

SENATE BILL REPORT

SB 6387

As of January 30, 2020

Title: An act relating to accelerating housing infrastructure investments by adjusting impact fee timelines.

Brief Description: Accelerating housing infrastructure investments by adjusting impact fee timelines.

Sponsors: Senator Zeiger.

Brief History:

Committee Activity: Housing Stability & Affordability: 1/27/20.

Brief Summary of Bill

- Modifies the time period counties or cities must expend or encumber impact fees for permissible uses from ten years to six years.

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 established numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA, known as 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.

Impact fees, including school impact fees, must be expended or encumbered within ten years of receipt, unless there is an extraordinary and compelling reason for fees to be held for a longer period of time as documented by the governing body. If, no reason exists, the county or city fails to expend or encumber the impact fees within ten years, the current owner of property on which an impact fee has been paid may receive a refund. The request for a refund must be submitted in writing within one year of the date the right to claim the refund arises or the date notice is given, whichever is later. Any such refund must include interest earned on the impact fee. If there is no application for such a refund, the unexpended impact fees are retained and expended on the indicated capital facilities.

In 2009, the Legislature directed the Office of the Superintendent of Public Instruction (OSPI) to develop criteria for extending the use of school impact fees from six to ten years. The extension also required an evaluation of each respective school board on the appropriateness of the extension.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The time period in which a county or city must expend or encumber impact fees, including school impact fees, before a property owner may receive a refund is reduced from ten years to six years.

The requirement for OSPI to develop criteria for extending the use of school impact fees from six to ten years is eliminated.

Appropriation: None.

Fiscal Note: Requested on January 23, 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 on Proposed Substitute: PRO: The bill restores the six-year encumbrance period for impact fees that existed before 2011 and the construction industry not doing well at the time. At that time jurisdictions were not collecting enough impact fees. A restoration of the six-year period might lead to reform from some impact fees and force jurisdictions to evaluate how they calculate fees so that they are fairer and more equitable across the board. Property owners have difficulty remembering if they are eligible for a refund after ten years. Six years is a better time period in which impact fees for new

housing should be expended. The overall impact of new housing today is felt much before any six or ten-year encumbrance period expires.

CON: Not all cities are seeing the pace of development that would allow them to build up enough impact fee revenue to make an investment in infrastructure that would offset the impact in a six-year timeframe. Cities are not interested in holding on to unspent impact fees when an investment could be made with these monies. Transportation infrastructure is very expensive with multiple funding sources for almost every transportation project, which takes time and lengthy application periods. A new development might require an upgrade at the end of its six year transportation improvement cycle or at year seven, so a six-year period is often not enough. The impact fee deferral process also presents challenges with a six-year encumbrance period.

Persons Testifying: PRO: Senator Hans Zeiger, Prime Sponsor; Jan Himebaugh, Building Industry Association of Washington; Bill Riley, citizen.

CON: Carl Schroeder, Association of Washington Cities; Paul Jewell, Washington State Association of Counties.

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