

Firehouse Lawyer

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EXTRA, EXTRA, READ ALL ABOUT IT: IMPACT FEE BILL SIGNED

On March 17, 2010, while you were drinking green beer or otherwise celebrating Saint Patrick's Day, the Governor was busy signing HB 1080, the new law making impact fees applicable to developments within fire districts for the first time.

For those of you who read my article posted the other day on this web site, some clarification may be in order. My article implied that the fire district or regional fire authority might be **directly** imposing impact fees, as part of the development approval/permitting process. That is clearly not the case. The amendment to RCW 82.02.090(7) simply allows impact fees imposed by cities and counties to be used to pay for fire protection facilities provided by fire districts and RFA's, whereas previously impact fees were not available within fire districts.

The fire district would be responsible for creating a capital facility plan, and that plan would have to be incorporated into, and become an element of, the city or county comprehensive plan, adopted pursuant to the Growth Management Act, in those jurisdictions required or choosing to plan under RCW 36.70A.040. The fees must be used for the public facilities defined in RCW 82.02.090 and addressed in the capital facilities plan element of the comprehensive land use plan.

As with school district impact fees, it is anticipated that cities and counties will adopt the fire district's CFP by reference and make it an element of the city or county comprehensive plan.

Although technically the fee formula would be adopted by the city or county, we still believe that the fire department should be directly involved in the development of those formulas. We have heard that in some places, the city and the fire district are jointly paying a consultant to work on the fee formula.

Finally, an interlocal agreement under chapter 39.34 should be executed between the city or county and fire district, to set forth their agreement on collection and then expenditure of the fees. I may also have implied that vested rights could be a problem, but case law seems to state otherwise. Thanks to Bob Meinig of MRSC for alerting me that my article might be confusing, or called for some clarification.

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