable for
8 collection or payment of any such fees except as may be instructed by
9 the parties to the transaction.

10 (b) A seller, and/or agents of a seller, of property subject to a
11 covenant authorized under this subsection (3), must provide written
12 disclosure of such lien to a purchaser or prospective purchaser
13 pursuant to the provisions of chapter 64.06 RCW.

14 (c) In the event the lot or unit is leased or rented rather than
15 sold, all impact fees applicable to such lot or unit must be paid in
16 full upon issuance of a certificate of occupancy or equivalent final
17 occupancy approval or within twelve months of permit issuances,
18 whichever is earlier.

19 (d) This subsection (3) applies only to the collection of impact
20 fees for residential development projects.

21 (e) This subsection (3) applies only to: (i) Counties with more
22 than one million five hundred thousand residents and the cities and
23 towns within these counties; and (ii) counties adjoining counties
24 meeting the requirements of (i) of this subsection (3)(e) that have
25 more than six hundred fifty thousand but fewer than eight hundred
26 thousand residents, and the cities and towns within these counties.

27 (f) This subsection (3) does not apply to dwellings governed by
28 chapter 64.34 RCW.

29 (4) The impact fees:

30 (a) (~~Shall~~) Must only be imposed for system improvements that are
31 reasonably related to the new development;

32 (b) (~~Shall~~) May not exceed a proportionate share of the costs of
33 system improvements that are reasonably related to the new development;
34 and

35 (c) (~~Shall~~) Must be used for system improvements that will
36 reasonably benefit the new development.

37 (~~(4)~~) (5)(a) Impact fees may be collected and spent only for the
38 public facilities defined in RCW 82.02.090 which are addressed by a

1 capital facilities plan element of a comprehensive land use plan
2 adopted pursuant to the provisions of RCW 36.70A.070 or the provisions
3 for comprehensive plan adoption contained in chapter 36.70, 35.63, or
4 35A.63 RCW. After the date a county, city, or town is required to
5 adopt its development regulations under chapter 36.70A RCW, continued
6 authorization to collect and expend impact fees (~~shall be~~) is
7 contingent on the county, city, or town adopting or revising a
8 comprehensive plan in compliance with RCW 36.70A.070, and on the
9 capital facilities plan identifying:

10 ~~((a))~~ (i) Deficiencies in public facilities serving existing
11 development and the means by which existing deficiencies will be
12 eliminated within a reasonable period of time;

13 ~~((b))~~ (ii) Additional demands placed on existing public
14 facilities by new development; and

15 ~~((c))~~ (iii) Additional public facility improvements required to
16 serve new development.

17 (b) If the capital facilities plan of the county, city, or town is
18 complete other than for the inclusion of those elements which are the
19 responsibility of a special district, the county, city, or town may
20 impose impact fees to address those public facility needs for which the
21 county, city, or town is responsible.

22 **Sec. 2.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read
23 as follows:

24 The comprehensive plan of a county or city that is required or
25 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
26 and descriptive text covering objectives, principles, and standards
27 used to develop the comprehensive plan. The plan shall be an
28 internally consistent document and all elements shall be consistent
29 with the future land use map. A comprehensive plan shall be adopted
30 and amended with public participation as provided in RCW 36.70A.140.

31 Each comprehensive plan shall include a plan, scheme, or design for
32 each of the following:

33 (1) A land use element designating the proposed general
34 distribution and general location and extent of the uses of land, where
35 appropriate, for agriculture, timber production, housing, commerce,
36 industry, recreation, open spaces, general aviation airports, public
37 utilities, public facilities, and other land uses. The land use

1 element shall include population densities, building intensities, and
2 estimates of future population growth. The land use element shall
3 provide for protection of the quality and quantity of groundwater used
4 for public water supplies. Wherever possible, the land use element
5 should consider utilizing urban planning approaches that promote
6 physical activity. Where applicable, the land use element shall review
7 drainage, flooding, and storm water run-off in the area and nearby
8 jurisdictions and provide guidance for corrective actions to mitigate
9 or cleanse those discharges that pollute waters of the state, including
10 Puget Sound or waters entering Puget Sound.

11 (2) A housing element ensuring the vitality and character of
12 established residential neighborhoods that: (a) Includes an inventory
13 and analysis of existing and projected housing needs that identifies
14 the number of housing units necessary to manage projected growth; (b)
15 includes a statement of goals, policies, objectives, and mandatory
16 provisions for the preservation, improvement, and development of
17 housing, including single-family residences; (c) identifies sufficient
18 land for housing, including, but not limited to, government-assisted
19 housing, housing for low-income families, manufactured housing,
20 multifamily housing, and group homes and foster care facilities; and
21 (d) makes adequate provisions for existing and projected needs of all
22 economic segments of the community.

