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**SUBSTITUTE HOUSE BILL 1625**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Government Operations (originally sponsored by Representatives Reams, Brumsickle, Casada, Morris, Hargrove, Buck, Radcliff, Benton, Grant, Talcott, Hymes, Thompson, Elliot and Huff)

Read first time 03/01/95.

1 AN ACT Relating to payment of impact fees; amending RCW 43.21C.060,  
2 58.17.110, and 82.02.060; and adding a new section to chapter 36.70A  
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A RCW  
6 to read as follows:

7 Payment of an impact fee for system improvements imposed under the  
8 authority of a charter county or a charter city derived from its  
9 charter, or imposed under authority of chapter 82.02 RCW, precludes the  
10 city or county from denying or conditioning development on the basis of  
11 the concurrency requirements of this chapter relating to the public  
12 facility for which the fee was paid.

13 **Sec. 2.** RCW 43.21C.060 and 1983 c 117 s 3 are each amended to read  
14 as follows:

15 The policies and goals set forth in this chapter are supplementary  
16 to those set forth in existing authorizations of all branches of  
17 government of this state, including state agencies, municipal and  
18 public corporations, and counties. Any governmental action may be

1 conditioned or denied pursuant to this chapter: PROVIDED, That such  
2 conditions or denials shall be based upon policies identified by the  
3 appropriate governmental authority and incorporated into regulations,  
4 plans, or codes which are formally designated by the agency (or  
5 appropriate legislative body, in the case of local government) as  
6 possible bases for the exercise of authority pursuant to this chapter.  
7 Such designation shall occur at the time specified by RCW 43.21C.120.  
8 Such action may be conditioned only to mitigate specific adverse  
9 environmental impacts which are identified in the environmental  
10 documents prepared under this chapter. These conditions shall be  
11 stated in writing by the decisionmaker. Mitigation measures shall be  
12 reasonable and capable of being accomplished. In order to deny a  
13 proposal under this chapter, an agency must find that: (1) The  
14 proposal would result in significant adverse impacts identified in a  
15 final or supplemental environmental impact statement prepared under  
16 this chapter; and (2) reasonable mitigation measures are insufficient  
17 to mitigate the identified impact. Except for permits and variances  
18 issued pursuant to chapter 90.58 RCW, when such a governmental action,  
19 not requiring a legislative decision, is conditioned or denied by a  
20 nonelected official of a local governmental agency, the decision shall  
21 be appealable to the legislative authority of the acting local  
22 governmental agency unless that legislative authority formally  
23 eliminates such appeals. Such appeals shall be in accordance with  
24 procedures established for such appeals by the legislative authority of  
25 the acting local governmental agency.

26 The procedures, standards, and definitions in RCW 82.02.050 through  
27 82.02.090 relating to impact fees apply to any fee imposed and  
28 collected under this chapter. Impact fees may be imposed and collected  
29 only for those public facilities defined in RCW 82.02.090(7). Payment  
30 of an impact fee under this chapter constitutes full and complete  
31 compliance with the requirements of this chapter, or any other statute  
32 or rule for provision of the facility or service for which the fee was  
33 paid.

34 **Sec. 3.** RCW 58.17.110 and 1990 1st ex.s. c 17 s 52 are each  
35 amended to read as follows:

36 (1) The city, town, or county legislative body shall inquire into  
37 the public use and interest proposed to be served by the establishment  
38 of the subdivision and dedication. It shall determine: (a) If

1 appropriate provisions are made for, but not limited to, the public  
2 health, safety, and general welfare, for open spaces, drainage ways,  
3 streets or roads, alleys, other public ways, transit stops, potable  
4 water supplies, sanitary wastes, parks and recreation, playgrounds,  
5 schools and schoolgrounds, and shall consider all other relevant facts,  
6 including sidewalks and other planning features that assure safe  
7 walking conditions for students who only walk to and from school; and  
8 (b) whether the public interest will be served by the subdivision and  
9 dedication.

