

FINAL BILL REPORT

ESHB 2842

Synopsis as Enacted

C 219 L 92

Brief Description: Prohibiting duplication of mitigation for system improvements.

By House Committee on Local Government (originally sponsored by Representatives Haugen, Ferguson, Cantwell, Wilson, Morris, Forner, R. Meyers, Wood, Peery, Paris, Miller, Carlson, Wynne, Mitchell and Hochstatter)

House Committee on Local Government

Senate Committee on Governmental Operations

Background:

Impact fees: Counties and cities that are required or choose to plan under all the requirements of the Growth Management Act may impose impact fees on certain development activity to finance some of the infrastructure needs and impacts arising from the development activity.

The ability of counties and cities to impose impact fees is restricted. A direct connection must exist between the fees and the actual impact of the development activity for which the impact fees are paid. Impact fees may not be arbitrary. Impact fees may not be duplicative of other fees or requirements placed upon the development activity. Impact fees may only be imposed if they are part of a package of funding sources to finance infrastructure needs.

Impact fees may only be imposed for: (1) public streets and roads; (2) publicly-owned parks, open space, and recreation facilities; (3) school facilities; and (4) city fire protection facilities. Further, impact fees may only be imposed to finance those public facilities if they are addressed in the capital facilities element of the new comprehensive plans that are required to be prepared.

Further restrictions exist where impact fees are imposed to partially finance public facilities designed to benefit the general public at large, as well as to the users of the development, which are referred to as "system improvements." Impact fees may not exceed the proportionate share of the costs of these system improvements that are reasonably related to the new development. Impact fees that are imposed for these system improvements must reasonably benefit the new development.

State Environmental Policy Act: The State Environmental Policy Act (SEPA) requires every governmental agency to review its proposed major actions and determine if a probable significant adverse environmental impact will arise from the proposed action.

The review process involves a number of potential steps that could result in the preparation of an environmental impact statement for a proposed governmental action. However, very few proposed governmental actions result in the preparation of an environmental impact statement. Many actions are categorically exempted from the analysis. Proposed actions may be modified or actions may be taken to remove the probable significant adverse environmental impact. The action taken may include the payment of fees to compensate for the adverse impact. The SEPA

analysis must consider any and all mitigation measures to determine if, after modification or after the mitigation measures have been taken, a probable significant adverse impact still would arise.

The SEPA analysis reviews a variety of subjects, including the probable impact of a governmental decision on public facilities.

Summary: A person who is required to pay an impact fee for system improvements under the Growth Management Act shall not be required to pay a fee under SEPA for the same system improvements.

A person who is required to pay a fee under SEPA for system improvements shall not be required to pay an impact fee for the same system improvements under the Growth Management Act.

Votes on Final Passage:

House 98 0

Senate 49 0

Effective: June 11, 1992

HOUSE BILL REPORT

ESHB 2842

As Passed House

February 18, 1992

Title: An act relating to prohibiting the duplication of mitigation for the same system improvements.

Brief Description: Prohibiting duplication of mitigation for system improvements.

Sponsor(s): By House Committee on Local Government (originally sponsored by Representatives Haugen, Ferguson, Cantwell, Wilson, Morris, Forner, R. Meyers, Wood, Peery, Paris, Miller, Carlson, Wynne, Mitchell and Hochstatter)

Brief History:

Reported by House Committee on:

Local Government, February 7, 1992, DPS;

Passed House, February 18, 1992, 98-0.

HOUSE COMMITTEE ON

LOCAL GOVERNMENT

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.*
Signed by 12 members: Representatives Cooper, Vice Chair; Ferguson, Ranking Minority Member; Mitchell, Assistant Ranking Minority Member; Bray; Franklin; Horn; Nealey; Rayburn; Roland; Wood; Wynne; and Zellinsky.

Minority Report: *Without recommendation.* Signed by 3 members: Representatives Haugen, Chair; Edmondson; and Nelson.

Staff: Steve Lundin (786-7127).

Background:

1. Impact fees.

Counties and cities that are required or choose to plan under all the requirements of the Growth Management Act are permitted to impose impact fees on certain development activity to finance some of the infrastructure needs and impacts arising from the development activity.

The ability of counties and cities to impose impact fees is restricted. A direct connection must exist between the fees and the actual impact of the development activity for which the impact fees are paid. Impact fees may not be arbitrary. Impact fees may not be duplicative of other fees or requirements placed upon the development activity. Impact fees may only be imposed if they are part of a package of funding sources to finance infrastructure needs.

