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HOUSE BILL 1753

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Eddy, Curtis and McCune

Read first time 01/26/2007. Referred to Committee on Local Government.

1            AN ACT Relating to transportation concurrency and impact fees under  
2 the growth management act; and amending RCW 36.70A.070 and 82.02.050.

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

4            **Sec. 1.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read  
5 as follows:

6            The comprehensive plan of a county or city that is required or  
7 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
8 and descriptive text covering objectives, principles, and standards  
9 used to develop the comprehensive plan. The plan shall be an  
10 internally consistent document and all elements shall be consistent  
11 with the future land use map. A comprehensive plan shall be adopted  
12 and amended with public participation as provided in RCW 36.70A.140.

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

15            (1) A land use element designating the proposed general  
16 distribution and general location and extent of the uses of land, where  
17 appropriate, for agriculture, timber production, housing, commerce,  
18 industry, recreation, open spaces, general aviation airports, public  
19 utilities, public facilities, and other land uses. The land use

1 element shall include population densities, building intensities, and  
2 estimates of future population growth. The land use element shall  
3 provide for protection of the quality and quantity of ground water used  
4 for public water supplies. Wherever possible, the land use element  
5 should consider utilizing urban planning approaches that promote  
6 physical activity. Where applicable, the land use element shall review  
7 drainage, flooding, and storm water run-off in the area and nearby  
8 jurisdictions and provide guidance for corrective actions to mitigate  
9 or cleanse those discharges that pollute waters of the state, including  
10 Puget Sound or waters entering Puget Sound.

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

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

37 (4) A utilities element consisting of the general location,

1 proposed location, and capacity of all existing and proposed utilities,  
2 including, but not limited to, electrical lines, telecommunication  
3 lines, and natural gas lines.

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

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

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

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

27 (i) Containing or otherwise controlling rural development;

28 (ii) Assuring visual compatibility of rural development with the  
29 surrounding rural area;

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

32 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and  
33 surface water and ground water resources; and

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

36 (d) Limited areas of more intensive rural development. Subject to  
37 the requirements of this subsection and except as otherwise  
38 specifically provided in this subsection (5)(d), the rural element may

1 allow for limited areas of more intensive rural development, including  
2 necessary public facilities and public services to serve the limited  
3 area as follows:

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

8 (A) A commercial, industrial, residential, shoreline, or mixed-use  
9 area shall be subject to the requirements of (d)(iv) of this  
10 subsection, but shall not be subject to the requirements of (c)(ii) and  
11 (iii) of this subsection.

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

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

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

31 (iii) The intensification of development on lots containing  
32 isolated nonresidential uses or new development of isolated cottage  
33 industries and isolated small-scale businesses that are not principally  
34 designed to serve the existing and projected rural population and  
35 nonresidential uses, but do provide job opportunities for rural  
36 residents. Rural counties may allow the expansion of small-scale  
37 businesses as long as those small-scale businesses conform with the  
38 rural character of the area as defined by the local government

1 according to RCW 36.70A.030(~~((+14))~~) (15). Rural counties may also  
2 allow new small-scale businesses to utilize a site previously occupied  
3 by an existing business as long as the new small-scale business  
4 conforms to the rural character of the area as defined by the local  
5 government according to RCW 36.70A.030(~~((+14))~~) (15). Public services  
6 and public facilities shall be limited to those necessary to serve the  
7 isolated nonresidential use and shall be provided in a manner that does  
8 not permit low-density sprawl;

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

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

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

30 (B) On the date the county adopted a resolution under RCW  
31 36.70A.040(2), in a county that is planning under all of the provisions  
32 of this chapter under RCW 36.70A.040(2); or

33 (C) On the date the office of financial management certifies the  
34 county's population as provided in RCW 36.70A.040(5), in a county that  
35 is planning under all of the provisions of this chapter pursuant to RCW  
36 36.70A.040(5).

37 (e) Exception. This subsection shall not be interpreted to permit

1 in the rural area a major industrial development or a master planned  
2 resort unless otherwise specifically permitted under RCW 36.70A.360 and  
3 36.70A.365.

