

2005 ASSEMBLY BILL 1156

March 29, 2006 – Introduced by Representatives SUDER, GARD, MUSSER, VOS, NEWCOMER, ALBERS, KRAWCZYK, J. FITZGERALD, GUNDRUM, KESTELL, VAN ROY, WOOD, MONTGOMERY, PETTIS, OTT, McCORMICK, HONADEL and MOULTON, cosponsored by Senators GROTHMAN, BROWN and STEPP. Referred to Committee on Ways and Means.

1 **AN ACT to repeal** 66.0617 (2) (am); **to amend** 66.0617 (1) (a), 66.0617 (1) (c),
2 66.0617 (1) (d), 66.0617 (1) (e), 66.0617 (1) (f), 66.0617 (1) (g), 66.0617 (1) (h),
3 66.0617 (2) (a), 66.0617 (2) (b), 66.0617 (2) (c), 66.0617 (3), 66.0617 (4) (a)
4 (intro.), 66.0617 (4) (a) 3., 66.0617 (4) (b), 66.0617 (5) (b), 66.0617 (6) (b), 66.0617
5 (6) (d), 66.0617 (6) (g), 66.0617 (7), 66.0617 (8), 66.0617 (9) and 66.0617 (10); and
6 **to create** 66.0628 (3) of the statutes; **relating to:** changes to the impact fee law
7 and imposing certain requirements on other fees imposed by political
8 subdivisions.

Analysis by the Legislative Reference Bureau

Under current law, a city, village, town, or county (political subdivision) may impose an impact fee on a developer to pay for the capital costs to construct certain public facilities that are necessary to accommodate land development. The definition of “public facilities” includes highways; facilities for treating sewage, storm waters, and surface waters; facilities for pumping, storing, and distributing water; parks, playgrounds, and other recreational facilities; fire protection, emergency medical, and law enforcement facilities; and libraries. Also under current law, an impact fee ordinance must require that an impact fee that is imposed and collected by a political subdivision, but not used within a reasonable time after it is

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collected, be refunded to the current owner of the property with regard to which the impact fee was imposed.

Under this bill, an impact fee may be imposed on the property owner, may only be imposed by a municipality (a city, village, or town), and must be used within 10 years of its collection or it must be returned, with interest, to the current owner of the property. Also under the bill, “public facilities” does not include “other recreational facilities.”

Currently, impact fees must be placed in a segregated, interest-bearing account, and must be accounted for separately from other funds of the political subdivision. Under the bill, a municipality must use generally accepted accounting principals (GAAP) to keep track of each particular impact fee, and each such impact fee must be kept in a separate account. Annually, the bill requires a municipality to issue a report on the amount of impact fees collected and the uses to which the fees are being put. The bill also imposes these accountability, GAAP, and reporting requirements on a political subdivision for other fees that it imposes.

Under current law, an impact fee must be paid by a developer to a political subdivision, either in full or in installments, before a building permit may be issued or other required approval may be given by the political subdivision. Under the bill, a developer must pay an impact fee in full to a municipality within 14 days of the municipality’s issuance of a building permit or an occupancy permit.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 66.0617 (1) (a) of the statutes is amended to read:

2 66.0617 (1) (a) “Capital costs” means the capital costs to construct, expand or
3 improve public facilities, including the cost of land, and including legal, engineering
4 and design costs to construct, expand or improve public facilities, except that not
5 more than 10% of capital costs may consist of legal, engineering and design costs
6 unless the ~~political-subdivision~~ municipality can demonstrate that its legal,
7 engineering and design costs which relate directly to the public improvement for
8 which the impact fees were imposed exceed 10% of capital costs. “Capital costs” does
9 not include other noncapital costs to construct, expand or improve public facilities,
10 vehicles; or the costs of equipment to construct, expand or improve public facilities.

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1 **SECTION 2.** 66.0617 (1) (c) of the statutes is amended to read:

2 66.0617 (1) (c) “Impact fees” means cash contributions, contributions of land
3 or interests in land or any other items of value that are imposed on a developer by
4 a ~~political subdivision~~ municipality under this section.

5 **SECTION 3.** 66.0617 (1) (d) of the statutes is amended to read:

6 66.0617 (1) (d) “Land development” means the construction or modification of
7 improvements to real property that creates additional residential dwelling units
8 within a ~~political subdivision~~ municipality or that results in nonresidential uses that
9 create a need for new, expanded or improved public facilities within a ~~political~~
10 ~~subdivision~~ municipality.

11 **SECTION 4.** 66.0617 (1) (e) of the statutes is amended to read:

12 66.0617 (1) (e) ~~“Political subdivision”~~ “Municipality” means a city, village, town
13 ~~or county or town~~.

