

By: Hall

S.B. No. 2427

A BILL TO BE ENTITLED

AN ACT

relating to the use of impact fees by a political subdivision.

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

SECTION 1. Section 395.001(4), Local Government Code, is amended to read as follows:

(4) "Impact fee" means a charge or assessment imposed by a political subdivision against new development in order to ~~generate revenue for funding or recouping the~~ pay the actual costs of labor, including the cost of surveyors, engineers, and other similar professionals, and materials for capital improvements or facility expansions necessitated by and attributable to the new development. ~~[The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:~~

~~[(A) dedication of land for public parks or payment in lieu of the dedication to serve park needs,~~

~~[(B) dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development,~~

~~[(C) lot or acreage fees to be placed in trust~~

~~funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or~~  
~~[(D) other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.]~~

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2), and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

SECTION 2. Sections 395.012(a), (b), and (d), Local Government Code, are amended to read as follows:

(a) An impact fee may be imposed only to pay the costs of labor and materials for constructing capital improvements or facility expansions, including and limited to the:

(1) labor and materials explicitly accounted for in the construction contract price;

(2) surveying and engineering fees; and

(3) ~~[land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees, and~~

~~[(4)]~~ fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the political subdivision.

(b) Projected interest charges and other finance costs may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on

bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the labor and materials for capital improvements or facility expansions identified in the capital improvements plan and are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan.

(d) A municipality may pledge an impact fee as security for the payment of debt service on a bond, note, or other obligation issued to finance labor and materials for a capital improvement or public facility expansion if:

(1) the improvement or expansion is identified in a capital improvements plan; and

(2) at the time of the pledge, the governing body of the municipality certifies in a written order, ordinance, or resolution that none of the impact fee will be used or expended for an improvement or expansion not identified in the plan.

SECTION 3. Section 395.019, Local Government Code, is amended to read as follows:

Sec. 395.019. COLLECTION OF FEES IF SERVICES NOT AVAILABLE. Except for roadway facilities, impact fees may be assessed but may not be collected in areas where services are not currently available unless:

(1) the collection is made to pay for labor and materials for a capital improvement or facility expansion that has been identified in the capital improvements plan and the political subdivision commits to commence construction within two years, under duly awarded and executed contracts or commitments of staff

1 time covering substantially all of the work required to provide  
2 service, and to have the service available within a reasonable  
3 period of time considering the type of capital improvement or  
4 facility expansion to be constructed, but in no event longer than  
5 five years;

6 (2) the political subdivision agrees that the owner of  
7 a new development may construct or finance the capital improvements  
8 or facility expansions and agrees that the costs incurred or funds  
9 advanced for labor and materials for the capital improvements or  
10 facility expansions will be credited against the impact fees  
11 otherwise due from the new development or agrees to reimburse the  
12 owner for such costs from impact fees paid from other new  
13 developments that will use such capital improvements or facility  
14 expansions, which fees shall be collected and reimbursed to the  
15 owner at the time the other new development records its plat; or

16 (3) an owner voluntarily requests the political  
17 subdivision to reserve capacity to serve future development, and  
18 the political subdivision and owner enter into a valid written  
19 agreement.

20 SECTION 4. Section 395.021, Local Government Code, is  
21 amended to read as follows:

22 Sec. 395.021. AUTHORITY OF POLITICAL SUBDIVISIONS TO SPEND  
23 FUNDS TO REDUCE FEES. Political subdivisions may spend funds from  
24 any lawful source to pay for all or a part of the labor and material  
25 costs for capital improvements or facility expansions to reduce the  
26 amount of impact fees.

27 SECTION 5. Section 395.023, Local Government Code, is

1 amended to read as follows:

2       Sec. 395.023. CREDITS AGAINST ROADWAY FACILITIES FEES. Any  
3 labor and material costs for construction of, contributions to, or  
4 dedications of off-site roadway facilities agreed to or required by  
5 a political subdivision as a condition of development approval  
6 shall be credited against roadway facilities impact fees otherwise  
7 due from the development.

8       SECTION 6. Section 395.079(a), Local Government Code, is  
9 amended to read as follows:

10       (a) Any county that has a population of 3.3 million or more  
11 or that borders a county with a population of 3.3 million or more,  
12 and any district or authority created under Article XVI, Section  
13 59, of the Texas Constitution within any such county that is  
14 authorized to provide storm water, drainage, and flood control  
15 facilities, is authorized to impose impact fees to cover the labor  
16 and material costs for ~~[provide]~~ storm water, drainage, and flood  
17 control improvements necessary to accommodate new development.

18       SECTION 7. The changes in law made by this Act apply only to  
19 an impact fee enacted or imposed on or after the effective date of  
20 this Act. An impact fee enacted or imposed before the effective date  
21 of this Act is governed by the law in effect immediately before the  
22 effective date of this Act, and the former law is continued in  
23 effect for that purpose.

24       SECTION 8. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2025.