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## Community Development & Housing Committee

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### HB 1398

**Brief Description:** Creating an exemption from impact fees for low-income housing.

**Sponsors:** Representatives Fitzgibbon, Seaquist, Orwall, Springer, Upthegrove and Kenney.

#### Brief Summary of Bill

- Removes the requirement that local governments pay impact fees from qualifying public funds upon exempting low-income housing from impact fee requirements.
- Specifies that impact fee exemptions for low-income housing require the developer to record a covenant prohibiting conversion of the property unless applicable impact fees are paid.
- Prohibits local governments from collecting mitigation fees under the State Environmental Policy Act for low-income housing in place of exempted impact fees.

**Hearing Date:** 1/26/11

**Staff:** Jennifer Thornton (786-7147).

#### **Background:**

##### Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA (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.

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*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.*

## 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.

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.

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.

## State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify possible environmental impacts that may result from governmental decisions, including the issuance of permits or the adoption of or amendment to land use plans and regulations. Any governmental action may be conditioned or denied pursuant to the SEPA, provided the conditions or denials are based upon policies identified by the appropriate governmental authority and incorporated into formally designated regulations, plans, or codes.

### **Summary of Bill:**

Local governments granting impact fee exemptions for low-income housing are not obligated to pay the exempted fees from qualifying public funds.

For a local government to grant an impact fee exemption for low-income housing, a developer must record a covenant with the county auditor prohibiting the use of the property for any purpose other than for low-income housing. If the property is later converted to another use, the property owner must pay the applicable impact fees at the time of conversion.

Local governments granting an impact fee exemption for low-income housing may not impose a fee under the SEPA for the system improvements for which the exemption applies.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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