

AB 800

Kevin Dittmar → see written testimony
↳ outlines each section of the bill.

- problems in Waukesha & Washington Counties — not enough labor force (due to housing) for businesses.
- makes affordable housing too expensive.
- currently, no city imposes an impact fee
- * highways & other transp. facilities → change to "actual" roadways
- * park land / not park facilities
- developers are charging impact fees up-front before land is developed — charging on the lots.
- to challenge an impact fee → not possible for an individual → if successful, attorney fees should be paid!
- * intended for "off-site" costs → original law for impact fees!

Brad Murphy → Madison

- sec. 23 does not define
- also feels fees would be larger for home buyers if the impact fees were not charged before land is developed. \$1,000 would instead be \$6,000.
- * feels there would be an adverse affect on consumers.

Joe Greco

- see written testimony
- * need funding / not shift taxing to property taxes to provide people with quality of life (parks, libraries, etc.)
- legal fees → reverse for municip. to recover?

→ put this to a study committee & commission

Mayer DeAngelis

Muskego's impact fees are used exclusively for the regional park.

Ed Huck

see written testimony

→ this bill will pass the \$ along to the taxpayers.

Wanda Hernandez

- cost ↓ for county facilities & services

see written testimony

- force costs over to local taxpayers / reverse impact

- define moderate home

Dan Thompson

- 563 members

* worked on the impact fees bill 4 years ago → wrote most of the language.

Richard Lehmann

→ bad between all parties! Will put costs onto "user" fees → "funnel" the costs.

↳ those slipped through would be placed into local property taxes.

Brett Hulsey

* see packet of info.

Tammy Baldwin requested that he present some scenarios he has run into with impact fees.

* 2/3 funding of schools → new developments must pay for itself.

* Example → Verona is running into troubles with sizing and keeping up with new schools! Other were Cottage Grove & Monona.

→ Report first (at least 2 years) so consumers, residents know what costs will lie ahead.

Jeanette Bell - see written testimony
- it upsets the "balance" that was finally achieved four years ago.

Jerry DeSchone - see materials presented, including common ground magazine
* would like a tech. amend (see that noted in ^{memo} testimony).
→ growth does pay for itself (see pg. 29 of common ground and chart on pg. 30)



3-13-98

MAR 12 1998



Wisconsin Builders Association

MEMORANDUM

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Ken Zaruba
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Executive
Vice-President

Bill Wendle

Director
Governmental Affairs

Gerard Deschane

TO: Members of the Wisconsin Legislature

FROM: Jerry Deschane, Director of Government Affairs
Nora Statsick, Director of Political Affairs

DATE: March 11, 1998

RE: WBA Capitol Conference

Next Wednesday, March 18, 1998, members of the Wisconsin Builders Association will meet in Madison for our annual Capitol Conference. Approximately 200 members from throughout Wisconsin will meet to discuss the future of housing, land use reform, and to meet with you. By now, hopefully, you have been contacted by one of our 21 local associations to schedule a meeting.

The purpose of this memo is to provide you and your staff with a short briefing of the issues that WBA members will be raising. **PLEASE NOTE: because many of our priority bills are being considered this week and next, the information provided here may change, or other issues may be raised during your meetings.**

AB 800 Relating to Impact Fees

Wisconsin's 1994 impact fee law has, by and large, worked well in allowing local governments to charge fair amounts for new developments. At the same time, however, parts of the law are vague and misleading, and certain parts are being misinterpreted by local governments. AB800 clarifies those sections and narrows the list of items that may be paid for by impact fees to necessities that serve the new homes, rather than luxuries that serve the entire community.

The Assembly Housing Committee held a hearing on AB800 March 5. We are working with the bill's author (John Gard) on an amendment to address concerns raised during the hearing.

AB 636 Establishing DNR Permit Deadlines

This bipartisan legislation requires the DNR to establish deadlines for processing certain water-related permits. Once established, the DNR would have to act on all permit requests within the deadline, or the permit would be deemed approved. This law is based upon a much broader model in Minnesota.

AB 636 is awaiting scheduling for Assembly Action. It was endorsed by the Assembly Environment Committee 8-1.



AB806, AB807, AB808, AB809, and AB810, Land Use Reform Legislation

These bills reform specific parts of Wisconsin's land use law system in an effort to make it more understandable and accessible to property owners and to restore balance to the law. Four of the five bills had a hearing by the Assembly Land Use Committee last week. Amendments are being prepared, and another hearing is scheduled for Monday, March 16.

AB806 requires regulators to assess the impact that a new law will have on property values. It gives property owners the right to challenge the validity of an ordinance, law or rule if it results in a 50% or greater reduction in property value.

AB807 says a local government must notify property owners if a zoning change will affect the use of their property.

AB808 requires local governments to document the reasons for declaring an area environmentally sensitive and thus off limits to most productive uses.

AB809 requires a community to base approval or rejection of development requests upon ordinances, rather than plans. Land use plans, while important, do not have to be adopted by a vote of any elected body, and therefore should not form the basis for regulating property.

AB810 awards minor legal fees to a property owner who successfully challenges a zoning decision.

Our members may also mention:

AB492, relating to Wetland Mitigation allows the DNR to consider "mitigation" which is the replacement of lost wetlands with restored wetlands, in its wetland permitting process. (Approved by Assembly Environment Committee; awaiting floor scheduling.)

AB659, relating to plat approval gives a property owner more time to meet all of the conditions placed upon a proposed subdivision. Current law, dating to the 1950s, set that time at six months; AB659 allows 24 months. (Approved unanimously by Assembly Urban/Local Affairs Committee, to be voted on by full Assembly today.)

AB570, relating to accessibility standards conforms Wisconsin Fair Housing law to federal law by exempting newly-constructed townhouses from accessibility standards. (Passed on a voice-vote by Assembly, hearing this week by Senate Economic Development Committee.)

Please give us a call if you would like more information about any of these items. Our direct numbers are (608) 242-5155, ext. 15 (Jerry) and ext. 16 (Nora).

Assembly Bill 800 relating to Impact Fees
Comments of Kevin S. Dittmar before the
Assembly Housing Committee
March 5, 1998

Introduce yourself, highlighting:
development experience
local government affairs experience
your involvement in impact fee litigation, First Looks, and both impact fee bills.

Assembly Bill 800 is a trailer bill that cleans up a number of language issues that were left over from the first impact fee bill (Passed in Spring of 1994).

It also makes a number of other improvements to the law, that we believe are necessary based upon abuses that we have seen.

I would like to walk you briefly through the sections of the bill, and then I would be happy to answer any questions.

Before I start, I would like to preface my remarks by stating that the Wisconsin Builders Association does not oppose impact fees. When fairly and properly applied, they help pay for certain public improvements that are needed to serve new development.

My concern, as a developer of affordable housing, is that too often municipalities try to use fees, whether impact fees, building permit fees, or other fees, to pay for things that rightfully should be shared by the entire community.

Section 1 and Section 2 of the bill close a "loophole" that some communities have used to justify charging an impact fee under other statutes. In this case, the statute sections relate to sewer service charges.

By citing these sections as authority, municipalities have tried to avoid the needs assessment and other procedural requirements of the impact fee law, even though they are charging impact fees.

Those requirements protect the land owner from paying more than his fair share of new community infrastructure.

Section 3, 4, and 5, 7-11, 13-19, and 24 remove the authority of a County to impose an impact fee.

No county in Wisconsin imposes such a fee.

The one that tried, Waukesha, ran into a tremendous number of procedural, legal, and political problems.

It is hard to justify an impact fee paid by one property owner for facilities used by an entire county.

Section 6 is the list of things that may be paid for with impact fees. AB800 reduces the size of the list by removing "other transportation facilities," which may include bus stops, train stations, etc.. It also eliminates solid waste and recycling impact fees, along with library impact fees, and park impact fees that pay for anything beyond the cost of acquiring park land.

There are no other transportation facility, solid waste/recycling, or library impact fees in Wisconsin. Those are typically funded through other means or serve an entire community. They should be paid for on a community-wide basis.

As for parks, we believe that impact fees should pay for necessities, not luxuries. At some point, recreational facilities become luxuries that are enjoyed by the entire community, and the cost should be shared by the community. We believe purchase of the land is a good place to draw that line.