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Further restrictions exist where impact fees are imposed to partially finance public facilities designed to benefit the general public at large, as well as to the users of the development, which are referred to as "system improvements." Impact fees may not exceed the proportionate share of the costs of these system improvements that are reasonably related to the new development. Impact fees that are imposed for these system improvements must reasonably benefit the new development.

Counties and cities are not required to impose impact fees. Impact fees are an additional source of funding to pay for the impacts on some public facilities that result directly from development activity.

2. State Environmental Policy Act.

The State Environmental Policy Act (SEPA) requires every governmental agency to review its proposed major actions and determine if a probable significant adverse environmental impact will arise from the proposed action.

The review process involves a number of potential steps that could result in the preparation of an environmental impact statement for a proposed governmental action. However, very few proposed governmental actions result in the preparation of an environmental impact statement. Many actions are categorically exempted from the analysis. Proposed actions may be modified or actions could be taken to remove the probable significant adverse environmental impact. It is required that the SEPA analysis consider any and all mitigation measures to determine if, after modification or after the mitigation measures have been taken, a probable significant adverse impact still would arise.

The SEPA analysis reviews a variety of subjects, including the probable impact of a governmental decision on public facilities.

Summary of Bill: A person who is required to pay an impact fee for system improvements under the Growth Management Act shall not be required to pay a fee under SEPA for the same system improvements.

A person who is required to pay a fee under SEPA for system improvements shall not be required to pay an impact fee for the same system improvements under the Growth Management Act.

Fiscal Note: Not requested.

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

Testimony For: We should stop duplication of fees. Credit should be given.

Testimony Against: (Original bill): The bill went way beyond what is desired. There is a difference between requiring a credit and prohibiting two different sets of fees from being imposed for the same impact. The prohibition should be on fees in excess of the impact. What if the impact fees do not pay for all the adverse impacts on system improvements demonstrated under a SEPA analyses?

Witnesses: (Pro): Jim Halstrom, MasterBuilders Association; and Glen Hudson, Washington Association of Realtors. (Con -original bill): Bruce Wishart, Sierra Club; Jeff Parsons, National Audubon Society; Chris Leman, Coalition of Washington Communities; and Paul Parker, Washington State Association of Counties.

HOUSE BILL REPORT

HB 2842

As Reported By House Committee on:

Local Government

Title: An act relating to prohibiting the duplication of mitigation for the same system improvements.

Brief Description: Prohibiting duplication of mitigation for system improvements.

Sponsor(s): Representatives Haugen, Ferguson, Cantwell, Wilson, Morris, Forner, R. Meyers, Wood, Peery, Paris, Miller, Carlson, Wynne, Mitchell and Hochstatter.

Brief History:

Reported by House Committee on:

Local Government, February 7, 1992, DPS.

HOUSE COMMITTEE ON

LOCAL GOVERNMENT

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.*
Signed by 12 members: Representatives Cooper, Vice Chair; Ferguson, Ranking Minority Member; Mitchell, Assistant Ranking Minority Member; Bray; Franklin; Horn; Nealey; Rayburn; Roland; Wood; Wynne; and Zellinsky.

Minority Report: *Without recommendation.* Signed by 3 members: Representatives Haugen, Chair; Edmondson; and Nelson.

Staff: Steve Lundin (786-7127).

Background:

1. Impact fees.

Counties and cities that are required or choose to plan under all the requirements of the Growth Management Act are permitted to impose impact fees on certain development activity to finance some of the infrastructure needs and impacts arising from the development activity.

The ability of counties and cities to impose impact fees is restricted. A direct connection must exist between the fees and the actual impact of the development activity for which the impact fees are paid. Impact fees may not be arbitrary. Impact fees may not be duplicative of other fees or requirements placed upon the development activity. Impact fees may only be imposed if they are part of a package of funding sources to finance infrastructure needs.

Impact fees may only be imposed for: (1) public streets and roads; (2) publicly-owned parks, open space, and recreation facilities; (3) school facilities; and (4) city fire protection facilities. Further, impact fees may only be imposed to finance those public facilities if they are addressed in the capital facilities element of the new comprehensive plans that are required to be prepared.

