

2007 Assembly Bill 341

Date of enactment: **January 4, 2008**
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2007 WISCONSIN ACT 44

AN ACT *to renumber and amend* 66.0617 (1) (f) and 236.45 (6) (a); *to amend* 66.0617 (4) (a) 3., 66.0617 (6) (g), 66.0617 (9) (a) and (b), 236.13 (2) (b) and 236.45 (6) (b); and *to create* 66.0617 (1) (f) 2., 66.0617 (9) (c), 66.0617 (9) (d), 66.0628 (3), 236.29 (4) and 236.45 (6) (ac) of the statutes; **relating to:** imposing fees for acquiring public park land, dedicating storm water treatment facilities to the public, changing the time relating to when impact fees must be paid and used, and regulating the costs of certain professional services provided through a political subdivision.

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

SECTION 1e. 66.0617 (1) (f) of the statutes is renumbered 66.0617 (1) (f) (intro.) and amended to read:

66.0617 (1) (f) (intro.) “Public facilities” means highways, all of the following:

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

SECTION 1g. 66.0617 (1) (f) 2. of the statutes is created to read:

66.0617 (1) (f) 2. Notwithstanding subd. 1., with regard to impact fees that were first imposed before June 14, 2006, “public facilities” includes other recreational facilities that were substantially completed by June 14, 2006. This subdivision does not apply on or after the first

day of the 120th month beginning after the effective date of this subdivision [revisor inserts date].

SECTION 2. 66.0617 (4) (a) 3. of the statutes is amended to read:

66.0617 (4) (a) 3. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2., including an estimate of the cumulative effect of recovering these capital costs through all proposed and existing impact fees on the availability of affordable housing within the municipality.

SECTION 3m. 66.0617 (6) (g) of the statutes is amended to read:

66.0617 (6) (g) Shall be payable by the developer or the property owner to the municipality in full within 14 days of upon the issuance of a building permit or within 14 days of the issuance of an occupancy permit by the municipality.

SECTION 5. 66.0617 (9) (a) and (b) of the statutes are amended to read:

66.0617 (9) (a) Subject to par. pars. (b), (c), and (d), and with regard to an impact fee that is collected after April 10, 2006, an ordinance enacted under this section shall specify that impact fees that are imposed and col-

* Section 991.11, WISCONSIN STATUTES 2005–06 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

lected by a municipality within 7 years of the effective date of the ordinance, but are not used within ~~7~~ 10 years after ~~they are collected~~ the effective date of the ordinance to pay the capital costs for which they were imposed, shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, ~~in~~ as described in sub. (8). The ordinance shall specify, by type of public facility, reasonable time periods within which impact fees must be spent or refunded under this subsection, subject to the ~~7-year~~ 10-year limit in this paragraph and the extended time period specified in par. (b). In determining the length of the time periods under the ordinance, a municipality shall consider what are appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed.

(b) The ~~7-year~~ 10-year time limit for using impact fees that is specified under par. (a) may be extended for 3 years if the ~~political subdivision~~ municipality adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the ~~7-year~~ 10-year limit, it needs an additional 3 years to use the impact fees that were collected. The resolution shall include detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt a resolution under this paragraph.

SECTION 6. 66.0617 (9) (c) of the statutes is created to read:

66.0617 (9) (c) 1. An impact fee that was collected before January 1, 2003, must be used for the purpose for which it was imposed not later than December 31, 2012. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

2. An impact fee that was collected after December 31, 2002, and before April 11, 2006, must be used for the purpose for which it was imposed not later than the first day of the 120th month beginning after the date on which the fee was collected. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

SECTION 6e. 66.0617 (9) (d) of the statutes is created to read:

66.0617 (9) (d) With regard to an impact fee that is collected after April 10, 2006, and that is collected more than 7 years after the effective date of the ordinance, such impact fees shall be used within a reasonable period of time after they are collected to pay the capital costs for which they were imposed, or they shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (8).

SECTION 7. 66.0628 (3) of the statutes is created to read:

66.0628 (3) If a political subdivision enters into a contract to purchase engineering, legal, or other professional services from another person and the political subdivision passes along the cost for such professional services to another person under a separate contract between the political subdivision and that person, the rate charged that other person for the professional services may not exceed the rate customarily paid for similar services by the political subdivision.

SECTION 8. 236.13 (2) (b) of the statutes is amended to read:

236.13 (2) (b) Any city or village may require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that designated facilities shall have been previously provided without cost to the municipality, but which are constructed according to municipal specifications and under municipal inspection, such as, without limitation because of enumeration, sewerage, water mains and laterals, storm water management or treatment facilities, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting or other facilities designated by the governing body, or that a specified portion of such costs shall be paid in advance as provided in s. 66.0709.

SECTION 9. 236.29 (4) of the statutes is created to read:

236.29 (4) ACCEPTANCE OF STORM WATER FACILITIES DEDICATED TO PUBLIC. Notwithstanding sub. (2), unless an earlier date is agreed to by the municipality, the dedication of any lands within a plat of a subdivision located within a municipality that are intended to include a permanent man-made facility designed for reducing the quantity or quality impacts of storm water runoff from more than one lot and that are shown on the plat as "Dedicated to the Public for Storm Water Management Purposes" is not accepted until at least 80 percent of the lots in the subdivision have been sold and a professional engineer registered under ch. 443 has certified to the municipality that all of the following conditions are met with respect to the facility:

(a) The facility is functioning properly in accordance with the plans and specifications of the municipality.

(b) Any required plantings are adequate, well-established, and reasonably free of invasive species.

(c) Any necessary maintenance, including removal of construction sediment, has been properly performed.

SECTION 10. 236.45 (6) (a) of the statutes is renumbered 236.45 (6) (am) and amended to read:

236.45 (6) (am) Notwithstanding subs. (1) and (2) (a) (intro.), a municipality, town, or county may not, as a condition of approval under this chapter, impose any fees

or other charges to fund the acquisition or improvement of land, infrastructure, or other real or personal property, except that a municipality or town may impose a fee or other charge to fund the acquisition or initial improvement of land for public parks.

SECTION 11. 236.45 (6) (ac) of the statutes is created to read:

236.45 (6) (ac) In this subsection, “improvement of land for public parks” means grading, landscaping, installation of utilities, construction of sidewalks, installation of playground equipment, and construction or installation of restroom facilities on land intended for public park purposes.

SECTION 12. 236.45 (6) (b) of the statutes is amended to read:

236.45 (6) (b) Any land dedication, easement, or other public improvement or fee for the acquisition or initial improvement of land for a public park that is required by a municipality, town, or county as a condition of approval under this chapter must bear a rational relationship to a need for the land dedication, easement, or other public improvement or parkland acquisition or initial improvement fee resulting from the subdivision or other division of land and must be proportional to the need.

SECTION 13. Initial applicability.

(1) The treatment of sections 236.13 (2) (b), 236.29 (4), and 236.45 (6) (a), (ac), and (b) of the statutes first applies to a certified survey map, a preliminary plat, or, if no preliminary plat was submitted, a final plat that is submitted for approval on the effective date of this subsection.

