

First Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 09-0721.01 Bob Lackner

HOUSE BILL 09-1259

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HOUSE SPONSORSHIP

Hullinghorst, Pommer, Todd

SENATE SPONSORSHIP

(None),

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House Committees  
Finance

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE IMPOSITION OF IMPACT FEES BY LOCAL  
102 GOVERNMENTS FOR CERTAIN AUTHORIZED LOCAL PURPOSES.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Modifies existing statutory provisions authorizing a county, municipality, and city and county (local government) to impose an impact fee or other similar development charge (fee or charge) to finance capital facilities to address the impacts from new development in the following respects:

- ! Authorizes the fee or charge to be imposed to fund expenditures by the local government on service programs,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

in addition to capital facilities as under current law, needed to serve new development that is located within the territorial boundaries of the local government.

- ! Authorizes a local government, pursuant to an intergovernmental agreement (IGA), to impose a fee or charge on behalf of a school district or special district to fund expenditures by the school district or special district on capital facilities or service programs needed to serve new development that is located within the territorial boundaries of the school district or special district that is a party to the IGA.
- ! Modifies existing standards requiring the fee or charge to be imposed pursuant to a legislatively adopted schedule to specify that the fee or charge must be intended to reasonably defray the projected impacts on capital facilities or service programs caused by proposed development.
- ! Enables a local government to set the fee or charge at a level no greater than necessary to defray the impacts reasonably related to proposed development.
- ! Expands the term "capital facility" to include any improvement or facility that is reasonably related to any service that a school district or special district is authorized to provide where the school district or special district on whose behalf the local government is imposing the fee or charge have entered into an IGA under which the local government is obligated to transfer all or any portion of the revenues derived from the fee or charge to the school district or special district and the amount of the fee or charge has been determined in accordance with existing law.
- ! At the request of a local government, authorizes the office of smart growth in the department of local affairs to provide technical assistance to the local government to facilitate the adoption or administration of a fee or charge.
- ! Eliminates provisions prohibiting a fee or charge from being imposed on applications for development permits submitted before legislative adoption of the fee or charge.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** 29-20-104.5 (1), (2), (3), (4), and (6), Colorado  
3 Revised Statutes, are amended, and the said 29-20-104.5 is further  
4 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

1           **29-20-104.5. Impact fees - definitions.** (1) (a) Pursuant to the  
2 authority granted in section 29-20-104 (1) (g) and as a condition of  
3 issuance of a development permit, a local government may:

4           (I) Impose an impact fee or other similar development charge to  
5 fund expenditures by such local government on capital facilities OR  
6 SERVICE PROGRAMS needed to serve new development THAT IS LOCATED  
7 WITHIN THE TERRITORIAL BOUNDARIES OF THE LOCAL GOVERNMENT; OR

8           (II) PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT, IMPOSE  
9 AN IMPACT FEE OR OTHER SIMILAR DEVELOPMENT CHARGE ON BEHALF OF  
10 A SCHOOL DISTRICT OR SPECIAL DISTRICT TO FUND EXPENDITURES BY THE  
11 SCHOOL DISTRICT OR SPECIAL DISTRICT ON CAPITAL FACILITIES OR SERVICE  
12 PROGRAMS NEEDED TO SERVE NEW DEVELOPMENT THAT IS LOCATED  
13 WITHIN THE TERRITORIAL BOUNDARIES OF THE SCHOOL DISTRICT OR  
14 SPECIAL DISTRICT THAT IS A PARTY TO THE INTERGOVERNMENTAL  
15 AGREEMENT.

16           (b) No impact fee or other similar development charge  
17 AUTHORIZED BY PARAGRAPH (a) OF THIS SUBSECTION (1) shall be imposed  
18 except pursuant to a schedule that is:

- 19           (a) (I) Legislatively adopted;  
20           (b) (II) Generally applicable to a broad class of property; and  
21           (c) (III) Intended to REASONABLY defray the projected impacts on  
22 capital facilities OR SERVICE PROGRAMS caused by proposed development.

