
SENATE BILL 6285

State of Washington

68th Legislature

2024 Regular Session

By Senators Braun, Short, and L. Wilson

Read first time 01/22/24. Referred to Committee on Ways & Means.

1 AN ACT Relating to ensuring the timely and balanced use of impact
2 fees; and amending RCW 82.02.050, 82.02.070, and 82.02.080.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 82.02.050 and 2015 c 241 s 1 are each amended to
5 read as follows:

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

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

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

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

17 (2) Counties, cities, and towns that are required or choose to
18 plan under RCW 36.70A.040 are authorized to impose impact fees on
19 development activity as part of the financing for public facilities,
20 provided that the financing for system improvements to serve new
21 development must provide for a balance between impact fees and other

1 sources of public funds and cannot rely (~~solely~~) primarily on
2 impact fees.

3 (3) (a) (i) Counties, cities, and towns collecting impact fees
4 must, by September 1, 2016, adopt and maintain a system for the
5 deferred collection of impact fees for single-family detached and
6 attached residential construction. The deferral system must include a
7 process by which an applicant for a building permit for a single-
8 family detached or attached residence may request a deferral of the
9 full impact fee payment. The deferral system offered by a county,
10 city, or town under this subsection (3) must include one or more of
11 the following options:

12 (A) Deferring collection of the impact fee payment until final
13 inspection;

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

16 (C) Deferring collection of the impact fee payment until the time
17 of closing of the first sale of the property occurring after the
18 issuance of the applicable building permit.

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

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

26 (iv) Unless an agreement to the contrary is reached between the
27 buyer and seller, the payment of impact fees due at closing of a sale
28 must be made from the seller's proceeds. In the absence of an
29 agreement to the contrary, the seller bears strict liability for the
30 payment of the impact fees.

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

34 (c) Except as may otherwise be authorized in accordance with (f)
35 of this subsection (3), an applicant seeking a deferral under this
36 subsection (3) must grant and record a deferred impact fee lien
37 against the property in favor of the county, city, or town in the
38 amount of the deferred impact fee. The deferred impact fee lien,
39 which must include the legal description, tax account number, and
40 address of the property, must also be:

1 (i) In a form approved by the county, city, or town;
2 (ii) Signed by all owners of the property, with all signatures
3 acknowledged as required for a deed, and recorded in the county where
4 the property is located;
5 (iii) Binding on all successors in title after the recordation;
6 and
7 (iv) Junior and subordinate to one mortgage for the purpose of
8 construction upon the same real property granted by the person who
9 applied for the deferral of impact fees.

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

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

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

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

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

34 (g)(i) Each applicant for a single-family residential
35 construction permit, in accordance with his or her contractor
36 registration number or other unique identification number, is
37 entitled to annually receive deferrals under this subsection (3) for
38 the first twenty single-family residential construction building
39 permits per county, city, or town. A county, city, or town, however,
40 may elect, by ordinance, to defer more than twenty single-family

1 residential construction building permits for an applicant. If the
2 county, city, or town collects impact fees on behalf of one or more
3 school districts for which the collection of impact fees could be
4 delayed, the county, city, or town must consult with the district or
5 districts about the additional deferrals. A county, city, or town
6 considering additional deferrals must give substantial weight to
7 recommendations of each applicable school district regarding the
8 number of additional deferrals. If the county, city, or town
9 disagrees with the recommendations of one or more school districts,
10 the county, city, or town must provide the district or districts with
11 a written rationale for its decision.

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

15 (h) Counties, cities, and towns may collect reasonable
16 administrative fees to implement this subsection (3) from permit
17 applicants who are seeking to delay the payment of impact fees under
18 this subsection (3).

19 (i) In accordance with RCW (~~44.28.812~~ and) 43.31.980, counties,
20 cities, and towns must cooperate with and provide requested data,
21 materials, and assistance to the department of commerce and the joint
22 legislative audit and review committee.

23 (4) The impact fees:

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

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

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

31 (d) Shall not make up more than 50 percent of the financing for
32 any individual system improvement.

33 (5)(a) Impact fees may be collected and spent only for the public
34 facilities defined in RCW 82.02.090 which are addressed by a capital
35 facilities plan element of a comprehensive land use plan adopted
36 pursuant to the provisions of RCW 36.70A.070 or the provisions for
37 comprehensive plan adoption contained in chapter 36.70, 35.63, or
38 35A.63 RCW. After the date a county, city, or town is required to
39 adopt its development regulations under chapter 36.70A RCW, continued
40 authorization to collect and expend impact fees is contingent on the

1 county, city, or town adopting or revising a comprehensive plan in
2 compliance with RCW 36.70A.070, and on the capital facilities plan
3 identifying:

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

7 (ii) Additional demands placed on existing public facilities by
8 new development; and

9 (iii) Additional public facility improvements required to serve
10 new development.