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

6 (a) The transportation element shall include the following  
7 subelements:

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

9 (ii) Estimated traffic impacts to state-owned transportation  
10 facilities resulting from land use assumptions to assist the department  
11 of transportation in monitoring the performance of state facilities, to  
12 plan improvements for the facilities, and to assess the impact of land-  
13 use decisions on state-owned transportation facilities;

14 (iii) Facilities and services needs, including:

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

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

24 (C) For state-owned transportation facilities, level of service  
25 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,  
26 to gauge the performance of the system. The purposes of reflecting  
27 level of service standards for state highways in the local  
28 comprehensive plan are to monitor the performance of the system, to  
29 evaluate improvement strategies, and to facilitate coordination between  
30 the county's or city's six-year street, road, or transit program and  
31 the department of transportation's six-year investment program. The  
32 concurrency requirements of (b) of this subsection do not apply to  
33 transportation facilities and services of statewide significance except  
34 for counties consisting of islands whose only connection to the  
35 mainland are state highways or ferry routes. In these island counties,  
36 state highways and ferry route capacity must be a factor in meeting the  
37 concurrency requirements in (b) of this subsection;

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

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

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

11 (iv) Finance, including:

12 (A) An analysis of funding capability to judge needs against  
13 probable funding resources;

14 (B) A multiyear financing plan based on the needs identified in the  
15 comprehensive plan, the appropriate parts of which shall serve as the  
16 basis for the six-year street, road, or transit program required by RCW  
17 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795  
18 for public transportation systems. The multiyear financing plan should  
19 be coordinated with the ((~~six-year~~)) ten-year improvement program  
20 developed by the department of transportation as required by RCW  
21 47.05.030;

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

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

29 (vi) Demand-management strategies;

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

34 (b) After adoption of the comprehensive plan by jurisdictions  
35 required to plan or who choose to plan under RCW 36.70A.040, local  
36 jurisdictions must adopt and enforce ordinances which prohibit  
37 development approval if the development causes the level of service on  
38 a locally owned transportation facility to decline below the standards

1 adopted in the transportation element of the comprehensive plan, unless  
2 transportation improvements or strategies to accommodate the impacts of  
3 development are made concurrent with the development. These strategies  
4 may include increased public transportation service, ride sharing  
5 programs, demand management, and other transportation systems  
6 management strategies. For the purposes of this subsection (6)  
7 "concurrent with the development" shall mean that improvements or  
8 strategies are in place at the time of development, or that a financial  
9 commitment is in place to complete the improvements or strategies  
10 within six years. If a local jurisdiction requires payment of  
11 transportation impact fees under RCW 82.02.050, the local jurisdiction  
12 shall not prohibit development approvals based on failure to achieve  
13 applicable level of service standards adopted in the transportation  
14 element of the comprehensive plan.

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

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

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



1 evaluation of intergovernmental coordination opportunities to provide  
2 regional approaches for meeting park and recreational demand.

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

10 **Sec. 2.** RCW 82.02.050 and 1994 c 257 s 24 are each amended to read  
11 as follows:

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

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

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

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

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

29 (3) The impact fees program shall be designed so that each new  
30 development subject to the program is assessed for that development's  
31 direct impacts on certain specific system improvements, attaining  
32 proportionality between a new development's impacts to specific system  
33 improvements and the impact fees imposed. The impact fees:

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

36 (b) Shall not exceed a proportionate share of the costs of system  
37 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) Impact fees may be collected and spent only for the public  
4 facilities defined in RCW 82.02.090 which are addressed by a capital  
5 facilities plan element of a comprehensive land use plan adopted  
6 pursuant to the provisions of RCW 36.70A.070 or the provisions for  
7 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 contingent on  
11 the county, city, or town adopting or revising a comprehensive plan in  
12 compliance with RCW 36.70A.070, and on the capital facilities plan  
13 identifying:

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

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

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

21 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.

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