23           (2) A local government shall quantify the reasonable impacts of  
24 proposed development on existing capital facilities OR SERVICE  
25 PROGRAMS and establish the impact fee or development charge at a level  
26 no greater than necessary to defray ~~such~~ THE impacts ~~directly~~  
27 REASONABLY related to proposed development IN ACCORDANCE WITH THE

1 PROVISIONS OF SUBSECTION (1) OF THIS SECTION. No impact fee or other  
2 similar development charge shall be imposed to remedy any deficiency in  
3 capital facilities OR SERVICE PROGRAMS that exists without regard to the  
4 proposed development.

5 (3) Any schedule of impact fees or other similar development  
6 charges adopted by a local government pursuant to this section shall  
7 include provisions to ensure that no individual landowner is required to  
8 provide any site specific dedication or improvement to meet the same  
9 need for capital facilities OR SERVICE PROGRAMS for which the impact fee  
10 or other similar development charge is imposed.

11 (4) (a) As used in this section, the term "capital facility" means  
12 any improvement or facility that:

13 (a) (I) Is ~~directly~~ REASONABLY related to any service that:

14 (A) A local government is authorized to provide; OR

15 (B) A SCHOOL DISTRICT OR SPECIAL DISTRICT IS AUTHORIZED TO  
16 PROVIDE WHERE THE SCHOOL DISTRICT OR SPECIAL DISTRICT ON WHOSE  
17 BEHALF THE LOCAL GOVERNMENT IS IMPOSING THE IMPACT FEE OR OTHER  
18 SIMILAR DEVELOPMENT CHARGE HAVE ENTERED INTO AN  
19 INTERGOVERNMENTAL AGREEMENT UNDER WHICH THE LOCAL  
20 GOVERNMENT IS OBLIGATED TO TRANSFER ALL OR ANY PORTION OF THE  
21 REVENUES DERIVED FROM SUCH FEE OR CHARGE TO THE SCHOOL DISTRICT  
22 OR SPECIAL DISTRICT, AND THE AMOUNT OF THE FEE OR CHARGE HAS BEEN  
23 DETERMINED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION;

24 (b) (II) Has an estimated useful life of five years or longer; and

25 (c) (III) Is required by the charter or general policy of a local  
26 government, SCHOOL DISTRICT, OR SPECIAL DISTRICT pursuant to a  
27 resolution or ordinance.

1 (b) FOR PURPOSES OF THIS SECTION, "SERVICE PROGRAMS" SHALL  
2 MEAN ANY PUBLIC PROGRAM THAT PROVIDES SERVICES TO THE BUSINESSES  
3 LOCATED IN OR RESIDENTS OF A LOCAL GOVERNMENT, SCHOOL DISTRICT,  
4 OR SPECIAL DISTRICT, AS APPLICABLE, FOR ONE OR MORE OF THE  
5 FOLLOWING PURPOSES:

6 (I) ENCOURAGING THE EFFICIENT USE OF ENERGY AND RENEWABLE  
7 ENERGY RESOURCES;

8 (II) ENCOURAGING THE PRESERVATION OF NATURAL RESOURCES;  
9 OR

10 (III) ASSISTING IN THE PROVISION OF ADEQUATE SOCIAL SERVICES.

11 (6) ~~No impact fee or other similar development charge shall be~~  
12 ~~imposed on any development permit for which the applicant submitted a~~  
13 ~~complete application before the adoption of a schedule of impact fees or~~  
14 ~~other similar development charges by the local government pursuant to~~  
15 ~~this section.~~ No impact fee or other similar development charge imposed  
16 on any development activity shall be collected before the issuance of the  
17 development permit for such development activity. Nothing in this  
18 section shall be construed to prohibit a local government from deferring  
19 collection of an impact fee or other similar development charge until the  
20 issuance of a building permit or certificate of occupancy.

