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**HOUSE BILL 2575**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Maycumber, Macri, Buys, Chapman, Taylor, Holy, McCaslin, Volz, Condotta, Schmick, Caldier, Barkis, Smith, Dent, Hayes, Chandler, and Steele

AN ACT Relating to waiving fees related to groundwater withdrawals for low-income housing units; amending RCW 36.70A.540 and 18.104.055; adding a new section to chapter 90.44 RCW; and adding a new section to chapter 90.54 RCW.

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

**Sec.**  RCW 36.70A.540 and 2009 c 80 s 1 are each amended to read as follows:

(1)(a) Any city or county planning under RCW 36.70A.040 may enact or expand affordable housing incentive programs providing for the development of low‑income housing units through development regulations or conditions on rezoning or permit decisions, or both, on one or more of the following types of development: Residential; commercial; industrial; or mixed-use. An affordable housing incentive program may include, but is not limited to, one or more of the following:

(i) Density bonuses within the urban growth area;

(ii) Height and bulk bonuses;

(iii) Fee waivers or exemptions, especially for any governmental fees for or related to groundwater withdrawals that are exempt under RCW 90.44.050;

(iv) Parking reductions; or

(v) Expedited permitting.

(b) The city or county may enact or expand such programs whether or not the programs may impose a tax, fee, or charge on the development or construction of property.

(c) If a developer chooses not to participate in an optional affordable housing incentive program adopted and authorized under this section, a city, county, or town may not condition, deny, or delay the issuance of a permit or development approval that is consistent with zoning and development standards on the subject property absent incentive provisions of this program.

(2) Affordable housing incentive programs enacted or expanded under this section shall comply with the following:

(a) The incentives or bonuses shall provide for the development of low‑income housing units;

(b) Jurisdictions shall establish standards for low‑income renter or owner occupancy housing, including income guidelines consistent with local housing needs, to assist low‑income households that cannot afford market‑rate housing. Low‑income households are defined for renter and owner occupancy program purposes as follows:

(i) Rental housing units to be developed shall be affordable to and occupied by households with an income of fifty percent or less of the county median family income, adjusted for family size;

(ii) Owner occupancy housing units shall be affordable to and occupied by households with an income of eighty percent or less of the county median family income, adjusted for family size. The legislative authority of a jurisdiction, after holding a public hearing, may establish lower income levels; and

(iii) The legislative authority of a jurisdiction, after holding a public hearing, may also establish higher income levels for rental housing or for owner occupancy housing upon finding that higher income levels are needed to address local housing market conditions. The higher income level for rental housing may not exceed eighty percent of the county area median family income. The higher income level for owner occupancy housing may not exceed one hundred percent of the county area median family income. These established higher income levels are considered "low‑income" for the purposes of this section;

(c) The jurisdiction shall establish a maximum rent level or sales price for each low‑income housing unit developed under the terms of a program and may adjust these levels or prices based on the average size of the household expected to occupy the unit. For renter‑occupied housing units, the total housing costs, including basic utilities as determined by the jurisdiction, may not exceed thirty percent of the income limit for the low‑income housing unit;

(d) Where a developer is utilizing a housing incentive program authorized under this section to develop market rate housing, and is developing low-income housing to satisfy the requirements of the housing incentive program, the low‑income housing units shall be provided in a range of sizes comparable to those units that are available to other residents. To the extent practicable, the number of bedrooms in low‑income units must be in the same proportion as the number of bedrooms in units within the entire development. The low‑income units shall generally be distributed throughout the development and have substantially the same functionality as the other units in the development;

(e) Low‑income housing units developed under an affordable housing incentive program shall be committed to continuing affordability for at least fifty years. A local government, however, may accept payments in lieu of continuing affordability. The program shall include measures to enforce continuing affordability and income standards applicable to low‑income units constructed under this section that may include, but are not limited to, covenants, options, or other agreements to be executed and recorded by owners and developers;

(f) Programs authorized under subsection (1) of this section may apply to part or all of a jurisdiction and different standards may be applied to different areas within a jurisdiction or to different types of development. Programs authorized under this section may be modified to meet local needs and may include provisions not expressly provided in this section or RCW 82.02.020;

(g) Low‑income housing units developed under an affordable housing incentive program are encouraged to be provided within developments for which a bonus or incentive is provided. However, programs may allow units to be provided in a building located in the general area of the development for which a bonus or incentive is provided; and

(h) Affordable housing incentive programs may allow a payment of money or property in lieu of low‑income housing units if the jurisdiction determines that the payment achieves a result equal to or better than providing the affordable housing on-site, as long as the payment does not exceed the approximate cost of developing the same number and quality of housing units that would otherwise be developed. Any city or county shall use these funds or property to support the development of low‑income housing, including support provided through loans or grants to public or private owners or developers of housing.

