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**HOUSE BILL 2450**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Hutchins, Barkis, Jacobsen, and Cheney

Read first time 01/22/24. Referred to Committee on Local Government.

1 AN ACT Relating to ensuring the timely and balanced use of impact  
2 fees; and amending RCW 82.02.050, 82.02.070, and 82.02.080.

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

4 **Sec. 1.** RCW 82.02.050 and 2015 c 241 s 1 are each amended to  
5 read as follows:

6 (1) It is the intent of the legislature:

7 (a) To ensure that adequate facilities are available to serve new  
8 growth and development;

9 (b) To promote orderly growth and development by establishing  
10 standards by which counties, cities, and towns may require, by  
11 ordinance, that new growth and development pay a proportionate share  
12 of the cost of new facilities needed to serve new growth and  
13 development; and

14 (c) To ensure that impact fees are imposed through established  
15 procedures and criteria so that specific developments do not pay  
16 arbitrary fees or duplicative fees for the same impact.

17 (2) Counties, cities, and towns that are required or choose to  
18 plan under RCW 36.70A.040 are authorized to impose impact fees on  
19 development activity as part of the financing for public facilities,  
20 provided that the financing for system improvements to serve new  
21 development must provide for a balance between impact fees and other

1 sources of public funds and cannot rely (~~solely~~) primarily on  
2 impact fees.

3 (3) (a) (i) Counties, cities, and towns collecting impact fees  
4 must, by September 1, 2016, adopt and maintain a system for the  
5 deferred collection of impact fees for single-family detached and  
6 attached residential construction. The deferral system must include a  
7 process by which an applicant for a building permit for a single-  
8 family detached or attached residence may request a deferral of the  
9 full impact fee payment. The deferral system offered by a county,  
10 city, or town under this subsection (3) must include one or more of  
11 the following options:

12 (A) Deferring collection of the impact fee payment until final  
13 inspection;

14 (B) Deferring collection of the impact fee payment until  
15 certificate of occupancy or equivalent certification; or

16 (C) Deferring collection of the impact fee payment until the time  
17 of closing of the first sale of the property occurring after the  
18 issuance of the applicable building permit.

19 (ii) Counties, cities, and towns utilizing the deferral process  
20 required by this subsection (3) (a) may withhold certification of  
21 final inspection, certificate of occupancy, or equivalent  
22 certification until the impact fees have been paid in full.

23 (iii) The amount of impact fees that may be deferred under this  
24 subsection (3) must be determined by the fees in effect at the time  
25 the applicant applies for a deferral.

26 (iv) Unless an agreement to the contrary is reached between the  
27 buyer and seller, the payment of impact fees due at closing of a sale  
28 must be made from the seller's proceeds. In the absence of an  
29 agreement to the contrary, the seller bears strict liability for the  
30 payment of the impact fees.

31 (b) The term of an impact fee deferral under this subsection (3)  
32 may not exceed eighteen months from the date of building permit  
33 issuance.

34 (c) Except as may otherwise be authorized in accordance with (f)  
35 of this subsection (3), an applicant seeking a deferral under this  
36 subsection (3) must grant and record a deferred impact fee lien  
37 against the property in favor of the county, city, or town in the  
38 amount of the deferred impact fee. The deferred impact fee lien,  
39 which must include the legal description, tax account number, and  
40 address of the property, must also be:

1 (i) In a form approved by the county, city, or town;  
2 (ii) Signed by all owners of the property, with all signatures  
3 acknowledged as required for a deed, and recorded in the county where  
4 the property is located;  
5 (iii) Binding on all successors in title after the recordation;  
6 and  
7 (iv) Junior and subordinate to one mortgage for the purpose of  
8 construction upon the same real property granted by the person who  
9 applied for the deferral of impact fees.

10 (d)(i) If impact fees are not paid in accordance with a deferral  
11 authorized by this subsection (3), and in accordance with the term  
12 provisions established in (b) of this subsection (3), the county,  
13 city, or town may institute foreclosure proceedings in accordance  
14 with chapter 61.12 RCW.

15 (ii) If the county, city, or town does not institute foreclosure  
16 proceedings for unpaid school impact fees within forty-five days  
17 after receiving notice from a school district requesting that it do  
18 so, the district may institute foreclosure proceedings with respect  
19 to the unpaid impact fees.

