
HOUSE BILL 2477

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By Representatives Fuhrman, Hargrove, Mulliken, Honeyford, Sheldon, Van Luven, Goldsmith, Schoesler, Grant, Chappell, D. Sommers, Silver, Benton and Johnson

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1 AN ACT Relating to growth management impact fees; amending RCW
2 82.02.020, 36.70A.350, 36.70A.365, 36.70B.030, 36.70B.170, and
3 58.17.110; and repealing RCW 82.02.050, 82.02.060, 82.02.070,
4 82.02.080, 82.02.090, and 82.02.100.

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

6 **Sec. 1.** RCW 82.02.020 and 1990 1st ex.s. c 17 s 42 are each
7 amended to read as follows:

8 Except only as expressly provided in RCW 67.28.180 and 67.28.190
9 and the provisions of chapter 82.14 RCW, the state preempts the field
10 of imposing taxes upon retail sales of tangible personal property, the
11 use of tangible personal property, parimutuel wagering authorized
12 pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county,
13 town, or other municipal subdivision shall have the right to impose
14 taxes of that nature. (~~Except as provided in RCW 82.02.050 through~~
15 ~~82.02.090,~~) No county, city, town, or other municipal corporation
16 shall impose any tax, fee, or charge, either direct or indirect, on the
17 construction or reconstruction of residential buildings, commercial
18 buildings, industrial buildings, or on any other building or building
19 space or appurtenance thereto, or on the development, subdivision,

1 classification, or reclassification of land. However, this section
2 does not preclude dedications of land or easements within the proposed
3 development or plat which the county, city, town, or other municipal
4 corporation can demonstrate are reasonably necessary as a direct result
5 of the proposed development or plat to which the dedication of land or
6 easement is to apply.

7 This section does not prohibit voluntary agreements with counties,
8 cities, towns, or other municipal corporations that allow a payment in
9 lieu of a dedication of land or to mitigate a direct impact that has
10 been identified as a consequence of a proposed development,
11 subdivision, or plat. A local government shall not use such voluntary
12 agreements for local off-site transportation improvements within the
13 geographic boundaries of the area or areas covered by an adopted
14 transportation program authorized by chapter 39.92 RCW. Any such
15 voluntary agreement is subject to the following provisions:

16 (1) The payment shall be held in a reserve account and may only be
17 expended to fund a capital improvement agreed upon by the parties to
18 mitigate the identified, direct impact;

19 (2) The payment shall be expended in all cases within five years of
20 collection; and

21 (3) Any payment not so expended shall be refunded with interest at
22 the rate applied to judgments to the property owners of record at the
23 time of the refund; however, if the payment is not expended within five
24 years due to delay attributable to the developer, the payment shall be
25 refunded without interest.

26 No county, city, town, or other municipal corporation shall require
27 any payment as part of such a voluntary agreement which the county,
28 city, town, or other municipal corporation cannot establish is
29 reasonably necessary as a direct result of the proposed development or
30 plat.

31 Nothing in this section prohibits cities, towns, counties, or other
32 municipal corporations from collecting reasonable fees from an
33 applicant for a permit or other governmental approval to cover the cost
34 to the city, town, county, or other municipal corporation of processing
35 applications, inspecting and reviewing plans, or preparing detailed
36 statements required by chapter 43.21C RCW.

37 This section does not limit the existing authority of any county,
38 city, town, or other municipal corporation to impose special

1 assessments on property specifically benefitted thereby in the manner
2 prescribed by law.

3 Nothing in this section prohibits counties, cities, or towns from
4 imposing or permits counties, cities, or towns to impose water, sewer,
5 natural gas, drainage utility, and drainage system charges: PROVIDED,
6 That no such charge shall exceed the proportionate share of such
7 utility or system's capital costs which the county, city, or town can
8 demonstrate are attributable to the property being charged: PROVIDED
9 FURTHER, That these provisions shall not be interpreted to expand or
10 contract any existing authority of counties, cities, or towns to impose
11 such charges.

12 Nothing in this section prohibits a transportation benefit district
13 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
14 the legislative authority of a county, city, or town from approving the
15 imposition of such fees within a transportation benefit district.

16 Nothing in this section prohibits counties, cities, or towns from
17 imposing transportation impact fees authorized pursuant to chapter
18 39.92 RCW.

