
ENGROSSED SENATE BILL 5923

State of Washington

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2015 Regular Session

By Senators Brown, Liiias, Roach, Dinsel, Hobbs, Warnick, and Chase

Read first time 02/11/15. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to promoting economic recovery in the
2 construction industry; amending RCW 82.02.050 and 36.70A.070; adding
3 a new section to chapter 82.02 RCW; creating a new section; and
4 providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The great recession had a significant
7 impact on the national and state economy. No industry suffered
8 economic setbacks as significant as the residential construction
9 sector. Residential construction jobs essentially vanished from the
10 economy. New housing starts in Washington slipped to levels not seen
11 since the early 1980s, even though the state's population has doubled
12 since that time. While a broader economic recovery has begun, single-
13 family residential housing continues to lag behind other sectors. It
14 is in the economic interest of the state to spark economic growth by
15 increasing single-family residential construction. The jobs, wages,
16 and local taxes generated by home construction benefit the state's
17 economy, increase family wage jobs and broaden the state's tax base.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.02
19 RCW to read as follows:

1 (1)(a) The department of commerce must study and develop a report
2 on the payment and collection of impact fees from school districts,
3 county governments, and city governments associated with single-
4 family residential construction building permits. The report must
5 include data that shows:

6 (i) The number of building permits filed by jurisdiction in 2012,
7 2013, and 2014 that were assessed impact fees and the dollar
8 amount collected for each impact fee as authorized in RCW 82.02.050,
9 including fire, parks, transportation, and schools;

10 (ii) Whether any and what type of impact fees were collected at
11 the filing of the permit or deferred until closing or final permit
12 approval; and

13 (iii) The dates of collection, encumbrance, and expenditure of
14 impact fee revenue.

15 (b) By December 1, 2015, and in compliance with RCW 43.01.036,
16 the department of commerce must submit a report to the economic
17 development committees of the legislature that details the
18 information required under this subsection (1).

19 (2) Beginning January 1, 2015, and in compliance with RCW
20 43.01.036, the department of commerce must collect the data required
21 under subsection (1) of this section on an annual basis and report
22 its findings by April 1st of the following year to the state
23 government operating budget committees of the house of
24 representatives and senate.

25 **Sec. 3.** RCW 82.02.050 and 1994 c 257 s 24 are each amended to
26 read as follows:

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

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

30 (b) To promote orderly growth and development by establishing
31 standards by which counties, cities, and towns may require, by
32 ordinance, that new growth and development pay a proportionate share
33 of the cost of new facilities needed to serve new growth and
34 development; and

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

38 (2) Counties, cities, and towns that are required or choose to
39 plan under RCW 36.70A.040 are authorized to impose impact fees on

1 development activity as part of the financing for public facilities,
2 provided that the financing for system improvements to serve new
3 development must provide for a balance between impact fees and other
4 sources of public funds and cannot rely solely on impact fees.

5 (3)(a) Counties, cities, and towns collecting impact fees must
6 adopt a permanent system for the collection of impact fees from
7 applicants for residential building permits issued for a lot or unit
8 created by a subdivision, short subdivision, site development permit,
9 binding site plan, or condominium that includes one or more of the
10 following:

11 (i)(A) A process by which an applicant for any development permit
12 that requires payment of an impact fee must record a covenant against
13 title to the lot or unit subject to the impact fee obligation. A
14 covenant under this subsection (3)(a)(i) must also serve as a lien
15 binding on all successors in title after the recordation. The
16 covenant must require payment equal to one hundred percent of the
17 impact fee applicable to the lot or unit at the rates in effect at
18 the time the building permit was issued, less a credit for any
19 deposits paid.

20 (B) Covenants recorded in accordance with this subsection
21 (3)(a)(i) must provide for payment of the impact fee at the earlier
22 of the following: The time of closing of sale of the applicable lot
23 or unit; or in accordance with the applicable county, city, or town
24 ordinance, eighteen or more months after the building permit is
25 issued. Payment of impact fees due at closing of a sale must, unless
26 an agreement to the contrary is reached between buyer and seller, be
27 made from the seller's proceeds. In the absence of an agreement to
28 the contrary, the seller bears strict liability for the payment of
29 the impact fees.

30 (C) The seller must provide written disclosure of the covenant
31 authorized under this subsection (3)(a)(i) as required by chapter
32 64.06 RCW.

