
HOUSE BILL 2337

State of Washington

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By Representatives Morris and Mielke

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Committee on Local Government.

1 AN ACT Relating to developer-selected options for complying with
2 impact fee requirements; and amending RCW 82.02.050, 82.02.060, and
3 82.02.090.

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

5 **Sec. 1.** RCW 82.02.050 and 1994 c 257 s 24 are each amended to read
6 as follows:

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

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

10 (b) To promote orderly growth and development by establishing
11 standards by which counties, cities, and towns may require, by
12 ordinance, that new growth and development pay a proportionate share of
13 the cost of new facilities needed to serve new growth and development
14 or dedicate land, improve existing system improvements, or construct
15 new system improvements as provided for in this chapter; and

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

1 (2) Counties, cities, and towns that are required or choose to plan
2 under RCW 36.70A.040 are authorized to impose impact fees on
3 development activity as part of the financing for public facilities,
4 provided that the financing for system improvements to serve new
5 development must provide for a balance between impact fees and other
6 sources of public funds and cannot rely solely on impact fees.

7 (3) The impact fees:

8 (a) (~~Shall~~) Must only be imposed for system improvements that are
9 reasonably related to the new development;

10 (b) (~~Shall~~) Must not exceed a proportionate share of the costs of
11 system improvements that are reasonably related to the new development;
12 and

13 (c) (~~Shall~~) Must be used for system improvements that will
14 reasonably benefit the new development.

15 (4) Impact fees may be collected and spent only for the public
16 facilities defined in RCW 82.02.090 (~~which~~) that are addressed by a
17 capital facilities plan element of a comprehensive land use plan
18 adopted pursuant to the provisions of RCW 36.70A.070 or the provisions
19 for comprehensive plan adoption contained in chapter 36.70, 35.63, or
20 35A.63 RCW. After the date a county, city, or town is required to
21 adopt its development regulations under chapter 36.70A RCW, continued
22 authorization to collect and expend impact fees (~~shall be~~) is
23 contingent on the county, city, or town adopting or revising a
24 comprehensive plan in compliance with RCW 36.70A.070, and on the
25 capital facilities plan identifying:

26 (a) Deficiencies in public facilities serving existing development
27 and the means by which existing deficiencies will be eliminated within
28 a reasonable period of time;

29 (b) Additional demands placed on existing public facilities by new
30 development; and

31 (c) Additional public facility improvements required to serve new
32 development.

33 If the capital facilities plan of the county, city, or town is
34 complete other than for the inclusion of those elements which are the
35 responsibility of a special district, the county, city, or town may
36 impose impact fees to address those public facility needs for which the
37 county, city, or town is responsible.

1 **Sec. 2.** RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each
2 amended to read as follows:

3 The local ordinance by which impact fees are imposed:

4 (1) ~~((shall))~~ Must include a schedule of impact fees ~~((which shall~~
5 ~~be))~~ adopted for each type of development activity that is subject to
6 impact fees, specifying the amount of the impact fee to be imposed for
7 each type of system improvement. The schedule ~~((shall))~~ must be based
8 upon a formula or other method of calculating ~~((such))~~ the impact fees.
9 ~~((In determining))~~ To determine proportionate share, the formula or
10 other method of calculating impact fees ~~((shall))~~ must incorporate,
11 among other things, the following:

12 (a) The functional specifications and cost of public facilities
13 necessitated by new development;

14 (b) An adjustment to the cost of the public facilities for past or
15 future payments made or reasonably anticipated to be made by new
16 development to pay for particular system improvements in the form of
17 user fees, debt service payments, taxes, or other payments earmarked
18 for or proratable to the particular system improvement;

19 (c) The availability of other means of funding public facility
20 improvements;

21 (d) The cost of existing public facilities improvements; and

22 (e) The methods by which public facilities improvements were
23 financed;

24 (2) May provide an exemption from impact fees for low-income
25 housing, and other development activities with broad public purposes~~((~~
26 ~~from these impact fees, provided that))~~, however, the impact fees for
27 ~~((such))~~ the development activity ~~((shall))~~ must be paid from public
28 funds other than impact fee accounts;

29 (3) ~~((shall))~~ (a) Must provide a credit for the value of any
30 dedication of land for, improvement to, or new construction of any
31 system improvements provided by the developer, to facilities that are
32 identified in the capital facilities plan and that are required by the
33 county, city, or town as a condition of approving the development
34 activity.

