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HOUSE BILL 2713

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State of Washington                      52nd Legislature                      1992 Regular Session  
By Representatives Prentice, Nelson, J. Kohl, Leonard, Wineberry and  
Rust

Read first time 01/24/92. Referred to Committee on Local Government.

1            AN ACT Relating to impact fees for child care facilities; amending  
2 RCW 82.02.020; and adding a new section to chapter 82.02 RCW.

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

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

6            Except only as expressly provided in RCW 67.28.180 and 67.28.190  
7 and the provisions of chapter 82.14 RCW, the state preempts the field  
8 of imposing taxes upon retail sales of tangible personal property, the  
9 use of tangible personal property, parimutuel wagering authorized  
10 pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county,  
11 town, or other municipal subdivision shall have the right to impose  
12 taxes of that nature. Except as provided in RCW 82.02.050 through  
13 82.02.090 and section 2 of this act, no county, city, town, or other  
14 municipal corporation shall impose any tax, fee, or charge, either

1 direct or indirect, on the construction or reconstruction of  
2 residential buildings, commercial buildings, industrial buildings, or  
3 on any other building or building space or appurtenance thereto, or on  
4 the development, subdivision, classification, or reclassification of  
5 land. However, this section does not preclude dedications of land or  
6 easements within the proposed development or plat which the county,  
7 city, town, or other municipal corporation can demonstrate are  
8 reasonably necessary as a direct result of the proposed development or  
9 plat to which the dedication of land or easement is to apply.

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

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

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

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

29 No county, city, town, or other municipal corporation shall require  
30 any payment as part of such a voluntary agreement which the county,

1 city, town, or other municipal corporation cannot establish is  
2 reasonably necessary as a direct result of the proposed development or  
3 plat.

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

10 This section does not limit the existing authority of any county,  
11 city, town, or other municipal corporation to impose special  
12 assessments on property specifically benefitted thereby in the manner  
13 prescribed by law.

14 Nothing in this section prohibits counties, cities, or towns from  
15 imposing or permits counties, cities, or towns to impose water, sewer,  
16 natural gas, drainage utility, and drainage system charges: PROVIDED,  
17 That no such charge shall exceed the proportionate share of such  
18 utility or system's capital costs which the county, city, or town can  
19 demonstrate are attributable to the property being charged: PROVIDED  
20 FURTHER, That these provisions shall not be interpreted to expand or  
21 contract any existing authority of counties, cities, or towns to impose  
22 such charges.

23 Nothing in this section prohibits a transportation benefit district  
24 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits  
25 the legislative authority of a county, city, or town from approving the  
26 imposition of such fees within a transportation benefit district.

27 Nothing in this section prohibits counties, cities, or towns from  
28 imposing transportation impact fees authorized pursuant to chapter  
29 39.92 RCW.

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

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

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.02 RCW  
8 to read as follows:

9 (1) The legislature finds that it is an important public purpose to  
10 promote the availability of quality and affordable child care.  
11 Affordable and quality child care is important for the well-being of  
12 children of working parents, for the stability of the family and the  
13 work force, and for economic prosperity. The legislature also finds  
14 that new development in communities experiencing rapid growth causes a  
15 need for additional community child care facilities and services that  
16 cannot be absorbed by existing facilities or services. It is the  
17 intent of the legislature that:

18 (a) Counties, cities, and towns may require, by ordinance, that  
19 new growth and development pay a proportionate share of the cost of new  
20 child care facilities and services needed as a result of the new  
21 development; and

22 (b) Impact fees for child care facilities and services are imposed  
23 through established procedures and criteria so that specific  
24 developments do not pay arbitrary fees or duplicate fees for the same  
25 impact.

26 (2) Counties, cities, and towns that are required or choose to  
27 plan under RCW 36.70A.040 are authorized to impose impact fees on  
28 development activity. The impact fees:

1 (a) Are only imposed after a finding by the county, city, or town  
2 that a shortage of adequate child care facilities and services exist;

3 (b) Are only imposed after the county, city, or town has adopted,  
4 by resolution, a child care plan that addresses the forecasted needs  
5 for child care facilities and services, how the needs will be met, and  
6 how the needed child care facilities and services are financed through  
7 a balance of public and private sources; and

8 (c) Are only imposed for child care facilities and services that  
9 are reasonably related to new development, that do not exceed a  
10 proportionate share of the costs of the child care facilities and  
11 services, and that are used only for child care facilities and services  
12 that will reasonably benefit the new development.

13 (3) The impact fee ordinance by which impact fees are imposed for  
14 child care facilities or services shall:

15 (a) Include a schedule of fees that is based on a formula or other  
16 method to ensure that the fees are reasonable and comply with  
17 subsection (2)(c) of this section;

18 (b) Provide for credit for child care facilities or services  
19 provided by the developer;

20 (c) Allow the county, city, or town to adjust the standard impact  
21 fee imposed under this section to consider unusual circumstances in  
22 specific cases to ensure that the impact fees are imposed fairly; and

23 (d) Provide for a refund procedure if the county, city, or town  
24 fails to expend or encumber the impact fees within six years of when  
25 the fee is collected from the developer or if the developer does not  
26 proceed with the development and no impact has resulted.

27 (4) Impact fees collected under this section shall be deposited in  
28 a child care fund. The moneys deposited in the fund shall be used  
29 solely to increase the supply of child care facilities and services in  
30 the county, city, or town.

1           (5) The county, city, or town shall establish an advisory  
2 committee to evaluate the impact fee schedule, to advise the county,  
3 city, or town on the administration of the impact fee ordinance, and to  
4 make recommendations periodically to the county, city, or town  
5 regarding improving the impact fee process. The advisory committee  
6 shall be representative of public officials, developers, and child care  
7 providers.

8           NEW SECTION.   **Sec. 3.**           If any provision of this act or its  
9 application to any person or circumstance is held invalid, the  
10 remainder of the act or the application of the provision to other  
11 persons or circumstances is not affected.