33 (D) Upon receiving payment of impact fees due, the applicable
34 county, city, or town must remove the covenant recorded in accordance
35 with this subsection (3)(a)(i); or

36 (ii) A process by which an applicant may apply for a deferral of
37 the impact fee payment until final inspection or certificate of
38 occupancy, or equivalent certification.

39 (b) Counties, cities, and towns may adopt local systems for the
40 collection of impact fees that differ from the requirements of this

1 subsection (3) if the payment timing provisions are consistent with
2 those of this subsection.

3 (c) A county, city, or town with an impact fee deferral process
4 on or before July 1, 2016, is exempt from the requirements of this
5 subsection (3) if the deferral process, which may be amended in a
6 manner consistent with this subsection (3), delays all impact fees
7 and remains in effect after July 1, 2016.

8 (d) In each calendar year that an applicant receives a deferral
9 under this subsection (3), the applicant must receive deferrals for
10 the first twenty single-family residential construction building
11 permits per jurisdiction. However, a county, city, or town may, by
12 ordinance, elect to defer more than twenty single-family residential
13 construction building permits for an applicant as required by this
14 subsection (3)(d) if:

15 (i) The county, city, or town collects impact fees on behalf of
16 the jurisdiction or jurisdictions for which the collection of impact
17 fees would be delayed; and

18 (ii) The county, city, or town and the jurisdiction or
19 jurisdictions for which the collection of impact fees would be
20 delayed agree to the additional deferrals.

21 (4) The impact fees:

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

24 (b) Shall not exceed a proportionate share of the costs of system
25 improvements that are reasonably related to the new development; and

26 (c) Shall be used for system improvements that will reasonably
27 benefit the new development.

28 ~~((4))~~ (5)(a) Impact fees may be collected and spent only for
29 the public facilities defined in RCW 82.02.090 which are addressed by
30 a capital facilities plan element of a comprehensive land use plan
31 adopted pursuant to the provisions of RCW 36.70A.070 or the
32 provisions for comprehensive plan adoption contained in chapter
33 36.70, 35.63, or 35A.63 RCW. After the date a county, city, or town
34 is required to adopt its development regulations under chapter 36.70A
35 RCW, continued authorization to collect and expend impact fees
36 ~~((shall be))~~ is contingent on the county, city, or town adopting or
37 revising a comprehensive plan in compliance with RCW 36.70A.070, and
38 on the capital facilities plan identifying:

1 ~~((a))~~ (i) Deficiencies in public facilities serving existing
2 development and the means by which existing deficiencies will be
3 eliminated within a reasonable period of time;

4 ~~((b))~~ (ii) Additional demands placed on existing public
5 facilities by new development; and

6 ~~((c))~~ (iii) Additional public facility improvements required to
7 serve new development.

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

13 **Sec. 4.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each
14 amended to read as follows:

15 The comprehensive plan of a county or city that is required or
16 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
17 and descriptive text covering objectives, principles, and standards
18 used to develop the comprehensive plan. The plan shall be an
19 internally consistent document and all elements shall be consistent
20 with the future land use map. A comprehensive plan shall be adopted
21 and amended with public participation as provided in RCW 36.70A.140.
22 Each comprehensive plan shall include a plan, scheme, or design for
23 each of the following:

24 (1) A land use element designating the proposed general
25 distribution and general location and extent of the uses of land,
26 where appropriate, for agriculture, timber production, housing,
27 commerce, industry, recreation, open spaces, general aviation
28 airports, public utilities, public facilities, and other land uses.
29 The land use element shall include population densities, building
30 intensities, and estimates of future population growth. The land use
31 element shall provide for protection of the quality and quantity of
32 groundwater used for public water supplies. Wherever possible, the
33 land use element should consider utilizing urban planning approaches
34 that promote physical activity. Where applicable, the land use
35 element shall review drainage, flooding, and storm water run-off in
36 the area and nearby jurisdictions and provide guidance for corrective
37 actions to mitigate or cleanse those discharges that pollute waters
38 of the state, including Puget Sound or waters entering Puget Sound.

1 (2) A housing element ensuring the vitality and character of
2 established residential neighborhoods that: (a) Includes an inventory
3 and analysis of existing and projected housing needs that identifies
4 the number of housing units necessary to manage projected growth; (b)
5 includes a statement of goals, policies, objectives, and mandatory
6 provisions for the preservation, improvement, and development of
7 housing, including single-family residences; (c) identifies
8 sufficient land for housing, including, but not limited to,
9 government-assisted housing, housing for low-income families,
10 manufactured housing, multifamily housing, and group homes and foster
11 care facilities; and (d) makes adequate provisions for existing and
12 projected needs of all economic segments of the community.

