

# FINAL BILL REPORT

## EHB 1398

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Synopsis as Enacted

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

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

**House Committee on Community & Economic Development & Housing**  
**Senate Committee on Financial Institutions, Housing & Insurance**

### **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.

#### 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.

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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.*

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; and
- allow the imposing jurisdiction to adjust the standard impact fee for unusual circumstances in specific cases to ensure that fees are imposed fairly.

These ordinances also 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.

**Summary:**

A local government may provide one of the following exemptions from impact fees for low-income housing: (1) a partial exemption of up to 80 percent with no explicit requirement to pay the exempted fees from public funds other than impact fee accounts; or (2) a full waiver with no requirement to pay the exempted fees from public funds other than impact fee accounts.

For a local government to grant an impact fee exemption for low-income housing, a developer must record a covenant with the county auditor that prohibits the use of the property for any purpose other than for low-income housing, and addresses price restrictions and household income limits for the 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. School districts that receive impact fees must approve any exemption provided for low-income housing.

Local governments also may not collect the revenue lost due to granting impact fee exemptions for low-income housing by increasing fees unrelated to the exemption.

Low-income housing is defined to mean housing with a monthly housing expense of no more than 30 percent of 80 percent of the county's median family income.

**Votes on Final Passage:**

House	86	8	
House	53	42	
Senate	32	16	(Senate amended)
House			(House refused to concur)
Senate	32	17	(Senate amended)
House	56	42	(House concurred)

**Effective:** June 7, 2012