

SHB 1652 - H AMD 61

By Representative Liias

WITHDRAWN 03/06/2013

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 must
23 adopt a permanent system for the collection of impact fees from
24 applicants for residential building permits issued for a lot or unit
25 created by a subdivision, short subdivision, site development permit,
26 binding site plan, or condominium that includes one or more of the
27 following:

28 (i)(A) A process by which an applicant for any development permit
29 that requires payment of an impact fee must record a covenant against
30 title to the lot or unit subject to the impact fee obligation. A

1 covenant under this subsection (3)(a)(i) must also serve as a lien
2 binding on all successors in title after the recordation. The covenant
3 must require payment equal to one hundred percent of the impact fee
4 applicable to the lot or unit at the rates in effect at the time the
5 building permit was issued, less a credit for any deposits paid.

6 (B) Covenants recorded in accordance with this subsection (3)(a)(i)
7 must provide for payment of the impact fee at the earlier of the
8 following: The time of closing of sale of the applicable lot or unit;
9 or in accordance with the applicable county, city, or town ordinance,
10 eighteen or more months after the building permit is issued. Payment
11 of impact fees due at closing of a sale must, unless an agreement to
12 the contrary is reached between buyer and seller, be made from the
13 seller's proceeds. In the absence of an agreement to the contrary, the
14 seller bears strict liability for the payment of the impact fees.

15 (C) The seller must provide written disclosure of the covenant
16 authorized under this subsection (3)(a)(i) as required by chapter 64.06
17 RCW.

18 (D) Upon receiving payment of impact fees due, the applicable
19 county, city, or town must remove the covenant recorded in accordance
20 with this subsection (3)(a)(i); or

21 (ii) A process by which an applicant may apply for a deferral of
22 the impact fee payment until final inspection or certificate of
23 occupancy, or equivalent certification.

24 (b) Counties, cities, and towns may adopt local systems for the
25 collection of impact fees that differ from the requirements of this
26 subsection (3) if the payment timing provisions are consistent with
27 those of this subsection.

28 (c) Any county, city, or town with a prior existing process to
29 delay all impact fees in place prior to the effective date of this
30 section is exempt from the provisions of this section as long as the
31 prior existing impact fee deferral process remains in effect. Prior
32 existing impact fee deferral processes may be amended in a manner
33 consistent with this section.

34 (4) The impact fees:

35 (a) Shall only be imposed for system improvements that are
36 reasonably related to the new development;

37 (b) Shall not exceed a proportionate share of the costs of system
38 improvements that are reasonably related to the new development; and

1 (c) Shall be used for system improvements that will reasonably
2 benefit the new development.

3 ~~((4))~~ (5)(a) Impact fees may be collected and spent only for the
4 public facilities defined in RCW 82.02.090 which are addressed by a
5 capital facilities plan element of a comprehensive land use plan
6 adopted pursuant to the provisions of RCW 36.70A.070 or the provisions
7 for comprehensive plan adoption contained in chapter 36.70, 35.63, or
8 35A.63 RCW. After the date a county, city, or town is required to
9 adopt its development regulations under chapter 36.70A RCW, continued
10 authorization to collect and expend impact fees ~~((shall be))~~ is
11 contingent on the county, city, or town adopting or revising a
12 comprehensive plan in compliance with RCW 36.70A.070, and on the
13 capital facilities plan identifying:

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

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

19 ~~((c))~~ (iii) Additional public facility improvements required to
20 serve new development.

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

26 **Sec. 2.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each
27 amended to read as follows:

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

35 (2) Each comprehensive plan shall include a plan, scheme, or design
36 for each of the following:

1 ~~((1))~~ (a) A land use element designating the proposed general
2 distribution and general location and extent of the uses of land, where
3 appropriate, for agriculture, timber production, housing, commerce,
4 industry, recreation, open spaces, general aviation airports, public
5 utilities, public facilities, and other land uses. The land use
6 element shall include population densities, building intensities, and
7 estimates of future population growth. The land use element shall
8 provide for protection of the quality and quantity of groundwater used
9 for public water supplies. Wherever possible, the land use element
10 should consider utilizing urban planning approaches that promote
11 physical activity. Where applicable, the land use element shall review
12 drainage, flooding, and storm water run-off in the area and nearby
13 jurisdictions and provide guidance for corrective actions to mitigate
14 or cleanse those discharges that pollute waters of the state, including
15 Puget Sound or waters entering Puget Sound.

