HOUSE BILL REPORT
SB 5452

As Reported by House Committee On:
Local Government

Title: An act relating to authorizing impact fee revenue to fund improvements to bicycle and pedestrian facilities.

Brief Description: Authorizing impact fee revenue to fund improvements to bicycle and pedestrian facilities.

Sponsors: Senators Shewmake, Billig, Hasegawa, Kuderer, Liias, Nguyen, Pedersen, Saldaña and Valdez.

Brief History:
Committee Activity:
Local Government: 3/14/23, 3/21/23 [DP].

Brief Summary of Bill

- Adds bicycle and pedestrian facilities that were designed with multimodal commuting as an intended use as public facilities for which impact fees can be used.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 4 members: Representatives Duerr, Chair; Alvarado, Vice Chair; Berg and Riccelli.

Minority Report: Do not pass. Signed by 3 members: Representatives Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Griffey.

Staff: Kellen Wright (786-7134).

Background:

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.

Impact fees are one-time charges assessed by a local government on new development activities to help pay for the increased services that will be required because of new growth and development. Development activity includes any construction or expansion of a building or use, any change in use of a building, or any change in the use of land, that creates an additional need for public 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 and roads, 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. 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.

The ordinance imposing impact fees must include a schedule of impact fees for each type of development activity and the fee imposed for each kind of 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. The Washington Supreme Court has found general improvements to public facilities and the general benefits thereof within a service area to be reasonably related to, and to reasonably benefit, new developments within the service area. The ordinance imposing impact fees must also provide that the fees can be adjusted in unique circumstances when it is fair to do so, and developers must be allowed to provide data and studies to support an adjustment of the fee.

Public facilities may not be solely financed through impact fees. Impact fees can be imposed for public facilities costs that were previously incurred to the extent that the new growth and development will be served by the facilities, though these 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, impact fees must be paid prior to construction, though, with some limitations, deferral of fee collection until later in the development process must be offered for new single-family residential construction.

Each type of impact fee collected must be kept in a separate account based on the type of public facility for which it was collected. Local governments that impose impact fees must provide for an administrative process for appealing the fee, and the fee may be modified if it is determined that it is fair to do so. Local governments collecting impact fees must produce an annual report detailing the fees that have been collected and what the fees have been used for. 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 of Bill:

Bicycle and pedestrian facilities that were designed with multimodal commuting as an intended use are added alongside streets and roads as public facilities on which impact fees can be spent.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Currently, bike lanes can be built in the roadway with impact fees. Impact fees cannot, however, be used to build the bike lane out of the roadway, which is safer. Cities want to become livable and walkable communities, and this includes providing dedicated bicycle and pedestrian paths to transit. Developers build along bicycle and pedestrian corridors because people would like to commute by bike or on foot, and impact fees should be able to be used for these corridors. This bill recognizes that bicycle and pedestrian facilities are part of the transportation plan within cities. Multimodal commuting is becoming more popular as cities become denser. Allowing more options for the use of impact fees would let those fees be used more efficiently. This will increase connectivity within communities. Transportation mitigation fees were authorized more than 30 years ago, and these are normally calculated based on the ratio of vehicle trips that new development would contribute toward the need for a new road. We have focused on vehicles for too long, and this has led to increased greenhouse gas emissions and decreased safety for other commuting options. Many people cannot use cars to get around. It is appropriate now to allow impact fees to be used for multimodal commuting options, increase the use of alternatives to automobiles, and increase safety for those uses. This will allow local governments to secure federal funds that require local matching funds. There is a multibillion-dollar gap in preservation funding for roads, and one way to reduce the costs of roads is to incentivize other forms of transportation. The cost of maintaining bicycle paths is less than maintaining roadways for cars. Many Washingtonians are paying a lot for gas, and many people are dying on the roads. We need another way to commute. This bill will increase environmental and mobility justice, and decrease costs for residents.

(Opposed) The concern is not with the intended use of the funds, as multimodal transportation can be a good option for commuters, but instead about an increase in impact fees. Nothing in the bill would prevent local governments from increasing impact fees to pay for the new use. Because these fees are collected on the front end of development, they increase carrying costs for development, and increased costs will be passed on to homeowners. Currently, there are two components of similar impact fees, for parks and transportation uses. Adding homes might require transportation impact fees to be paid to add new bike lanes within the roadway, and this would allow for local governments to impose transportation impact fees for bike lanes outside of the roadway as well. Park fees could already be used for this purpose. There is no need for the new fee usage, and adding the new use will lead local governments to seek more fees and would increase costs to developers and homebuyers.

Persons Testifying: (In support) Senator Sharon Shewmake, prime sponsor; Cynthia Stewart, League of Women Voters of Washington; Maxwell Brooke; Rob Putaansuu, City of Port Orchard; Angela Birney and Vangie Garcia, City of Redmond; Brandy DeLange, Association of Washington Cities; and Larry Leveen, ForeverGreen Trails.

(Opposed) Alex Hur, Master Builders Association of King and Snohomish Counties; and Bill Stauffacher, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying: None.