23 (3) A capital facilities plan element consisting of: (a) An
24 inventory of existing capital facilities owned by public entities,
25 showing the locations and capacities of the capital facilities; (b) a
26 forecast of the future needs for such capital facilities; (c) the
27 proposed locations and capacities of expanded or new capital
28 facilities; (d) at least a six-year plan that will finance such capital
29 facilities within projected funding capacities and clearly identifies
30 sources of public money for such purposes; and (e) a requirement to
31 reassess the land use element if probable funding falls short of
32 meeting existing needs and to ensure that the land use element, capital
33 facilities plan element, and financing plan within the capital
34 facilities plan element are coordinated and consistent. Park and
35 recreation facilities shall be included in the capital facilities plan
36 element.

37 (4) A utilities element consisting of the general location,

1 proposed location, and capacity of all existing and proposed utilities,
2 including, but not limited to, electrical lines, telecommunication
3 lines, and natural gas lines.

4 (5) Rural element. Counties shall include a rural element
5 including lands that are not designated for urban growth, agriculture,
6 forest, or mineral resources. The following provisions shall apply to
7 the rural element:

8 (a) Growth management act goals and local circumstances. Because
9 circumstances vary from county to county, in establishing patterns of
10 rural densities and uses, a county may consider local circumstances,
11 but shall develop a written record explaining how the rural element
12 harmonizes the planning goals in RCW 36.70A.020 and meets the
13 requirements of this chapter.

14 (b) Rural development. The rural element shall permit rural
15 development, forestry, and agriculture in rural areas. The rural
16 element shall provide for a variety of rural densities, uses, essential
17 public facilities, and rural governmental services needed to serve the
18 permitted densities and uses. To achieve a variety of rural densities
19 and uses, counties may provide for clustering, density transfer, design
20 guidelines, conservation easements, and other innovative techniques
21 that will accommodate appropriate rural densities and uses that are not
22 characterized by urban growth and that are consistent with rural
23 character.

24 (c) Measures governing rural development. The rural element shall
25 include measures that apply to rural development and protect the rural
26 character of the area, as established by the county, by:

27 (i) Containing or otherwise controlling rural development;

28 (ii) Assuring visual compatibility of rural development with the
29 surrounding rural area;

30 (iii) Reducing the inappropriate conversion of undeveloped land
31 into sprawling, low-density development in the rural area;

32 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
33 surface water and groundwater resources; and

34 (v) Protecting against conflicts with the use of agricultural,
35 forest, and mineral resource lands designated under RCW 36.70A.170.

36 (d) Limited areas of more intensive rural development. Subject to
37 the requirements of this subsection and except as otherwise
38 specifically provided in this subsection (5)(d), the rural element may

1 allow for limited areas of more intensive rural development, including
2 necessary public facilities and public services to serve the limited
3 area as follows:

4 (i) Rural development consisting of the infill, development, or
5 redevelopment of existing commercial, industrial, residential, or
6 mixed-use areas, whether characterized as shoreline development,
7 villages, hamlets, rural activity centers, or crossroads developments.

8 (A) A commercial, industrial, residential, shoreline, or mixed-use
9 area shall be subject to the requirements of (d)(iv) of this
10 subsection, but shall not be subject to the requirements of (c)(ii) and
11 (iii) of this subsection.

12 (B) Any development or redevelopment other than an industrial area
13 or an industrial use within a mixed-use area or an industrial area
14 under this subsection (5)(d)(i) must be principally designed to serve
15 the existing and projected rural population.

16 (C) Any development or redevelopment in terms of building size,
17 scale, use, or intensity shall be consistent with the character of the
18 existing areas. Development and redevelopment may include changes in
19 use from vacant land or a previously existing use so long as the new
20 use conforms to the requirements of this subsection (5);

21 (ii) The intensification of development on lots containing, or new
22 development of, small-scale recreational or tourist uses, including
23 commercial facilities to serve those recreational or tourist uses, that
24 rely on a rural location and setting, but that do not include new
25 residential development. A small-scale recreation or tourist use is
26 not required to be principally designed to serve the existing and
27 projected rural population. Public services and public facilities
28 shall be limited to those necessary to serve the recreation or tourist
29 use and shall be provided in a manner that does not permit low-density
30 sprawl;