35 (b) The local ordinance must specify that the developer has the
36 option of paying the impact fees, dedicating land, improving system
37 improvements, or constructing new system improvements and receiving
38 credit as provided by this subsection (3). If a developer chooses to

1 provide system improvements or construct new system improvements, the
2 improvements must be consistent with the functional specifications
3 issued by the applicable jurisdiction;

4 (4) (~~Shall~~) Must allow the county, city, or town imposing the
5 impact fees to adjust the standard impact fee at the time the fee is
6 imposed to consider unusual circumstances in specific cases to ensure
7 that impact fees are imposed fairly;

8 (5) (~~Shall~~) Must include a provision for calculating the amount
9 of the fee to be imposed on a particular development that permits
10 consideration of studies and data submitted by the developer to adjust
11 the amount of the fee;

12 (6) (~~Shall~~) Must establish one or more reasonable service areas
13 within which it (~~shall~~) calculates and imposes impact fees for
14 various land use categories per unit of development;

15 (7) May provide for the imposition of an impact fee for system
16 improvement costs previously incurred by a county, city, or town to the
17 extent that new growth and development will be served by the previously
18 constructed improvements (~~provided such~~). This fee (~~shall~~) may not
19 be imposed to make up for any system improvement deficiencies.

20 **Sec. 3.** RCW 82.02.090 and 1990 1st ex.s. c 17 s 48 are each
21 amended to read as follows:

22 Unless the context clearly requires otherwise, the following
23 definitions (~~shall~~) apply in RCW 82.02.050 through 82.02.090:

24 (1) "Development activity" means any construction or expansion of
25 a building, structure, or use, any change in use of a building or
26 structure, or any changes in the use of land, that creates additional
27 demand and need for public facilities.

28 (2) "Development approval" means any written authorization from a
29 county, city, or town which authorizes the commencement of development
30 activity.

31 (3) "Functional specifications" means a detailed description of
32 system improvements or new construction of system improvements
33 developed and issued by a local government to comply with the
34 requirements of RCW 82.02.060. "Functional specifications" may
35 include, but are not limited to, detailed construction or improvement
36 plans for public facilities.

1 (4) "Impact fee" means a payment of money imposed upon development
2 as a condition of development approval to pay for public facilities
3 needed to serve new growth and development, and that is reasonably
4 related to the new development that creates additional demand and need
5 for public facilities, that is a proportionate share of the cost of the
6 public facilities, and that is used for facilities that reasonably
7 benefit the new development. "Impact fee" does not include a
8 reasonable permit or application fee.

9 ~~((+4))~~ (5) "Owner" means the owner of record of real property,
10 although when real property is being purchased under a real estate
11 contract, the purchaser ~~((shall be))~~ is considered the owner of the
12 real property if the contract is recorded.

13 ~~((+5))~~ (6) "Proportionate share" means that portion of the cost of
14 public facility improvements that ~~((are))~~ is reasonably related to the
15 service demands and needs of new development.

16 ~~((+6))~~ (7) "Project improvements" mean site improvements and
17 facilities that are planned and designed to provide service for a
18 particular development project and that are necessary for the use and
19 convenience of the occupants or users of the project, and are not
20 system improvements. No improvement or facility included in a capital
21 facilities plan approved by the governing body of the county, city, or
22 town ~~((shall be))~~ is considered a project improvement.

23 ~~((+7))~~ (8) "Public facilities" means the following capital
24 facilities owned or operated by government entities: (a) Public
25 streets and roads; (b) publicly owned parks, open space, and recreation
26 facilities; (c) school facilities; and (d) fire protection facilities
27 in jurisdictions that are not part of a fire district.

28 ~~((+8))~~ (9) "Service area" means a geographic area defined by a
29 county, city, town, or intergovernmental agreement in which a defined
30 set of public facilities provide service to development within the
31 area. Service areas ~~((shall))~~ must be designated on the basis of sound
32 planning or engineering principles.

33 ~~((+9))~~ (10) "System improvements" mean public facilities that are
34 included in the capital facilities plan and are designed to provide
35 service to service areas within the community at large, in contrast to
36 project improvements.

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