

1993 Assembly Bill 818

Date of enactment: **April 14, 1994**  
Date of publication\*: **April 28, 1994**

## 1993 WISCONSIN ACT 305

AN ACT to create 66.55 of the statutes, relating to: authorizing cities, villages, towns and counties to impose impact fees on certain developers.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 66.55 of the statutes is created to read:

**66.55 Impact fees. (1) DEFINITIONS.** In this section:

(a) "Capital costs" means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless the political subdivision can demonstrate that its legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed 10% of capital costs. "Capital costs" does not include other noncapital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities.

(b) "Developer" means a person that constructs or creates a land development.

(c) "Impact fees" means cash contributions, contributions of land or interests in land or any other items of value that are imposed on a developer by a political subdivision under this section.

(d) "Land development" means the construction or modification of improvements to real property that creates additional residential dwelling units within a political subdivision or that results in nonresidential uses that create a need for new, expanded or improved public facilities within a political subdivision.

(e) "Political subdivision" means a city, village, town or county.

(f) "Public facilities" means highways, as defined in s. 340.01 (22), and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing and distributing water, parks, playgrounds and other recreational facilities, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries. "Public facilities" does not include facilities owned by a school district.

(g) "Service area" means a geographic area delineated by a political subdivision within which there are public facilities.

(h) "Service standard" means a certain quantity or quality of public facilities relative to a certain number of persons, parcels of land or other appropriate measure, as specified by the political subdivision.

**(2) GENERAL.** (a) A political subdivision may enact an ordinance under this section that imposes impact fees on developers to pay for the capital costs that are necessary to accommodate land development.

(b) Subject to par. (c), this section does not prohibit or limit the authority of a political subdivision to finance public facilities by any other means authorized by law, except that the amount of an impact fee imposed by a political subdivision shall be reduced, under sub. (6) (d), to compensate for any other costs of public facilities imposed by the political subdivision on developers to provide or pay for capital costs.

(c) Beginning on the first day of the 13th month after the effective date of this paragraph .... [revisor inserts

date], a political subdivision may impose and collect impact fees only under this section.

(3) PUBLIC HEARING; NOTICE. Before enacting an ordinance that imposes impact fees, or amending an existing ordinance that imposes impact fees, a political subdivision shall hold a public hearing on the proposed ordinance or amendment. Notice of the public hearing shall be published as a class 1 notice under ch. 985, and shall specify where a copy of the proposed ordinance or amendment and the public facilities needs assessment may be obtained.

(4) PUBLIC FACILITIES NEEDS ASSESSMENT. (a) Before enacting an ordinance that imposes impact fees or amending an ordinance that imposes impact fees by revising the amount of the fee or altering the public facilities for which impact fees may be imposed, a political subdivision shall prepare a needs assessment for the public facilities for which it is anticipated that impact fees may be imposed. The public facilities needs assessment shall include, but not be limited to, the following:

1. An inventory of existing public facilities, including an identification of any existing deficiencies in the quantity or quality of those public facilities, for which it is anticipated that an impact fee may be imposed.

2. An identification of the new public facilities, or improvements or expansions of existing public facilities, that will be required because of land development for which it is anticipated that impact fees may be imposed. This identification shall be based on explicitly identified service areas and service standards.

3. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2, including an estimate of the effect of recovering these capital costs through impact fees on the availability of affordable housing within the political subdivision.

(b) A public facilities needs assessment or revised public facilities needs assessment that is prepared under this subsection shall be available for public inspection and copying in the office of the clerk of the political subdivision at least 20 days before the hearing under sub. (3).

(5) DIFFERENTIAL FEES, IMPACT FEE ZONES. (a) An ordinance enacted under this section may impose different impact fees on different types of land development.

(b) An ordinance enacted under this section may delineate geographically defined zones within the political subdivision and may impose impact fees on land development in a zone that differ from impact fees imposed on land development in other zones within the political subdivision. The public facilities needs assessment that is required under sub. (4) shall explicitly identify the differences, such as land development or the need for those public facilities, which justify the differences between zones in the amount of impact fees imposed.

(6) STANDARDS FOR IMPACT FEES. Impact fees imposed by an ordinance enacted under this section:

(a) Shall bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.

(b) May not exceed the proportionate share of the capital costs that are required to serve land development, as compared to existing uses of land within the political subdivision.

(c) Shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.

(d) Shall be reduced to compensate for other capital costs imposed by the political subdivision with respect to land development to provide or pay for public facilities, including special assessments, special charges, land dedications or fees in lieu of land dedications under ch. 236 or any other items of value.

(e) Shall be reduced to compensate for moneys received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.

(f) May not include amounts necessary to address existing deficiencies in public facilities.

(g) Shall be payable by the developer to the political subdivision, either in full or in instalment payments that are approved by the political subdivision, before a building permit may be issued or other required approval may be given by the political subdivision.

(7) LOW-COST HOUSING. An ordinance enacted under this section may provide for an exemption from, or a reduction in the amount of, impact fees on land development that provides low-cost housing, except that no amount of an impact fee for which an exemption or reduction is provided under this subsection may be shifted to any other development in the land development in which the low-cost housing is located or to any other land development in the political subdivision.

(8) REQUIREMENTS FOR IMPACT FEE REVENUES. Revenues from impact fees shall be placed in a segregated, interest-bearing account and shall be accounted for separately from the other funds of the political subdivision. Impact fee revenues and interest earned on impact fee revenues may be expended only for capital costs for which the impact fees were imposed.

(9) REFUND OF IMPACT FEES. An ordinance enacted under this section shall specify that impact fees that are imposed and collected by a political subdivision but are not used within a reasonable period of time after they are collected to pay the capital costs for which they were imposed shall be refunded to the current owner of the property with respect to which the impact fees were imposed. The ordinance shall specify, by type of public facility, reasonable time periods within which impact fees must be spent or refunded under this subsection. In determining the length of the time periods under the ordinance, a political subdivision shall consider what are appropriate planning and financing periods for the partic-

## 1993 Assembly Bill 818

– 3 –

ular types of public facilities for which the impact fees are imposed.

(10) APPEAL. A political subdivision that enacts an impact fee ordinance under this section shall, by ordi-

nance, specify a procedure under which a developer upon whom an impact fee is imposed has the right to contest the amount, collection or use of the impact fee to the governing body of the political subdivision.

---