

**SB 5452** - H AMD 518

By Representative Jacobsen

**NOT ADOPTED 04/07/2023**

1 On page 2, line 2, after "options." insert "The legislature  
2 intends for property owners only to be charged impact fees for routes  
3 accessible by walking or bicycling from their homes."  
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5 On page 3, after line 20, insert the following:

6 "Sec. 3. RCW 82.02.050 and 2015 c 241 s 1 are each amended to  
7 read as follows:

8 (1) It is the intent of the legislature:

9 (a) To ensure that adequate facilities are available to serve  
10 new growth and development;

11 (b) To promote orderly growth and development by establishing  
12 standards by which counties, cities, and towns may require, by  
13 ordinance, that new growth and development pay a proportionate share  
14 of the cost of new facilities needed to serve new growth and  
15 development; and

16 (c) To ensure that impact fees are imposed through established  
17 procedures and criteria so that specific developments do not pay  
18 arbitrary fees or duplicative fees for the same impact.

19 (2) Counties, cities, and towns that are required or choose to  
20 plan under RCW 36.70A.040 are authorized to impose impact fees on  
21 development activity as part of the financing for public facilities,  
22 provided that the financing for system improvements to serve new  
23 development must provide for a balance between impact fees and other  
24 sources of public funds and cannot rely solely on impact fees.

25 (3)(a)(i) Counties, cities, and towns collecting impact fees  
26 must, by September 1, 2016, adopt and maintain a system for the  
27 deferred collection of impact fees for single-family detached and

1 attached residential construction. The deferral system must include  
2 a process by which an applicant for a building permit for a single-  
3 family detached or attached residence may request a deferral of the  
4 full impact fee payment. The deferral system offered by a county,  
5 city, or town under this subsection (3) must include one or more of  
6 the following options:

7 (A) Deferring collection of the impact fee payment until final  
8 inspection;

9 (B) Deferring collection of the impact fee payment until  
10 certificate of occupancy or equivalent certification; or

11 (C) Deferring collection of the impact fee payment until the  
12 time of closing of the first sale of the property occurring after  
13 the issuance of the applicable building permit.

14 (ii) Counties, cities, and towns utilizing the deferral process  
15 required by this subsection (3)(a) may withhold certification of  
16 final inspection, certificate of occupancy, or equivalent  
17 certification until the impact fees have been paid in full.

18 (iii) The amount of impact fees that may be deferred under this  
19 subsection (3) must be determined by the fees in effect at the time  
20 the applicant applies for a deferral.

21 (iv) Unless an agreement to the contrary is reached between the  
22 buyer and seller, the payment of impact fees due at closing of a  
23 sale must be made from the seller's proceeds. In the absence of an  
24 agreement to the contrary, the seller bears strict liability for the  
25 payment of the impact fees.

26 (b) The term of an impact fee deferral under this subsection (3)  
27 may not exceed eighteen months from the date of building permit  
28 issuance.

29 (c) Except as may otherwise be authorized in accordance with (f)  
30 of this subsection (3), an applicant seeking a deferral under this  
31 subsection (3) must grant and record a deferred impact fee lien  
32 against the property in favor of the county, city, or town in the  
33 amount of the deferred impact fee. The deferred impact fee lien,  
34

1 which must include the legal description, tax account number, and  
2 address of the property, must also be:

3 (i) In a form approved by the county, city, or town;

4 (ii) Signed by all owners of the property, with all signatures  
5 acknowledged as required for a deed, and recorded in the county  
6 where the property is located;

7 (iii) Binding on all successors in title after the recordation;  
8 and

9 (iv) Junior and subordinate to one mortgage for the purpose of  
10 construction upon the same real property granted by the person who  
11 applied for the deferral of impact fees.

12 (d)(i) If impact fees are not paid in accordance with a deferral  
13 authorized by this subsection (3), and in accordance with the term  
14 provisions established in (b) of this subsection (3), the county,  
15 city, or town may institute foreclosure proceedings in accordance  
16 with chapter 61.12 RCW.

17 (ii) If the county, city, or town does not institute foreclosure  
18 proceedings for unpaid school impact fees within forty-five days  
19 after receiving notice from a school district requesting that it do  
20 so, the district may institute foreclosure proceedings with respect  
21 to the unpaid impact fees.

