
HOUSE BILL 1468

State of Washington

68th Legislature

2023 Regular Session

By Representatives Goehner, Duerr, Jacobsen, Griffey, Barkis, Robertson, Hutchins, Chapman, Riccelli, Berg, Bateman, and Pollet

Read first time 01/20/23. Referred to Committee on Local Government.

1 AN ACT Relating to impact fee deferrals; amending RCW 82.02.050;
2 and repealing RCW 43.31.980.

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

4 **Sec. 1.** RCW 82.02.050 and 2015 c 241 s 1 are each amended to
5 read as follows:

6 (1) It is the intent of the legislature:

7 (a) To ensure that adequate facilities are available to serve new
8 growth and development;

9 (b) To promote orderly growth and development by establishing
10 standards by which counties, cities, and towns may require, by
11 ordinance, that new growth and development pay a proportionate share
12 of the cost of new facilities needed to serve new growth and
13 development; and

14 (c) To ensure that impact fees are imposed through established
15 procedures and criteria so that specific developments do not pay
16 arbitrary fees or duplicative fees for the same impact.

17 (2) Counties, cities, and towns that are required or choose to
18 plan under RCW 36.70A.040 are authorized to impose impact fees on
19 development activity as part of the financing for public facilities,
20 provided that the financing for system improvements to serve new

1 development must provide for a balance between impact fees and other
2 sources of public funds and cannot rely solely on impact fees.

3 (3) (a) (i) Counties, cities, and towns collecting impact fees
4 must, by September 1, 2016, adopt and maintain a system for the
5 deferred collection of impact fees for single-family detached and
6 attached residential construction. The deferral system must include a
7 process by which an applicant for a building permit for a single-
8 family detached or attached residence may request a deferral of the
9 full impact fee payment. The deferral system offered by a county,
10 city, or town under this subsection (3) must include one or more of
11 the following options:

12 (A) Deferring collection of the impact fee payment until the time
13 for the final inspection; or

14 (B) Deferring collection of the impact fee payment until the time
15 for the certificate of occupancy or equivalent certification (~~or~~

16 ~~(C) Deferring collection of the impact fee payment until the time~~
17 ~~of closing of the first sale of the property occurring after the~~
18 ~~issuance of the applicable building permit)).~~

19 (ii) Counties, cities, and towns utilizing the deferral process
20 required by this subsection (3) (a) (~~may~~) must withhold
21 certification of final inspection, certificate of occupancy, or
22 equivalent certification until the impact fees have been paid in
23 full.

24 (iii) The amount of impact fees that may be deferred under this
25 subsection (3) must be determined by the fees in effect at the time
26 the applicant applies for a deferral.

27 (iv) Unless an agreement to the contrary is reached between the
28 buyer and seller, the payment of impact fees due at closing of a sale
29 must be made from the seller's proceeds. In the absence of an
30 agreement to the contrary, the seller bears strict liability for the
31 payment of the impact fees.

32 (b) The term of an impact fee deferral under this subsection (3)
33 may not exceed eighteen months from the date of building permit
34 issuance.

35 (~~(c) (Except as may otherwise be authorized in accordance with~~
36 ~~(f) of this subsection (3), an applicant seeking a deferral under~~
37 ~~this subsection (3) must grant and record a deferred impact fee lien~~
38 ~~against the property in favor of the county, city, or town in the~~
39 ~~amount of the deferred impact fee. The deferred impact fee lien,~~

1 which must include the legal description, tax account number, and
2 address of the property, must also be:

3 ~~(i) In a form approved by the county, city, or town;~~

4 ~~(ii) Signed by all owners of the property, with all signatures~~
5 ~~acknowledged as required for a deed, and recorded in the county where~~
6 ~~the property is located;~~

7 ~~(iii) Binding on all successors in title after the recordation;~~
8 and

9 ~~(iv) Junior and subordinate to one mortgage for the purpose of~~
10 ~~construction upon the same real property granted by the person who~~
11 ~~applied for the deferral of impact fees.~~

12 ~~(d) (i) If impact fees are not paid in accordance with a deferral~~
13 ~~authorized by this subsection (3), and in accordance with the term~~
14 ~~provisions established in (b) of this subsection (3), the county,~~
15 ~~city, or town may institute foreclosure proceedings in accordance~~
16 ~~with chapter 61.12 RCW.~~

