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**Local Government & Housing Committee**

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**HB 3067**

**Brief Description:** Establishing a process for the payment of impact fees through provisions stipulated in recorded covenants.

**Sponsors:** Representatives Williams, Rodne, Springer, Clibborn, Lias, Upthegrove, Priest and Wallace.

**Brief Summary of Bill**

- Obligates jurisdictions that collect impact fees to establish a process that allows building permit applicants to delay the payment impact fees until certain approvals have been granted by the jurisdiction.
- Specifies that applicants participating in the delayed payment process must record a covenant against title to the property that includes specific provisions for the payment of applicable impact fees.

**Hearing Date:** 1/28/10

**Staff:** Ethan Moreno (786-7386).

**Background:**

Impact Fees.

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-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

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

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balance between impact fees and other sources of public funds and cannot rely solely on impact fees. Additionally, impact fees:

- may only be imposed for system improvements, a term defined in statute, that are 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.

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

- public streets and roads;
- publicly owned parks, open space, and recreation facilities;
- school facilities; and
- fire protection facilities in jurisdictions that are not part of a fire district.

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;
- may provide an exemption for low-income housing and other development activities with broad public purposes. The impact fees for this development activity, however, must be paid from public funds other than impact fee accounts; and
- must allow the imposing jurisdiction to adjust the standard impact fee for unusual circumstances in specific cases to ensure that fees are imposed fairly.

#### Covenants.

Covenants are formal agreements or promises between individuals. Covenants may be used to ensure the execution or prevention of an action. A covenant for title is a covenant that binds the person conveying the property to ensure the completeness, security, and continuance of the title transferred.

#### **Summary of Bill:**

Jurisdictions that impose impact fees must make available to applicants for building permits issued for a lot or unit within a subdivision, short subdivision, or site development permit issuance, a process by which the applicant may record a covenant against title to the property that requires payment equal to 100 percent of the impact fee rates in effect at the time of final plat approval, short plat approval, or site development permit, less a credit for any deposits paid. The recorded covenant must provide for automatic payment through escrow of the impact fee amount at the time of closing of sale of the lot or unit.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.