13 (3) A capital facilities plan element consisting of: (a) An
14 inventory of existing capital facilities owned by public entities,
15 showing the locations and capacities of the capital facilities; (b) a
16 forecast of the future needs for such capital facilities; (c) the
17 proposed locations and capacities of expanded or new capital
18 facilities; (d) at least a six-year plan that will finance such
19 capital facilities within projected funding capacities and clearly
20 identifies sources of public money for such purposes; and (e) a
21 requirement to reassess the land use element if probable funding
22 falls short of meeting existing needs and to ensure that the land use
23 element, capital facilities plan element, and financing plan within
24 the capital facilities plan element are coordinated and consistent.
25 Park and recreation facilities shall be included in the capital
26 facilities plan element.

27 (4) A utilities element consisting of the general location,
28 proposed location, and capacity of all existing and proposed
29 utilities, including, but not limited to, electrical lines,
30 telecommunication lines, and natural gas lines.

31 (5) Rural element. Counties shall include a rural element
32 including lands that are not designated for urban growth,
33 agriculture, forest, or mineral resources. The following provisions
34 shall apply to the rural element:

35 (a) Growth management act goals and local circumstances. Because
36 circumstances vary from county to county, in establishing patterns of
37 rural densities and uses, a county may consider local circumstances,
38 but shall develop a written record explaining how the rural element
39 harmonizes the planning goals in RCW 36.70A.020 and meets the
40 requirements of this chapter.

1 (b) Rural development. The rural element shall permit rural
2 development, forestry, and agriculture in rural areas. The rural
3 element shall provide for a variety of rural densities, uses,
4 essential public facilities, and rural governmental services needed
5 to serve the permitted densities and uses. To achieve a variety of
6 rural densities and uses, counties may provide for clustering,
7 density transfer, design guidelines, conservation easements, and
8 other innovative techniques that will accommodate appropriate rural
9 densities and uses that are not characterized by urban growth and
10 that are consistent with rural character.

11 (c) Measures governing rural development. The rural element shall
12 include measures that apply to rural development and protect the
13 rural character of the area, as established by the county, by:

14 (i) Containing or otherwise controlling rural development;

15 (ii) Assuring visual compatibility of rural development with the
16 surrounding rural area;

17 (iii) Reducing the inappropriate conversion of undeveloped land
18 into sprawling, low-density development in the rural area;

19 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
20 and surface water and groundwater resources; and

21 (v) Protecting against conflicts with the use of agricultural,
22 forest, and mineral resource lands designated under RCW 36.70A.170.

23 (d) Limited areas of more intensive rural development. Subject to
24 the requirements of this subsection and except as otherwise
25 specifically provided in this subsection (5)(d), the rural element
26 may allow for limited areas of more intensive rural development,
27 including necessary public facilities and public services to serve
28 the limited area as follows:

29 (i) Rural development consisting of the infill, development, or
30 redevelopment of existing commercial, industrial, residential, or
31 mixed-use areas, whether characterized as shoreline development,
32 villages, hamlets, rural activity centers, or crossroads
33 developments.

34 (A) A commercial, industrial, residential, shoreline, or mixed-
35 use area (~~shall be~~) are subject to the requirements of (d)(iv) of
36 this subsection, but (~~shall~~) are not (~~be~~) subject to the
37 requirements of (c)(ii) and (iii) of this subsection.

38 (B) Any development or redevelopment other than an industrial
39 area or an industrial use within a mixed-use area or an industrial

1 area under this subsection (5)(d)(i) must be principally designed to
2 serve the existing and projected rural population.