There is another change in this section. AB800 adds the word "drinking" before "water."

The Legislature intended to allow impact fees to be used for municipal water systems.

The Village of Germantown assesses a fire truck impact fee, and rationalizes it by saying that fire trucks "pump, store and distribute water."

Before leaving Section 6, I would like to ask the committee to **Consider an amendment.**

The paragraph defining "Public Facilities" needs to be amended to include a statement that says "Public Facilities are limited to land, structures and other improvements to real property."

In 1994 the Legislature did not intend to allow impact fees for vehicles and other equipment. Even now, the legislative drafting attorney on AB800 insists that "public facilities" does not include such equipment. However, the attorneys and accountants that advise municipalities have stated that it does. A clear statement of legislative intent is needed.

Section 12 is a critical part of AB800.

It closes the "loophole" that allows communities to avoid the process required under the impact fee law.

It does so by creating two new paragraphs which say that municipalities may not charge a fee or require the dedication of land unless the fee or land exclusively serves the development, or unless the fee or dedication is calculated according to the impact fee law.

(TAKE THE TIME TO EXPLAIN WHY IS WORDED THIS WAY ("EXCLUSIVE").)

Section 20 makes technical wording changes regarding reducing the amount of impact fees to account for other assessments and taxes paid by the developer.

Section 21 provides a uniform due date for impact fees.

(When the development building permit is issued).

The sooner an impact fee is assessed, the more it will cost the eventual customer.

The impacts of new development do not occur until the development actually begins.

Section 22 requires impact fees to be imposed equitably among all types of development.

This assures that non-residential development that creates a sewer or street impact pays its share of any impact fee.

Section 23 beefs up the language regarding the affect of impact fees on housing affordability.

It says impact fees in a community may not have a disproportionate affect on lower or moderate-income housing.

Some municipalities use impact fees to artificially inflate the cost of housing.

Section 25 requires that impact fees which are not used within 5 years be refunded.

Current law leaves the refund period up to the municipality

Most of the ordinances we have reviewed show they are using 20 years or more

The majority of state impact fee laws require refunds within 6 years

If you didn't need it for "impacts," you should not have charged it in the first place.

Section 26 makes the language relative to appeals clearer

We would like to request an amendment. The appeal to circuit court should be a "de novo" review.

(EXPLAIN WHY)

Section 27 and 31 award legal fees to the property owner in a successful challenge

The system is hopelessly stacked against the property owner

To defeat a \$1,000 impact fee you have to spend \$25,000

Section 28 and 32 exempt impact fee challenges from certain legal notice sections.

We suggest that this section be narrowed, to exempt challenges only from the notice requirement under 893.80.

Section 29 limits communities' power to impose a moratorium solely for the purpose of drafting an impact fee ordinance.

No new impact fee ordinance may be enacted until two years after the expiration of a moratorium.

Moratoria are sledgehammers in the world of land use; they should be applied selectively and only in the case of real emergencies or for planning.

TAKE QUESTIONS

Memo

To: Joseph Greco, Village President
From: William E. Freisleben, Director of Community Development
CC: Mike Morse, RAF
Date: March 3, 1998
Re: AB 800 amending State Statutes dealing with Impact Fees

Comments on Assembly Bill 800

This Bill makes numerous changes to §66.55, and various other related sections, dealing with Impact Fees. At first review, the changes appear to “fine tune” the law to eliminate the use of impact fees by counties, and to redefine the “public facilities” for which an impact fee may be collected. A closer reading reveals that the changes confuse the issue of impact fees, and substantially eliminate the use, in Wisconsin, of the impact fee as a tool to defray development costs.

Part of Section 5 eliminates the use of impact fees by counties; Sections 1, 2, 3, 4, the rest of 5, 7, 8, 9, 11, 13, 14, 15, 16, 17, 18, 19, and 24 all amend specific sections to strike “county” from a list.

Section 6 amends §66.55(1)(f), redefining “public facilities”.

- Eliminates “other transportation facilities”; we are not sure what “other” facilities were envisioned to be prohibited, but it appears to eliminate parking lots, parking structures, bus and rail facilities, and maybe even alleys.

- Specifies that impact fees can only be used for facilities for “drinking water”; we are not sure what other types of water we might build facilities for, but this certainly eliminates finding out.
- Limits park impact fees to the purchase of land for parks and playgrounds; this appears to prohibit the use of impact fees for the development of parks and playgrounds, including capital expenditures for park and playground equipment.
- Eliminates impact fees for solid waste and recycling facilities; as I recall, there are numerous State initiatives to encourage recycling and deal with solid waste, but this appears to limit a municipality’s ability to raise funds to deal with these issues.
- Eliminates impact fees for libraries; development has a profound affect on the need for libraries, but this legislation takes away one tool for raising money for a portion of a new library.

Section 12 creates two new subsections.

- The first subsection does not deal with impact fees at, but deals with the dedication of land under other parts of State Statutes, including the subdivision and platting statutes. This would appear to limit the Village’s ability to require the dedication of facilities larger than that required by a specific development, instead of planning for area-wide facilities, such as storm water basins.
- The other section limits the Village’s ability to levy sewer service charges or public utility charges.

Section 20 further implements the changes to Chapter 236, the platting statutes. It also specifies that impact fees must be “reduced to compensate for taxes imposed under ch. 70”; ch. 70 is the part of statutes that deals with property taxes. It is not clear exactly what taxes are to be compensated or when. In addition, in some cases

a developer purchases land but pays little or no taxes; should previous owners or taxpayers not also benefit?

Section 21 changes the time when impact fees must be paid. Currently, the Village collects an impact fee when land is platted, or for existing uses, when a plumbing permit is obtained. The change would not permit the collection of an impact fee until a building permit is issued. This would mean that homeowners would pay the impact fees, not the developer. This change would also mean that the collection of the fee would be over a longer period, making it more difficult to comply with Section 25, which will be discussed later.

Section 22 requires that fees must be imposed "equitably". This section appears to be violated with the changes contained in Section 23 (next).

Section 23 adds an exemption for "moderate-cost housing". The existing law permits an exemption for "low-cost housing", but there never was a definition of "low-cost housing" in the legislation. This now adds another unidentified class that is eligible for an exemption. This exemption should not have been included in the original legislation so that the impact fees would be equitable; there should be provision for other funds with which to pay the impact fees, not exempting them completely from payment.

Section 25 requires that collected fees must be used within 5 years of collection. As reference above, if the fees are accumulated with individual building permits, it may take a significant amount of time to amass enough money to do a project. In addition, many communities operate on a five year capital improvement schedule, so it would be difficult to schedule a project and build it within 5 years. The current Village ordinance requires the money to be spent in 10 years, a much more reasonable time frame.

Section 26 is one of the most significant sections of this legislation. This section permits a developer to contest an impact fee for "any issue related to the imposition". This would permit a developer to challenge not only how an impact fee is calculated, but could challenge the Needs Assessment that was required when the impact fee was adopted; each developer could challenge the same document. The existing law identifies a process the Village must use when it adopts an impact fee, but may have to defend itself each time the fee is imposed. The Village Attorney has identified this section and section 27 as promoting litigation and "invitations to sue" the Village.

Section 27 creates a mechanism where a developer can recover attorney's fees if he prevails in a lawsuit. This not only includes those cases where the developer is the clear winner of a lawsuit, but could also include suits where the Village wins on 89 issues and loses on one, we would pay all legal fees. The Village could also be required to pay legal fees if a case ends in a settlement, if a court would perceive that the developer has prevailed.

Section 29 limits restrictions. This section is particularly significant because it is not clear what the intent is. The Village attorney read the text differently than the analysis by the Legislative Reference Bureau (LRB). The LRB interpretation was that a municipality cannot enact or amend an impact fee for 2 years after a moratorium has been in effect. The Village Attorney interpreted the text as not permitting an impact fee to be imposed for 2 years on land that was contained in an area under moratorium. In either case, there is no apparent relationship between the reasons for a moratorium and the reasons for an impact fee, only a blanket restriction concerning adoption of an impact fee.