(3) Affordable housing incentive programs enacted or expanded under this section may be applied within the jurisdiction to address the need for increased residential development, consistent with local growth management and housing policies, as follows:

(a) The jurisdiction shall identify certain land use designations within a geographic area where increased residential development will assist in achieving local growth management and housing policies;

(b) The jurisdiction shall provide increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or other incentives;

(c) The jurisdiction shall determine that increased residential development capacity or other incentives can be achieved within the identified area, subject to consideration of other regulatory controls on development; and

(d) The jurisdiction may establish a minimum amount of affordable housing that must be provided by all residential developments being built under the revised regulations, consistent with the requirements of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 90.44 RCW to read as follows:

(1) Notwithstanding other provisions authorizing the department to assess fees, the department or its agents, counties, cities, or towns upon request by a low-income person as defined in this section must waive any fee that the department or the department's agent assesses in association with the withdrawal of public groundwaters for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses governed by RCW 90.44.050. This includes any such fees that are assessed as part of the building permit process. Also, the department may initiate waiver of the fees for a low-income person.

(2) For purposes of this section "low-income person" means:

(a) Any property owner providing affordable housing units to be occupied by households with an income of two hundred percent or less of the federal poverty level, adjusted for family size;

(b) Any property owner providing manufactured/mobile homes as defined in RCW 59.30.020;

(c) Any property owner providing housing for migrant farmworkers; or

(d) A housing authority governed by chapter 35.82 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 90.54 RCW to read as follows:

(1) Notwithstanding other provisions authorizing the department to assess fees, the department or its agents, counties, cities, or towns upon request by a low-income person as defined in this section must waive any fee that the department or the department's agent assesses in association with the withdrawal of public groundwaters for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses governed by RCW 90.44.050. This includes any such fees that are assessed as part of the building permit process. Also, the department may initiate waiver of the fees for a low-income person.

(2) For purposes of this section "low-income person" means:

(a) Any property owner providing affordable housing units to be occupied by households with an income of two hundred percent or less of the federal poverty level, adjusted for family size;

(b) Any property owner providing manufactured/mobile homes as defined in RCW 59.30.020;

(c) Any property owner providing housing for migrant farmworkers; or

(d) A housing authority governed by chapter 35.82 RCW.

**Sec.**  RCW 18.104.055 and 2005 c 84 s 4 are each amended to read as follows:

(1) A fee is hereby imposed on each well constructed in this state on or after July 1, 2005.

(2)(a) The fee for one water well, other than a dewatering well, with a minimum top casing diameter of less than twelve inches is two hundred dollars. This fee does not apply to a ground source heat pump boring or a grounding well.

(b) The fee for one water well, other than a dewatering well, with a minimum top casing diameter of twelve inches or greater is three hundred dollars.

(c) The fee for a resource protection well, except for an environmental investigation well, a ground source heat pump boring, or a grounding well, is forty dollars for each well.

(d) The fee for an environmental investigation well in which groundwater is sampled or measured is forty dollars for construction of up to four environmental investigation wells per project, ten dollars for each additional environmental investigation well constructed on a project with more than four wells. There is no fee for soil or vapor sampling purposes.

(e) The fee for a ground source heat pump boring or a grounding well is forty dollars for construction of up to four ground source heat pump borings or grounding wells per project and ten dollars for each additional ground source heat pump boring or grounding well constructed on a project with more than four wells.

(f) The combined fee for construction and decommissioning of a dewatering well system shall be forty dollars for each two hundred horizontal lineal feet, or portion thereof, of the dewatering well system.

(g) The fee to decommission a water well is fifty dollars.

(h) The fee to decommission a resource protection well, except for an environmental investigation well, is twenty dollars. There is no fee to decommission an environmental investigation well or a geotechnical soil boring.

(i) The fee to decommission a ground source heat pump boring or a grounding well is twenty dollars.

(3) The fees imposed by this section shall be paid at the time the notice of well construction is submitted to the department as provided by RCW 18.104.048. The department by rule may adopt procedures to permit the fees required for resource protection wells to be paid after the number of wells actually constructed has been determined. The department shall refund the amount of any fee collected for wells, borings, probes, or excavations as long as construction has not started and the department has received a refund request within one hundred eighty days from the time the department received the fee. The refund request shall be made on a form provided by the department.

(4)(a) The department or the department's agents upon request by a low-income person as defined in this subsection must waive any fee in this section. The department may initiate waiver of the fees for a low-income person.

(b) For purposes of this section "low-income person" means:

(i) Any property owner providing affordable housing units to be occupied by households with an income of two hundred percent or less of the federal poverty level, adjusted for family size;

(ii) Any property owner providing manufactured/mobile homes as defined in RCW 59.30.020; or

(iii) Any property owner providing housing for migrant farmworkers.

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