

SENATE BILL REPORT

SB 6285

As of January 31, 2024

Title: An act relating to ensuring the timely and balanced use of impact fees.

Brief Description: Ensuring the timely and balanced use of impact fees.

Sponsors: Senators Braun, Short and Wilson, L..

Brief History:

Committee Activity: Ways & Means: 2/01/24.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Modifies requirements for local government impact fees.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

Background: Impact fees are one-time charges assessed by counties, cities, and towns on new development activities to help pay for capital facilities 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

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development. Impact fees may only be used on public facilities 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 it is fair to do so. Local governments collecting impact fees must produce an annual report detailing the fees collected and what the fees have been used for. If impact fees are not used within ten 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: Impact fees may not provide more than 50 percent of the financing for system improvements.

A local government must expend or encumber impact fees for a permissible use within five years of receipt instead of ten years. Similar to current law, if a local government finds an

extraordinary and compelling reason, impact fees may be held longer.

A local government must refund impact fees if it fails to expend or encumber the impact fees within five years, unless it provided findings of an extraordinary and compelling reason to hold longer.

Impact fees collected prior to and after July 1, 2024, must be maintained in separate accounts.

Appropriation: None.

Fiscal Note: Requested on January 29, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.