

HOUSE BILL REPORT

SB 5580

As Passed House - Amended:

April 14, 2009

Title: An act relating to the time limits of school impact fee expenditures.

Brief Description: Concerning school impact fees.

Sponsors: Senators Pridemore, Brandland, Oemig, Fraser, Shin, Ranker, Rockefeller, Kline, Hargrove, Kauffman, Jarrett, Kohl-Welles, Murray, Marr, McDermott and Tom.

Brief History:

Committee Activity:

Local Government & Housing: 3/18/09, 3/26/09 [DPA].

Floor Activity

Passed House: 4/14/09, 59-38.

Brief Summary of Bill (As Amended by House)

- Extends, from six to 10 years, the amount of time that local governments have to expend or encumber impact fees collected for school facilities.
- Allows local governments that impose impact fees to exempt housing projects meeting specific affordability requirements from impact fees for school facilities.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: Do pass as amended. Signed by 7 members: Representatives Simpson, Chair; Nelson, Vice Chair; Miloscia, Springer, Upthegrove, White and Williams.

Minority Report: Do not pass. Signed by 4 members: Representatives Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle and Short.

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 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:

- 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.

Locally adopted impact fee ordinances must satisfy other requirements, including:

- providing impact fee credits for land, or improvements to or construction of system 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, impact fees must generally be expended or encumbered for a permissible use within six years of receipt. If extraordinary or compelling reasons exist, and if the governing body of the local government identifies these reasons in written findings, the collected fees may be held longer than six years.

Summary of Amended Bill:

School facility impact fees must be expended or encumbered for a permissible use within 10 years, rather than six, of receipt. If extraordinary or compelling reasons exist, and if the governing body of the local government identifies these reasons in written findings, the collected fees may be held longer than 10 years.

Extending the expending or encumbering time period to 10 years also requires an appropriateness evaluation by the applicable school board. Additionally, the Office of the Superintendent of Public Instruction must develop criteria for extending the use of school facility impact fees from six to 10 years.

Local governments that impose impact fees may exempt housing projects that are affordable to households earning less than 80 percent of the adjusted area median income from impact fees for school facilities. These exempted impact fees for school facilities are not required to be paid from other funds.

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) A joint legislative task force on school construction recognized the issues addressed in this bill and supports the legislative proposal. This bill will enable school districts to use impact fees more efficiently. Impact fees are only a small portion of facility costs. School facility construction processes are numerous, complex, and lengthy. It takes time for small school districts to accumulate enough funds for facilities through impact fees. This bill will give school districts another tool without creating new costs for the state and will also give districts additional flexibility for changing facility needs.

The Legislature has chosen not to tell cities and counties when to collect impact fees. The time of collection is an important issue and it should not be modified. Difficulties have arisen when local governments have tried to collect impact fees at a later date. Cities and counties are authorized to collect impact fees when requested by a school district. These local governments take the "heat" for collecting fees for other entities. This bill only affects impact fees that are collected for school facilities.

(Opposed) Current law allows impact fees to be held longer than six years, but this bill would give counties and cities 10 years, perhaps longer. This time period is too long, as home buyers usually live in a home for only 10 years. The bill should be amended to allow impact fees to be collected at the time of occupancy, rather than at the time of development approval.

Persons Testifying: (In support) Senator Pridemore, prime sponsor; Bill Adamo, Puget Sound School Coalition; and Mitch Denning, Alliance of Education Association.

(Opposed) Timothy Harris, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying: None.