

SB 5452 - H AMD 552

By Representative Goehner

NOT ADOPTED 04/07/2023

1 On page 2, after line 2, insert the following:

2 "It is the intent of the legislature to assist local governments
3 to avoid inequitable treatment. A local government may not require a
4 property owner to install bicycle and pedestrian facilities within or
5 abutting the property and also to pay impact fees for bicycle and
6 pedestrian facilities that are not located on the property. To avoid
7 this, the local government must provide a credit."

8

9 On page 3, after line 20, insert the following:

10 "**Sec. 3.** RCW 82.02.060 and 2021 c 72 s 1 are each amended to read
11 as follows:

12 The local ordinance by which impact fees are imposed:

13 (1) Shall include a schedule of impact fees which shall be
14 adopted for each type of development activity that is subject to
15 impact fees, specifying the amount of the impact fee to be imposed
16 for each type of system improvement. The schedule shall be based
17 upon a formula or other method of calculating such impact fees. In
18 determining proportionate share, the formula or other method of
19 calculating impact fees shall incorporate, among other things, the
20 following:

21 (a) The cost of public facilities necessitated by new development;

22 (b) An adjustment to the cost of the public facilities for past
23 or future payments made or reasonably anticipated to be made by new
24 development to pay for particular system improvements in the form of
25 user fees, debt service payments, taxes, or other payments earmarked
26 for or proratable to the particular system improvement;

27

1 (c) The availability of other means of funding public facility
2 improvements;

3 (d) The cost of existing public facilities improvements; and

4 (e) The methods by which public facilities improvements were
5 financed;

6 (2) May provide an exemption for low-income housing, and other
7 development activities with broad public purposes, including
8 development of an early learning facility, from these impact fees,
9 provided that the impact fees for such development activity shall be
10 paid from public funds other than impact fee accounts;

11 (3)(a) May not impose an impact fee on development activities of
12 an early learning facility greater than that imposed on commercial
13 retail or commercial office development activities that generate a
14 similar number, volume, type, and duration of vehicle trips;

15 (b) When a facility or development has more than one use, the
16 limitations in this subsection (3) or the exemption applicable to an
17 early learning facility in subsections (2) and (4) of this section
18 only apply to that portion that is developed as an early learning
19 facility. The impact fee assessed on an early learning facility in
20 such a development or facility may not exceed the least of the
21 impact fees assessed on comparable businesses in the facility or
22 development;

23 (4) May provide an exemption from impact fees for low-income
24 housing or for early learning facilities. Local governments that
25 grant exemptions for low-income housing or for early learning
26 facilities under this subsection (4) may either: Grant a partial
27 exemption of not more than eighty percent of impact fees, in which
28 case there is no explicit requirement to pay the exempted portion of
29 the fee from public funds other than impact fee accounts; or provide
30 a full waiver, in which case the remaining percentage of the
31 exempted fee must be paid from public funds other than impact fee
32 accounts, except as provided in (b) of this subsection. These
33 exemptions are subject to the following requirements:

34

1 (a) An exemption for low-income housing granted under subsection
2 (2) of this section or this subsection (4) must be conditioned upon
3 requiring the developer to record a covenant that, except as
4 provided otherwise by this subsection, prohibits using the property
5 for any purpose other than for low-income housing. At a minimum, the
6 covenant must address price restrictions and household income limits
7 for the low-income housing, and that if the property is converted to
8 a use other than for low-income housing, the property owner must pay
9 the applicable impact fees in effect at the time of conversion;

10 (b) An exemption for early learning facilities granted under
11 subsection (2) of this section or this subsection (4) may be a full
12 waiver without an explicit requirement to pay the exempted portion
13 of the fee from public funds other than impact fee accounts if the
14 local government requires the developer to record a covenant that
15 requires that at least 25 percent of the children and families using
16 the early learning facility qualify for state subsidized child care,
17 including early childhood education and assistance under chapter
18 43.216 RCW, and that provides that if the property is converted to a
19 use other than for an early learning facility, the property owner
20 must pay the applicable impact fees in effect at the time of
21 conversion, and that also provides that if at no point during a
22 calendar year does the early learning facility achieve the required
23 percentage of children and families qualified for state subsidized
24 child care using the early learning facility, the property owner
25 must pay 20 percent of the impact fee that would have been imposed
26 on the development had there not been an exemption within 90 days of
27 the local government notifying the property owner of the breach, and
28 any balance remaining thereafter shall be a lien on the property; and

29 (c) Covenants required by (a) and (b) of this subsection must be
30 recorded with the applicable county auditor or recording officer. A
31 local government granting an exemption under subsection (2) of this
32 section or this subsection (4) for low-income housing or an early
33 learning facility may not collect revenue lost through granting an
34 exemption by increasing impact fees unrelated to the exemption. A

1 school district who receives school impact fees must approve any
2 exemption under subsection (2) of this section or this subsection (4);

3 (5) Shall provide a credit for the value of any dedication of
4 land for, improvement to, or new construction of any system
5 improvements provided by the developer, to facilities that are
6 identified in the capital facilities plan and that are required by
7 the county, city, or town as a condition of approving the
8 development activity;

9 (6) Shall provide a credit for the value of any bicycle and
10 pedestrian facilities installed or provided by the developer or
11 property owner that are on or abutting the development against any
12 impact fee assessed in whole or in part to pay for bicycle and
13 pedestrian facilities that were designed with multimodal commuting
14 as an intended use;

15 (7) Shall allow the county, city, or town imposing the impact
16 fees to adjust the standard impact fee at the time the fee is
17 imposed to consider unusual circumstances in specific cases to
18 ensure that impact fees are imposed fairly;

19 ~~((+7))~~(8) Shall include a provision for calculating the amount
20 of the fee to be imposed on a particular development that permits
21 consideration of studies and data submitted by the developer to
22 adjust the amount of the fee;

23 ~~((+8))~~(9) Shall establish one or more reasonable service areas
24 within which it shall calculate and impose impact fees for various
25 land use categories per unit of development; and

26 ~~((+9))~~(10) May provide for the imposition of an impact fee for
27 system improvement costs previously incurred by a county, city, or
28 town to the extent that new growth and development will be served by
29 the previously constructed improvements provided such fee shall not
30 be imposed to make up for any system improvement deficiencies.

31 For purposes of this section, "low-income housing" means housing
32 with a monthly housing expense, that is no greater than thirty
33 percent of eighty percent of the median family income adjusted for
34 family size, for the county where the project is located, as

1 reported by the United States department of housing and urban
2 development.

3 For the purposes of this section, "early learning facility" has
4 the same meaning as in RCW 43.31.565."

5

6 Correct the title.

7

EFFECT:

- Provides additional intent language.
- Requires that the local government ordinance imposing impact fees provide for a credit for the value of any bicycle or pedestrian facilities on or abutting the development that were installed or provided by the developer or property owner against any impact fee assessed in whole or in part to pay for bicycle and pedestrian facilities that were designed with multimodal commuting as an intended use.

--- END ---