

SHB 1652 - H AMD 83

By Representative Liias

ADOPTED 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 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 Each comprehensive plan shall include a plan, scheme, or design for
36 each of the following:

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

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

1 facilities plan element are coordinated and consistent. Park and
2 recreation facilities shall be included in the capital facilities plan
3 element.

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

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

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

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

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

31 (i) Containing or otherwise controlling rural development;

32 (ii) Assuring visual compatibility of rural development with the
33 surrounding rural area;

34 (iii) Reducing the inappropriate conversion of undeveloped land
35 into sprawling, low-density development in the rural area;

36 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
37 surface water and groundwater resources; and

1 (v) Protecting against conflicts with the use of agricultural,
2 forest, and mineral resource lands designated under RCW 36.70A.170.

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

9 (i) Rural development consisting of the infill, development, or
10 redevelopment of existing commercial, industrial, residential, or
11 mixed-use areas, whether characterized as shoreline development,
12 villages, hamlets, rural activity centers, or crossroads developments.

13 (A) A commercial, industrial, residential, shoreline, or mixed-use
14 area (~~(shall be)~~) are subject to the requirements of (d)(iv) of this
15 subsection, but (~~(shall)~~) are not (~~(be)~~) subject to the requirements of
16 (c)(ii) and (iii) of this subsection.

17 (B) Any development or redevelopment other than an industrial area
18 or an industrial use within a mixed-use area or an industrial area
19 under this subsection (5)(d)(i) must be principally designed to serve
20 the existing and projected rural population.

21 (C) Any development or redevelopment in terms of building size,
22 scale, use, or intensity shall be consistent with the character of the
23 existing areas. Development and redevelopment may include changes in
24 use from vacant land or a previously existing use so long as the new
25 use conforms to the requirements of this subsection (5);

26 (ii) The intensification of development on lots containing, or new
27 development of, small-scale recreational or tourist uses, including
28 commercial facilities to serve those recreational or tourist uses, that
29 rely on a rural location and setting, but that do not include new
30 residential development. A small-scale recreation or tourist use is
31 not required to be principally designed to serve the existing and
32 projected rural population. Public services and public facilities
33 shall be limited to those necessary to serve the recreation or tourist
34 use and shall be provided in a manner that does not permit low-density
35 sprawl;

36 (iii) The intensification of development on lots containing
37 isolated nonresidential uses or new development of isolated cottage
38 industries and isolated small-scale businesses that are not principally

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

15 (iv) A county shall adopt measures to minimize and contain the
16 existing areas or uses of more intensive rural development, as
17 appropriate, authorized under this subsection. Lands included in such
18 existing areas or uses shall not extend beyond the logical outer
19 boundary of the existing area or use, thereby allowing a new pattern of
20 low-density sprawl. Existing areas are those that are clearly
21 identifiable and contained and where there is a logical boundary
22 delineated predominately by the built environment, but that may also
23 include undeveloped lands if limited as provided in this subsection.
24 The county shall establish the logical outer boundary of an area of
25 more intensive rural development. In establishing the logical outer
26 boundary, the county shall address (A) the need to preserve the
27 character of existing natural neighborhoods and communities, (B)
28 physical boundaries, such as bodies of water, streets and highways, and
29 land forms and contours, (C) the prevention of abnormally irregular
30 boundaries, and (D) the ability to provide public facilities and public
31 services in a manner that does not permit low-density sprawl;

32 (v) For purposes of (d) of this subsection, an existing area or
33 existing use is one that was in existence:

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

36 (B) On the date the county adopted a resolution under RCW
37 36.70A.040(2), in a county that is planning under all of the provisions
38 of this chapter under RCW 36.70A.040(2); or

1 (C) On the date the office of financial management certifies the
2 county's population as provided in RCW 36.70A.040(5), in a county that
3 is planning under all of the provisions of this chapter pursuant to RCW
4 36.70A.040(5).

5 (e) Exception. This subsection shall not be interpreted to permit
6 in the rural area a major industrial development or a master planned
7 resort unless otherwise specifically permitted under RCW 36.70A.360 and
8 36.70A.365.

9 (6) A transportation element that implements, and is consistent
10 with, the land use element.

11 (a) The transportation element shall include the following
12 subelements:

13 (i) Land use assumptions used in estimating travel;

14 (ii) Estimated traffic impacts to state-owned transportation
15 facilities resulting from land use assumptions to assist the department
16 of transportation in monitoring the performance of state facilities, to
17 plan improvements for the facilities, and to assess the impact of land-
18 use decisions on state-owned transportation facilities;

19 (iii) Facilities and services needs, including:

20 (A) An inventory of air, water, and ground transportation
21 facilities and services, including transit alignments and general
22 aviation airport facilities, to define existing capital facilities and
23 travel levels as a basis for future planning. This inventory must
24 include state-owned transportation facilities within the city or
25 county's jurisdictional boundaries;

26 (B) Level of service standards for all locally owned arterials and
27 transit routes to serve as a gauge to judge performance of the system.
28 These standards should be regionally coordinated;

29 (C) For state-owned transportation facilities, level of service
30 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
31 to gauge the performance of the system. The purposes of reflecting
32 level of service standards for state highways in the local
33 comprehensive plan are to monitor the performance of the system, to
34 evaluate improvement strategies, and to facilitate coordination between
35 the county's or city's six-year street, road, or transit program and
36 the office of financial management's ten-year investment program. The
37 concurrency requirements of (b) of this subsection do not apply to
38 transportation facilities and services of statewide significance except