Section 30 again does not deal specifically with impact fees, but it amends the platting statutes to say that ordinances dealing with impact fees shall not be "construed in favor of the Village". Currently, with few exceptions, laws are

considered to be enacted in the public interest and the Village would be assumed to be in the right when it adopts an ordinance; this would change that assumption for impact fees.

SUMMARY

In summary, this legislation severely limits the ability of municipalities to use impact fees. The cumulative effect is to eliminate the use of impact fees. It is completely skewed to the benefit of the developer without considering the affect on other property owners and taxpayers in the State.

The Village of Menomonee Falls currently imposes a sanitary sewer impact fee. The affect on the Village will be that we would need to amend our current ordinance to include the various changes contained in the legislation, then sit back and wait for lawsuits each time an impact fee is imposed.



WISCONSIN ALLIANCE OF CITIES

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Appleton

Ashland **March 5, 1998**

Beloit

TO: Honorable members of the Committee on Housing

Cudahy

De Pere

FROM: Edward J. Huck, Director

Eau Claire

Fond du Lac

RE: AB 800, Impact Fees

Green Bay

We are here today to oppose AB 800 because the bill would effectively put all costs as they relate to development expansion on the property tax.

Greenfield

Janesville

What I am referring to is not the operational and maintenance costs associated with serving individual property, but the marginal, incremental growth that eventually causes significant expansion of facilities.

Kaukauna

Kenosha

La Crosse

Madison

It is impossible to capture these costs through special assessment. We can not charge the last home that triggers facility expansion for the total costs.

Manitowoc

Marshfield

By requiring the money to be set aside for a specific sub-division, the bill guts the intent of impact fees and will cause either partial or total subsidy by the property tax.

Menasha

Merrill

I have included a copy of a letter sent to me by the city of Stevens Point that demonstrates my arguments.

Milwaukee

Neenah

Oshkosh

I would be happy to answer any questions relating to my testimony.

Racine

Thank you.

Sheboygan

Stevens Point

Superior

Two Rivers

Waukesha

Wausau

Wauwatosa

West Allis

West Bend

Wisconsin Rapids

City Of Stevens Point
1515 Strongs Avenue
Stevens Point, WI 54481-3594
FAX 715-346-1498



Department Of Parks,
Recreation and Forestry
715-346-1531

2/26/98

Recently, the 1997 Assembly Bill 800 was brought to my attention for review. Upon reviewing this proposed bill, I feel if passed, it would have a very negative effect on the City of Stevens Point. This new bill, would begin to eliminate the possibility of future recreational facilities we may need to develop, to maintain the quality of life the city residents have come to expect. I would like to refer you to a study done by the Portage County Council for Intergovernmental Communication and Cooperation in March of 1994. I believe, that this survey, highlights the importance of the quality of life, to the citizens of this community through one of the questions asked. When asked, what they "Like most about Portage County," nearly two-thirds (64.3%) listed the natural environment/parks as the best thing about living in Portage County.

The proposed changes in the law to; limit the definition of "public facilities" to the purchase of land only, any fees collected must be used within 5 years and a facility built must serve and benefit exclusively the development, all will become tremendous obstacles to our department in trying to fulfill our mission; to improve the quality of life for our residents.

I would like to give you a scenario, of what could happen, when dealing with a small development, as the bill is written. The development is 20 lots in size. Under this bill, the city would receive \$250.00/lot to be used within 5 years for the purchase of land. This purchase of land would have to be adjacent to the development, because all funds collected must "serve and benefit exclusively the development". Therefore, the city would have \$5,000.00 in funds to purchase land to provide a recreational facility for the residents of this development. I would estimate that \$5,000.00 would purchase about 1/3 of a lot in this development. Thus, all the remaining residents of Stevens Point, would be asked through their taxes, to help pick up the costs of providing an exclusive park facility for this development. I feel that the majority of the residents all willing to help develop community parks through their taxes, but not a park exclusive to a development.

I would like to list several recent examples of how the city of Stevens Point, has used the current law, to better the quality of life for not only residents of a development, but all the residents of Stevens Point. The development of two neighborhood parks; Slomann and Parkwood Parks,

installation of a new playground apparatus in Iverson Park and the development of the Green Circle Trail system. The Green Circle is an example of a project, that not only encircles the city, but runs through several recently developed areas of the city. In fact, some very key areas of the trail would not have been developed if it wasn't for the current law. The new law as proposed, would have slowed or possibly prevented the development of the Green Circle as we know it today.

As Director of Parks & Recreational Services for the City of Stevens Point, I would ask you not to support this proposed bill. By not supporting this bill, I believe you will help to preserve what two-thirds of this community like most about it, its natural environment/parks.

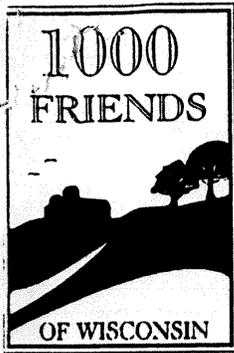
Thank you for your time and support.

Sincerely,



Tom Schrader
Dir. of Parks & Recreational Services

cc: Mayor Gary Wescott



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Honorary Chair

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Jim Van Deurzen, Mazomanie

Amy Ward, St. Croix Falls

**Statement by Nuria Hernandez-Mora, Assistant Director
1000 Friends of Wisconsin
Regarding Assembly Bill 800
Before the Assembly Housing Committee
March 5, 1998**

My name is Nuria Hernandez-Mora and I am assistant director of 1000 Friends of Wisconsin, a non-profit grassroots organization working to promote sound land use in Wisconsin. To date, we have over 1,300 members in over 250 communities around Wisconsin.

1000 Friends of Wisconsin opposes AB 800 because it would eliminate the ability of counties and severely limit the ability of cities, towns and villages to assess fees for the public services and infrastructure costs that are caused by new developments. This would result in a decrease in the quality of public services and the deterioration of public infrastructures. In addition, by exempting new developments from paying their true cost, AB 800 would force existing residents to subsidize new developments through increased property taxes. Finally, AB 800 would only serve to encourage unplanned sprawling development. Let me address each of these concerns in turn.

AB 800 Eliminates any Ability of Counties to Assess Impact Fees

From a land use planning perspective, the inclusion of counties is one of the most positive aspects of Section 66.55 of the statutes, since it allows them to have a more direct role in the development process. It allowed counties, for the first time, to recuperate the costs that new developments impose on county facilities such as roads and parks. Often, development in one municipality requires the improvement or extension of county services in another municipality. Before 66.55, counties did not have a mechanism for recovering these costs from new developments. The ability of counties to enact impact fees to pay for new facilities required by the new growth made it possible to account for growth impacts that transcend the political boundaries of the municipality where development is taking place. It therefore allowed taking a regional approach to growth management.

Unfortunately, the 1997-1998 State Budget already eliminated the ability of counties to exact impact fees to pay for highways or other transportation facilities required by new developments. AB 800 eliminates any ability of counties to fund the cost of any other facilities or services required by the new developments. This is particularly worrisome since counties have no authority to impose special assessments and very limited authority to use dedications and fees in lieu, which municipalities can use. [Waukesha County alone, for instance, will have accumulated an estimated \$95 million infrastructure deficit between 1995 and 2010.]

Citizens United for Responsible Land Use

Printed on Recycled Paper

AB 800 Would Result in a Decrease in the Quality of Public Services

Local governments in Wisconsin are struggling to fund new or expanded public services to accommodate new development. Because local governments are reluctant to add to the burden of property taxes, by limiting the amount of services that local governments can fund through the assessment of impact fees, AB 800 would only increase the financial challenges of local governments and result in a decrease in the quality of public services and the deterioration of public infrastructures.

AB 800 explicitly restricts municipalities from using impact fees to offset the costs of transportation facilities, libraries, solid and waste recycling facilities, playground equipment and water storage and pumping facilities not related to drinking water. These costs were originally included because of their relation with new developments. No one in support of the proposed bill makes the argument that these costs will no longer be incurred, but simply that new developments will not pay for them.

Let me use one of these excluded services as an example. AB 800 would prohibit municipalities from imposing impact fees to pay for transportation facilities, but it continues to allow their use for roads. This provision would only exacerbate the lopsided importance given in Wisconsin to roads over comprehensive transportation systems that meet the needs of all citizens. A new development may cause the need for extension of bus routes, the need for new buses, or construction of bike or pedestrian lanes. AB 800 would eliminate the possibility of funding any of these things.