20 (e)(i) Upon receipt of final payment of all deferred impact fees  
21 for a property, the county, city, or town must execute a release of  
22 deferred impact fee lien for the property. The property owner at the  
23 time of the release, at his or her expense, is responsible for  
24 recording the lien release.

25 (ii) The extinguishment of a deferred impact fee lien by the  
26 foreclosure of a lien having priority does not affect the obligation  
27 to pay the impact fees as a condition of final inspection,  
28 certificate of occupancy, or equivalent certification, or at the time  
29 of closing of the first sale.

30 (f) A county, city, or town with an impact fee deferral process  
31 on or before April 1, 2015, is exempt from the requirements of this  
32 subsection (3) if the deferral process delays all impact fees and  
33 remains in effect after September 1, 2016.

34 (g)(i) Each applicant for a single-family residential  
35 construction permit, in accordance with his or her contractor  
36 registration number or other unique identification number, is  
37 entitled to annually receive deferrals under this subsection (3) for  
38 the first twenty single-family residential construction building  
39 permits per county, city, or town. A county, city, or town, however,  
40 may elect, by ordinance, to defer more than twenty single-family

1 residential construction building permits for an applicant. If the  
2 county, city, or town collects impact fees on behalf of one or more  
3 school districts for which the collection of impact fees could be  
4 delayed, the county, city, or town must consult with the district or  
5 districts about the additional deferrals. A county, city, or town  
6 considering additional deferrals must give substantial weight to  
7 recommendations of each applicable school district regarding the  
8 number of additional deferrals. If the county, city, or town  
9 disagrees with the recommendations of one or more school districts,  
10 the county, city, or town must provide the district or districts with  
11 a written rationale for its decision.

12 (ii) For purposes of this subsection (3)(g), an "applicant"  
13 includes an entity that controls the applicant, is controlled by the  
14 applicant, or is under common control with the applicant.

15 (h) Counties, cities, and towns may collect reasonable  
16 administrative fees to implement this subsection (3) from permit  
17 applicants who are seeking to delay the payment of impact fees under  
18 this subsection (3).

19 (i) In accordance with RCW (~~44.28.812~~ and) 43.31.980, counties,  
20 cities, and towns must cooperate with and provide requested data,  
21 materials, and assistance to the department of commerce and the joint  
22 legislative audit and review committee.

23 (4) The impact fees:

24 (a) Shall only be imposed for system improvements that are  
25 reasonably related to the new development;

26 (b) Shall not exceed a proportionate share of the costs of system  
27 improvements that are reasonably related to the new development;  
28 (~~and~~)

29 (c) Shall be used for system improvements that will reasonably  
30 benefit the new development; and

31 (d) Shall not make up more than 50 percent of the financing for  
32 any individual system improvement.

33 (5)(a) Impact fees may be collected and spent only for the public  
34 facilities defined in RCW 82.02.090 which are addressed by a capital  
35 facilities plan element of a comprehensive land use plan adopted  
36 pursuant to the provisions of RCW 36.70A.070 or the provisions for  
37 comprehensive plan adoption contained in chapter 36.70, 35.63, or  
38 35A.63 RCW. After the date a county, city, or town is required to  
39 adopt its development regulations under chapter 36.70A RCW, continued  
40 authorization to collect and expend impact fees is contingent on the

1 county, city, or town adopting or revising a comprehensive plan in  
2 compliance with RCW 36.70A.070, and on the capital facilities plan  
3 identifying:

4 (i) Deficiencies in public facilities serving existing  
5 development and the means by which existing deficiencies will be  
6 eliminated within a reasonable period of time;

7 (ii) Additional demands placed on existing public facilities by  
8 new development; and

9 (iii) Additional public facility improvements required to serve  
10 new development.

11 (b) If the capital facilities plan of the county, city, or town  
12 is complete other than for the inclusion of those elements which are  
13 the responsibility of a special district, the county, city, or town  
14 may impose impact fees to address those public facility needs for  
15 which the county, city, or town is responsible.

16 **Sec. 2.** RCW 82.02.070 and 2011 c 353 s 8 are each amended to  
17 read as follows:

18 (1) Impact fee receipts shall be earmarked specifically and  
19 retained in special interest-bearing accounts. Separate accounts  
20 shall be established for each type of public facility for which  
21 impact fees are collected. Additionally, impact fees collected prior  
22 to July 1, 2024, and impact fees collected after that date must be  
23 maintained in separate accounts for each type of public facility for  
24 which impact fees are collected. All interest shall be retained in  
25 the account and expended for the purpose or purposes for which the  
26 impact fees were imposed. Annually, each county, city, or town  
27 imposing impact fees shall provide a report on each impact fee  
28 account showing the source and amount of all moneys collected,  
29 earned, or received and system improvements that were financed in  
30 whole or in part by impact fees.

