

BILL ANALYSIS

C.S.H.B. 2323
By: Goolsby
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law states that impact fees are only to be spent on capital improvements. Capital improvements are defined as facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of a political subdivision, political subdivisions being defined as water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and storm water drainage, and flood control facilities; whether or not they are located within the service area; and roadway facilities. Current law does not include a penalty for using these funds for a purpose other than for which they are collected. This bill amends Section 395.024, Local Government Code by adding a 20% fee of the funds spent in violation. The assessment of the 20% penalty will serve as a deterrent to oversight and miss allocation of the impact fees.

The money collected will be credited to the housing trust fund which was established to create affordable housing for low income individuals and families. Since 1993 the fund has awarded almost \$12 million in grants and loans, leveraging \$28.5 million, to fund more than 2,600 low income housing units. Funds are available to non-profit organization, units of local government, public housing authorities, community housing development organizations, and income eligible individuals and families. Eligible activities include acquisition, rehabilitation, and new construction of housing.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Section 395.024, Local Government Code, is amended by adding Subsection (e) to read as follows:

(e) A political subdivision that spends funds from an impact fee in violation of Subsection (c) is liable to the state for a civil penalty in an amount equal to 20 percent of the amount of the funds spent in violation of that subsection. The attorney general may sue to collect the penalty and deposit the collected to the credit of the housing trust fund.

SECTION 2. This Act takes effect September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON FROM THE ORIGINAL TO THE SUBSTITUTE

SECTION 1. The substitute modifies the original by replacing the word "shall" with "may."

SECTION 2. No change.