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

29 ~~((3))~~ (c) A capital facilities plan element consisting of:
30 ~~((a))~~ (i) An inventory of existing capital facilities owned by public
31 entities, showing the locations and capacities of the capital
32 facilities; ~~((b))~~ (ii) a forecast of the future needs for such
33 capital facilities; ~~((c))~~ (iii) the proposed locations and capacities
34 of expanded or new capital facilities; ~~((d))~~ (iv) at least a six-year
35 plan that will finance such capital facilities within projected funding
36 capacities and clearly identifies sources of public money for such
37 purposes; and ~~((e))~~ (v) a requirement to reassess the land use
38 element if probable funding falls short of meeting existing needs and

1 to ensure that the land use element, capital facilities plan element,
2 and financing plan within the capital facilities plan element are
3 coordinated and consistent. Park and recreation facilities shall be
4 included in the capital facilities plan element.

5 ((+4)) (d) A utilities element consisting of the general location,
6 proposed location, and capacity of all existing and proposed utilities,
7 including, but not limited to, electrical lines, telecommunication
8 lines, and natural gas lines.

9 ((+5)) (e) Rural element. Counties shall include a rural element
10 including lands that are not designated for urban growth, agriculture,
11 forest, or mineral resources. The following provisions (~~shall~~) apply
12 to the rural element:

13 ((+a)) (i) Growth management act goals and local circumstances.
14 Because circumstances vary from county to county, in establishing
15 patterns of rural densities and uses, a county may consider local
16 circumstances, but shall develop a written record explaining how the
17 rural element harmonizes the planning goals in RCW 36.70A.020 and meets
18 the requirements of this chapter.

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

29 ((+c)) (iii) Measures governing rural development. The rural
30 element shall include measures that apply to rural development and
31 protect the rural character of the area, as established by the county,
32 by:

33 ((+i)) (A) Containing or otherwise controlling rural development;

34 ((+ii)) (B) Assuring visual compatibility of rural development
35 with the surrounding rural area;

36 ((+iii)) (C) Reducing the inappropriate conversion of undeveloped
37 land into sprawling, low-density development in the rural area;

1 (~~(iv)~~) (D) Protecting critical areas, as provided in RCW
2 36.70A.060, and surface water and groundwater resources; and

3 (~~(v)~~) (E) Protecting against conflicts with the use of
4 agricultural, forest, and mineral resource lands designated under RCW
5 36.70A.170.

6 (~~(d)~~) (iv) Limited areas of more intensive rural development.
7 Subject to the requirements of this subsection and except as otherwise
8 specifically provided in this subsection (~~(5)(d)~~) (2)(e)(iv), the
9 rural element may allow for limited areas of more intensive rural
10 development, including necessary public facilities and public services
11 to serve the limited area as follows:

12 (~~(i)~~) (A) Rural development consisting of the infill,
13 development, or redevelopment of existing commercial, industrial,
14 residential, or mixed-use areas, whether characterized as shoreline
15 development, villages, hamlets, rural activity centers, or crossroads
16 developments.

17 (~~(A)~~) (I) A commercial, industrial, residential, shoreline, or
18 mixed-use area (~~shall be~~) are subject to the requirements of
19 (~~(d)(iv)~~) (e)(iv)(D) of this subsection (2), but (~~shall~~) are not
20 (~~be~~) subject to the requirements of (~~(c)(ii)~~) (e)(iii)(B) and
21 (~~(iii)~~) (C) of this subsection (2).

22 (~~(B)~~) (II) Any development or redevelopment other than an
23 industrial area or an industrial use within a mixed-use area or an
24 industrial area under this subsection (~~(5)(d)(i)~~) (e)(iv)(A) must be
25 principally designed to serve the existing and projected rural
26 population.

27 (~~(C)~~) (III) Any development or redevelopment in terms of building
28 size, scale, use, or intensity shall be consistent with the character
29 of the existing areas. Development and redevelopment may include
30 changes in use from vacant land or a previously existing use so long as
31 the new use conforms to the requirements of this subsection (~~(5)~~)
32 (2)(e);

33 (~~(ii)~~) (B) The intensification of development on lots containing,
34 or new development of, small-scale recreational or tourist uses,
35 including commercial facilities to serve those recreational or tourist
36 uses, that rely on a rural location and setting, but that do not
37 include new residential development. A small-scale recreation or
38 tourist use is not required to be principally designed to serve the

1 existing and projected rural population. Public services and public
2 facilities shall be limited to those necessary to serve the recreation
3 or tourist use and shall be provided in a manner that does not permit
4 low-density sprawl;