The ability of impact fees to be used for off-site improvements such as the ones excluded by AB 800 was seen as a key advantage of 66.55. Residents in new developments use a variety of public services not all of which are directly related to the development. Libraries, solid waste treatment facilities, infrastructure improvements, are all impacted by the increased use caused by the new development. The purpose of impact fees is to charge new developments with their proportionate share of costs. AB 800 would forbid municipalities from doing so.

AB 800 would also restrict the use any additional sources of funding outside of property taxes for facilities that do not exclusively serve the new development upon which the fees are imposed. It would be impossible to determine whether any public facility will be used exclusively by the new development. Furthermore, it would be very inefficient and extremely expensive for local governments to provide services such as sewer lines, roads or recreational facilities to exclusively serve every individual neighborhood. This clause would in essence make it impossible for municipalities to use other sources of funding for most public services and infrastructures.

66.55 was developed in a way that guaranteed that new developments would not be assessed fees to subsidize existing deficiencies in public infrastructures and services. In effect, for an impact fee ordinance to be legally valid, fees can only be used to pay for the **proportionate share of the cost** of public services and infrastructures caused by the new development. The effects of the restrictions imposed by AB 800 would be a decrease in the quality of public services and the deterioration of existing public infrastructures.

AB 800 will Act as an Incentive for Unplanned Sprawling Development

The only way in which local governments will be able to pay for the increased costs caused by new developments will be to force local taxpayers to pick up the full costs of local infrastructure and service improvements, primarily through the increase of local property taxes. At the same time, new developments will benefit from the exemption to pay for the cost of the public services and infrastructures they require.

At a time when the state and a majority of residents in Wisconsin are very concerned about the loss of farmland and natural areas to development, the negative consequences of sprawl, and the deterioration of urban centers, AB 800 would only serve to promote a perverse system of incentives. The bill would take Wisconsin back to a system when residents who live in existing, often compact, urban communities subsidize sprawl development at the fringe. Developers would have no incentive to locate in existing urban service areas since they can buy cheap rural land, require local governments to bear the cost of extending services for them, and benefit from the sale of the developed property. Sprawling patterns of development would be enhanced.

AB 800 Includes a Loophole That Could Apply to Most Residential Development

AB 800 allows impact fees ordinances to exempt low-cost and moderate-cost housing from being assessed impact fees. However, the bill fails to define what moderate-cost housing is, thus leaving the door open to exclude any kind residential development from being assessed impact fees.

We request the committee reject AB 800. Wisconsin's Impact Fee law was a very positive step toward the establishment of a rational land use management system in the state.



CITY OF WEST ALLIS

WISCONSIN

MAYOR'S OFFICE



JEANNETTE BELL
Mayor

TESTIMONY
AB 800
HOUSING COMMITTEE
March 5, 1998

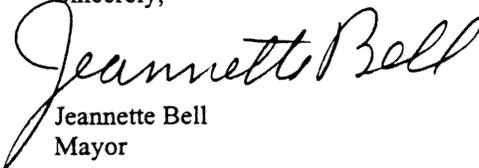
As a principal supporter of the bill that initiated the procedure by which impact fees could be instituted, I wish to go on record opposing AB 800. The current statutes are a good balance between several competing interests. Communities need impact fees so that new development can be assessed the costs related to the demand for more capital improvements because of the development. Existing taxpayers need the assurance that they will not pay for the additional capital costs created by growth. The new taxpayer needs the assurance that the fees assessed are related to the costs to the municipality created by new construction. Tax policy should have predictability and not be arbitrary in order to be fair. It is important the fees assessed have a direct correlation with the facilities to be required. The original bill clearly set a procedure under which the fee charged is linked to the capital construction in the municipality.

The passage of the original bill was debated at great length and does provide balance to all affected parties. AB 800 works to undermine that balance between competing interests. Removing recycling facilities, libraries and other capital improvements will shift any additional costs in these areas to current property taxpayers. This results in their having to pay for capital improvements that would not be needed except for the development.

Please contact Legislative Council Staff for insight on the efforts made to assure all concerns were taken into account during the past debate and recognize that in any compromise no one is totally satisfied. Do not pass AB 800 because it responds to only one perspective, that of the developers.

Thank you for your time and consideration.

Sincerely,


Jeannette Bell
Mayor

SPRAWL COSTS US ALL

How Uncontrolled Sprawl Increases Your Property Taxes and Threatens Your Quality of Life

THE LINK BETWEEN TAXES & SPRAWL

Property taxes continue to increase despite efforts of the legislature and local officials to contain them. Evidence suggests that a major cause of this unrelenting rise in property taxes is inefficient, sprawling development in our cities, villages and towns. Dane County is nationally recognized as a great place to live and has been the fastest-growing county in Wisconsin for the past two decades. This rapid growth not only fuels the increase in property taxes, but also threatens the character of the community which is so special.

NO TAX RELIEF IN SIGHT

The non-partisan Wisconsin Taxpayers Alliance estimates that, "If recent trends continue, property taxes collected for municipal, county and technical college purposes will grow more than 5% annually. The amount of property taxes raised by other local governments may soon exceed school taxes."¹

SPRAWL COSTS YOU MORE

A UW researcher reports that 400,000 new people in Wisconsin will cost taxpayers between \$4 and \$4.4 billion over the next 15 years, depending on the land use decisions we make today. Wisconsin taxpayers can save over \$400 million by guiding new building to compact urban areas where it is more efficient to provide public services like schools, roads, police, fire, water, sewer and other needs.²

TAXES UP!

The village of McFarland estimates that new home building costs all village taxpayers an additional \$30 for each \$1 million of value built.³

HOUSES COST COMMUNITIES MORE THAN FARMS

The town of Dunn estimates that residential development costs taxpayers \$1,060 in services for every \$1,000 paid in property taxes. Farm and parkland only cost \$180 to service for the same \$1,000 in taxes paid.⁴

EACH NEW HOME MAY COST YOU \$10,000

The city of Franklin, a fast-growing suburb south of Milwaukee very similar to Fitchburg, estimates that each new home cost city taxpayers over \$10,000 for schools and services in 1992, but the builder paid only \$813 in impact fees.⁵

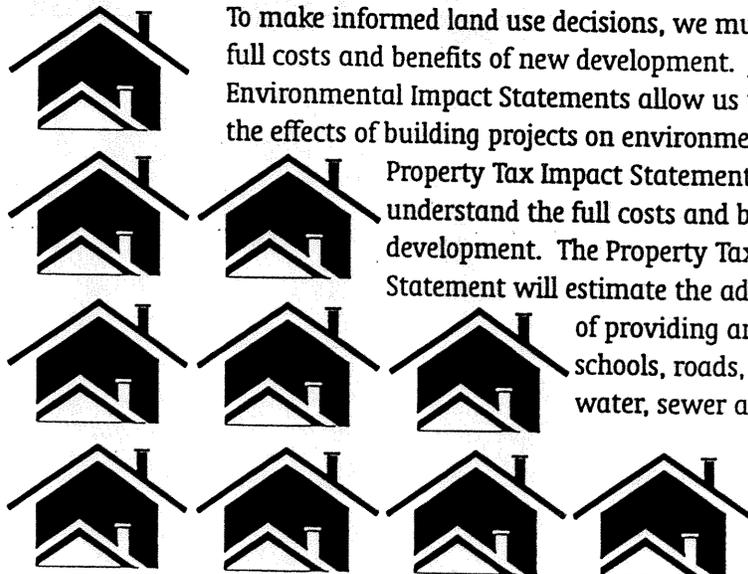
The report also points out that the Wisconsin legislature is now heading in the wrong direction on controlling sprawl and property taxes by supporting rules that loosen land use protections. Bills introduced in the legislature will increase sprawl and property taxes by making it easier to build scattered sprawl.

