HOUSE BILL REPORT
SB 5548

As Passed House - Amended:
April 8, 2009

Title: An act relating to requiring project improvements, including public transportation infrastructure improvements, to be credited against the imposition of impact fees.

Brief Description: Requiring project improvements, including public transportation infrastructure improvements, to be credited against the imposition of impact fees.

Sponsors: Senators Haugen, Jarrett, Fraser and Shin.

Brief History:

Committee Activity:

Local Government & Housing: 3/25/09, 3/26/09 [DPA].

Floor Activity

Passed House - Amended: 4/8/09, 98-0.

Brief Summary of Bill
(As Amended by House)

- Obligates jurisdictions that impose impact fees to provide a credit for public transit infrastructure improvements requested by the legislative authority of the jurisdiction imposing the fees.
- Establishes related provisions for impact fee credits associated with public transit infrastructure improvements.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: Do pass as amended. Signed by 11 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle, Miloscia, Short, Springer, Upthegrove, White and Williams.

Staff: Ethan Moreno (786-7386)

Background:

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.

Counties, cities, and towns that plan under the major provisions of the Growth Management Act (GMA) are authorized to impose impact fees on development activity as part of the financing of public facilities. Impact fees are payments of money required of developers as a condition of development approval. Local governments are required to use collected impact fees to pay for certain public facilities that are made necessary as the result of a development and must ensure that such fees are:

- used only for system improvements that are reasonably related to the impact of the development on the use of public facilities;
- do not exceed a proportionate share of the cost of system improvements made necessary by the development; and
- are used for system improvements that reasonably benefit the new development.

The types of "public facilities" that may receive funding from impact fees are limited to specified types of capital facilities owned or operated by government entities. These public facilities are limited to the following:

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

In determining how system improvements are to be financed, a local government must provide for a balance between impact fees and other sources of public funds, and cannot rely solely on impact fees. Additionally, local ordinances by which impact fees are imposed must include a fee schedule for each type of development activity subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. Local impact fee ordinances must satisfy other requirements, including:

- providing impact fee credits for land, or certain improvements for qualifying capital facilities;
- allowing the local government to adjust the standard impact fee; and
- allowing the local government to exempt low-income housing and other development activities with broad public purposes from impact fees.

Local governments that impose impact fees must satisfy administrative provisions for their retention and use. For example, impact fees receipts must be retained in separate and special interest bearing accounts, and local governments that impose impact fees must have an administrative process for fee appeals. Additionally, with some exceptions, impact fees must be expended or encumbered for a permissible use within six years of receipt.

Summary of Amended Bill:

Local ordinances by which impact fees are imposed must provide a credit for public transit infrastructure improvements requested by the legislative authority of the applicable county, city, or town. These credits, however, may only be provided if the public transit infrastructure improvement improves system capacity and the long-term operational costs for the new infrastructure have been identified and secured for six or more years. The value of these credits may not exceed the value of impact fees for public streets and roads imposed on the applicable development.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: 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 is an attempt to include transit provisions in impact fee requirements. Transit provisions have changed since impact fee authorizations were originally enacted. This bill is an attempt to create an alternative in impact fee requirements, and the developer credit in this bill will be helpful.

(With concerns) The underlying bill is too broad. The bill should be amended to include provisions pertaining to improvements requested by the local government, transit, and capital facilities plan consistency. The bill would gut the existing impact fee program of Olympia. Amending the bill to include a reference to adopted planning documents would provide predictability to developers.

(Opposed) Support exists for an amendment to narrow the bill.

Persons Testifying: (In support) Senator Haugen, prime sponsor.

(With concerns) Ashley Probart, Association of Washington Cities; and Subir Mukerjee, City of Olympia.

(Opposed) Owen Carter, Snohomish County.

Persons Signed In To Testify But Not Testifying: None.