17 ~~(ii) If the county, city, or town does not institute foreclosure~~
18 ~~proceedings for unpaid school impact fees within forty-five days~~
19 ~~after receiving notice from a school district requesting that it do~~
20 ~~so, the district may institute foreclosure proceedings with respect~~
21 ~~to the unpaid impact fees.~~

22 ~~(e) (i) Upon receipt of final payment of all deferred impact fees~~
23 ~~for a property, the county, city, or town must execute a release of~~
24 ~~deferred impact fee lien for the property. The property owner at the~~
25 ~~time of the release, at his or her expense, is responsible for~~
26 ~~recording the lien release.~~

27 ~~(ii) The extinguishment of a deferred impact fee lien by the~~
28 ~~foreclosure of a lien having priority does not affect the obligation~~
29 ~~to pay the impact fees as a condition of final inspection,~~
30 ~~certificate of occupancy, or equivalent certification, or at the time~~
31 ~~of closing of the first sale.~~

32 ~~(f)) A county, city, or town with an impact fee deferral process~~
33 ~~on or before April 1, 2015, is exempt from the requirements of this~~
34 ~~subsection (3) if the deferral process delays all impact fees and~~
35 ~~remains in effect after September 1, 2016.~~

36 ~~((g))~~ (d) (i) Each applicant for a single-family residential
37 construction permit, in accordance with his or her contractor
38 registration number or other unique identification number, is
39 entitled to annually receive deferrals under this subsection (3) for
40 the first twenty single-family residential construction building

1 permits per county, city, or town. A county, city, or town, however,
2 may elect, by ordinance, to defer more than twenty single-family
3 residential construction building permits for an applicant. If the
4 county, city, or town collects impact fees on behalf of one or more
5 school districts for which the collection of impact fees could be
6 delayed, the county, city, or town must consult with the district or
7 districts about the additional deferrals. A county, city, or town
8 considering additional deferrals must give substantial weight to
9 recommendations of each applicable school district regarding the
10 number of additional deferrals. If the county, city, or town
11 disagrees with the recommendations of one or more school districts,
12 the county, city, or town must provide the district or districts with
13 a written rationale for its decision.

14 (ii) For purposes of this subsection (3) ~~((g))~~ (d), an
15 "applicant" includes an entity that controls the applicant, is
16 controlled by the applicant, or is under common control with the
17 applicant.

18 ~~((h))~~ (e) Counties, cities, and towns may collect reasonable
19 administrative fees to implement this subsection (3) from permit
20 applicants who are seeking to delay the payment of impact fees under
21 this subsection (3).

22 ~~((i) In accordance with RCW 44.28.812 and 43.31.980, counties,~~
23 ~~cities, and towns must cooperate with and provide requested data,~~
24 ~~materials, and assistance to the department of commerce and the joint~~
25 ~~legislative audit and review committee.))~~

26 (4) The impact fees:

27 (a) Shall only be imposed for system improvements that are
28 reasonably related to the new development;

29 (b) Shall not exceed a proportionate share of the costs of system
30 improvements that are reasonably related to the new development; and

31 (c) Shall be used for system improvements that will reasonably
32 benefit the new development.

33 (5) (a) Impact fees may be collected and spent only for the public
34 facilities defined in RCW 82.02.090 which are addressed by a capital
35 facilities plan element of a comprehensive land use plan adopted
36 pursuant to the provisions of RCW 36.70A.070 or the provisions for
37 comprehensive plan adoption contained in chapter 36.70, 35.63, or
38 35A.63 RCW. After the date a county, city, or town is required to
39 adopt its development regulations under chapter 36.70A RCW, continued
40 authorization to collect and expend impact fees is contingent on the

1 county, city, or town adopting or revising a comprehensive plan in
2 compliance with RCW 36.70A.070, and on the capital facilities plan
3 identifying:

4 (i) Deficiencies in public facilities serving existing
5 development and the means by which existing deficiencies will be
6 eliminated within a reasonable period of time;

7 (ii) Additional demands placed on existing public facilities by
8 new development; and

9 (iii) Additional public facility improvements required to serve
10 new development.

11 (b) If the capital facilities plan of the county, city, or town
12 is complete other than for the inclusion of those elements which are
13 the responsibility of a special district, the county, city, or town
14 may impose impact fees to address those public facility needs for
15 which the county, city, or town is responsible.

16 NEW SECTION. **Sec. 2.** RCW 43.31.980 (Impact fee annual report)
17 and 2015 c 241 s 4 are each repealed.

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