19 Nothing in this section prohibits counties, cities, or towns from
20 requiring property owners to provide relocation assistance to tenants
21 under RCW 59.18.440 and 59.18.450.

22 This section does not apply to special purpose districts formed and
23 acting pursuant to Titles 54, 56, 57, or 87 RCW, nor is the authority
24 conferred by these titles affected.

25 **Sec. 2.** RCW 36.70A.350 and 1991 sp.s. c 32 s 16 are each amended
26 to read as follows:

27 A county required or choosing to plan under RCW 36.70A.040 may
28 establish a process as part of its urban growth areas, that are
29 designated under RCW 36.70A.110, for reviewing proposals to authorize
30 new fully contained communities located outside of the initially
31 designated urban growth areas.

32 (1) A new fully contained community may be approved in a county
33 planning under this chapter if criteria including but not limited to
34 the following are met:

35 (a) New infrastructure is provided for (~~and impact fees are~~
36 ~~established consistent with the requirements of RCW 82.02.050~~);

37 (b) Transit-oriented site planning and traffic demand management
38 programs are implemented;

1 (c) Buffers are provided between the new fully contained
2 communities and adjacent urban development;

3 (d) A mix of uses is provided to offer jobs, housing, and services
4 to the residents of the new community;

5 (e) Affordable housing is provided within the new community for a
6 broad range of income levels;

7 (f) Environmental protection has been addressed and provided for;

8 (g) Development regulations are established to ensure urban growth
9 will not occur in adjacent nonurban areas;

10 (h) Provision is made to mitigate impacts on designated
11 agricultural lands, forest lands, and mineral resource lands;

12 (i) The plan for the new fully contained community is consistent
13 with the development regulations established for the protection of
14 critical areas by the county pursuant to RCW 36.70A.170.

15 (2) New fully contained communities may be approved outside
16 established urban growth areas only if a county reserves a portion of
17 the twenty-year population projection and offsets the urban growth area
18 accordingly for allocation to new fully contained communities that meet
19 the requirements of this chapter. Any county electing to establish a
20 new community reserve shall do so no more often than once every five
21 years as a part of the designation or review of urban growth areas
22 required by this chapter. The new community reserve shall be allocated
23 on a project-by-project basis, only after specific project approval
24 procedures have been adopted pursuant to this chapter as a development
25 regulation. When a new community reserve is established, urban growth
26 areas designated pursuant to this chapter shall accommodate the
27 unreserved portion of the twenty-year population projection.

28 Final approval of an application for a new fully contained
29 community shall be considered an adopted amendment to the comprehensive
30 plan prepared pursuant to RCW 36.70A.070 designating the new fully
31 contained community as an urban growth area.

32 **Sec. 3.** RCW 36.70A.365 and 1995 c 190 s 1 are each amended to read
33 as follows:

34 A county required or choosing to plan under RCW 36.70A.040 may
35 establish, in consultation with cities consistent with provisions of
36 RCW 36.70A.210, a process for reviewing and approving proposals to
37 authorize siting of specific major industrial developments outside
38 urban growth areas.

1 (1) "Major industrial development" means a master planned location
2 for a specific manufacturing, industrial, or commercial business that:
3 (a) Requires a parcel of land so large that no suitable parcels are
4 available within an urban growth area; or (b) is a natural resource-
5 based industry requiring a location near agricultural land, forest
6 land, or mineral resource land upon which it is dependent. The major
7 industrial development shall not be for the purpose of retail
8 commercial development or multitenant office parks.

9 (2) A major industrial development may be approved outside an urban
10 growth area in a county planning under this chapter if criteria
11 including, but not limited to the following, are met:

12 (a) New infrastructure is provided for (~~and/or applicable impact~~
13 ~~fees are paid~~));

14 (b) Transit-oriented site planning and traffic demand management
15 programs are implemented;

16 (c) Buffers are provided between the major industrial development
17 and adjacent nonurban areas;

18 (d) Environmental protection including air and water quality has
19 been addressed and provided for;

20 (e) Development regulations are established to ensure that urban
21 growth will not occur in adjacent nonurban areas;

22 (f) Provision is made to mitigate adverse impacts on designated
23 agricultural lands, forest lands, and mineral resource lands;

24 (g) The plan for the major industrial development is consistent
25 with the county's development regulations established for protection of
26 critical areas; and

27 (h) An inventory of developable land has been conducted and the
28 county has determined and entered findings that land suitable to site
29 the major industrial development is unavailable within the urban growth
30 area. Priority shall be given to applications for sites that are
31 adjacent to or in close proximity to the urban growth area.