THE PROPERTY TAX IMPACT STATEMENT: ONE POSITIVE STEP

To make informed land use decisions, we must know the full costs and benefits of new development. Just as Environmental Impact Statements allow us to understand the effects of building projects on environmental resources,

Property Tax Impact Statements will help us understand the full costs and benefits of new development. The Property Tax Impact Statement will estimate the additional costs

of providing and servicing schools, roads, fire, police, water, sewer and other public services that will be required for each new

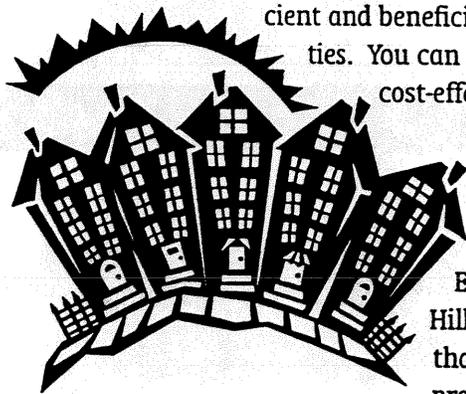


development. With the Property Tax Impact statement, we will know up front what we will be paying for and we will be able to decide if this development is beneficial or detrimental to the community.

Towns, cities and counties can perform these estimates without passing new laws. Citizens can go to their plan commissions and city council meetings and ask that these estimates be done before approval of new developments.

PRACTICAL SOLUTIONS: WHAT YOU CAN DO

- 1. Ask for Property Tax Impact Statements on all new development projects** to help weigh the costs and benefits of new development. Ask your city, town, or village plan commission and county board to perform a property tax impact statement before each new development is considered for approval to determine what new development will cost in school, road, fire, police, water, sewer, park, and other tax costs.
- 2. Support good planning and land-use decisions** to guide building where it costs the least and is most efficient and beneficial to our communities. You can support and live in cost-effective compact developments in existing cities and villages where possible, like Marshall Erdman's Middleton Hills project, rather than scattered sprawl projects.
- 3. Support purchasing parks, conservation lands, trails and green space** to protect these areas from development and save tax money.
- 4. Acquire development rights from farmers on key threatened lands**, such as those near Verona and Sun Prairie, and in the towns of Westport, Middleton and Oregon to keep productive farms a viable part of the county's economy.
- 5. Support county board members' and executives' decisions to control expensive, scattered and unsewered development.**



The Property Tax Impact Statement concept has received support from property tax reform leaders like Gary Bahr, founder of Stop Taxes on Property (STOP):

“Property taxes are a complicated issue, but it sure makes sense to have developers pay their fair share. The Property Tax Impact Statement is a good start.”

Property taxes continue to rise despite efforts to lower them. If our land use decisions continue without a long-range vision or concrete plans to achieve that vision, the situation will only get worse.

Property taxpayers and citizens who want to protect their communities should work with their local units of government to assess the full costs of sprawl in economic and other terms.

The community has the right to know how much sprawl costs, and to direct development to where it costs the com-

munity the least and provides the greatest benefits. If we do this, there is some hope of controlling taxes and protecting our communities.

PROTECT THE CHARACTER AND QUALITY OF OUR COMMUNITY

While higher property taxes affect us each personally, the long-term erosion of the character and quality of our community from sprawl is the greater threat.

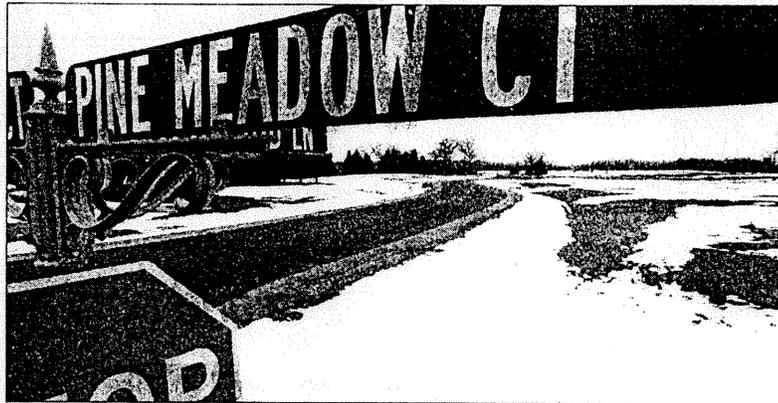
Once the towns and villages of Dane County have become the “geography of nowhere” – a sprawling collection of unplanned developments – property tax relief alone will not restore its character.

The “Sprawl Costs Us All” report is published by the Sierra Club and is funded by the Joyce Foundation. For a copy of the full report send a check for \$5.00 to:

Sierra Club Midwest Office
214 N. Henry St., Suite 203
Madison, WI 53703
Phone: (608) 257-4994



1. “Does school tax relief ensure property tax relief?” Wisconsin Taxpayers Alliance, Number One, January 15, 1996.
2. Huddleston, Professor Jack R., “Comparative Costs of Development, Supporting Analysis,” Sept. 28, 1995.
3. Smith, Susan Lampert, “Town of Dunn opposes McFarland growth plan,” Wisconsin State Journal, Jan. 30, 1994, p. 13A.
4. Town of Dunn Cost of Community Services by Land Use, July 25, 1994, p.1.
5. Franklin Impact Fee Task Force, Impact Fee Needs Assessment, 1995, p.1.



WILLIAM J. LIZDAS/STAFF PHOTOGRAPHER

The Genesee Lake Farms subdivision is looking less and less like a farm as homes and roads encroach. State and local policies encourage development of the countryside, expanding urban sprawl.

Let Waukesha County be a lesson; state must help fight sprawl

At Genesee Lake Farms, a subdivision being developed in the Waukesha County Town of Summit, split-rail fences zigzag around freshly planted shrubs and pine trees, and the streets have pastoral-sounding names like Wildwood, Sedge Meadow and Burr Oak. But wildness, sedge and oak — and, for that matter, farms — exist more in memory than in reality.

The same is true, sad to say, for much of the surrounding countryside. Houses and shopping strips inch up the sides of glacial ridges. Subdivisions and office parks sprout in cornfields. Once-poky crossroads are lit up with gas stations and mini-marts. With half of all incremental growth in this neck of the woods occurring outside the areas recommended for development by regional planners, the term "rural Waukesha County" is fast becoming an oxymoron.

You can thank the State of Wisconsin for its role in promoting such sprawl. The state not only fails to provide any meaningful incentives for good land-use planning — that is, keeping development contained within urban service areas — but it actually encourages *bad* land use, and taxpayers get stuck with the bill. Subsidies for road improvements to serve helter-skelter growth are one example.

The liberalization of rules on septic tanks is another. In order to protect water quality in the past, these private wastewater systems were forbidden on steep slopes or in areas with unsuitable soils. So, even without explicit state controls on land use, ill-advised development was inhibited.

That began to change several years ago with the creation of new technologies such as the "mound" system, which uses above-ground earthen mounds, instead of subterranean drain fields, to filter wastes. Rules long in the works at the Department of Commerce would allow an even greater variety of experimental systems, potentially opening up an additional 9 million acres to development.

One variety, which could debut at the Genesee Lake Farms subdivision, sounds like a combination of an old-fashioned septic tank and a small-scale municipal treatment plant.

State Sen. Brian Burke (D-Milwaukee) worries that if such systems aren't properly maintained, they could be "environmental land mines." And the

Spaces



WHITNEY GOULD

land-use implications are at least as problematic.

On the plus side, the Summit subdivision is a "cluster" project, grouping homes on smaller-than-usual lots in order to preserve chunks of commonly held open space. Planners like the idea because it preserves the rural appearance of the landscape.

"If the choice is this vs. a conventional cookie-cutter subdivision, I'd opt for this," says Phil Evenson, executive director of the Southeastern Wisconsin Regional Planning Commission.

But Evenson admits that such projects represent little more than damage control: Thanks to earlier zoning decisions made by locals, the battle to save farmland in Waukesha County has been lost.

And even those islands of green in cluster subdivisions may not amount to much in the overall scheme of things if, as expected, mini-treatment plants in places like Genesee Lake Farms are eventually hooked up to larger municipal systems. As more of that happens, we can anticipate wall-to-wall subdivisions. Hello, gridlock. Goodby, woodlots and wildlife.

