

SENATE BILL REPORT

EHB 1398

As of March 3, 2011

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: Representatives Fitzgibbon, Seaquist, Orwall, Springer, Upthegrove and Kenney.

Brief History: Passed House: 2/22/11, 86-8.

Committee Activity: Financial Institutions, Housing & Insurance: 3/09/11.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Alison Mendiola (786-7483)

Background: Growth Management Act (GMA). The 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.

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.

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 (SEPA). 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 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 Bill: Local governments granting impact fee exemptions for low-income housing are not obligated to pay the exempt 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.

Local governments also may not collect the revenue lost due to granting impact fee exemptions for low-income housing by increasing fees unrelated to the exemptions.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.