32 (3) Final approval of an application for a major industrial
33 development shall be considered an adopted amendment to the
34 comprehensive plan adopted pursuant to RCW 36.70A.070 designating the
35 major industrial development site on the land use map as an urban
36 growth area. Final approval of an application for a major industrial
37 development shall not be considered an amendment to the comprehensive
38 plan for the purposes of RCW 36.70A.130(2) and may be considered at any
39 time.

1 **Sec. 4.** RCW 36.70B.030 and 1995 c 347 s 404 are each amended to
2 read as follows:

3 (1) Fundamental land use planning choices made in adopted
4 comprehensive plans and development regulations shall serve as the
5 foundation for project review. The review of a proposed project's
6 consistency with applicable development regulations, or in the absence
7 of applicable regulations the adopted comprehensive plan, under RCW
8 36.70B.040 shall incorporate the determinations under this section.

9 (2) During project review, a local government or any subsequent
10 reviewing body shall determine whether the items listed in this
11 subsection are defined in the development regulations applicable to the
12 proposed project or, in the absence of applicable regulations the
13 adopted comprehensive plan. At a minimum, such applicable regulations
14 or plans shall be determinative of the:

15 (a) Type of land use permitted at the site, including uses that may
16 be allowed under certain circumstances, such as planned unit
17 developments and conditional and special uses, if the criteria for
18 their approval have been satisfied;

19 (b) Density of residential development in urban growth areas; and

20 (c) Availability and adequacy of public facilities identified in
21 the comprehensive plan, if the plan or development regulations provide
22 for funding of these facilities as required by chapter 36.70A RCW.

23 (3) During project review, the local government or any subsequent
24 reviewing body shall not reexamine alternatives to or hear appeals on
25 the items identified in subsection (2) of this section, except for
26 issues of code interpretation. As part of its project review process,
27 a local government shall provide a procedure for obtaining a code
28 interpretation as provided in RCW 36.70B.110.

29 (4) Pursuant to RCW 43.21C.240, a local government may determine
30 that the requirements for environmental analysis and mitigation
31 measures in development regulations and other applicable laws provide
32 adequate mitigation for some or all of the project's specific adverse
33 environmental impacts to which the requirements apply.

34 (5) Nothing in this section limits the authority of a permitting
35 agency to approve, condition, or deny a project as provided in its
36 development regulations adopted under chapter 36.70A RCW and in its
37 policies adopted under RCW 43.21C.060. Project review shall be used to
38 identify specific project design and conditions relating to the
39 character of development, such as the details of site plans, curb cuts,

1 drainage swales, transportation demand management, (~~the payment of~~
2 ~~impact fees,~~) or other measures to mitigate a proposal's probable
3 adverse environmental impacts, if applicable.

4 (6) Subsections (1) through (4) of this section apply only to local
5 governments planning under RCW 36.70A.040.

6 **Sec. 5.** RCW 36.70B.170 and 1995 c 347 s 502 are each amended to
7 read as follows:

8 (1) A local government may enter into a development agreement with
9 a person having ownership or control of real property within its
10 jurisdiction. A city may enter into a development agreement for real
11 property outside its boundaries as part of a proposed annexation or a
12 service agreement. A development agreement must set forth the
13 development standards and other provisions that shall apply to and
14 govern and vest the development, use, and mitigation of the development
15 of the real property for the duration specified in the agreement. A
16 development agreement shall be consistent with applicable development
17 regulations adopted by a local government planning under chapter 36.70A
18 RCW.

19 (2) RCW 36.70B.170 through 36.70B.190 and section 501, chapter 347,
20 Laws of 1995 do not affect the validity of a contract rezone,
21 concomitant agreement, annexation agreement, or other agreement in
22 existence on July 23, 1995, or adopted under separate authority, that
23 includes some or all of the development standards provided in
24 subsection (3) of this section.

