



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2007 Assembly Bill 341

**Assembly
Amendments 1 and 2**

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Assembly Amendment 1

When Impact Fees Are Payable

Currently, impact fees are payable within 14 days of the issuance of a building permit or within 14 days of the issuance of an occupancy permit. Under Assembly Bill 341, impact fees are payable as agreed to by the parties or no later than the earliest of the issuance of a building permit, the issuance of an occupancy permit, or approximately five years after the municipality grants final approval for the land development.

Under the amendment, impact fees are payable upon issuance of a building permit (see items 1 and 2 of the amendment).

When Impact Fees Must Be Used

Currently, impact fees must be used within seven years after they are imposed or collected. Any fees not used must be refunded to the current property owner. A three-year extension for using fees is available for extenuating circumstances or hardship.

Under the bill, for impact fees collected after April 10, 2006, the current seven-year period is extended to 10 years (the three-year extension period remains for those fees but the municipality must include detailed written findings to support the extension). (The bill separately treats impact fees collected before April 11, 2006.)

Under the amendment, impact fees that are collected after April 10, 2006 that are collected within seven years of the effective date of the ordinance that imposed the fees must be used within 10 years of the effective date of the ordinance; fees collected after April 10, 2006 that are collected more than seven years after the effective date of the impact fee ordinance must be used within a reasonable

time (see items 3 to 5 of the amendment). The amendment does not affect the three-year extension, including the bill's treatment of the extension.

Fees for Professional Service Costs

Under Assembly Bill 341, if a municipality or county contracts for professional services, it may not pass along those costs to a third person in excess of the rate that was charged to the municipality or county under the professional services contract. Under the amendment, the rate passed along to a third person may not exceed the rate customarily paid for similar services by the municipality or county (see item 7 of the amendment).

Fees in Lieu of Park Land Dedication and Improvement

Currently, fees for land acquisition and improvements as a condition of subdivision approval are not authorized. Assembly Bill 341 allows such fees to be imposed by counties and municipalities for the acquisition or improvement of land for parks. "Improvement of land for public parks" is defined in the bill as "initial" improvements, with the types of improvements specified in the definition.

The amendment clarifies that "initial" refers to all the delineated improvements for which fees may be imposed and deletes the authority of counties to impose such fees (see items 8 to 11 of the amendment).

Assembly Amendment 2

2005 Wisconsin Act 477 deleted "other recreational facilities," from the definition of "public facilities" eligible for funding under the impact fee law. The amendment provides that, with regard to impact fees imposed before June 14, 2006 (the effective date of Act 477), "public facilities" includes "other recreational facilities" that were substantially completed by June 14, 2006. Under the amendment, the provision sunsets after 10 years.

An example of a situation addressed by Assembly Amendment 2 is the Village of Waunakee Village Center, which was to be partially funded by impact fees as an "other recreational facility." Impact fees for the center were imposed by the village in 2005 and the village began collecting the fees. With the enactment of Act 477, the village was advised it could no longer collect the impact fees.

Legislative History

Assembly Amendment 1 was offered by Representative Gottlieb. Assembly Amendment 2 was offered by the Assembly Committee on Urban and Local Affairs. Both amendments were recommended for adoption by the Assembly Committee on Urban and Local Affairs by a vote of Ayes, 8; Noes, 0. The proposal was recommended by the committee for passage, as amended, by a vote of Ayes, 8; Noes, 0.

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