
SUBSTITUTE SENATE BILL 6294

State of Washington

65th Legislature

2018 Regular Session

By Senate Local Government (originally sponsored by Senators Kuderer, Sheldon, Warnick, Walsh, Palumbo, and Llias)

READ FIRST TIME 01/26/18.

1 AN ACT Relating to exempting impact fees for low-income housing
2 development; amending RCW 82.02.060; reenacting and amending RCW
3 82.02.090; providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to
6 read as follows:

7 (1) The local ordinance by which impact fees are imposed:

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

16 ~~((a))~~ (i) The cost of public facilities necessitated by new
17 development;

18 ~~((b))~~ (ii) An adjustment to the cost of the public facilities
19 for past or future payments made or reasonably anticipated to be made
20 by new development to pay for particular system improvements in the

1 form of user fees, debt service payments, taxes, or other payments
2 earmarked for or proratable to the particular system improvement;
3 ~~((e))~~ (iii) The availability of other means of funding public
4 facility improvements;
5 ~~((d))~~ (iv) The cost of existing public facilities improvements;
6 and
7 ~~((e))~~ (v) The methods by which public facilities improvements
8 were financed;
9 ~~((2))~~ (b) May provide an exemption for ~~((low-income housing,~~
10 ~~and other))~~ development activities with broad public purposes, from
11 these impact fees, provided that the impact fees for such development
12 activity ~~((shall be))~~ are paid from public funds other than impact
13 fee accounts;
14 ~~((3))~~ (c) May provide an exemption from impact fees for low-
15 income housing. Local governments that grant exemptions for low-
16 income housing under this subsection ~~((3))~~ (1)(c) may either: Grant
17 a partial exemption of not more than eighty percent of impact fees,
18 in which case there is no explicit requirement to pay the exempted
19 portion of the fee from public funds other than impact fee accounts;
20 or provide a full waiver, in which case the remaining percentage of
21 the exempted fee must be paid from public funds other than impact fee
22 accounts. An exemption for low-income housing granted under (b) of
23 this subsection ~~((2) of this section))~~ or this subsection ~~((3))~~
24 (1)(c) must be conditioned upon requiring the developer to record a
25 covenant that, except as provided otherwise by this subsection,
26 prohibits using the property for any purpose other than for low-
27 income housing. At a minimum, the covenant must address price
28 restrictions and household income limits for the low-income housing,
29 unless used as a shelter for people experiencing homelessness, and
30 that if the property is converted to a use other than for low-income
31 housing, the property owner must pay the applicable impact fees in
32 effect at the time of conversion. Covenants required by this
33 subsection must be recorded with the applicable county auditor or
34 recording officer. A local government granting an exemption under
35 ~~((subsection (2) of this section or))~~ this subsection ~~((3))~~ (1)(c)
36 for low-income housing may not collect revenue lost through granting
37 an exemption by increasing impact fees unrelated to the exemption. A
38 school district who receives school impact fees must approve any
39 exemption under ~~((subsection (2) of this section or))~~ this subsection
40 ~~((3))~~ (1)(c);

1 (~~(4) Shall~~) (d) Must provide a credit for the value of any
2 dedication of land for, improvement to, or new construction of any
3 system improvements provided by the developer, to facilities that are
4 identified in the capital facilities plan and that are required by
5 the county, city, or town as a condition of approving the development
6 activity;

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

11 (~~(6) Shall~~) (f) Must include a provision for calculating the
12 amount of the fee to be imposed on a particular development that
13 permits consideration of studies and data submitted by the developer
14 to adjust the amount of the fee;

15 (~~(7) Shall~~) (g) Must establish one or more reasonable service
16 areas within which it (~~shall~~) calculates and imposes impact fees
17 for various land use categories per unit of development; and

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

24 (2) For purposes of this section, "low-income housing" means
25 housing with a monthly housing expense, that is no greater than
26 thirty percent of eighty percent of the median family income adjusted
27 for family size, for the county where the project is located, as
28 reported by the United States department of housing and urban
29 development.

30 **Sec. 2.** RCW 82.02.090 and 2010 c 86 s 1 are each reenacted and
31 amended to read as follows:

32 (~~(Unless the context clearly requires otherwise, the following~~
33 ~~definitions shall apply in RCW 82.02.050 through 82.02.090:)~~) The
34 definitions in this section apply throughout RCW 82.02.050 through
35 82.02.090 unless the context clearly requires otherwise.

36 (1) "Development activity" means any construction or expansion of
37 a building, structure, or use, any change in use of a building or
38 structure, or any changes in the use of land, that creates additional

1 demand and need for public facilities. "Development activity" does
2 not include:

3 (a) Buildings or structures constructed by a regional transit
4 authority; or

5 (b) Buildings or structures constructed as shelters that provide
6 emergency housing for people experiencing homelessness, or emergency
7 shelters for victims of domestic violence, as defined in RCW
8 70.123.020.

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

12 (3) "Impact fee" means a payment of money imposed upon
13 development as a condition of development approval to pay for public
14 facilities needed to serve new growth and development, and that is
15 reasonably related to the new development that creates additional
16 demand and need for public facilities, that is a proportionate share
17 of the cost of the public facilities, and that is used for facilities
18 that reasonably benefit the new development. "Impact fee" does not
19 include a reasonable permit or application fee.

20 (4) "Owner" means the owner of record of real property, although
21 when real property is being purchased under a real estate contract,
22 the purchaser (~~(shall be)~~) is considered the owner of the real
23 property if the contract is recorded.

24 (5) "Project improvements" mean site improvements and facilities
25 that are planned and designed to provide service for a particular
26 development project and that are necessary for the use and
27 convenience of the occupants or users of the project, and are not
28 system improvements. (~~(No)~~) An improvement or facility included in a
29 capital facilities plan approved by the governing body of the county,
30 city, or town (~~(shall be)~~) is not considered a project improvement.

31 (6) "Proportionate share" means that portion of the cost of
32 public facility improvements that are reasonably related to the
33 service demands and needs of new development.

34 (7) "Public facilities" means the following capital facilities
35 owned or operated by government entities: (a) Public streets and
36 roads; (b) publicly owned parks, open space, and recreation
37 facilities; (c) school facilities; and (d) fire protection
38 facilities.

39 (8) "Service area" means a geographic area defined by a county,
40 city, town, or intergovernmental agreement in which a defined set of

1 public facilities provide service to development within the area.
2 Service areas (~~shall~~) must be designated on the basis of sound
3 planning or engineering principles.

4 (9) "System improvements" mean public facilities that are
5 included in the capital facilities plan and are designed to provide
6 service to service areas within the community at large, in contrast
7 to project improvements.

8 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of
10 the state government and its existing public institutions, and takes
11 effect April 1, 2018.

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