

By: Bettencourt, Kolthorst

S.B. No. 1883

A BILL TO BE ENTITLED

AN ACT

relating to the approval of land use assumptions, capital improvement plans, and impact fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 395.043, Local Government Code, is amended to read as follows:

Sec. 395.043. INFORMATION ABOUT LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. At least 60 days ~~On or~~ before the date of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall make available to the public its land use assumptions, the time period of the projections, and a description of the capital improvement facilities that may be proposed.

SECTION 2. Section 395.051(a), Local Government Code, is amended to read as follows:

(a) The political subdivision, within 30 days after the date of the public hearing on the imposition of an impact fee, shall approve or disapprove the imposition of an impact fee. Approval of the imposition of an impact fee by a political subdivision requires an affirmative vote of two-thirds of the members of the governing body of the political subdivision.

SECTION 3. Subchapter C, Chapter 395, Local Government Code, is amended by adding Section 395.0515 to read as follows:

1 Sec. 395.0515. LIMITATION ON IMPACT FEE INCREASE. A
2 political subdivision may not increase the amount of an impact fee
3 for three years from the later of the date the fee was adopted or
4 most recently increased, if applicable.

5 SECTION 4. Section 395.053, Local Government Code, is
6 amended to read as follows:

7 Sec. 395.053. HEARING ON UPDATED LAND USE ASSUMPTIONS AND
8 CAPITAL IMPROVEMENTS PLAN. The governing body of the political
9 subdivision shall, within 120 ~~[60]~~ days after the date it receives
10 the update of the land use assumptions and the capital improvements
11 plan, adopt an order setting a public hearing to discuss and review
12 the update and shall determine whether to amend the plan.

13 SECTION 5. Section 395.054, Local Government Code, is
14 amended to read as follows:

15 Sec. 395.054. HEARING ON AMENDMENTS TO LAND USE
16 ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN, OR IMPACT FEE. A public
17 hearing must be held by the governing body of the political
18 subdivision to discuss the proposed ordinance, order, or resolution
19 amending land use assumptions, the capital improvements plan, or
20 the impact fee. At least 60 days ~~[On or]~~ before the date of the
21 first publication of the notice of the hearing on the amendments,
22 the land use assumptions and the capital improvements plan,
23 including the amount of any proposed amended impact fee per service
24 unit, shall be made available to the public.

25 SECTION 6. Section 395.058(b), Local Government Code, is
26 amended to read as follows:

27 (b) The advisory committee is composed of not less than five

members who shall be appointed by a majority vote of the governing body of the political subdivision. Not less than 50 [40] percent of the membership of the advisory committee must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity. ~~[If the political subdivision has a planning and zoning commission, the commission may act as the advisory committee if the commission includes at least one representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. If no such representative is a member of the planning and zoning commission, the commission may still act as the advisory committee if at least one such representative is appointed by the political subdivision as an ad hoc voting member of the planning and zoning commission when it acts as the advisory committee.]~~ If the impact fee is to be applied in the extraterritorial jurisdiction of the political subdivision, the membership must include a representative from that area.

SECTION 7. Subchapter C, Chapter 395, Local Government Code, is amended by adding Section 395.059 to read as follows:

Sec. 395.059. INDEPENDENT FINANCIAL AUDIT. (a) Before a political subdivision may increase an existing impact fee or adopt a new impact fee for a service area where an impact fee had previously been adopted, the political subdivision must conduct an independent financial audit in accordance with this section.

(b) An independent financial audit conducted under this section must be performed by an independent auditor who:

1 (1) is a certified public accountant or public
2 accountant licensed by the Texas State Board of Public Accountancy;
3 and

4 (2) is not, and has not been during the 12 months
5 preceding the commencement of the audit, under contract to provide
6 any other service to the political subdivision or a related entity
7 of the political subdivision.

8 (c) An independent financial audit conducted under this
9 section must provide, if applicable, a detailed accounting of:

10 (1) the amount of funds collected from any impact fee
11 imposed by the political subdivision in the service area;

12 (2) the amount of interest accumulated under Section
13 395.025 on impact fees collected by the political subdivision in
14 the service area;

15 (3) any proposed capital improvements or facility
16 expansions to be financed from an impact fee collected by the
17 political subdivision in the service area that were not
18 constructed, as described by Section 395.025, including the
19 categories of each improvement and expansion;

20 (4) the amount of funds collected from impact fees by
21 the political subdivision in the service area that have not been
22 spent;

23 (5) each impact fee collected by the political
24 subdivision in the service area;

25 (6) the allocation of each impact fee made to the
26 political subdivision in the service area;

27 (7) any waived impact fees in the service area under

1 Section 395.016(g);

2 (8) any requested refunds of impact fees in the
3 service area under Section 395.025;

4 (9) any impact fees in the service area refunded under
5 Section 395.025; and

6 (10) any errors or omissions of credits in impact fee
7 calculations for impact fees in the service area.

8 (d) An independent financial audit conducted under this
9 section must be submitted to the political subdivision and advisory
10 committee described by Section 395.058. Before the political
11 subdivision may increase an existing impact fee or adopt a new
12 impact fee for a service area where an impact fee had previously
13 been adopted, the political subdivision must hold a public hearing
14 on the results of the audit received under this subsection.

15 (e) A political subdivision shall make available to the
16 public an applicable independent financial audit at least 30 days
17 before:

18 (1) the publication of notice required under Section
19 395.044; and

20 (2) the adoption of an order as required under Section
21 395.053.

22 SECTION 8. Section 395.077, Local Government Code, is
23 amended by adding Subsection (f) to read as follows:

24 (f) The attorney general may bring an action on behalf of a
25 property owner to contest an impact fee or to recover a refund for
26 an impact fee under Section 395.025.

27 SECTION 9. Section 395.078, Local Government Code, is

1 repealed.

2 SECTION 10. Section 395.059, Local Government Code, as
3 added by this Act, applies only to a new impact fee or an increase to
4 an existing impact fee adopted on or after the effective date of
5 this Act.

6 SECTION 11. Sections 395.043 and 395.054, Local Government
7 Code, as amended by this Act, apply only to a land use assumption,
8 capital improvement plan, or impact fee that is the subject of a
9 public hearing required to be held by Section 395.042 or 395.053 of
10 that code, as applicable, that is held on or after the 90th day
11 after the effective date of this Act. A land use assumption,
12 capital improvement plan, or impact fee subject to a public hearing
13 that is held before the 90th day after the effective date of this
14 Act is governed by the law in effect immediately before the
15 effective date of this Act, and the former law is continued in
16 effect for that purpose.

17 SECTION 12. Section 395.051(a), Local Government Code, as
18 amended by this Act, applies only to the approval of the imposition
19 of an impact fee on or after the effective date of this Act.

20 SECTION 13. Section 395.0515, Local Government Code, as
21 added by this Act, applies only to the increase of the amount of an
22 impact fee that is adopted on or after the effective date of this
23 Act.

24 SECTION 14. This Act takes effect September 1, 2025.