3 (C) Any development or redevelopment in terms of building size,
4 scale, use, or intensity shall be consistent with the character of
5 the existing areas. Development and redevelopment may include changes
6 in use from vacant land or a previously existing use so long as the
7 new use conforms to the requirements of this subsection (5);

8 (ii) The intensification of development on lots containing, or
9 new development of, small-scale recreational or tourist uses,
10 including commercial facilities to serve those recreational or
11 tourist uses, that rely on a rural location and setting, but that do
12 not include new residential development. A small-scale recreation or
13 tourist use is not required to be principally designed to serve the
14 existing and projected rural population. Public services and public
15 facilities shall be limited to those necessary to serve the
16 recreation or tourist use and shall be provided in a manner that does
17 not permit low-density sprawl;

18 (iii) The intensification of development on lots containing
19 isolated nonresidential uses or new development of isolated cottage
20 industries and isolated small-scale businesses that are not
21 principally designed to serve the existing and projected rural
22 population and nonresidential uses, but do provide job opportunities
23 for rural residents. Rural counties may allow the expansion of small-
24 scale businesses as long as those small-scale businesses conform with
25 the rural character of the area as defined by the local government
26 according to RCW 36.70A.030(15). Rural counties may also allow new
27 small-scale businesses to utilize a site previously occupied by an
28 existing business as long as the new small-scale business conforms to
29 the rural character of the area as defined by the local government
30 according to RCW 36.70A.030(15). Public services and public
31 facilities shall be limited to those necessary to serve the isolated
32 nonresidential use and shall be provided in a manner that does not
33 permit low-density sprawl;

34 (iv) A county shall adopt measures to minimize and contain the
35 existing areas or uses of more intensive rural development, as
36 appropriate, authorized under this subsection. Lands included in such
37 existing areas or uses shall not extend beyond the logical outer
38 boundary of the existing area or use, thereby allowing a new pattern
39 of low-density sprawl. Existing areas are those that are clearly
40 identifiable and contained and where there is a logical boundary

1 delineated predominately by the built environment, but that may also
2 include undeveloped lands if limited as provided in this subsection.
3 The county shall establish the logical outer boundary of an area of
4 more intensive rural development. In establishing the logical outer
5 boundary, the county shall address (A) the need to preserve the
6 character of existing natural neighborhoods and communities, (B)
7 physical boundaries, such as bodies of water, streets and highways,
8 and land forms and contours, (C) the prevention of abnormally
9 irregular boundaries, and (D) the ability to provide public
10 facilities and public services in a manner that does not permit low-
11 density sprawl;

12 (v) For purposes of (d) of this subsection, an existing area or
13 existing use is one that was in existence:

14 (A) On July 1, 1990, in a county that was initially required to
15 plan under all of the provisions of this chapter;

16 (B) On the date the county adopted a resolution under RCW
17 36.70A.040(2), in a county that is planning under all of the
18 provisions of this chapter under RCW 36.70A.040(2); or

19 (C) On the date the office of financial management certifies the
20 county's population as provided in RCW 36.70A.040(5), in a county
21 that is planning under all of the provisions of this chapter pursuant
22 to RCW 36.70A.040(5).

23 (e) Exception. This subsection shall not be interpreted to permit
24 in the rural area a major industrial development or a master planned
25 resort unless otherwise specifically permitted under RCW 36.70A.360
26 and 36.70A.365.

27 (6) A transportation element that implements, and is consistent
28 with, the land use element.

29 (a) The transportation element shall include the following
30 subelements:

31 (i) Land use assumptions used in estimating travel;

32 (ii) Estimated traffic impacts to state-owned transportation
33 facilities resulting from land use assumptions to assist the
34 department of transportation in monitoring the performance of state
35 facilities, to plan improvements for the facilities, and to assess
36 the impact of land- use decisions on state-owned transportation
37 facilities;

38 (iii) Facilities and services needs, including:

39 (A) An inventory of air, water, and ground transportation
40 facilities and services, including transit alignments and general

1 aviation airport facilities, to define existing capital facilities
2 and travel levels as a basis for future planning. This inventory must
3 include state-owned transportation facilities within the city or
4 county's jurisdictional boundaries;

5 (B) Level of service standards for all locally owned arterials
6 and transit routes to serve as a gauge to judge performance of the
7 system. These standards should be regionally coordinated;

8 (C) For state-owned transportation facilities, level of service
9 standards for highways, as prescribed in chapters 47.06 and 47.80
10 RCW, to gauge the performance of the system. The purposes of
11 reflecting level of service standards for state highways in the local
12 comprehensive plan are to monitor the performance of the system, to
13 evaluate improvement strategies, and to facilitate coordination
14 between the county's or city's six-year street, road, or transit
15 program and the office of financial management's ten-year investment
16 program. The concurrency requirements of (b) of this subsection do
17 not apply to transportation facilities and services of statewide
18 significance except for counties consisting of islands whose only
19 connection to the mainland are state highways or ferry routes. In
20 these island counties, state highways and ferry route capacity must
21 be a factor in meeting the concurrency requirements in (b) of this
22 subsection;