25 (3) For the purposes of this section, "development standards"
26 includes, but is not limited to:

27 (a) Project elements such as permitted uses, residential densities,
28 and nonresidential densities and intensities or building sizes;

29 (b) (~~The amount and payment of impact fees imposed or agreed to in~~
30 ~~accordance with any applicable provisions of state law,~~) Any
31 reimbursement provisions, other financial contributions by the property
32 owner, inspection fees, or dedications;

33 (c) Mitigation measures, development conditions, and other
34 requirements under chapter 43.21C RCW;

35 (d) Design standards such as maximum heights, setbacks, drainage
36 and water quality requirements, landscaping, and other development
37 features;

38 (e) Affordable housing;

- 1 (f) Parks and open space preservation;
- 2 (g) Phasing;
- 3 (h) Review procedures and standards for implementing decisions;
- 4 (i) A build-out or vesting period for applicable standards; and
- 5 (j) Any other appropriate development requirement or procedure.

6 (4) The execution of a development agreement is a proper exercise
7 of county and city police power and contract authority. A development
8 agreement may obligate a party to fund or provide services,
9 infrastructure, or other facilities. A development agreement shall
10 reserve authority to impose new or different regulations to the extent
11 required by a serious threat to public health and safety.

12 **Sec. 6.** RCW 58.17.110 and 1995 c 32 s 3 are each amended to read
13 as follows:

14 (1) The city, town, or county legislative body shall inquire into
15 the public use and interest proposed to be served by the establishment
16 of the subdivision and dedication. It shall determine: (a) If
17 appropriate provisions are made for, but not limited to, the public
18 health, safety, and general welfare, for open spaces, drainage ways,
19 streets or roads, alleys, other public ways, transit stops, potable
20 water supplies, sanitary wastes, parks and recreation, playgrounds,
21 schools and schoolgrounds, and shall consider all other relevant facts,
22 including sidewalks and other planning features that assure safe
23 walking conditions for students who only walk to and from school; and
24 (b) whether the public interest will be served by the subdivision and
25 dedication.

26 (2) A proposed subdivision and dedication shall not be approved
27 unless the city, town, or county legislative body makes written
28 findings that: (a) Appropriate provisions are made for the public
29 health, safety, and general welfare and for such open spaces, drainage
30 ways, streets or roads, alleys, other public ways, transit stops,
31 potable water supplies, sanitary wastes, parks and recreation,
32 playgrounds, schools and schoolgrounds and all other relevant facts,
33 including sidewalks and other planning features that assure safe
34 walking conditions for students who only walk to and from school; and
35 (b) the public use and interest will be served by the platting of such
36 subdivision and dedication. If it finds that the proposed subdivision
37 and dedication make such appropriate provisions and that the public use
38 and interest will be served, then the legislative body shall approve

1 the proposed subdivision and dedication. Dedication of land to any
2 public body(~~(7)~~) and/or provision of public improvements to serve the
3 subdivision(~~(7 and/or impact fees imposed under RCW 82.02.050 through~~
4 ~~82.02.090)~~) may be required as a condition of subdivision approval.
5 Dedications shall be clearly shown on the final plat. No
6 dedication(~~(7)~~) or provision of public improvements(~~(7 or impact fees~~
7 ~~imposed under RCW 82.02.050 through 82.02.090 shall)~~) may be allowed
8 that constitutes an unconstitutional taking of private property. The
9 legislative body shall not as a condition to the approval of any
10 subdivision require a release from damages to be procured from other
11 property owners.

12 (3) If the preliminary plat includes a dedication of a public park
13 with an area of less than two acres and the donor has designated that
14 the park be named in honor of a deceased individual of good character,
15 the city, town, or county legislative body must adopt the designated
16 name.

17 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
18 repealed:

- 19 (1) RCW 82.02.050 and 1994 c 257 s 24, 1993 sp.s. c 6 s 6, & 1990
20 1st ex.s. c 17 s 43;
21 (2) RCW 82.02.060 and 1990 1 ex.s. c 17 s 44;
22 (3) RCW 82.02.070 and 1990 1 ex.s. c 17 s 46;
23 (4) RCW 82.02.080 and 1990 1 ex.s. c 17 s 47;
24 (5) RCW 82.02.090 and 1990 1 ex.s. c 17 s 48; and
25 (6) RCW 82.02.100 and 1992 c 219 s 2.

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