And keep your your pocket-books open, exurbanites: Contrary to the common belief that any kind of development is an automatic tax bonanza, Department of Revenue figures show that property taxes in Waukesha County shot up by 39.6% between 1990 and 1996, while the population increased by just over 9%. New schools, roads and sewers don't come cheaply, it seems.

Statewide, over the next 15 years, we can expect to spend \$400 million more to subsidize sprawl than it would cost to support compact development, according to urban and regional planning experts at the University of Wisconsin-Madison.

"The more we grow out, the more our taxes go up," says Brett Hulsey, Midwest representative for the Sierra Club.

Can this really be the future that Wisconsinites want for themselves and their children?

If it's too late to reverse leaping development patterns in Waukesha County, the time is ripe for other fast-growing parts of the state, such as Washington and Ozaukee counties, to re-think that course. For starters, they'd have a better shot at preserving rural amenities if the Department of Commerce stopped spreading the fiction that new variations on the old septic tank are merely about plumbing. They are, in fact, about land use — and land use of the most wasteful sort.

The state ought to suspend approval of any experimental waste-treatment systems until a comprehensive land-use policy is in place. Maryland offers an excellent model: It withholds aid to communities that fail to contain sprawl. Short of that, our own lawmakers could at least offer municipalities some financial incentives for smart planning.

The Legislature, alas, seems headed in the opposite direction. A few years ago it eliminated the Department of Natural Resources' veto power over septic rules. And now, Republicans have concocted a package of bills with comforting titles like "Access to Justice" and "Truth in Labeling" that would strengthen the hand of property owners and make it harder to restrict development. Never mind how uncontrolled growth threatens the rights — and wallets — of the rest of us.

Until lawmakers come to their senses, citizens can do their part to slow the march of sprawl. They can nudge local decision-makers to enact zoning reforms that encourage more compact development. Also, land-use reform groups such as 1000 Friends of Wisconsin (16 N. Carroll St., Madison, WI 53703) deserve support.

So do land trusts: tax-exempt groups that save environmentally sensitive sites through outright purchase or easements limiting development. For more information on how to join or start such an organization in your area, contact the umbrella group Gathering Waters, 633 W. Main St., Madison, WI 53703; the phone number is (608) 251-9131.

In short, don't just sit around wringing your hands about vanishing vistas. The hillside you save may be the one you see from the back window.



The Capital Times

MADISON, WISCONSIN HOME FINAL WEDNESDAY, FEBRUARY 25, 1998

50 cents

Wednesday, Feb. 25, 1998

The Capital Times

BRETT HULSEY

ABS project boils down to 'what will it cost, who'll pay'



Hulsey

The ABS housing project in northern Dane County presents a lot of tough issues for protecting our families and conserving the land.

While the project does seem fairly well-planned, there are some serious answers that county taxpayers and decision makers need before approving the project.

How much will the project cost local, county, and state taxpayers? How much traffic will the development put on already crowded highways? Will it destroy or threaten prime farmland, parks, or our lakes and rivers?

When I see poorly planned sprawl eating up the parkland and farms in the county, traffic clogging our neighborhood streets, and our property taxes going up and up, I worry for the future of our families and Dane County.

Projects like this need careful attention. Increased traffic and congestion are major problems in our

neighborhoods and threats to our quality of life. Some people who live in my neighborhood must wait 10 minutes to get out of the driveway due to morning traffic.

Many ABS residents will likely work on Madison's west side. How much of the ABS traffic will pour onto crowded roads such as University Avenue, Capital, Old Middleton, Rosa roads, Whitney Way, County M and Wisconsin 1137?

Will this additional traffic require more expensive highway projects? Who will pay for new highways, current county residents or new ones?

One possible way to reduce this traffic impact of this and other building projects is to expand bus service to Waunakee and DeForest before the new homes are built. That would help reduce the traffic that threatens our neighborhoods, and gives everyone more transportation choices.

On the tax front, DeForest already the fifth fastest growing taxes in the county, according to a recent Sierra Club analysis. Total property taxes increased there by 89 percent between 1990

and 1996, according to state Department of Revenue figures. Population there increased 23 percent during that time.

Town of Windsor taxes increased 43 percent and the population grew 15 percent in the same six years.

Taxes in Dane County towns are growing five times faster than the population due to the expense of providing services for spread out sprawl.

Total Dane County taxes are growing 3 1/2 times faster than population. The goal should be that taxes grow at the same rate as population.

How much will the new ABS development cost? How many new

schools will state and local taxpayers have to build to pay for the new schools? Who will pay for the new schools, new residents or farmers and senior citizens?

According to a recent Sierra Club report, "Suburban Sprawl Costs Us All in the Midwest," residential development costs \$1.20 for every \$1 it pays in taxes.

If the average ABS home pays \$3,000 in taxes per year, then the costs would be about \$3,600, a cost of \$600 per home per year.

For 1,200 homes, the costs to taxpayers could be \$720,000 per year for new schools, roads, sewer, police and other services.

Who will pay the additional cost? This is why the Sierra Club calls for a property tax impact statements ahead of development.

to give taxpayers all the information on costs up front.

The good news is that project has some commercial development that could balance out some of the cost.

The cost of not figuring the needs first is plan to see in Verona, which is not able to build schools for their sprawling school population. The school superintendent there is calling for a building moratorium until the schools catch up.

One other possible solution is to figure the new costs of schools ahead of time and ask new residents to pay their fair share for those schools through impact fees.

It makes no sense to tax senior citizens out of their homes to pay for schools for poorly planned development.

As to whether the ABS project will destroy prime park and farmland and threaten Lake Mendota, it appears that some farmland will be paved. That is a concern because Dane County has some of the most threatened farm land in the county, according to American Farmland Trust.

The project does include some park land and protects areas along the Yahara River, which feeds into Lake Mendota. If we hope to clean up the lake, we need to make sure that construction pollution does not hurt the lake, as it did a few years ago with the new golf course. This project may reduce water pollution, since the homes will be on sewers, not leaky septic tanks.

There are many other questions we must answer. It seems like local residents and county officials are asking the right questions. Now we just need the answers — find out the costs, reduce the traffic, ask those who benefit to pay their fair share.

If we take these common sense steps, we can protect our families, neighborhoods, and keep Dane County one of America's best places to live.

Brett Hulsey is director of the Sierra Club's Sprawl Costs Us All Campaign. He is the author of "Suburban Sprawl Costs Us All in the Midwest." For a copy of the report, call 257-4994. There is a small charge for printing.



Wisconsin Builders Association

MEMORANDUM

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Executive Vice-President

Bill Wendle

Director Governmental Affairs

Gerard Deschane

TO: Assembly Housing Committee

FROM: Jerry Deschane, Director of Government Affairs

DATE: March 5, 1998

RE: Assembly Bill 800 - Impact Fees

The Wisconsin Builders Association, representing more than 6,000 companies involved in the development and construction of housing, and related industries, urges your support for Assembly Bill 800, which corrects deficiencies in Wisconsin's impact fee law.

WBA member Kevin Dittmar will review the details of this legislation. We would like the committee to consider three technical amendments to AB800:

Section 6 needs to be amended to reflect that "public facilities" means land, structures or other improvements to real property.

Section 26 should specify that the court review is a "de novo" review.

Sections 28 and 32 should be narrowed to exempt an impact fee challenge from only the 120-day notice requirement of ss. 893.80.

Background

The legislature initiated the original impact fee bill in response to a growing use of impact fees to raise local revenue. Our members reported impact fees that were excessive and unrelated to the development. In short, municipalities were using impact fees to replace property taxes. This places an unfair tax burden on a small segment of the population for benefits that accrue to everyone. The first bill outlined a process that municipalities could use to impose an impact fee, which was based on court precedents.

WBA reviews approximately twelve new local impact fee ordinances per year. As with many new laws, we have found that there are parts of the impact fee law that are vague or misleading. This bill attempts to clear up those areas. It also limits impact fees to necessities, including basic infrastructure such as roads, sewer and water, etc. We believe that this is consistent with the intent of the original legislation and with established Supreme Court rulings.

AB 800 also makes it practical for a land owner to challenge an impact fee ordinance, by modifying legal notice requirements, and awarding legal costs to the property owner if he or she prevails. Under the current situation, a property owner would have to spend thousands in legal costs to win the return of hundreds in impact fees.