1 for counties consisting of islands whose only connection to the
2 mainland are state highways or ferry routes. In these island counties,
3 state highways and ferry route capacity must be a factor in meeting the
4 concurrency requirements in (b) of this subsection;

5 (D) Specific actions and requirements for bringing into compliance
6 locally owned transportation facilities or services that are below an
7 established level of service standard;

8 (E) Forecasts of traffic for at least ten years based on the
9 adopted land use plan to provide information on the location, timing,
10 and capacity needs of future growth;

11 (F) Identification of state and local system needs to meet current
12 and future demands. Identified needs on state-owned transportation
13 facilities must be consistent with the statewide multimodal
14 transportation plan required under chapter 47.06 RCW;

15 (iv) Finance, including:

16 (A) An analysis of funding capability to judge needs against
17 probable funding resources;

18 (B) A multiyear financing plan based on the needs identified in the
19 comprehensive plan, the appropriate parts of which shall serve as the
20 basis for the six-year street, road, or transit program required by RCW
21 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
22 for public transportation systems. The multiyear financing plan should
23 be coordinated with the ten-year investment program developed by the
24 office of financial management as required by RCW 47.05.030;

25 (C) If probable funding falls short of meeting identified needs, a
26 discussion of how additional funding will be raised, or how land use
27 assumptions will be reassessed to ensure that level of service
28 standards will be met;

29 (v) Intergovernmental coordination efforts, including an assessment
30 of the impacts of the transportation plan and land use assumptions on
31 the transportation systems of adjacent jurisdictions;

32 (vi) Demand-management strategies;

33 (vii) Pedestrian and bicycle component to include collaborative
34 efforts to identify and designate planned improvements for pedestrian
35 and bicycle facilities and corridors that address and encourage
36 enhanced community access and promote healthy lifestyles.

37 (b) After adoption of the comprehensive plan by jurisdictions
38 required to plan or who choose to plan under RCW 36.70A.040, local

1 jurisdictions must adopt and enforce ordinances which prohibit
2 development approval if the development causes the level of service on
3 a locally owned transportation facility to decline below the standards
4 adopted in the transportation element of the comprehensive plan, unless
5 transportation improvements or strategies to accommodate the impacts of
6 development are made concurrent with the development. These strategies
7 may include increased public transportation service, ride sharing
8 programs, demand management, and other transportation systems
9 management strategies. For the purposes of this subsection (6),
10 "concurrent with the development" means that improvements or strategies
11 are in place at the time of development, or that a financial commitment
12 is in place to complete the improvements or strategies within six
13 years. If the collection of impact fees is delayed under RCW
14 82.02.050(3), the six-year period required by this subsection (6)(b)
15 must begin after the county or city receives full payment of all impact
16 fees due.

17 (c) The transportation element described in this subsection (6),
18 the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121
19 for counties, and RCW 35.58.2795 for public transportation systems, and
20 the ten-year investment program required by RCW 47.05.030 for the
21 state, must be consistent.

22 (7) An economic development element establishing local goals,
23 policies, objectives, and provisions for economic growth and vitality
24 and a high quality of life. The element shall include: (a) A summary
25 of the local economy such as population, employment, payroll, sectors,
26 businesses, sales, and other information as appropriate; (b) a summary
27 of the strengths and weaknesses of the local economy defined as the
28 commercial and industrial sectors and supporting factors such as land
29 use, transportation, utilities, education, workforce, housing, and
30 natural/cultural resources; and (c) an identification of policies,
31 programs, and projects to foster economic growth and development and to
32 address future needs. A city that has chosen to be a residential
33 community is exempt from the economic development element requirement
34 of this subsection.

35 (8) A park and recreation element that implements, and is
36 consistent with, the capital facilities plan element as it relates to
37 park and recreation facilities. The element shall include: (a)
38 Estimates of park and recreation demand for at least a ten-year period;

1 (b) an evaluation of facilities and service needs; and (c) an
2 evaluation of intergovernmental coordination opportunities to provide
3 regional approaches for meeting park and recreational demand.

4 (9) It is the intent that new or amended elements required after
5 January 1, 2002, be adopted concurrent with the scheduled update
6 provided in RCW 36.70A.130. Requirements to incorporate any such new
7 or amended elements shall be null and void until funds sufficient to
8 cover applicable local government costs are appropriated and
9 distributed by the state at least two years before local government
10 must update comprehensive plans as required in RCW 36.70A.130.

11 NEW SECTION. **Sec. 3.** This act takes effect December 1, 2013."

12 Correct the title.

EFFECT: (1) Specifies that, in using the covenant-based impact fee deferral process required in the underlying bill, the development permit applicant must, rather than may, record a covenant against title to the lot or unit subject to the impact fee obligation. (2) Modifies covenant provisions to specify that the applicable deferral-related covenant must be a lien that is binding upon all successors in title after its recording. (3) Deletes a provision requiring recorded covenants to provide for the payment of a deferred impact fee through escrow. (4) Specifies that counties, cities, or towns with processes to delay all impact fees in place prior to the effective date are exempt from the deferral requirements of the underlying bill if the prior deferral processes remain in effect. (5) Authorizes prior impact fee deferral processes of local governments to be amended in accordance with specified requirements. (6) Establishes a delayed effective date for the bill of December 1, 2013.

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