

# HOUSE BILL REPORT

## HB 1493

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**As Passed House:**

February 12, 2008

**Title:** An act relating to clarifying the definition of development activity with regard to regional transit authorities.

**Brief Description:** Clarifying the definition of development activity in respect to construction by a regional transit authority.

**Sponsors:** By Representatives Hudgins, Simpson, Jarrett, B. Sullivan, Rodne, McCoy, Sells and Kenney.

**Brief History:**

**Committee Activity:**

Transportation: 2/5/07, 2/12/07 [DP].

**Floor Activity:**

Passed House: 2/12/08, 94-1.

**Brief Summary of Bill**

- Establishes that the construction of buildings or structures by a regional transit authority is exempt from local impact fees by modifying the definition of "development activity" to expressly exclude such construction.

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**HOUSE COMMITTEE ON TRANSPORTATION**

**Majority Report:** Do pass. Signed by 24 members: Representatives Clibborn, Chair; Flannigan, Vice Chair; Jarrett, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Appleton, Armstrong, Campbell, Curtis, Dickerson, Eddy, Hailey, Hankins, Kristiansen, Lovick, Rodne, Rolfes, Sells, Simpson, Springer, B. Sullivan, Takko, Upthegrove, Wallace and Wood.

**Staff:** Kathryn Leathers (786-7114).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Counties, cities, and towns that plan under the major provisions of the Growth Management Act are authorized to impose impact fees on development activity as part of the financing of certain public facilities. Impact fees are payments of money required of developers as a condition of development approval. The fees apply to both new development and the expansion of existing development.

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

The public facilities for which the impact fees may be imposed and spent are limited to the following capital facilities that are owned or operated by government entities: public streets and roads; publicly-owned parks, open space, and recreation facilities; school facilities; and fire protection facilities in jurisdictions that are not part of a fire district.

In addition to the limitation that impact fees may only be imposed with respect to certain facilities, such fees:

- may only be imposed for system improvements that are reasonably related to the new development;
- may not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and
- must be used for system improvements that will reasonably benefit the new development.

Local ordinances imposing impact fees must include a schedule of fees specific to each type of development activity. The method of fee calculation must take into account the type of development in determining the cost of its anticipated impact.

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### **Summary of Bill:**

As regards development activity that may be subject to local impact fees, the definition of "development activity" is modified to expressly exclude construction of buildings or structures by a regional transit authority, thereby clarifying that such construction is not subject to local impact fees.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

### **Staff Summary of Public Testimony:**

(In support) Regional transit is relatively new to our state, and this new definition of "development activity" for which impact fees may be imposed allows transit buildings and

structures to be considered differently than shopping malls or other development. Taxpayers pay for these transit structures to be built, which is very different from the situation in which a private citizen builds a new development. Impact fees were not designed for these types of structures, and this new definition clarifies that intent.

Impact fees are a specialized section of statute. In order to determine the fee amounts, cities typically first assess area-wide needs and then create a fee schedule based on area-wide impacts due to the new development. This bill only affects impact fees, and it does not excuse Sound Transit from required mitigation under the State Environmental Protection Act (SEPA) or from other types of mitigation. There are a number of ways that a community can address the impact of a project up front, through the local permitting process or by agreement between the parties. There is a big difference between SEPA mitigation and impact fees. Impact fees can be assessed against new development for improvements that have impacts on the other side of town, whereas SEPA requires mitigation for localized, adverse, direct impacts attributable to that specific project. The irony under the current definition of "development activity" is that the facilities that are being built by Sound Transit are exactly the type of structures that are anticipated to be funded by impact fees. Over the last several years, Sound Transit has built projects in over 40 jurisdictions, and has had to walk through this process with local jurisdictions over and over, at great cost of time and money, to show that the regional benefits of its projects outweigh any local impacts. After working through the analysis with local jurisdictions, no jurisdiction has ever imposed impact fees on Sound Transit. This bill is necessary to clarify an ambiguity in the law.

When the Growth Management Act and development impact fees were first authorized, the intent behind development impact fees was to address the concurrency problem with proposed new development. For Sound Transit projects, adverse impacts can be dealt with through the mitigation process. Sound Transit is not trying to get out from under its community obligations. Unlike impact fee assessments, mitigation required under SEPA has never been waived for Sound Transit in the past.

(Opposed) None.

**Persons Testifying:** Representative Hudgins, prime sponsor; Ron Main and Steve Sheehy, Sound Transit.

**Persons Signed In To Testify But Not Testifying:** None.