Thank you for considering our viewpoint.



MAR 09 1998



RACINE COUNTY COURT HOUSE
1931

730 Wisconsin Avenue

RACINE, WISCONSIN

53403

COUNTY EXECUTIVE
JEAN M. JACOBSON

PHONE 414-636-3118
Racine County Courthouse Toll Free
1-800-242-4202

March 5, 1998

Representative Carol Owens, Chair
Assembly Housing Committee
P.O. Box 8953
Madison, WI 53708
e-mail: Rep.Owens@legis.state.wi.us

Dear Chairwoman Owens:

It has recently come to my attention that your committee is taking testimony today on Assembly Bill 800, which deals with land developers and local impact fees. Although I am not able to attend the session and offer my testimony, I would like you to know that I believe that this piece of legislation, if enacted, would be potentially detrimental to any municipality in the State of Wisconsin that has land that might someday be developed.

In Racine County, which is located in the southeastern portion of the state, there is a great deal of undeveloped land. When that land is developed, it will place additional demands on communities for a wide range of public services, from police protection to park development. Impact fees provide an equitable way of financing those new services without overtaxing existing residents. If AB800, as proposed, is approved, it would have an immense and detrimental effect on communities throughout the state that are trying to provide for their orderly, systematic and fiscally responsible development.

As the County Executive of the fifth largest County in the State of Wisconsin, with 18 cities, villages and towns, I urge you not to support AB800 as proposed.

Sincerely,

Jean M. Jacobson
County Executive

cc: Sen. Kim Plache Rep. Bonnie Ladwig Rep. John Lehman
Rep. Robert Turner Rep. Cloyd Porter Town Board Chairs
Village Presidents City Mayors City Council Presidents

FISCAL ESTIMATE
DOA-2048 N(R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Assembly Bill 800

Amendment No. if Applicable

Subject
Changes to Impact Fees Statute

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others Town San. Districts
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill makes a number of changes to the statutes that allow towns, villages, cities, and counties to impose impact fees on developers for the cost of improvements or new public facilities that are required as a result of the new development. These changes include:

1. The definition of public facilities is changed to exclude transportation facilities; libraries; solid waste and recycling facilities; items for parks, playgrounds and other recreational facilities, other than the land; and limits the definition of facilities for pumping, storing and distributing water to drinking water facilities.
2. Counties are excluded from the ability to impose impact fees.
3. Under current law, a municipality may impose other capital cost requirements on the developer for the land development to pay for public facilities. The compensation provided may include special assessments, special charges, land dedications or fees in lieu of land dedications under Ch. 236 (plating lands).
 - a. This bill eliminates the provision that the municipality may require land dedications or fees, under a zoning ordinance or as part of the process of platting land, for a public facility unless the public facility will serve only the new land development.
 - b. If the new facilities are not to be used exclusively for the development, the monthly rate for public utilities and public sewerage systems for the new development must be uniform for the entire area of the municipality that is being served by the same or comparable public facilities.
4. Under current law, as changed by this bill, municipalities must reduce the impact fee by any special assessments or special charges. The bill also requires the impact fee be reduced to compensate for property taxes paid on the development.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
(Department of Commerce)

Authorized Signature Telephone No.
John G. ...

Date
3/2/98

5. Current law allows for impact fee exemptions or reductions for low-cost housing. This bill broadens the exemption to moderate-cost housing.
6. Current law provides that the ordinance imposing impact fees specify a reasonable period of time in which the fees must be utilized. Any fees not utilized in that timeframe must be refunded to the current owner of the property. This bill provides a period of five years for the use of the impact fees.
7. Current law provides that a developer may contest the amount, collection or use of the impact fee to the governing body. This bill specifies the developer may also contest the imposition of the fee and may also appeal the case to the circuit court after appealing to the governing body. If the developer is successful in the appeal, the circuit court must award reasonable attorney fees to the developer.
8. The bill provides that if a municipality imposes a moratorium or other restriction on land development, it may not impose or amend an impact fee ordinance until two years after the restriction or moratorium is terminated.

The cities, villages, and towns affected by this bill will receive less revenues in the form of land dedications or fees in lieu of land dedications. In addition, counties will not be able to receive any revenues from impact fees or contributions of lands from developers. However, this bill is likely to have no net fiscal impact on local units of government. It is likely that any additional costs that may result from the restrictions placed on this revenue source will be reallocated to other revenue sources that are appropriate for paying for facilities and available to the local unit of government.

FISCAL ESTIMATE WORKSHEET

1995 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Assembly Bill 800	Amendment No.
--	---------------

Subject
Changes to Impact Fees Statute

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -

B. State Costs by Source of Funds	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-

III. State Revenues -	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Annualized Fiscal impact on State funds from:	
		Increased Rev.	Decreased Rev.
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$	\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS	\$ _____	\$ 0
NET CHANGE IN REVENUES	\$ _____	\$ 0

Agency/Prepared by: (Name & Phone No.)
Commerce/Louis Cornelius, 266-8629

Authorized Signature/Telephone No.

Louis Cornelius

266-8629

Date
February 26, 1998

3/2/98



Wisconsin Builders Association

*ask Jacq
about Mar 5
for housing
Call 242-5151
and let Mike
know
J.M.M.
2/23/98*

MEMORANDUM

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Vice-President

Bill Wendle

Director
Governmental Affairs

Gerard Deschane

TO: Members of the Wisconsin Legislature
FROM: Jerry Deschane, Wisconsin Builders Association
Michael Theo, Wisconsin REALTORS
DATE: January 20, 1998
RE: Legislation regarding impact fees (LRB2905/P4dn)

State Representative John Gard and State Senator Joe Wineke are circulating for cosponsorship LRB 2905/P4dn. This legislation will refine the impact fee enabling legislation passed by the legislature four years ago. It is among our organizations' highest legislative priorities. We are writing to encourage you to cosponsor this important bill.

LRB 2905 does the following:

- Closes a loophole that allows impact fees to be collected in other ways.
- Clarifies the law regarding what is a "public facility."
- Requires a reasonable (5 year) refund period for fees collected but not used
- Establishes a standard time for assessing an impact fee
- Eliminates the following from the list of what impact fees may be used for:
 - County impact fees
 - Park impact fees are limited to land only (no buildings or equipment)
 - Water systems are limited to drinking water systems only
 - Transportation fees will be limited to roads and traffic signals
 - Libraries are eliminated
 - Solid waste & recycling facilities are eliminated
- Improves the legal appeal process by providing property owners with a "de novo" circuit court review, exempting impact fee challenges from the 120-day notice of claim requirement, and rewarding attorneys fees for successful challenges.

Builders and REALTORS do not oppose impact fees. Our organizations support this legislation because it will clarify how fees are assessed; limit impact fees to necessities; and establish a fair process for determining, assessing, and appealing the amount of the fee.

We welcome your cosponsorship, and any questions that you may have. The second page of this memo includes important background information on impact fees. If you need more information, you can reach Jerry at 242-5151 and Michael at 241-2047.



Background on impact fees

WBA and WRA initiated the original impact fee bill in response to a growing use of impact fees to raise local revenue. Builders do not oppose the use of impact fees, but our members reported growing numbers of fees that were excessive and unrelated to the development. In short, municipalities were using impact fees to replace property taxes. This places an unfair tax burden on a small segment of the population for benefits that accrue to everyone.

The first bill outlined a process that municipalities could use to impose an impact fee, which was based on court precedents. Before the passage of this legislation, WBA was involved in four lawsuits, challenging school impact fees, park fees, swimming pool fees, and others. The first impact fee law settled the school issue and many others. This new legislation attempts to resolve the remaining legal issues.

WBA reviews approximately twelve new local impact fee ordinances per year. As with many new laws, we have found that there are parts of the impact fee law that are vague or misleading. This bill attempts to clear up those areas. It also limits impact fees to necessities, including basic infrastructure such as roads, sewer and water, etc. We believe that this is consistent with the intent of the original legislation. General taxes are the appropriate method to finance costs that are unrelated to a new development, such as bike paths, baseball diamonds, libraries, etc.

We hope this memo answers all of your questions. Please give us a call if you need more information.