14 **SECTION 5.** 66.0617 (1) (f) of the statutes is amended to read:

15 66.0617 (1) (f) “Public facilities” means highways, as defined in s. 340.01 (22),
16 and other transportation facilities, traffic control devices, facilities for collecting and
17 treating sewage, facilities for collecting and treating storm and surface waters,
18 facilities for pumping, storing, and distributing water, parks, and playgrounds ~~and~~
19 ~~other recreational facilities~~, solid waste and recycling facilities, fire protection
20 facilities, law enforcement facilities, emergency medical facilities and libraries
21 ~~except that, with regard to counties, “public facilities” does not include highways, as~~
22 ~~defined in s. 340.01 (22), other transportation facilities or traffic control devices.~~
23 “Public facilities” does not include facilities owned by a school district.

24 **SECTION 6.** 66.0617 (1) (g) of the statutes is amended to read:

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1 66.0617 (1) (g) “Service area” means a geographic area delineated by a ~~political~~
2 ~~subdivision~~ municipality within which there are public facilities.

3 **SECTION 7.** 66.0617 (1) (h) of the statutes is amended to read:

4 66.0617 (1) (h) “Service standard” means a certain quantity or quality of public
5 facilities relative to a certain number of persons, parcels of land or other appropriate
6 measure, as specified by the ~~political-subdivision~~ municipality.

7 **SECTION 8.** 66.0617 (2) (a) of the statutes is amended to read:

8 66.0617 (2) (a) ~~Subject to par. (am), a political-subdivision~~ A municipality may
9 enact an ordinance under this section that imposes impact fees on developers to pay
10 for the capital costs that are necessary to accommodate land development.

11 **SECTION 9.** 66.0617 (2) (am) of the statutes is repealed.

12 **SECTION 10.** 66.0617 (2) (b) of the statutes is amended to read:

13 66.0617 (2) (b) Subject to par. (c), this section does not prohibit or limit the
14 authority of a ~~political-subdivision~~ municipality to finance public facilities by any
15 other means authorized by law, except that the amount of an impact fee imposed by
16 a ~~political-subdivision~~ municipality shall be reduced, under sub. (6) (d), to
17 compensate for any other costs of public facilities imposed by the ~~political-subdivision~~
18 municipality on developers to provide or pay for capital costs.

19 **SECTION 11.** 66.0617 (2) (c) of the statutes is amended to read:

20 66.0617 (2) (c) Beginning on May 1, 1995, a ~~political-subdivision~~ municipality
21 may impose and collect impact fees only under this section.

22 **SECTION 12.** 66.0617 (3) of the statutes is amended to read:

23 66.0617 (3) PUBLIC HEARING; NOTICE. Before enacting an ordinance that imposes
24 impact fees, or amending an existing ordinance that imposes impact fees, a ~~political~~
25 ~~subdivision~~ municipality shall hold a public hearing on the proposed ordinance or

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1 amendment. Notice of the public hearing shall be published as a class 1 notice under
2 ch. 985, and shall specify where a copy of the proposed ordinance or amendment and
3 the public facilities needs assessment may be obtained.

4 **SECTION 13.** 66.0617 (4) (a) (intro.) of the statutes is amended to read:

5 66.0617 (4) (a) (intro.) Before enacting an ordinance that imposes impact fees
6 or amending an ordinance that imposes impact fees by revising the amount of the fee
7 or altering the public facilities for which impact fees may be imposed, a ~~political~~
8 ~~subdivision~~ municipality shall prepare a needs assessment for the public facilities
9 for which it is anticipated that impact fees may be imposed. The public facilities
10 needs assessment shall include, but not be limited to, the following:

11 **SECTION 14.** 66.0617 (4) (a) 3. of the statutes is amended to read:

12 66.0617 (4) (a) 3. A detailed estimate of the capital costs of providing the new
13 public facilities or the improvements or expansions in existing public facilities
14 identified in subd. 2., including an estimate of the effect of recovering these capital
15 costs through impact fees on the availability of affordable housing within the
16 ~~political subdivision~~ municipality.

17 **SECTION 15.** 66.0617 (4) (b) of the statutes is amended to read:

18 66.0617 (4) (b) A public facilities needs assessment or revised public facilities
19 needs assessment that is prepared under this subsection shall be available for public
20 inspection and copying in the office of the clerk of the ~~political subdivision~~
21 municipality at least 20 days before the hearing under sub. (3).

