

**EHB 1398** - H AMD 878

By Representative Fitzgibbon

NOT CONSIDERED 01/27/2012

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

3 "Sec. 1. RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each  
4 amended to read as follows:

5 The local ordinance by which impact fees are imposed:

6 (1) Shall include a schedule of impact fees which shall be adopted  
7 for each type of development activity that is subject to impact fees,  
8 specifying the amount of the impact fee to be imposed for each type of  
9 system improvement. The schedule shall be based upon a formula or  
10 other method of calculating such impact fees. In determining  
11 proportionate share, the formula or other method of calculating impact  
12 fees shall incorporate, among other things, the following:

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

14 (b) An adjustment to the cost of the public facilities for past or  
15 future payments made or reasonably anticipated to be made by new  
16 development to pay for particular system improvements in the form of  
17 user fees, debt service payments, taxes, or other payments earmarked  
18 for or proratable to the particular system improvement;

19 (c) The availability of other means of funding public facility  
20 improvements;

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

22 (e) The methods by which public facilities improvements were  
23 financed;

24 (2) May provide an exemption for low-income housing((~~τ~~)) and other  
25 development activities with broad public purposes((~~τ~~)) from these  
26 impact fees, provided that the impact fees for ((~~such~~)) development  
27 ((~~activity~~)) activities with broad public purposes shall be paid from  
28 public funds other than impact fee accounts. Local governments that  
29 grant exemptions for low-income housing under this subsection (2) are  
30 not obligated to pay the exempted fees. An exemption for low-income

1 housing granted under this subsection (2) must be conditioned upon  
2 requiring the developer to record a covenant that, except as provided  
3 otherwise by this subsection, prohibits using the property for any  
4 purpose other than for low-income housing. At a minimum, the covenant  
5 must address price restrictions and household income limits for the  
6 low-income housing, and that if the property is converted to a use  
7 other than for low-income housing, the property owner must pay the  
8 applicable impact fees in effect at the time of conversion. Covenants  
9 required by this subsection must be recorded with the applicable county  
10 auditor or recording officer. A local government granting an exemption  
11 under this subsection for low-income housing may not collect revenue  
12 lost through granting an exemption by increasing impact fees unrelated  
13 to the exemption. For purposes of this subsection (2), "low-income  
14 housing" means housing with a monthly housing expense that is no more  
15 than thirty percent of eighty percent of the median family income  
16 adjusted for family size, for the county where the project is located,  
17 as reported by the United States department of housing and urban  
18 development;

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

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

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

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

35 (7) May provide for the imposition of an impact fee for system  
36 improvement costs previously incurred by a county, city, or town to the  
37 extent that new growth and development will be served by the previously

1 constructed improvements provided such fee shall not be imposed to make  
2 up for any system improvement deficiencies."

3 Correct the title.

EFFECT: Removes the automatic exemption for fees otherwise due under the State Environmental Policy Act for local governments granting an impact fee exemption for low-income housing. Requires the developer's recorded covenant to include price restrictions and household income limits for the low-income housing. Defines low-income housing as housing with a monthly housing expense no more than 30 percent of 80 percent of the county's median family income.

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