10 (2) A proposed subdivision and dedication shall not be approved  
11 unless the city, town, or county legislative body makes written  
12 findings that: (a) Appropriate provisions are made for the public  
13 health, safety, and general welfare and for such open spaces, drainage  
14 ways, streets or roads, alleys, other public ways, transit stops,  
15 potable water supplies, sanitary wastes, parks and recreation,  
16 playgrounds, schools and schoolgrounds and all other relevant facts,  
17 including sidewalks and other planning features that assure safe  
18 walking conditions for students who only walk to and from school; and  
19 (b) the public use and interest will be served by the platting of such  
20 subdivision and dedication. If it finds that the proposed subdivision  
21 and dedication make such appropriate provisions and that the public use  
22 and interest will be served, then the legislative body shall approve  
23 the proposed subdivision and dedication. Dedication of land to any  
24 public body, provision of public improvements to serve the subdivision,  
25 and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be  
26 required as a condition of subdivision approval. Payment of an impact  
27 fee imposed under RCW 82.02.050 through 82.02.090, or a fee imposed  
28 under RCW 43.21C.060, constitutes full and complete compliance with the  
29 requirements of this chapter, or any other statute or rule for the  
30 provision of the public facility for which the fee was paid. The  
31 procedures, standards, and definitions in RCW 82.02.050 through  
32 82.02.090 relating to impact fees apply to a fee imposed and collected  
33 under this chapter. Impact fees may be imposed and collected only for  
34 those public facilities defined in RCW 82.02.090(7). Dedications shall  
35 be clearly shown on the final plat. No dedication, provision of public  
36 improvements, or impact fees imposed under RCW 82.02.050 through  
37 82.02.090 shall be allowed that constitutes an unconstitutional taking  
38 of private property. The legislative body shall not as a condition to

1 the approval of any subdivision require a release from damages to be  
2 procured from other property owners.

3 **Sec. 4.** RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each  
4 amended to read as follows:

5 The local ordinance by which impact fees are imposed:

6 (1) Shall include a schedule of impact fees which shall be adopted  
7 for each type of development activity that is subject to impact fees,  
8 specifying the amount of the impact fee to be imposed for each type of  
9 system improvement. The schedule shall be based upon a formula or  
10 other method of calculating such impact fees. In determining  
11 proportionate share, the formula or other method of calculating impact  
12 fees shall incorporate, among other things, the following:

13 (a) The cost of public facilities necessitated by new development;

14 (b) An adjustment to the cost of the public facilities for past or  
15 future payments made or reasonably anticipated to be made by new  
16 development to pay for particular system improvements in the form of  
17 user fees, debt service payments, taxes, or other payments earmarked  
18 for or proratable to the particular system improvement;

19 (c) The availability of other means of funding public facility  
20 improvements;

21 (d) The cost of existing public facilities improvements; and

22 (e) The methods by which public facilities improvements were  
23 financed;

24 (2) May provide an exemption for low-income housing, and other  
25 development activities with broad public purposes, from these impact  
26 fees, provided that the impact fees for such development activity shall  
27 be paid from public funds other than impact fee accounts;

28 (3) Shall provide a credit for the value of any dedication of land  
29 for, improvement to, or new construction of any system improvements  
30 provided by the developer, to facilities that are identified in the  
31 capital facilities plan and that are required by the county, city, or  
32 town as a condition of approving the development activity;

33 (4) Shall provide that impact fees for residential construction be  
34 collected at the time of home title transfer to the occupant or  
35 certificate of occupancy or twelve months after the building permit is  
36 issued;

37 (5) Shall allow the county, city, or town imposing the impact fees  
38 to adjust the standard impact fee at the time the fee is imposed to

1 consider unusual circumstances in specific cases to ensure that impact  
2 fees are imposed fairly;

3 ~~((+5))~~ (6) Shall include a provision for calculating the amount of  
4 the fee to be imposed on a particular development that permits  
5 consideration of studies and data submitted by the developer to adjust  
6 the amount of the fee;

7 ~~((+6))~~ (7) Shall establish one or more reasonable service areas  
8 within which it shall calculate and impose impact fees for various land  
9 use categories per unit of development;

10 ~~((+7))~~ (8) May provide for the imposition of an impact fee for  
11 system improvement costs previously incurred by a county, city, or town  
12 to the extent that new growth and development will be served by the  
13 previously constructed improvements provided such fee shall not be  
14 imposed to make up for any system improvement deficiencies.

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