22 **SECTION 16.** 66.0617 (5) (b) of the statutes is amended to read:

23 66.0617 (5) (b) An ordinance enacted under this section may delineate
24 geographically defined zones within the ~~political subdivision~~ municipality and may
25 impose impact fees on land development in a zone that differ from impact fees

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1 imposed on land development in other zones within the ~~political subdivision~~
2 municipality. The public facilities needs assessment that is required under sub. (4)
3 shall explicitly identify the differences, such as land development or the need for
4 those public facilities, which justify the differences between zones in the amount of
5 impact fees imposed.

6 **SECTION 17.** 66.0617 (6) (b) of the statutes is amended to read:

7 66.0617 (6) (b) May not exceed the proportionate share of the capital costs that
8 are required to serve land development, as compared to existing uses of land within
9 the ~~political subdivision~~ municipality .

10 **SECTION 18.** 66.0617 (6) (d) of the statutes is amended to read:

11 66.0617 (6) (d) Shall be reduced to compensate for other capital costs imposed
12 by the ~~political subdivision~~ municipality with respect to land development to provide
13 or pay for public facilities, including special assessments, special charges, land
14 dedications or fees in lieu of land dedications under ch. 236 or any other items of
15 value.

16 **SECTION 19.** 66.0617 (6) (g) of the statutes is amended to read:

17 66.0617 (6) (g) Shall be payable by the developer or the property owner to the
18 ~~political subdivision, either~~ municipality in full ~~or in installment payments that are~~
19 ~~approved by the political subdivision, before~~ within 14 days of the issuance of a
20 ~~building permit may be issued or other required approval may be given~~ within 14
21 days of the issuance of an occupancy permit by the ~~political subdivision~~ municipality.

22 **SECTION 20.** 66.0617 (7) of the statutes is amended to read:

23 66.0617 (7) LOW-COST HOUSING. An ordinance enacted under this section may
24 provide for an exemption from, or a reduction in the amount of, impact fees on land
25 development that provides low-cost housing, except that no amount of an impact fee

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1 for which an exemption or reduction is provided under this subsection may be shifted
2 to any other development in the land development in which the low-cost housing is
3 located or to any other land development in the ~~political subdivision~~ municipality.

4 **SECTION 21.** 66.0617 (8) of the statutes is amended to read:

5 **66.0617 (8) REQUIREMENTS FOR AND REPORTING ON IMPACT FEE REVENUES.**

6 Revenues from each impact fees fee that is imposed shall be placed in a separate
7 segregated, interest-bearing account and shall be accounted for, in accordance with
8 generally accepted accounting practices, separately from the other funds of the
9 ~~political subdivision~~ municipality. Impact fee revenues and interest earned on
10 impact fee revenues may be expended only for the particular capital costs for which
11 the impact fees ~~were~~ fee was imposed, unless the fee is refunded under sub. (9).
12 Annually, a municipality shall publish, as a class 1 notice under ch. 985, a report that
13 lists each impact fee imposed by the municipality which is in an account described
14 in this subsection and the capital costs for which the fee was spent or is to be spent.

15 **SECTION 22.** 66.0617 (9) of the statutes is amended to read:

16 **66.0617 (9) REFUND OF IMPACT FEES.** An ordinance enacted under this section
17 shall specify that impact fees that are imposed and collected by a ~~political subdivision~~
18 municipality but are not used within ~~a reasonable period of time~~ 10 years after they
19 are collected to pay the capital costs for which they were imposed shall be refunded
20 to the current owner of the property with respect to which the impact fees were
21 imposed, along with any interest that has accumulated, as described in sub. (8). The
22 ordinance shall specify, by type of public facility, reasonable time periods within
23 which impact fees must be spent or refunded under this subsection. In determining
24 the length of the time periods under the ordinance, a ~~political subdivision~~

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1 municipality shall consider what are appropriate planning and financing periods for
2 the particular types of public facilities for which the impact fees are imposed.

3 **SECTION 23.** 66.0617 (10) of the statutes is amended to read:

4 66.0617 **(10)** APPEAL. A ~~political subdivision~~ municipality that enacts an
5 impact fee ordinance under this section shall, by ordinance, specify a procedure
6 under which a developer upon whom an impact fee is imposed has the right to contest
7 the amount, collection or use of the impact fee to the governing body of the ~~political~~
8 ~~subdivision~~ municipality.

9 **SECTION 24.** 66.0628 (3) of the statutes is created to read:

10 66.0628 **(3)** Revenues from each fee that is imposed shall be placed in a
11 separate segregated interest-bearing account and shall be accounted for, in
12 accordance with generally accepted accounting practices, separately from the other
13 funds of the political subdivision. Annually, a political subdivision shall publish, as
14 a class 1 notice under ch. 985, a report that lists each fee imposed by the political
15 subdivision which is in an account described in this subsection and the purposes for
16 which the fee was spent or is to be spent.

17 (END)