CAROL OWENS

WISCONSIN STATE REPRESENTATIVE

Contact Rebecca in
Rep. Jeskewitz's office
if AB800 is going
to get expedited out.

3/17/98

Office:
Room 105 West, State Capitol
Post Office Box 8953
Madison, Wisconsin 53708
(608) 267-7990

District:
144 County Road C
Oshkosh, Wisconsin 54904
(414) 589-4262

Toll-Free: (800) 362-9472



CALEDONIA

MAR 04 1998

TOWN OF CALEDONIA
6922 Nicholson Road
Caledonia, Wisconsin 53108
414-835-4451
FAX 414-835-2388

Fax Cover Sheet

DATE: March 4, 1998 **TIME:** 16:32

TO: [Rep. Carol Owens, Chair] **PHONE:**
[Room 105 West] **FAX:** [608-266-7038]

FROM: [Barbara S. Blumenfield] **PHONE:** [414-835-6404]
[Town Administrator] **FAX:** [414-835-1462]

RE: [BILL AB800]

Number of pages including cover sheet: [2]



CALEDONIA

TOWN OF CALEDONIA
6922 Nicholson Road
Caledonia, Wisconsin 53108
414-835-4451
FAX 414-835-2388

March 4, 1998

Rep. Carol Owens, Chair
Assembly Housing Committee
P.O.Box 8953
Madison, WI 53708

Dear Chairwoman Owens:

It has recently come to my attention that on Thursday, March 5, 1998, your committee will be taking testimony on Assembly Bill 800 which deals with land developers and local impact fees. Although I will be unable to attend the session and offer my testimony, I would like you to know that I believe that this piece of legislation, if enacted, would be potentially detrimental to any municipality in the State of Wisconsin that has land that might someday be developed.

In the Town of Caledonia, (Racine County), the largest town in the state of Wisconsin there is a great deal of undeveloped land. When that land is developed, it will place additional demands on the Town for a wide range of public services, from police protection to park development.

I'm sure that you and your fellow committee members know that impact fees provide an equitable method of financing new services without overtaxing existing residents. If AB800, as proposed, is approved, it would have an immense and detrimental effect on communities throughout the state, such as Caledonia, that are trying to provide for their orderly, systematic and fiscally responsible development.

On behalf of the Caledonia Town Board of Supervisors, we urge you to strongly oppose AB800 as proposed.

Sincerely,

Barbara S. Blumenfeld, Ph.D.
Town Administrator

cc: Senator Kim Plache
Representative John Lehman
Representative Cloyd Porter

Representative Bonnie Ladwig
Representative Robert Turner
Racine County Executive Jean Jacobson

BSB/bsb/AB800.doc

**Metropolitan
Builders
Association**

MAR 04 1998

of Greater Milwaukee, Inc.

FAX COVER SHEET

Date: 3/4/98

Please forward to: Rep. Carol Owens

This FAX has been sent by: Jim Seppmann

Number of pages including this cover sheet: 2

If you have any problems with this transmission, or do not receive all pages, please call (414) 258-9850 immediately. Our FAX number is (414) 258-9878.

Thank you!

Metropolitan
Builders
Association

of Greater Milwaukee, Inc.

Via Facsimile: 608/266-7038

March 4, 1998

Representative Carol Owens
Chairwoman, Wisconsin Housing Committee
PO Box 8953
Madison, WI 53708

Dear Representative Owens:

On behalf of the over 1050 member companies of the Metropolitan Builders Association of Greater Milwaukee (MBA), I am writing to express our strong support for AB-800, a bill to clarify the Wisconsin Impact Fee Statute.

Over the past several years, the MBA has been involved in several impact fee disputes in several different communities. The MBA has prevailed in every instance where it has challenged an impact fee ordinance. Our most recent suit involved a village hall impact fee ordinance in the Village of Germantown. In that case, the judge determined that the listing of facilities in the impact fee statute was an exclusive listing, and not an illustrative listing as the village had contended. Since this ruling, several other communities have voluntarily repealed their village hall impact fee ordinances.

Despite our many efforts to educate communities on the proper uses of impact fees and the intentions of the current statute, many abuses of the impact fee statute still exist. Our Association is currently aware of a firetruck impact fee in Germantown, an elderly care facility impact fee in Lake Mills, park impact fees that pay for improvements in parks located in the opposite end of a community, and the list goes on-and-on for impact fees that we consider to be excessive in their amounts.

Our Association does not oppose impact fees. However, "loopholes" in the current impact fee statute need to be closed by clarifying specific provisions of the current statute. Otherwise, new homeowners will suffer the burden of paying for facilities that are not related or necessary to their development. To allow communities to continue on their current course of liberally interpreting the current statute poses a serious threat to affordable housing in the State of Wisconsin.

Thank you for taking our comments into consideration.

Very truly yours,



Jim Siepmann
MBA President

CC: Jerry Deschane, Wisconsin Builders Association

MAR 04 1998



811 Packerland Dr. ■ P.O. Box 13194 ■ Green Bay, WI 54307-3194 ■ (414) 494-9020 ■ Fax (414) 494-5965

March 4, 1998

Representative Carol Owens
Chairwoman, Wisconsin Housing Committee
PO Box 8953
Madison WI 53708

Dear Representative Owens:

On behalf of the 950+ member Brown County Home Builders Association (BCHBA), allow me to express our strong support for AB 800, a bill to clarify the Wisconsin Impact Fee Law before the Wisconsin Housing Committee.

The BCHBA has been involved in a park impact fee dispute with the Village of Howard in Brown County since 1995. Specifically, the BCHBA believes Howard interpreted portions of ss. 66.55 in a manner the State Legislature did not intend by exacting fees from new development to address deficiencies in current park land and facilities. The BCHBA has a case pending in Brown County Circuit Court.

It is clear that municipalities, at the expense of new home buyers, are abusing the lack of clarity in the current Impact Fee Law. The provision of AB 800 that narrows the definition of "public facilities" is sorely needed and would likely prevent more legal action. By explicitly stating and further limiting the uses of impact fees under ss. 66.55 the chance of municipalities levying unfair impact fees would be lessened.

For example, if Howard could only levy park fees for land, they would not have the opportunity to artificially inflate their park impact fee by including millions of dollars of park improvements. Their needs assessment would better reflect new home buyers proportional share of parks in the future.

The BCHBA has spent over \$65,000 challenging Howard's impact fee. We strongly believe it is our responsibility to fight for those without a voice in this case, the new home buyer. Allowing municipalities to levy unbridled impact fees is a serious threat to affordable housing in Brown County and all of Wisconsin.

The BCHBA appreciates you taking our comments into consideration as your debate AB 800. We look forward to your support.

Very truly yours,

A handwritten signature in black ink that reads "Ken C. Baumgart".

Ken Baumgart
BCHBA President

cc: Jerry Deschane, Wisconsin Builders Association



Boycks, Brad

From: Bumpurs, Andrea

Sent: Thursday, March 05, 1998 10:48 AM

To: Rep.Owens

Subject: AB 800

County Executive Jean Jacobson asked me to send this to you. The signed original on County letterhead will follow in the mail.

March 5, 1998

Representative Carol Owens, Chair
Assembly Housing Committee
P.O. Box 8953
Madison, WI 53708
e-mail: Rep.Owens@legis.state.wi.us

Dear Chairwoman Owens:

It has recently come to my attention that your committee is taking testimony today on Assembly Bill 800, which deals with land developers and local impact fees. Although I am not able to attend the session and offer my testimony, I would like you to know that I believe that this piece of legislation, if enacted, would be potentially detrimental to any municipality in the State of Wisconsin that has land that might someday be developed.

In Racine County, which is located in the southeastern portion of the state, there is a great deal of undeveloped land. When that land is developed, it will place additional demands on communities for a wide range of public services, from police protection to park development. Impact fees provide an equitable way of financing those new services without overtaxing existing residents. If AB800, as proposed, is approved, it would have an immense and detrimental effect on communities throughout the state that are trying to provide for their orderly, systematic and fiscally responsible development.

As the County Executive of the fifth largest County in the State of Wisconsin, with 18 cities, villages and towns, I urge you not to support AB800 as proposed.

Sincerely,

Jean M. Jacobson
County Executive