

# SENATE BILL REPORT

## EHB 1398

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As Reported by Senate Committee On:  
Financial Institutions, Housing & Insurance, March 22, 2011

**Title:** An act relating to exempting low-income housing from impact fees.

**Brief Description:** Creating an exemption from impact fees for low-income housing.

**Sponsors:** Representatives Fitzgibbon, Seaquist, Orwall, Springer, Upthegrove and Kenney.

**Brief History:** Passed House: 2/22/11, 86-8.

**Committee Activity:** Financial Institutions, Housing & Insurance: 3/09/11, 3/15/11, 3/16/11, 3/22/11 [DPA, DNP].

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Majority Report:** Do pass as amended.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain, Haugen, Keiser and Litzow.

**Minority Report:** Do not pass.

Signed by Senator Benton, Ranking Minority Member.

**Staff:** Alison Mendiola (786-7483)

**Background:** Growth Management Act (GMA). The GMA is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

Impact Fees. Planning jurisdictions may impose impact fees on development activity as part of the financing of public facilities needed to serve new growth and development. This financing must provide a balance between impact fees and other sources of public funds and cannot rely solely on impact fees. Additionally, impact fees: may only be imposed for system improvements, a term defined in statute, that are reasonably related to the new development; may not exceed a proportionate share of the costs of system improvements; and must be used for system improvements that will reasonably benefit the new development.

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Impact fees may be collected and spent only for qualifying public facilities that are included within a capital facilities plan element of a comprehensive plan. Public facilities, within the context of impact fee statutes, are 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.

County and city ordinances by which impact fees are imposed must conform with specific requirements. Among other obligations, these ordinances: must include a schedule of impact fees for each type of development activity for which a fee is imposed; may provide an exemption for low-income housing and other development activities with broad public purposes. The impact fees for this development activity, however, must be paid from public funds other than impact fee accounts; and must allow the imposing jurisdiction to adjust the standard impact fee for unusual circumstances in specific cases to ensure that fees are imposed fairly.

**Summary of Bill (Recommended Amendments):** Local governments granting impact fee exemptions for low-income housing are not obligated to pay the exempt fees from qualifying public funds. Local governments may only grant impact fee exemptions for low-income housing if the developer records a covenant prohibiting the use of the property for any purpose other than for low-income housing. Conversions of use are permitted, however, provided the applicable impact fees are paid by the property owner at the time of conversion.

Local governments also may not collect the revenue lost due to granting impact fee exemptions for low-income housing by increasing fees unrelated to the exemptions.

**EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Amendments):** The language, regarding a State Environment Policy Act exemption if impact fees are exempted, is struck.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Engrossed House Bill:** PRO: Exempting low-income housing from impact fees is purely a local option and great way to promote affordable housing. However, the exempted funds still have to be paid, just from another source – this bill would eliminate having to make up the exemption. While less impact fees would be collected – it's a small trade off for a good benefit: the creation of affordable housing. Front end costs like impact fees, if excessive, can deter affordable housing.

**Persons Testifying:** PRO: Representative Fitzgibbons, prime sponsor; Maureen Howard, Habitat for Humanity; Jessica Greenway, Kirkland City Council; Carly Golden, City of Gig

Harbor; Scott Hildebrand, Master Builders of King and Snohomish County; Arthur Sullivan, A Regional Coalition for Housing; Nick Federici, Washington Low-Income Housing Alliance.