Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Local Government Committee

HB 2451

Brief Description: Increasing the consistency and transparency of impact fees.

Sponsors: Representatives Hutchins, Barkis, Jacobsen and Cheney.

Brief Summary of Bill

- Prohibits impact fees from being increased by a percentage greater than the percentage increase in the consumer price index since the fees were last updated.
- Requires local governments that impose impact fees to provide an annual report to the Department of Commerce, and requires the Department of Commerce to produce an annual report using information received from the local governments.
- Requires the use to which impact fees will be put to be included in the capital facilities element of the comprehensive plan of the local government imposing the fees.
- Requires sellers of improved residential real property who paid an impact fee to disclose to the buyer of the property the amount of the fee and the local government to which it was paid.

Hearing Date: 1/30/24

Staff: Kellen Wright (786-7134).

Background:

Impact fees are one-time charges 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 on the residential development to help pay for the facilities. Approval of a new development may be conditioned upon the payment of impact fees.

Local governments planning under the Growth Management Act are authorized to impose impact fees for public streets and roads, publicly owned parks and recreation facilities, school facilities, and fire protection facilities. The public facilities must be reasonably related to the new development, must reasonably benefit it, and must be designed to provide service areas to the community at large.

Impact fees may only be used on public facilities that are included in the capital facilities element of the comprehensive plan. This element requires an inventory of existing capital facilities owned by public entities, a forecast of the future needs for such facilities, proposed locations and capacities for new or expanded facilities, a six-year plan for financing the facilities with clearly identified sources of funds, and a requirement to reassess the allowed land uses if funding falls short of meeting existing needs in order to ensure that the capital facilities element, financing land, and land use element are consistent.

These new facilities may not be solely financed through impact fees, and impact fees cannot be used to correct preexisting deficiencies in current public facilities. The impact fees assessed on a new development may not exceed that share of the costs of a facility that are reasonably related to the service demands and needs of the new development. The local government may provide exemptions from impact fees for low-income housing, development of an early learning facility, or other development activities with a broad public purpose. If a waiver is provided, the fees for the development must normally be paid from other public funds. Generally, impacts fees must be paid prior to construction, though, with some limitations, deferral of fee collection until later must be offered for new single-family residential construction.

The ordinance establishing impact fees must include a schedule of impact fees for each type of development activity, and the fee imposed for each kind of public facility. The ordinance must also designate one or more reasonable geographic areas in which a defined set of public facilities provides service to developments within the area, and within which the local government will calculate and impose impact fees for different land use categories per unit of development. 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.

Local governments that are imposing impact fees must prepare an annual report on each kind of impact fee it imposes, showing the source and amount of all money collected and the public facilities that were financed with the fees.

Sellers of improved residential real property must make certain disclosures to the buyer of the property, such as the existence of any covenants or restrictions on the property.

The consumer price index is a measure of changes in the price of goods over time, and is used to track inflation.

Summary of Bill:

When impact fees imposed in a fee schedule are updated, they may not be increased by a percentage greater than the percentage increase in the consumer price index since the schedule was last updated.

Local governments that impose impact fees must provide an annual report to the Department of Commerce on each kind of impact fee it imposed, showing the source and amount of all money collected and the public facilities that were financed with the fees over the prior calendar year. The Department of Commerce must use this information to produce an annual report by December 1 of each year that includes a compilation of the information it receives from each jurisdiction imposing the fees.

The six-year financing plan required in the capital facilities element of a comprehensive plan must include the use to which any impact fees imposed by the jurisdiction will be put.

Sellers of improved residential real property who paid an impact fee related to the property must disclose to a buyer of the property the amount of the fee and the local government to which it was paid. The failure to provide this information does not provide the buyer of the property any rights or remedies against the seller.

Appropriation: None.

Fiscal Note: Requested on January 23, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.