

FINAL BILL REPORT

SHB 1331

C 72 L 21
Synopsis as Enacted

Brief Description: Concerning early learning facility impact fees.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Harris-Talley, Senn, Berry, Callan, Fitzgibbon, Wicks, Ortiz-Self, Chopp, Davis, Valdez, Bateman, Eslick, Ormsby, Lovick, Fey, Berg, Rule, Lekanoff, Frame, Duerr, Pollet, Macri, Slatter and Peterson).

House Committee on Local Government
Senate Committee on Housing & Local Government

Background:

Impact fees are assessed by a local government on a new development to help pay for the increased services that will be required because of that development. For example, if a new residential development would require increased school facilities for the new residents, then an impact fee could be assessed to pay for the facilities. Approval of a new development may be conditioned on the payment of impact fees.

Local governments planning under the Growth Management Act are authorized to impose impact fees for public streets, publicly owned parks and recreation facilities, school facilities, and fire protection facilities. This authority is contingent on the local government revising its comprehensive plan to identify current deficiencies in public facilities serving existing development and how those deficiencies will be eliminated within a reasonable period of time, the additional demands placed on existing public facilities by new development, and the additional public facility improvements required to serve new development. Impact fees may only be used on public facilities that are included in the capital facilities element of the comprehensive plan, that are reasonably related to the new development, that are designed to provide service areas to the community at large, and that will also reasonably benefit the new development.

These new facilities may not be solely financed through impact fees. In addition, impact

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

fees may not be used to correct preexisting deficiencies in current public facilities, and the impact fees assessed may not exceed a proportionate share of the costs of a facility that are reasonably related to the new development. The local government may provide exemptions from impact fees for low-income housing or other development activities with a broad public purpose. If the local government does provide an exemption, then the impact fee that would have been paid by the development must instead be paid from public funds. An exemption of up to 80 percent of impact fees may be provided for affordable housing without a requirement that the exempted fee be paid from public funds other than impact fee accounts. If a full fee exemption is granted, then 20 percent of the fee that would have been paid must be paid from public funds other than impact fee accounts. Any such exemption must be conditioned on the developer recording a covenant that prohibits the property from being used for anything other than low-income housing. If the property is converted to another use, the property owner must pay the applicable impact fees in effect at the time of conversion.

The ordinance establishing impact fees must include a schedule of impact fees for each type of development activity. Impact fees must generally be collected prior to construction, and must be kept in a separate account depending on the type of public facility for which it was collected. Local governments collecting impact fees must produce an annual report detailing the fees that have been collected and for what they have been used. If impact fees are not used within 10 years of collection, they generally must be returned. A developer who has paid an impact fee may receive a refund if the development does not proceed and no impact materializes.

Summary:

Development activities with a broad public purpose that a local government may exempt from impact fees include the development of an early learning facility. An early learning facility is a facility providing regularly scheduled care for a group of children one month of age through 12 years of age for periods of less than 24 hours. A local government may exempt an early learning facility from up to 80 percent of impact fees without being required to pay the exempted portion of the fee from public funds other than the impact fee account. A local government may exempt an early learning facility from all impact fees without a requirement for the local government to pay the fee from public funds other than the impact fee account if the local government requires the developer to record a covenant with the county auditor or recording officer requiring that:

- at least 25 percent of the children and families using the early learning facility qualify for state subsidized child care. The covenant must also provide that if the early learning facility does not have at least 25 percent of the children and families using the facility qualified for state subsidized childcare at any point during a calendar year, then the property owner must pay, within 90 days of the local government informing the property owner of the breach, 20 percent of the impact fee that would have been originally imposed had there been no exemption, with any balance remaining thereafter operating as a lien on the property; and

- if the property is converted to a different use, the property owner must pay the applicable impact fees in effect at the time of conversion.

A local government that grants an exemption to an early learning facility may not collect the revenue lost through the exemption by increasing unrelated impact fees. If a school district would receive a school impact fee because of the development, then the district must approve any exemption.

A local government may not impose an impact fee on development activities of an early learning facility greater than those imposed on commercial retail or commercial office development activities that generate a similar number, volume, type, and duration of vehicle trips. In a facility or development that has more than one use, the impact fee limitations and potential exemptions applicable to an early learning facility only apply to that portion of the development or facility that is developed as an early learning facility. In such a development, the impact fee imposed on the early learning facility may not exceed the lowest impact fee imposed on comparable businesses in the same facility or development.

Votes on Final Passage:

House	73	25
Senate	35	13

Effective: July 25, 2021