

# HOUSE BILL REPORT

## SHB 2566

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**As Passed House:**  
February 13, 2010

**Title:** An act relating to exempting low-income housing from impact fees.

**Brief Description:** Creating an exemption from impact fees for low-income housing.

**Sponsors:** House Committee on Local Government & Housing (originally sponsored by Representatives Simpson, Chase and Ormsby).

**Brief History:**

**Committee Activity:**

Local Government & Housing: 1/18/10, 1/20/10 [DPS].

**Floor Activity:**

Passed House: 2/13/10, 71-24.

**Brief Summary of Substitute Bill**

- Deletes a provision obligating local governments to pay impact fees from qualifying public funds upon exempting low-income housing from impact fee requirements.
- Specifies that impact fee exemptions for low-income housing may only be granted if the developer records a covenant prohibiting conversion of the property unless applicable impact fees are paid.
- Prohibits local governments from collecting mitigation fees under the State Environmental Policy Act for low-income housing in place of exempted impact fees.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Fagan, Miloscia, Short, Springer, Upthegrove, White and Williams.

**Staff:** Ethan Moreno (786-7386).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

### Impact Fees.

Planning jurisdictions may impose impact fees on development activity as part of the financing of public facilities needed to serve new growth and development. This financing must provide a balance between impact fees and other sources of public funds and cannot rely solely on impact fees. Additionally, impact fees:

- may only be imposed for system improvements, a term defined in statute, that are reasonably related to the new development;
- may not exceed a proportionate share of the costs of system improvements; and
- must be used for system improvements that will reasonably benefit the new development.

Impact fees may be collected and spent only for qualifying public facilities that are included within a capital facilities plan element of a comprehensive plan. "Public facilities," within the context of impact fee statutes, are the following capital facilities that are owned or operated by government entities:

- public streets and roads;
- publicly owned parks, open space, and recreation facilities;
- school facilities; and
- fire protection facilities in jurisdictions that are not part of a fire district.

County and city ordinances by which impact fees are imposed must conform with specific requirements. Among other obligations, these ordinances:

- must include a schedule of impact fees for each type of development activity for which a fee is imposed;
- may provide an exemption for low-income housing and other development activities with broad public purposes. The impact fees for this development activity, however, must be paid from public funds other than impact fee accounts; and
- must allow the imposing jurisdiction to adjust the standard impact fee for unusual circumstances in specific cases to ensure that fees are imposed fairly.

### State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify possible environmental impacts that may result from governmental decisions, including the issuance of permits or the adoption of or amendment to land use plans and regulations. Any governmental action may be conditioned or denied pursuant to

the SEPA, provided the conditions or denials are based upon policies identified by the appropriate governmental authority and incorporated into formally designated regulations, plans, or codes.

**Summary of Substitute Bill:**

Local governments granting impact fee exemptions for low-income housing are not obligated to pay the exempted fees from qualifying public funds. Local governments may only grant impact fee exemptions for low-income housing if the developer records a covenant prohibiting the use of the property for any purpose other than for low-income housing. Conversions of use are permitted, however, provided the applicable impact fees are paid by the property owner at the time of conversion.

Local governments granting an impact fee exemption for low-income housing may not impose a fee under the SEPA for the system improvements for which the exemption applies.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill allows cities to consider waiving impact fees in the same manner that is allowed for permits and other fees. It also allows jurisdictions to assess the potential impacts of the fee waiver and will hopefully result in an increased number of waivers. The conversion-of-use provisions of the bill are appropriate.

This bill applies to counties and cities that fully plan under the GMA. About 70 cities charge impact fees, and they are typically the suburban fringe jurisdictions that have grown quickly. This bill provides a tool, with discretion, that allows jurisdictions, with public participation, to develop a public policy to promote low-income housing within their jurisdiction.

Non-profit entities that develop low-income housing operate on a very low margin. The optional provisions of this bill will lower the level of resources needed for low-income housing projects.

(With Concerns) The impact fee exemption provisions of the bill should be extended to all housing.

(Opposed) None.

**Persons Testifying:** (In support) Arthur Sullivan, A Regional Coalition for Housing; Dave Williams, Association of Washington Cities; and Nick Federici, Washington Low Income Housing Alliance.

(With concerns) Julie Nichols, Building Industry Association of Washington.

**Persons Signed In To Testify But Not Testifying:** None.