5 ~~((+iii+))~~ (C) The intensification of development on lots containing
6 isolated nonresidential uses or new development of isolated cottage
7 industries and isolated small-scale businesses that are not principally
8 designed to serve the existing and projected rural population and
9 nonresidential uses, but do provide job opportunities for rural
10 residents. Rural counties may allow the expansion of small-scale
11 businesses as long as those small-scale businesses conform with the
12 rural character of the area ~~((as defined by the local government
13 according to RCW 36.70A.030(15)))~~. Rural counties may also allow new
14 small-scale businesses to utilize a site previously occupied by an
15 existing business as long as the new small-scale business conforms to
16 the rural character of the area ~~((as defined by the local government
17 according to RCW 36.70A.030(15)))~~. Public services and public
18 facilities shall be limited to those necessary to serve the isolated
19 nonresidential use and shall be provided in a manner that does not
20 permit low-density sprawl. For the purposes of this subsection, "rural
21 character" has the same meaning as provided in RCW 36.70A.030;

22 ~~((+iv+))~~ (D) A county shall adopt measures to minimize and contain
23 the existing areas or uses of more intensive rural development, as
24 appropriate, authorized under this subsection. Lands included in such
25 existing areas or uses shall not extend beyond the logical outer
26 boundary of the existing area or use, thereby allowing a new pattern of
27 low-density sprawl. Existing areas are those that are clearly
28 identifiable and contained and where there is a logical boundary
29 delineated predominately by the built environment, but that may also
30 include undeveloped lands if limited as provided in this subsection.
31 The county shall establish the logical outer boundary of an area of
32 more intensive rural development. In establishing the logical outer
33 boundary, the county shall address ~~((+A+))~~;

34 (I) The need to preserve the character of existing natural
35 neighborhoods and communities~~((+B+))~~;

36 (II) Physical boundaries, such as bodies of water, streets and
37 highways, and land forms and contours~~((+C+))~~;

1 (III) The prevention of abnormally irregular boundaries~~((7))~~; and
2 ~~((D))~~

3 (IV) The ability to provide public facilities and public services
4 in a manner that does not permit low-density sprawl;

5 ~~((v))~~ (E) For purposes of ~~((d))~~ (e)(iv) of this subsection (2),
6 an existing area or existing use is one that was in existence:

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

9 ~~((B))~~ (II) On the date the county adopted a resolution under RCW
10 36.70A.040(2), in a county that is planning under all of the provisions
11 of this chapter under RCW 36.70A.040(2); or

12 ~~((C))~~ (III) On the date the office of financial management
13 certifies the county's population as provided in RCW 36.70A.040(5), in
14 a county that is planning under all of the provisions of this chapter
15 pursuant to RCW 36.70A.040(5).

16 ~~((e))~~ (v) Exception. This subsection shall not be interpreted to
17 permit in the rural area a major industrial development or a master
18 planned resort unless otherwise specifically permitted under RCW
19 36.70A.360 and 36.70A.365.

20 ~~((6))~~ (f) A transportation element that implements, and is
21 consistent with, the land use element.

22 ~~((a))~~ (i) The transportation element shall include the following
23 subelements:

24 ~~((i))~~ (A) Land use assumptions used in estimating travel;

25 ~~((ii))~~ (B) Estimated traffic impacts to state-owned
26 transportation facilities resulting from land use assumptions to assist
27 the department of transportation in monitoring the performance of state
28 facilities, to plan improvements for the facilities, and to assess the
29 impact of land-use decisions on state-owned transportation facilities;

30 ~~((iii))~~ (C) Facilities and services needs, including:

31 ~~((A))~~ (I) An inventory of air, water, and ground transportation
32 facilities and services, including transit alignments and general
33 aviation airport facilities, to define existing capital facilities and
34 travel levels as a basis for future planning. This inventory must
35 include state-owned transportation facilities within the city or
36 county's jurisdictional boundaries;

37 ~~((B))~~ (II) Level of service standards for all locally owned

1 arterials and transit routes to serve as a gauge to judge performance
2 of the system. These standards should be regionally coordinated;

3 ~~((C))~~ (III) For state-owned transportation facilities, level of
4 service standards for highways, as prescribed in chapters 47.06 and
5 47.80 RCW, to gauge the performance of the system. The purposes of
6 reflecting level of service standards for state highways in the local
7 comprehensive plan are to monitor the performance of the system, to
8 evaluate improvement strategies, and to facilitate coordination between
9 the county's or city's six-year street, road, or transit program and
10 the office of financial management's ten-year investment program. The
11 concurrency requirements of ~~((b))~~ (f)(ii) of this subsection do not
12 apply to transportation facilities and services of statewide
13 significance except for counties consisting of islands whose only
14 connection to the mainland are state highways or ferry routes. In
15 these island counties, state highways and ferry route capacity must be
16 a factor in meeting the concurrency requirements in ~~((b))~~ (f)(ii) of
17 this subsection;

18 ~~((D))~~ (IV) Specific actions and requirements for bringing into
19 compliance locally owned transportation facilities or services that are
20 below an established level of service standard;