21 (10) PURSUANT TO SECTION 24-32-3204 (1) (e), C.R.S., AT THE  
22 REQUEST OF A LOCAL GOVERNMENT, THE OFFICE OF SMART GROWTH IN  
23 THE DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-3203 (1)  
24 (a), C.R.S., MAY PROVIDE TECHNICAL ASSISTANCE TO THE LOCAL  
25 GOVERNMENT TO FACILITATE THE ADOPTION OR ADMINISTRATION OF AN  
26 IMPACT FEE OR OTHER SIMILAR DEVELOPMENT CHARGE IN ACCORDANCE  
27 WITH THE REQUIREMENTS OF THIS SECTION.

1           **SECTION 2.** 22-54-102 (3), Colorado Revised Statutes, is  
2 amended to read:

3           **22-54-102. Legislative declaration - statewide applicability -**  
4 **intergovernmental agreements.** (3) (a) Nothing in this article shall be  
5 construed to prohibit local governments from cooperating with school  
6 districts through intergovernmental agreements to fund, construct,  
7 maintain, or manage capital construction projects or other facilities as set  
8 forth in section 22-45-103 (1) (c) (I) (A) or (1) (c) (I) (D), including, but  
9 not limited to, swimming pools, playgrounds, or ball fields, as long as  
10 funding for such projects is provided solely from a source of local  
11 government revenue that is otherwise authorized by law. ~~except impact~~  
12 ~~fees or other similar development charges or fees.~~

13           (b) Notwithstanding any provision of paragraph (a) of this  
14 subsection (3) to the contrary, nothing in this subsection (3) shall be  
15 construed to:

16           (I) Limit or restrict a county's power to require the reservation or  
17 dedication of sites and land areas for schools or the payment of moneys  
18 in lieu thereof pursuant to section 30-28-133 (4) (a), C.R.S., or to limit a  
19 local government's ability to accept and expend impact fees or other  
20 similar development charges or fees ~~contributed voluntarily on or before~~  
21 ~~December 31, 1997,~~ to fund the capital projects of school districts;  
22 ~~according to the terms of agreements voluntarily entered into on or before~~  
23 ~~June 4, 1996, between all affected parties;~~

24           (II) Repealed.

25           (III) Grant authority to local governments to require the  
26 reservation or dedication of sites and land areas for schools or the  
27 payment of moneys in lieu thereof. ~~however, the prohibition on impact~~

1 ~~fees or other similar development charges or fees contained in this~~  
2 ~~subsection (3) shall not be construed to restrict the authority of any local~~  
3 ~~government to require the reservation or dedication of sites and land areas~~  
4 ~~for schools or the payment of moneys in lieu thereof if such local~~  
5 ~~government otherwise has such authority granted by law.~~

6 **SECTION 3.** 24-32-3204 (1) (e), Colorado Revised Statutes, is  
7 amended to read:

8 **24-32-3204. Powers and duties of the office of smart growth.**

9 (1) The office shall have the following powers and duties:

10 (e) Upon request by local governments, to provide technical  
11 assistance to such governments in addressing problems caused by the  
12 impacts of growth in such areas as, without limitation, completion of  
13 comprehensive or master plans, ~~and~~ the resolution of land use disputes  
14 involving other governmental entities, AND DEFRAYING IMPACTS CAUSED  
15 BY PROPOSED DEVELOPMENT THROUGH THE ADOPTION OF AN IMPACT FEE  
16 OR OTHER SIMILAR DEVELOPMENT CHARGE IN ACCORDANCE WITH THE  
17 REQUIREMENTS OF SECTION 29-20-104.5, C.R.S.; and

18 **SECTION 4. Safety clause.** The general assembly hereby finds,  
19 determines, and declares that this act is necessary for the immediate  
20 preservation of the public peace, health, and safety.