31 (iii) The intensification of development on lots containing
32 isolated nonresidential uses or new development of isolated cottage
33 industries and isolated small-scale businesses that are not principally
34 designed to serve the existing and projected rural population and
35 nonresidential uses, but do provide job opportunities for rural
36 residents. Rural counties may allow the expansion of small-scale
37 businesses as long as those small-scale businesses conform with the
38 rural character of the area as defined by the local government

1 according to RCW 36.70A.030(~~(14)~~) (15). Rural counties may also
2 allow new small-scale businesses to utilize a site previously occupied
3 by an existing business as long as the new small-scale business
4 conforms to the rural character of the area as defined by the local
5 government according to RCW 36.70A.030(~~(14)~~) (15). Public services
6 and public facilities shall be limited to those necessary to serve the
7 isolated nonresidential use and shall be provided in a manner that does
8 not permit low-density sprawl;

9 (iv) A county shall adopt measures to minimize and contain the
10 existing areas or uses of more intensive rural development, as
11 appropriate, authorized under this subsection. Lands included in such
12 existing areas or uses shall not extend beyond the logical outer
13 boundary of the existing area or use, thereby allowing a new pattern of
14 low-density sprawl. Existing areas are those that are clearly
15 identifiable and contained and where there is a logical boundary
16 delineated predominately by the built environment, but that may also
17 include undeveloped lands if limited as provided in this subsection.
18 The county shall establish the logical outer boundary of an area of
19 more intensive rural development. In establishing the logical outer
20 boundary the county shall address (A) the need to preserve the
21 character of existing natural neighborhoods and communities, (B)
22 physical boundaries such as bodies of water, streets and highways, and
23 land forms and contours, (C) the prevention of abnormally irregular
24 boundaries, and (D) the ability to provide public facilities and public
25 services in a manner that does not permit low-density sprawl;

26 (v) For purposes of (d) of this subsection, an existing area or
27 existing use is one that was in existence:

28 (A) On July 1, 1990, in a county that was initially required to
29 plan under all of the provisions of this chapter;

30 (B) On the date the county adopted a resolution under RCW
31 36.70A.040(2), in a county that is planning under all of the provisions
32 of this chapter under RCW 36.70A.040(2); or

33 (C) On the date the office of financial management certifies the
34 county's population as provided in RCW 36.70A.040(5), in a county that
35 is planning under all of the provisions of this chapter pursuant to RCW
36 36.70A.040(5).

37 (e) Exception. This subsection shall not be interpreted to permit

1 in the rural area a major industrial development or a master planned
2 resort unless otherwise specifically permitted under RCW 36.70A.360 and
3 36.70A.365.

4 (6) A transportation element that implements, and is consistent
5 with, the land use element.

6 (a) The transportation element shall include the following
7 subelements:

8 (i) Land use assumptions used in estimating travel;

9 (ii) Estimated traffic impacts to state-owned transportation
10 facilities resulting from land use assumptions to assist the department
11 of transportation in monitoring the performance of state facilities, to
12 plan improvements for the facilities, and to assess the impact of land-
13 use decisions on state-owned transportation facilities;

14 (iii) Facilities and services needs, including:

15 (A) An inventory of air, water, and ground transportation
16 facilities and services, including transit alignments and general
17 aviation airport facilities, to define existing capital facilities and
18 travel levels as a basis for future planning. This inventory must
19 include state-owned transportation facilities within the city or
20 county's jurisdictional boundaries;

21 (B) Level of service standards for all locally owned arterials and
22 transit routes to serve as a gauge to judge performance of the system.
23 These standards should be regionally coordinated;

24 (C) For state-owned transportation facilities, level of service
25 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
26 to gauge the performance of the system. The purposes of reflecting
27 level of service standards for state highways in the local
28 comprehensive plan are to monitor the performance of the system, to
29 evaluate improvement strategies, and to facilitate coordination between
30 the county's or city's six-year street, road, or transit program and
31 the department of transportation's six-year investment program. The
32 concurrency requirements of (b) of this subsection do not apply to
33 transportation facilities and services of statewide significance except
34 for counties consisting of islands whose only connection to the
35 mainland are state highways or ferry routes. In these island counties,
36 state highways and ferry route capacity must be a factor in meeting the
37 concurrency requirements in (b) of this subsection;

1 (D) Specific actions and requirements for bringing into compliance
2 locally owned transportation facilities or services that are below an
3 established level of service standard;

4 (E) Forecasts of traffic for at least ten years based on the
5 adopted land use plan to provide information on the location, timing,
6 and capacity needs of future growth;

7 (F) Identification of state and local system needs to meet current
8 and future demands. Identified needs on state-owned transportation
9 facilities must be consistent with the statewide multimodal
10 transportation plan required under chapter 47.06 RCW;