21 ~~((E))~~ (V) Forecasts of traffic for at least ten years based on
22 the adopted land use plan to provide information on the location,
23 timing, and capacity needs of future growth;

24 ~~((F))~~ (VI) Identification of state and local system needs to meet
25 current and future demands. Identified needs on state-owned
26 transportation facilities must be consistent with the statewide
27 multimodal transportation plan required under chapter 47.06 RCW;

28 ~~((iv))~~ (D) Finance, including:

29 ~~((A))~~ (I) An analysis of funding capability to judge needs
30 against probable funding resources;

31 ~~((B))~~ (II) A multiyear financing plan based on the needs
32 identified in the comprehensive plan, the appropriate parts of which
33 shall serve as the basis for the six-year street, road, or transit
34 program required by RCW 35.77.010 for cities, RCW 36.81.121 for
35 counties, and RCW 35.58.2795 for public transportation systems. The
36 multiyear financing plan should be coordinated with the ten-year
37 investment program developed by the office of financial management as
38 required by RCW 47.05.030;

1 (~~(c)~~) (III) If probable funding falls short of meeting identified
2 needs, a discussion of how additional funding will be raised, or how
3 land use assumptions will be reassessed to ensure that level of service
4 standards will be met;

5 (~~(v)~~) (E) Intergovernmental coordination efforts, including an
6 assessment of the impacts of the transportation plan and land use
7 assumptions on the transportation systems of adjacent jurisdictions;

8 (~~(vi)~~) (F) Demand-management strategies;

9 (~~(vii)~~) (G) Pedestrian and bicycle component to include
10 collaborative efforts to identify and designate planned improvements
11 for pedestrian and bicycle facilities and corridors that address and
12 encourage enhanced community access and promote healthy lifestyles.

13 (~~(b)~~) (ii) After adoption of the comprehensive plan by
14 jurisdictions required to plan or who choose to plan under RCW
15 36.70A.040, local jurisdictions must adopt and enforce ordinances which
16 prohibit development approval if the development causes the level of
17 service on a locally owned transportation facility to decline below the
18 standards adopted in the transportation element of the comprehensive
19 plan, unless transportation improvements or strategies to accommodate
20 the impacts of development are made concurrent with the development.
21 These strategies may include increased public transportation service,
22 ride sharing programs, demand management, and other transportation
23 systems management strategies. For the purposes of this subsection
24 (~~(6)~~) (2)(f), "concurrent with the development" means that
25 improvements or strategies are in place at the time of development, or
26 that a financial commitment is in place to complete the improvements or
27 strategies within six years. If the collection of impact fees is
28 delayed under RCW 82.02.050(3), the six-year period required by this
29 subsection (2)(f)(ii) must begin after the county or city receives full
30 payment of all impact fees due.

31 (~~(e)~~) (iii) The transportation element described in this
32 subsection (~~(6)~~) (2)(f), the six-year plans required by RCW 35.77.010
33 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public
34 transportation systems, and the ten-year investment program required by
35 RCW 47.05.030 for the state, must be consistent.

36 (~~(7)~~) (g) An economic development element establishing local
37 goals, policies, objectives, and provisions for economic growth and
38 vitality and a high quality of life. The element shall include:

1 ((+a+)) (i) A summary of the local economy such as population,
2 employment, payroll, sectors, businesses, sales, and other information
3 as appropriate; ((+b+)) (ii) a summary of the strengths and weaknesses
4 of the local economy defined as the commercial and industrial sectors
5 and supporting factors such as land use, transportation, utilities,
6 education, workforce, housing, and natural/cultural resources; and
7 ((+c+)) (iii) an identification of policies, programs, and projects to
8 foster economic growth and development and to address future needs. A
9 city that has chosen to be a residential community is exempt from the
10 economic development element requirement of this subsection.

11 ((+8+)) (h) A park and recreation element that implements, and is
12 consistent with, the capital facilities plan element as it relates to
13 park and recreation facilities. The element shall include: ((+a+))
14 (i) Estimates of park and recreation demand for at least a ten-year
15 period; ((+b+)) (ii) an evaluation of facilities and service needs; and
16 ((+c+)) (iii) an evaluation of intergovernmental coordination
17 opportunities to provide regional approaches for meeting park and
18 recreational demand.

19 ((+9+)) (i) It is the intent that new or amended elements required
20 after January 1, 2002, be adopted concurrent with the scheduled update
21 provided in RCW 36.70A.130. Requirements to incorporate any such new
22 or amended elements shall be null and void until funds sufficient to
23 cover applicable local government costs are appropriated and
24 distributed by the state at least two years before local government
25 must update comprehensive plans as required in RCW 36.70A.130."

26 Correct the title.

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