

# SENATE BILL REPORT

## EHB 1398

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As Reported by Senate Committee On:  
Financial Institutions, Housing & Insurance, February 22, 2012

**Title:** An act relating to exempting low-income housing from impact fees.

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

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

**Brief History:** Passed House: 2/22/11, 86-8; 1/27/12, 53-42.

**Committee Activity:** Financial Institutions, Housing & Insurance: 3/09/11, 3/15/11, 3/16/11, 3/22/11 [DPA, DNP]; 2/22/12 [DPA, DNP].

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Majority Report:** Do pass as amended.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain, Haugen, Keiser and Litzow.

**Minority Report:** Do not pass.

Signed by Senator Benton, Ranking Minority Member.

**Staff:** Alison Mendiola (786-7483)

**Background:** Growth Management Act (GMA). GMA is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under 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. Additionally, impact fees may only be imposed for system improvements, a term defined in statute, that are reasonably related to the new development; may not exceed a proportionate share of the costs of system improvements; and must be used for system improvements that will reasonably benefit the new development.

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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 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 in jurisdictions that are not part of a fire district.

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 they 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.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Recommended Amendments):** Local governments granting impact fee exemptions for low-income housing are not obligated to pay the exempt fees from qualifying public funds. Local governments may only grant impact fee exemptions for low-income housing if the developer records a covenant prohibiting the use of the property for any purpose other than for low-income housing. Conversions of use are permitted, however, provided the applicable impact fees are paid by the property owner at the time of conversion.

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 exemptions.

Low-income housing is defined. A developer's recorded covenant is to include restrictions on rental payments and household income.

**EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Amendments):** An exemption of low-income fees does not automatically provide an exemption from the State Environmental Policy Act. Low-income housing is defined.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony as Heard in Committee:** PRO: This bill allows for a local option to encourage affordable housing where the jobs, transportation, and shopping are located: within city limits. This is another tool for cities to use, but doesn't force them. The exemption can provide jobs, increased sales revenue, and even leverage for additional

funding. Impact fees can be high – \$6,000 in Gig Harbor – which is a real disadvantage when building affordable housing, especially when the average household income is 30-60 percent of the area median income. School impact fees are considered separately, and some school districts choose to take the loss as they opt for the increased funding the new students brings. In 2006 the Governor convened a taskforce on the Growth Management Act. The findings were consensus based. If this bill passes, it would implement one of the 16 recommendations.

CON: The loss of revenue needs to be captured somewhere, which may result in fewer parks or other public benefits. Growth pays for growth and impact fees are an issue for everyone, not just affordable housing developers.

**Persons Testifying:** PRO: Rob Karlinsey, City of Gig Harbor; Paul Purcell, Beacon Development Group, Affordable Housing Advisory Board; Laudon Espinoza, Tacoma/Pierce County Habitat for Humanity; Doreen Marchione, City of Kirkland; Arthur Sullivan, A Regional Coalition for Housing; Harry Hoffman, Housing Development Consortium of Seattle- King County; Karen Tennyson, Private Citizen.

CON: Steve Gano, Building Industry Assn. of WA.