

# FINAL BILL REPORT

## ESB 5923

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Synopsis as Enacted

**Brief Description:** Promoting economic recovery in the construction industry.

**Sponsors:** Senators Brown, Liias, Roach, Dansel, Hobbs, Warnick and Chase.

**Senate Committee on Trade & Economic Development**  
**House Committee on Technology & Economic Development**  
**House Committee on Local Government**

**Background:** The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. GMA establishes land use designation and environmental protection requirements for all counties and cities.

Planning jurisdictions may impose impact fees on development activity as part of the financing of public facilities needed to serve new growth and development. Impact fees may be collected and spent only for qualifying public facilities that are included within a comprehensive plan.

Legislation adopted in 2013 – ESHB 1652 – obligated counties, cities, and towns to adopt deferral systems for the collection of impact fees from applicants for residential building permits through a covenant-based process, or through a process that delays payment until final inspection, certificate of occupancy, or equivalent certification. The legislation was vetoed in its entirety by the Governor on May 21, 2013.

**Summary:** Counties, cities, and towns that collect impact fees must adopt a system for the deferred collection of impact fees from applicants for residential building permits by September 1, 2016. The deferral system must include one or more of the following options including deferral of the collection of impact fees until final inspection, certificate of occupancy, or upon the first sale of the property.

An applicant seeking a deferral must grant and record a deferred impact fee lien against the property in favor of the local jurisdiction. The amount of impact fees that may be deferred is determined by the fees in effect at the time the applicant applies for a deferral. Unless otherwise provided, payment of deferred impact fees at the time of sale is the seller's responsibility. The term of an impact fee deferral may not exceed 18 months from the date of issuance of the building permit. If impact fees are not paid, the local jurisdiction may institute foreclosure proceedings to recover unpaid fees. If a local jurisdiction does not

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initiate foreclosure proceedings for unpaid school impact fees, the school district may begin foreclosure proceedings. Local jurisdictions may collect reasonable administrative fees to implement the deferral system.

A county, city, or town with an impact fee deferral process on or before April 1, 2015, is exempt from the obligation to establish an impact fee deferral system if the locally adopted deferral process delays all fees and remains in effect after September 1, 2016.

Each applicant for an impact fee deferral is entitled to annually receive deferrals for the first 20 single-family residential construction building permits per jurisdiction. A local jurisdiction may elect to defer more than 20 building permits for an applicant provided that the local jurisdiction consults with the school district regarding the additional deferrals and gives substantial weight to their recommendations.

If the collection of impact fees is delayed through a deferral process, the six-year timeframe for completing improvements or strategies to comply with concurrency provisions of the GMA may not begin until after the county or city receives full payment of all impact fees due.

The Department of Commerce must report annually to the Legislature beginning December 1, 2018 on the impact fee deferral process including the number of deferrals requested and issued by local jurisdictions, and the number of deferrals that were not paid. The Joint Legislative Audit and Review Committee must review the impact fee deferral requirements and submit a report to the Legislature by September 1, 2021.

**Votes on Final Passage:**

Senate	33	15	
House	82	15	(House amended)
Senate	28	18	(Senate concurred)

**Effective:** September 1, 2016