Further restrictions exist where impact fees are imposed to partially finance public facilities designed to benefit the general public at large, as well as to the users of the development, which are referred to as "system improvements." Impact fees may not exceed the proportionate share of the costs of these system improvements that are reasonably related to the new development. Impact fees that are imposed for these system improvements must reasonably benefit the new development.

Counties and cities are not required to impose impact fees. Impact fees are an additional source of funding to pay for the impacts on some public facilities that result directly from development activity.

2.State Environmental Policy Act.

The State Environmental Policy Act (SEPA) requires every governmental agency to review its proposed major actions and determine if a probable significant adverse environmental impact will arise from the proposed action.

The review process involves a number of potential steps that could result in the preparation of an environmental impact statement for a proposed governmental action. However, very few proposed governmental actions result in the preparation of an environmental impact statement. Many actions are categorically exempted from the analysis. Proposed actions may be modified or actions could be taken to remove the probable significant adverse environmental impact. It is required that the SEPA analysis consider any and all mitigation measures to determine if, after modification or after the mitigation measures have been taken, a probable significant adverse impact still would arise.

The SEPA analysis reviews a variety of subjects, including the probable impact of a governmental decision on public facilities.

Summary of Substitute Bill: The requirements for credits to be provided are emphasized whenever impact fees are imposed or mitigations are required to be made under SEPA.

Impact fees imposed on system improvements include provision of a credit for the value of improvements for the same system improvements that are made by the same developer under SEPA for the same development activity. Studies of impacts under SEPA must be considered whenever impact fees are imposed on the same development activity.

Impact fees imposed for system facilities must be considered in any SEPA analysis of the same development activity on the same system improvements.

Substitute Bill Compared to Original Bill: The original bill precluded impact fees for system improvements from being imposed on development activity if the same development activity was subject to requirements under SEPA for the same system improvements. The original bill precluded SEPA mitigation from being imposed on system improvements if impact fees on the same system improvements were imposed for the same development activity.

Fiscal Note: Not requested.

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

Testimony For: We should stop duplication of fees. Credit should be given.

Testimony Against: (Original bill): The bill went way beyond what is desired. There is a difference between requiring a credit and prohibiting two different sets of fees from being imposed for the same impact. The prohibition should be on fees in excess of the impact. What if the impact fees do not pay for all the adverse impacts on system improvements demonstrated

under a SEPA analyses?

Witnesses: (Pro): Jim Halstrom, MasterBuilders Association; and Glen Hudson, Washington Association of Realtors. (Con -original bill): Bruce Wishart, Sierra Club; Jeff Parsons, National Audubon Society; Chris Leman, Coalition of Washington Communities; and Paul Parker, Washington State Association of Counties.

SENATE BILL REPORT

ESHB 2842

AS REPORTED BY COMMITTEE ON GOVERNMENTAL OPERATIONS,

FEBRUARY 26, 1992

Brief Description: Requiring consideration of previously imposed impact fees during environmental review.

SPONSORS: House Committee on Local Government (originally sponsored by Representatives Haugen, Ferguson, Cantwell, Wilson, Morris, Forner, R. Meyers, Wood, Peery, Paris, Miller, Carlson, Wynne, Mitchell and Hochstatter)

HOUSE COMMITTEE ON LOCAL GOVERNMENT

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: Do pass.

Signed by Senators McCaslin, Chairman; Madsen, Matson, and Sutherland.

Staff: Rod McAulay (786 7754)

Hearing Dates: February 26, 1992

BACKGROUND:

Counties and cities that are required or choose to plan under the Growth Management Act are permitted to impose impact fees on development activity to finance infrastructure needs resulting from the development.

The State Environmental Policy Act (SEPA) requires every governmental agency to review its proposed actions to determine if they might result in an adverse environmental impact. When

authorizing private development activity, the permitting governmental agency may, as a result of a SEPA review, condition the granting of a permit upon mitigating actions, including payment of fees.

SUMMARY:

A person who is required to pay an impact fee for system improvements under the Growth Management Act shall not be required to pay a fee under SEPA for the same system improvements.

A person who is required to pay a fee under SEPA for system improvements shall not be required to pay an impact fee for the same system improvements under the Growth Management Act.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

This bill prevents double tax on developers. Avoids reopening assessment issue and resulting confusion.

TESTIMONY AGAINST: None

TESTIFIED: Jim Halstrom, Builders

HB 2842 - DIGEST

(SUBSTITUTED FOR - SEE 1ST SUB)

Prohibits duplication of mitigation for system improvements.