22 (e)(i) Upon receipt of final payment of all deferred impact fees  
23 for a property, the county, city, or town must execute a release of  
24 deferred impact fee lien for the property. The property owner at the  
25 time of the release, at his or her expense, is responsible for  
26 recording the lien release.

27 (ii) The extinguishment of a deferred impact fee lien by the  
28 foreclosure of a lien having priority does not affect the obligation  
29 to pay the impact fees as a condition of final inspection,  
30 certificate of occupancy, or equivalent certification, or at the  
31 time of closing of the first sale.

32 (f) A county, city, or town with an impact fee deferral process  
33 on or before April 1, 2015, is exempt from the requirements of this  
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1 subsection (3) if the deferral process delays all impact fees and  
2 remains in effect after September 1, 2016.

3 (g)(i) Each applicant for a single-family residential  
4 construction permit, in accordance with his or her contractor  
5 registration number or other unique identification number, is  
6 entitled to annually receive deferrals under this subsection (3) for  
7 the first twenty single-family residential construction building  
8 permits per county, city, or town. A county, city, or town, however,  
9 may elect, by ordinance, to defer more than twenty single-family  
10 residential construction building permits for an applicant. If the  
11 county, city, or town collects impact fees on behalf of one or more  
12 school districts for which the collection of impact fees could be  
13 delayed, the county, city, or town must consult with the district or  
14 districts about the additional deferrals. A county, city, or town  
15 considering additional deferrals must give substantial weight to  
16 recommendations of each applicable school district regarding the  
17 number of additional deferrals. If the county, city, or town  
18 disagrees with the recommendations of one or more school districts,  
19 the county, city, or town must provide the district or districts  
20 with a written rationale for its decision.

21 (ii) For purposes of this subsection (3)(g), an "applicant"  
22 includes an entity that controls the applicant, is controlled by the  
23 applicant, or is under common control with the applicant.

24 (h) Counties, cities, and towns may collect reasonable  
25 administrative fees to implement this subsection (3) from permit  
26 applicants who are seeking to delay the payment of impact fees under  
27 this subsection (3).

28 (i) In accordance with RCW \*44.28.812 and 43.31.980, counties,  
29 cities, and towns must cooperate with and provide requested data,  
30 materials, and assistance to the department of commerce and the  
31 joint legislative audit and review committee.

32 (4) The impact fees:

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

1 (b) Shall not exceed a proportionate share of the costs of  
2 system improvements that are reasonably related to the new  
3 development; (~~and~~)

4 (c) Shall be used for system improvements that will reasonably  
5 benefit the new development; and

6 (d) Shall only be imposed on new development to pay for a  
7 bicycle and pedestrian facility designed with multimodal commuting  
8 as an intended use when there is a bikeable or walkable route  
9 connecting the bicycle and pedestrian facility and the new  
10 development.

11 (5)(a) Impact fees may be collected and spent only for the  
12 public facilities defined in RCW 82.02.090 which are addressed by a  
13 capital facilities plan element of a comprehensive land use plan  
14 adopted pursuant to the provisions of RCW 36.70A.070 or the  
15 provisions for comprehensive plan adoption contained in chapter  
16 36.70, 35.63, or 35A.63 RCW. After the date a county, city, or town  
17 is required to adopt its development regulations under chapter  
18 36.70A RCW, continued authorization to collect and expend impact  
19 fees is contingent on the county, city, or town adopting or revising  
20 a comprehensive plan in compliance with RCW 36.70A.070, and on the  
21 capital facilities plan identifying:

22 (i) Deficiencies in public facilities serving existing  
23 development and the means by which existing deficiencies will be  
24 eliminated within a reasonable period of time;

25 (ii) Additional demands placed on existing public facilities by  
26 new development; and

27 (iii) Additional public facility improvements required to serve  
28 new development.

29 (b) If the capital facilities plan of the county, city, or town  
30 is complete other than for the inclusion of those elements which are  
31 the responsibility of a special district, the county, city, or town  
32 may impose impact fees to address those public facility needs for  
33 which the county, city, or town is responsible."  
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1 Correct the title.

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EFFECT:

- Provides additional intent language.
- Prohibits impact fees for a bicycle and pedestrian facility designed with multimodal commuting as an intended use from being imposed on a new development that does not have a walkable or bikeable route to the bicycle and pedestrian facility.

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