31 (2) Impact fees for system improvements shall be expended only in  
32 conformance with the capital facilities plan element of the  
33 comprehensive plan.

34 (3) (a) Except as provided otherwise by (b) of this subsection,  
35 impact fees collected before July 1, 2024, shall be expended or  
36 encumbered for a permissible use within ten years of receipt, unless  
37 there exists an extraordinary and compelling reason for fees to be  
38 held longer than ten years. (~~Such~~) Impact fees collected after July  
39 1, 2024, shall be expended or encumbered for a permissible use within

1 five years of receipt, unless there exists an extraordinary and  
2 compelling reason for fees to be held longer than five years. Any  
3 such extraordinary or compelling reasons shall be identified in  
4 written findings by the governing body of the county, city, or town.

5 (b) School impact fees collected before July 1, 2024, must be  
6 expended or encumbered for a permissible use within ten years of  
7 receipt, unless there exists an extraordinary and compelling reason  
8 for fees to be held longer than ten years. ~~((Such))~~ Impact fees  
9 collected after July 1, 2024, shall be expended or encumbered for a  
10 permissible use within five years of receipt, unless there exists an  
11 extraordinary and compelling reason for fees to be held longer than  
12 five years. Any such extraordinary or compelling reasons shall be  
13 identified in written findings by the governing body of the county,  
14 city, or town.

15 (4) Impact fees may be paid under protest in order to obtain a  
16 permit or other approval of development activity.

17 (5) Each county, city, or town that imposes impact fees shall  
18 provide for an administrative appeals process for the appeal of an  
19 impact fee; the process may follow the appeal process for the  
20 underlying development approval or the county, city, or town may  
21 establish a separate appeals process. The impact fee may be modified  
22 upon a determination that it is proper to do so based on principles  
23 of fairness. The county, city, or town may provide for the resolution  
24 of disputes regarding impact fees by arbitration.

25 **Sec. 3.** RCW 82.02.080 and 2011 c 353 s 9 are each amended to  
26 read as follows:

27 (1) The current owner of property on which an impact fee has been  
28 paid may receive a refund of such fees if the county, city, or town  
29 fails to expend or encumber the impact fees within ~~((ten years of~~  
30 ~~when the fees were paid or other such period of time established~~  
31 ~~pursuant to))~~ the time period established or modified as provided in  
32 RCW 82.02.070(3) on public facilities intended to benefit the  
33 development activity for which the impact fees were paid. In  
34 determining whether impact fees have been encumbered, impact fees  
35 shall be considered encumbered on a first in, first out basis. The  
36 county, city, or town shall notify potential claimants by first-class  
37 mail deposited with the United States postal service at the last  
38 known address of claimants.

1       The request for a refund must be submitted to the county, city,  
2 or town governing body in writing within one year of the date the  
3 right to claim the refund arises or the date that notice is given,  
4 whichever is later. Any impact fees that are not expended within  
5 these time limitations, and for which no application for a refund has  
6 been made within this one-year period, shall be retained and expended  
7 on the indicated capital facilities. Refunds of impact fees under  
8 this subsection shall include interest earned on the impact fees.

9       (2) When a county, city, or town seeks to terminate any or all  
10 impact fee requirements, all unexpended or unencumbered funds,  
11 including interest earned, shall be refunded pursuant to this  
12 section. Upon the finding that any or all fee requirements are to be  
13 terminated, the county, city, or town shall place notice of such  
14 termination and the availability of refunds in a newspaper of general  
15 circulation at least two times and shall notify all potential  
16 claimants by first-class mail to the last known address of claimants.  
17 All funds available for refund shall be retained for a period of one  
18 year. At the end of one year, any remaining funds shall be retained  
19 by the local government, but must be expended for the indicated  
20 public facilities. This notice requirement shall not apply if there  
21 are no unexpended or unencumbered balances within an account or  
22 accounts being terminated.

23       (3) A developer may request and shall receive a refund, including  
24 interest earned on the impact fees, when the developer does not  
25 proceed with the development activity and no impact has resulted.

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