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| BILL ANALYSIS |

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| S.B. 1883 |
| By: Bettencourt |
| Land & Resource Management |
| Committee Report (Unamended) |

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| **BACKGROUND AND PURPOSE** Under current law, certain political subdivisions are authorized to impose an impact fee against new development to generate revenue for specified capital improvements or facility expansions necessitated by and attributable to the new development. Current law requires the political subdivision, before adopting an impact fee, to issue public notices and appoint an advisory committee, and currently, a simple majority vote by a political subdivision's governing body is needed to impose an impact fee. Also, current law allows, if the political subdivision has a planning and zoning commission, the commission to act as the advisory committee in certain circumstances. Under current law, the political subdivision is not limited to how frequently it may increase an impact fee. S.B. 1883 seeks to address this issue by revising current law related to the public notice requirements and adoption procedures for impact fees.  |
| **CRIMINAL JUSTICE IMPACT**It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **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** S.B. 1883 amends the Local Government Code to revise provisions relating to the approval of land use assumptions, capital improvement plans, and impact fees. S.B. 1883 changes the date by which an applicable political subdivision is required to make its land use assumptions, the time period of the projections, and a description of the capital improvement facilities that may be proposed available to the public from on or before the date of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan to at least 60 days before that date. This provision applies only to a land use assumption, capital improvement plan, or impact fee that is the subject of a public hearing that is held on or after the 90th day after the bill's effective date. A land use assumption, capital improvement plan, or impact fee subject to a public hearing that is held before the 90th day after the bill's effective date is governed by the law in effect immediately before the bill's effective date, and the former law is continued in effect for that purpose.S.B. 1883 establishes that 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. This provision applies only to the approval of the imposition of an impact fee on or after the bill's effective date.S.B. 1883 prohibits a political subdivision from increasing the amount of an impact fee for three years from the later of the date the fee was adopted or most recently increased, if applicable. This prohibition applies only to the increase of the amount of an impact fee that is adopted on or after the bill's effective date.S.B. 1883 extends the deadline by which the governing body of a political subdivision must adopt an order setting a public hearing to discuss and review an update of the land use assumptions and the capital improvements plan and determine whether to amend the plan from 60 days after the date the governing body receives the update to 120 days after that date.S.B. 1883, with regard to a public hearing held by the governing body of a political subdivision to discuss a proposed ordinance, order, or resolution amending land use assumptions, the capital improvements plan, or an impact fee, changes the date by the land use assumptions and the capital improvements plan, including the amount of any proposed amended impact fee per service unit, must be made available to the public from on or before the date of the first publication of the notice of the hearing on the amendments to at least 60 days before that date. This provision applies only to a land use assumption, capital improvement plan, or impact fee that is the subject of a public hearing that is held on or after the 90th day after the bill's effective date. A land use assumption, capital improvement plan, or impact fee subject to a public hearing that is held before the 90th day after the bill's effective date is governed by the law in effect immediately before the bill's effective date, and the former law is continued in effect for that purpose.S.B. 1883 raises from 40 percent to 50 percent the minimum membership of a capital improvements advisory committee that is required to be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity. The bill removes the authorization for the political subdivision's planning and zoning commission, as applicable, to act as the capital improvements advisory committee if that 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. The bill also removes the authorization for the planning and zoning commission to 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.S.B. 1883 requires a political subdivision, before the 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, to conduct an independent financial audit. The bill requires the audit to be performed by an independent auditor who meets the following conditions:* is a certified public accountant or public accountant licensed by the Texas State Board of Public Accountancy; and
* is not, and has not been during the 12 months preceding the commencement of the audit, under contract to provide any other service to the political subdivision or a related entity of the political subdivision.

The bill requires an independent financial audit to provide, if applicable, a detailed accounting of the following:* the amount of funds collected from any impact fee imposed by the political subdivision in the service area;
* the amount of interest accumulated under statutory provisions relating to impact fee refunds with respect to impact fees collected by the political subdivision in the service area;
* any proposed capital improvements or facility expansions to be financed from an impact fee collected by the political subdivision in the service area that were not constructed, as described by such statutory provisions, including the categories of each improvement and expansion;
* the amount of funds collected from impact fees by the political subdivision in the service area that have not been spent;
* each impact fee collected by the political subdivision in the service area;
* the allocation of each impact fee made to the political subdivision in the service area;
* any waived impact fees in the service area under statutory provisions relating to waiving an impact fee for any service unit that would qualify as affordable housing under certain federal law;
* any requested refunds of impact fees in the applicable service area under statutory provisions relating to impact fee refunds;
* any impact fees in the applicable service area refunded under such statutory provisions; and
* any errors or omissions of credits in impact fee calculations for impact fees in the service area.

S.B. 1883 requires the audit to be submitted to the political subdivision and the applicable capital improvements advisory committee. Before the 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 hold a public hearing on the results of the audit. The bill requires a political subdivision to make available to the public an applicable independent financial audit at least 30 days before:* the publication of notice of a hearing on land use assumptions and a capital improvements plan; and
* the adoption of an order setting a public hearing to discuss and review an update of land use assumptions and a capital improvements plan.

The bill's provisions regarding the independent financial audit apply only to a new impact fee or an increase to an existing impact fee adopted on or after the bill's effective date. S.B. 1883 authorizes the attorney general to bring an action on behalf of a property owner to contest an impact fee or to recover a refund for an impact fee under statutory provisions relating to impact fee refunds.S.B. 1883 repeals provisions prohibiting an impact fee from being held invalid because the public notice requirements were not complied with if compliance was substantial and in good faith. S.B. 1883 applies to a "political subdivision" as that term is specifically defined for certain statutory provisions relating to financing capital improvements required by new development in municipalities, certain counties, and certain districts or authorities created under certain provisions of the Texas Constitution.S.B. 1883 repeals Section 395.078, Local Government Code. |
| **EFFECTIVE DATE** September 1, 2025. |