23 (D) Specific actions and requirements for bringing into
24 compliance locally owned transportation facilities or services that
25 are below an established level of service standard;

26 (E) Forecasts of traffic for at least ten years based on the
27 adopted land use plan to provide information on the location, timing,
28 and capacity needs of future growth;

29 (F) Identification of state and local system needs to meet
30 current and future demands. Identified needs on state-owned
31 transportation facilities must be consistent with the statewide
32 multimodal transportation plan required under chapter 47.06 RCW;

33 (iv) Finance, including:

34 (A) An analysis of funding capability to judge needs against
35 probable funding resources;

36 (B) A multiyear financing plan based on the needs identified in
37 the comprehensive plan, the appropriate parts of which shall serve as
38 the basis for the six-year street, road, or transit program required
39 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
40 35.58.2795 for public transportation systems. The multiyear financing

1 plan should be coordinated with the ten-year investment program
2 developed by the office of financial management as required by RCW
3 47.05.030;

4 (C) If probable funding falls short of meeting identified needs,
5 a discussion of how additional funding will be raised, or how land
6 use assumptions will be reassessed to ensure that level of service
7 standards will be met;

8 (v) Intergovernmental coordination efforts, including an
9 assessment of the impacts of the transportation plan and land use
10 assumptions on the transportation systems of adjacent jurisdictions;

11 (vi) Demand-management strategies;

12 (vii) Pedestrian and bicycle component to include collaborative
13 efforts to identify and designate planned improvements for pedestrian
14 and bicycle facilities and corridors that address and encourage
15 enhanced community access and promote healthy lifestyles.

16 (b) After adoption of the comprehensive plan by jurisdictions
17 required to plan or who choose to plan under RCW 36.70A.040, local
18 jurisdictions must adopt and enforce ordinances which prohibit
19 development approval if the development causes the level of service
20 on a locally owned transportation facility to decline below the
21 standards adopted in the transportation element of the comprehensive
22 plan, unless transportation improvements or strategies to accommodate
23 the impacts of development are made concurrent with the development.
24 These strategies may include increased public transportation service,
25 ride sharing programs, demand management, and other transportation
26 systems management strategies. For the purposes of this subsection
27 (6), "concurrent with the development" means that improvements or
28 strategies are in place at the time of development, or that a
29 financial commitment is in place to complete the improvements or
30 strategies within six years. If the collection of impact fees is
31 delayed under RCW 82.02.050(3), the six-year period required by this
32 subsection (6)(b) must begin after the county or city receives full
33 payment of all impact fees due.

34 (c) The transportation element described in this subsection (6),
35 the six-year plans required by RCW 35.77.010 for cities, RCW
36 36.81.121 for counties, and RCW 35.58.2795 for public transportation
37 systems, and the ten-year investment program required by RCW
38 47.05.030 for the state, must be consistent.

39 (7) An economic development element establishing local goals,
40 policies, objectives, and provisions for economic growth and vitality

1 and a high quality of life. The element shall include: (a) A summary
2 of the local economy such as population, employment, payroll,
3 sectors, businesses, sales, and other information as appropriate; (b)
4 a summary of the strengths and weaknesses of the local economy
5 defined as the commercial and industrial sectors and supporting
6 factors such as land use, transportation, utilities, education,
7 workforce, housing, and natural/cultural resources; and (c) an
8 identification of policies, programs, and projects to foster economic
9 growth and development and to address future needs. A city that has
10 chosen to be a residential community is exempt from the economic
11 development element requirement of this subsection.

12 (8) A park and recreation element that implements, and is
13 consistent with, the capital facilities plan element as it relates to
14 park and recreation facilities. The element shall include: (a)
15 Estimates of park and recreation demand for at least a ten-year
16 period; (b) an evaluation of facilities and service needs; and (c) an
17 evaluation of intergovernmental coordination opportunities to provide
18 regional approaches for meeting park and recreational demand.

19 (9) It is the intent that new or amended elements required after
20 January 1, 2002, be adopted concurrent with the scheduled update
21 provided in RCW 36.70A.130. Requirements to incorporate any such new
22 or amended elements shall be null and void until funds sufficient to
23 cover applicable local government costs are appropriated and
24 distributed by the state at least two years before local government
25 must update comprehensive plans as required in RCW 36.70A.130.

26 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2016.

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