11 (b) If the capital facilities plan of the county, city, or town
12 is complete other than for the inclusion of those elements which are
13 the responsibility of a special district, the county, city, or town
14 may impose impact fees to address those public facility needs for
15 which the county, city, or town is responsible.

16 **Sec. 2.** RCW 82.02.070 and 2011 c 353 s 8 are each amended to
17 read as follows:

18 (1) Impact fee receipts shall be earmarked specifically and
19 retained in special interest-bearing accounts. Separate accounts
20 shall be established for each type of public facility for which
21 impact fees are collected. Additionally, impact fees collected prior
22 to July 1, 2024, and impact fees collected after that date must be
23 maintained in separate accounts for each type of public facility for
24 which impact fees are collected. All interest shall be retained in
25 the account and expended for the purpose or purposes for which the
26 impact fees were imposed. Annually, each county, city, or town
27 imposing impact fees shall provide a report on each impact fee
28 account showing the source and amount of all moneys collected,
29 earned, or received and system improvements that were financed in
30 whole or in part by impact fees.

31 (2) Impact fees for system improvements shall be expended only in
32 conformance with the capital facilities plan element of the
33 comprehensive plan.

34 (3) (a) Except as provided otherwise by (b) of this subsection,
35 impact fees collected before July 1, 2024, shall be expended or
36 encumbered for a permissible use within ten years of receipt, unless
37 there exists an extraordinary and compelling reason for fees to be
38 held longer than ten years. (~~Such~~) Impact fees collected after July
39 1, 2024, shall be expended or encumbered for a permissible use within

1 five years of receipt, unless there exists an extraordinary and
2 compelling reason for fees to be held longer than five years. Any
3 such extraordinary or compelling reasons shall be identified in
4 written findings by the governing body of the county, city, or town.

5 (b) School impact fees collected before July 1, 2024, must be
6 expended or encumbered for a permissible use within ten years of
7 receipt, unless there exists an extraordinary and compelling reason
8 for fees to be held longer than ten years. ((Such)) Impact fees
9 collected after July 1, 2024, shall be expended or encumbered for a
10 permissible use within five years of receipt, unless there exists an
11 extraordinary and compelling reason for fees to be held longer than
12 five years. Any such extraordinary or compelling reasons shall be
13 identified in written findings by the governing body of the county,
14 city, or town.

15 (4) Impact fees may be paid under protest in order to obtain a
16 permit or other approval of development activity.

17 (5) Each county, city, or town that imposes impact fees shall
18 provide for an administrative appeals process for the appeal of an
19 impact fee; the process may follow the appeal process for the
20 underlying development approval or the county, city, or town may
21 establish a separate appeals process. The impact fee may be modified
22 upon a determination that it is proper to do so based on principles
23 of fairness. The county, city, or town may provide for the resolution
24 of disputes regarding impact fees by arbitration.

25 **Sec. 3.** RCW 82.02.080 and 2011 c 353 s 9 are each amended to
26 read as follows:

27 (1) The current owner of property on which an impact fee has been
28 paid may receive a refund of such fees if the county, city, or town
29 fails to expend or encumber the impact fees within ~~((ten years of~~
30 ~~when the fees were paid or other such period of time established~~
31 ~~pursuant to))~~ the time period established or modified as provided in
32 RCW 82.02.070(3) on public facilities intended to benefit the
33 development activity for which the impact fees were paid. In
34 determining whether impact fees have been encumbered, impact fees
35 shall be considered encumbered on a first in, first out basis. The
36 county, city, or town shall notify potential claimants by first-class
37 mail deposited with the United States postal service at the last
38 known address of claimants.

1 The request for a refund must be submitted to the county, city,
2 or town governing body in writing within one year of the date the
3 right to claim the refund arises or the date that notice is given,
4 whichever is later. Any impact fees that are not expended within
5 these time limitations, and for which no application for a refund has
6 been made within this one-year period, shall be retained and expended
7 on the indicated capital facilities. Refunds of impact fees under
8 this subsection shall include interest earned on the impact fees.

9 (2) When a county, city, or town seeks to terminate any or all
10 impact fee requirements, all unexpended or unencumbered funds,
11 including interest earned, shall be refunded pursuant to this
12 section. Upon the finding that any or all fee requirements are to be
13 terminated, the county, city, or town shall place notice of such
14 termination and the availability of refunds in a newspaper of general
15 circulation at least two times and shall notify all potential
16 claimants by first-class mail to the last known address of claimants.
17 All funds available for refund shall be retained for a period of one
18 year. At the end of one year, any remaining funds shall be retained
19 by the local government, but must be expended for the indicated
20 public facilities. This notice requirement shall not apply if there
21 are no unexpended or unencumbered balances within an account or
22 accounts being terminated.

23 (3) A developer may request and shall receive a refund, including
24 interest earned on the impact fees, when the developer does not
25 proceed with the development activity and no impact has resulted.

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