SENATE BILL REPORT
SB 6386

As of January 24, 2020

Title: An act relating to reducing impact fees for low-income housing.

Brief Description: Reducing impact fees for low-income housing.

Sponsors: Senators Zeiger and Kuderer.

Brief History:
Committee Activity: Housing Stability & Affordability: 1/22/20.

Brief Summary of Bill

- Authorizes local governments to provide up to a full waiver from impact fees for qualifying low-income housing projects without any requirement to pay the exempted fees from other public funds.

SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

Staff: Brandon Popovac (786-7465)

Background: Growth Management Act. The Growth Management Act (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-eight 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. Impact fees may only be imposed for system improvements 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.

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.

Impact fees may be collected and spent only for qualifying public facilities 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 owned or operated by government entities:

- public streets and roads;
- publicly owned parks, open space, and recreation facilities;
- school facilities; and
- fire protection facilities.

Counties, cities, and towns collecting impact fees must adopt a system for deferred impact fee collections from applicants for residential building permits. The deferral system must include one or more of the following options including deferral of the collection of impact fees until final inspection, certificate of occupancy, or upon the first sale of the property.

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. These ordinances may also provide an exemption for low-income housing and other development activities with broad public purposes. Specifically, a local government may provide one of the following exemptions from impact fees for low-income housing:

- a partial exemption up to 80 percent with no explicit requirement to pay the exempted fees from public funds, other than impact fee accounts; or
- a full waiver with the requirement to pay the remaining percentage of the exempted fees from public funds, other than impact fee accounts.

For a local government to grant an impact fee exemption for low-income housing, a developer must record a covenant with the county auditor prohibiting use of the property for any purpose other than for low-income housing, and addressing price restrictions and household income limits for the low-income housing. If the property is later converted to another use, the property owner must pay the applicable impact fees at the time of conversion. School districts receiving impact fees must approve any exemption provided for low-income housing.

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

Low-income housing is defined as housing with a monthly housing expense of no more than 30 percent of 80 percent of the county's median family income.

Summary of Bill: Local governments may provide up to a full waiver from impact fees for qualifying low-income housing projects without any requirement to pay the exempted portion of the fee from other public funds.

Appropriation: None.

Fiscal Note: Requested on January 20, 2020.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: Impact fees are a real barrier to the construction of affordable housing. The state needs to create the right incentives for the market to solve our housing shortage. Local governments can provide impact fee exemptions for low-income housing, either partially up to 80 percent with no explicit requirement to backfill or through a full waiver with the requirement to backfill the remaining percentage. This bill removes that requirement to backfill the remaining percentage on a full waiver. There is a bias toward more expensive construction when some builders have to pay $33,000 in impact fees before construction begins. This affects the market and makes it cost prohibitive for people who are low income and middle income to be able to afford a home.

Impact fees are cost drivers and impediments to building affordable housing. The current requirement to backfill the remaining percentage after an 80 percent waiver is an impediment to some communities who would like to offer this incentive to low-income housing developers if the communities do not have to make up those funds from other sources. Affordable housing developers have been asking for this bill for many years in order to have the conversation with their local government to get the full exemption in place. The flexibility and opt-in nature of the exemption is appreciated.

CON: Under the GMA, growth and impact fee growth is supposed to pay for growth. Providing a full waiver would shift the previous remaining 20 percent of these impact fees away from communities that do have an impact on sewers, roads, schools, or basic infrastructure towards market place homes. This is the same concern when the original underlying 80 percent exemption was enacted. A full waiver will drive a wedge between partners in the private building community and the nonprofit sector.

OTHER: Locally, the value of homes has doubled in the last five years and over 50 percent of residents are renters. A full waiver for impact fees affects those funds meant to counter the affects of new development. The solution to our affordable housing problem is a much more comprehensive one and needs to be driven by affordable housing and not market driven housing.

Persons Testifying: PRO: Senator Hans Zeiger, Prime Sponsor; Michele Thomas, Washington Low Income Housing Alliance; Paul Jewell, Washington State Association of Counties; Carl Schroeder, Association of Washington Cities.

CON: Steve Gano, Building Industry Association of Washington.

OTHER: Arthur West, citizen.

Persons Signed In To Testify But Not Testifying: No one.