11 (iv) Finance, including:

12 (A) An analysis of funding capability to judge needs against
13 probable funding resources;

14 (B) A multiyear financing plan based on the needs identified in the
15 comprehensive plan, the appropriate parts of which shall serve as the
16 basis for the six-year street, road, or transit program required by RCW
17 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
18 for public transportation systems. The multiyear financing plan should
19 be coordinated with the (~~six-year-improvement~~) ten-year investment
20 program developed by the (~~department-of-transportation~~) office of
21 financial management as required by RCW 47.05.030;

22 (C) If probable funding falls short of meeting identified needs, a
23 discussion of how additional funding will be raised, or how land use
24 assumptions will be reassessed to ensure that level of service
25 standards will be met;

26 (v) Intergovernmental coordination efforts, including an assessment
27 of the impacts of the transportation plan and land use assumptions on
28 the transportation systems of adjacent jurisdictions;

29 (vi) Demand-management strategies;

30 (vii) Pedestrian and bicycle component to include collaborative
31 efforts to identify and designate planned improvements for pedestrian
32 and bicycle facilities and corridors that address and encourage
33 enhanced community access and promote healthy lifestyles.

34 (b) After adoption of the comprehensive plan by jurisdictions
35 required to plan or who choose to plan under RCW 36.70A.040, local
36 jurisdictions must adopt and enforce ordinances which prohibit
37 development approval if the development causes the level of service on
38 a locally owned transportation facility to decline below the standards

1 adopted in the transportation element of the comprehensive plan, unless
2 transportation improvements or strategies to accommodate the impacts of
3 development are made concurrent with the development. These strategies
4 may include increased public transportation service, ride sharing
5 programs, demand management, and other transportation systems
6 management strategies. For the purposes of this subsection (6)
7 "concurrent with the development" shall mean that improvements or
8 strategies are in place at the time of development, or that a financial
9 commitment is in place to complete the improvements or strategies
10 within six years. If the collection of impact fees is delayed under
11 RCW 82.02.050(3), the six-year period required by this subsection
12 (6)(b) must begin after the county or city receives full payment of all
13 impact fees due.

14 (c) The transportation element described in this subsection (6),
15 and the six-year plans required by RCW 35.77.010 for cities, RCW
16 36.81.121 for counties, and RCW 35.58.2795 for public transportation
17 systems, and the ten-year plan required by RCW 47.05.030 for the state,
18 must be consistent.

19 (7) An economic development element establishing local goals,
20 policies, objectives, and provisions for economic growth and vitality
21 and a high quality of life. The element shall include: (a) A summary
22 of the local economy such as population, employment, payroll, sectors,
23 businesses, sales, and other information as appropriate; (b) a summary
24 of the strengths and weaknesses of the local economy defined as the
25 commercial and industrial sectors and supporting factors such as land
26 use, transportation, utilities, education, workforce, housing, and
27 natural/cultural resources; and (c) an identification of policies,
28 programs, and projects to foster economic growth and development and to
29 address future needs. A city that has chosen to be a residential
30 community is exempt from the economic development element requirement
31 of this subsection.

32 (8) A park and recreation element that implements, and is
33 consistent with, the capital facilities plan element as it relates to
34 park and recreation facilities. The element shall include: (a)
35 Estimates of park and recreation demand for at least a ten-year period;
36 (b) an evaluation of facilities and service needs; and (c) an
37 evaluation of intergovernmental coordination opportunities to provide
38 regional approaches for meeting park and recreational demand.

1 (9) It is the intent that new or amended elements required after
2 January 1, 2002, be adopted concurrent with the scheduled update
3 provided in RCW 36.70A.130. Requirements to incorporate any such new
4 or amended elements shall be null and void until funds sufficient to
5 cover applicable local government costs are appropriated and
6 distributed by the state at least two years before local government
7 must update comprehensive plans as required in RCW 36.70A.130."

ESHB 3067 - S COMM AMD

By Committee on Financial Institutions, Housing & Insurance

8 On page 1, line 2 of the title, after "covenants;" strike the
9 remainder of the title and insert "and amending RCW 82.02.050 and
10 36.70A.070."

EFFECT: Changes the word "covenant" to the word "lien." Removes requirement that the covenant for lien include the amount of fees payable and the governmental entity to which they are to be paid. Clarifies that the escrow officer has no duty regarding the impact fees other than to execute the instructions given by the parties.

Requires the impact fees be paid at the earlier of 12 months after permit issuances or at closing.

--- END ---