

Senator Gregory S. Bell proposes the following substitute bill:

IMPACT FEES REVISIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: Kraig Powell

LONG TITLE

General Description:

This bill modifies provisions related to impact fees.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "development approval" for public entities that may develop without written authorization;
- ▶ modifies the definition of "public safety facility";
- ▶ repeals obsolete language;
- ▶ shortens from 14 to ten days the period of time before a public hearing date that a notice of a capital facilities plan or amendment is required to be given;
- ▶ shortens from 14 to ten days the period of time before adoption of an impact fee enactment that a local political subdivision is required to submit a copy of the written impact fee analysis and applies that time period to a new requirement to obtain a written certification;
- ▶ modifies impact fee reporting requirements;
- ▶ requires a local political subdivision to obtain a written certification from the person or entity that prepares the written impact fee analysis and specifies the content of that certification;



26 ▶ shortens from 14 to ten days the period of time before a public hearing that a local
27 political subdivision and private entity is required to make a copy of the impact fee
28 enactment available and to mail a copy of the enactment; and

29 ▶ modifies a provision restricting the imposition of an impact fee to pay for a public
30 safety facility.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **10-5-129**, as last amended by Laws of Utah 2006, Chapter 257

38 **10-6-150**, as last amended by Laws of Utah 2006, Chapter 257

39 **11-36-102**, as last amended by Laws of Utah 2008, Chapters 70 and 360

40 **11-36-201**, as last amended by Laws of Utah 2008, Chapters 70, 360, and 382

41 **11-36-202**, as last amended by Laws of Utah 2008, Chapter 70

42 **11-36-301**, as enacted by Laws of Utah 1995, First Special Session, Chapter 11

43 **17-36-37**, as last amended by Laws of Utah 2006, Chapter 257

44 **17B-1-639**, as renumbered and amended by Laws of Utah 2007, Chapter 329



46 *Be it enacted by the Legislature of the state of Utah:*

47 Section 1. Section **10-5-129** is amended to read:

48 **10-5-129. Annual financial report.**

49 (1) ~~[(a)]~~ Within 180 days after the close of each fiscal year the town clerk or other
50 delegated person shall present to the council an annual financial report.

51 ~~[(b) Each annual financial report shall identify impact fee funds by the year in which
52 they were received, the project from which the funds were collected, the capital projects for
53 which the funds are budgeted, and the projected schedule for expenditure.]~~

54 (2) The requirement under Subsection (1)~~[(a)]~~ to present an annual financial report may
55 be satisfied by an audit report or annual financial report of an independent auditor.

56 Section 2. Section **10-6-150** is amended to read:

57 **10-6-150. Annual financial reports -- Independent audit reports.**

58 (1) [(a)] Within 180 days after the close of each fiscal period or, for a city that has
59 adopted a fiscal period that is a biennial period, within 180 days after both the mid-point and
60 the close of the fiscal period, the city recorder or other delegated person shall present to the
61 governing body an annual financial report prepared in conformity with generally accepted
62 accounting principles, as prescribed in the Uniform Accounting Manual for Utah Cities.

63 [~~(b) Each annual financial report shall identify impact fee funds by the year in which
64 they were received, the project from which the funds were collected, the capital projects for
65 which the funds are budgeted, and the projected schedule for expenditure.]~~

66 (2) (a) The requirement under Subsection (1)[(a)] to present an annual financial report
67 may be satisfied by presentation of the audit report furnished by the independent auditor, if the
68 financial statements included are appropriately prepared and reviewed with the governing body.

69 (b) Notwithstanding the acceptability of the audit report furnished by the independent
70 auditor in substitution for financial statements prepared by an officer of the city, the governing
71 body has the responsibility for those financial statements.

72 (c) The independent auditor has the responsibility of reporting whether the governing
73 body's financial statements are prepared in conformity with generally accepted accounting
74 principles.

75 (3) Copies of the annual financial report or the audit report furnished by the
76 independent auditor shall be filed with the state auditor and shall be filed as a public document
77 in the office of the city recorder.

78 Section 3. Section **11-36-102** is amended to read:

79 **11-36-102. Definitions.**

80 As used in this chapter:

81 (1) "Building permit fee" means the fees charged to enforce the uniform codes adopted
82 pursuant to Title 58, Chapter 56, Utah Uniform Building Standards Act, that are not greater
83 than the fees indicated in the appendix to the International Building Code.

84 (2) "Capital facilities plan" means the plan required by Section 11-36-201.

85 (3) "Development activity" means any construction or expansion of a building,
86 structure, or use, any change in use of a building or structure, or any changes in the use of land
87 that creates additional demand and need for public facilities.

88 (4) "Development approval" means:
89 (a) except as provided in Subsection (4)(b), any written authorization from a local
90 political subdivision that authorizes the commencement of development activity[-]; or

91 (b) development activity, for a public entity that may develop without written
92 authorization from a local political subdivision.

93 (5) "Enactment" means:

94 (a) a municipal ordinance, for a municipality;

95 (b) a county ordinance, for a county; and

96 (c) a governing board resolution, for a local district, special service district, or private
97 entity.

98 (6) "Hookup fees" means reasonable fees, not in excess of the approximate average
99 costs to the political subdivision, for services provided for and directly attributable to the
100 connection to utility services, including gas, water, sewer, power, or other municipal, county,
101 local district, or special service district utility services.

102 (7) (a) "Impact fee" means a payment of money imposed upon development activity as
103 a condition of development approval.

104 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a
105 hookup fee, a fee for project improvements, or other reasonable permit or application fee.

106 (8) (a) "Local political subdivision" means a county, a municipality, a local district
107 under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special
108 service district under Title 17D, Chapter 1, Special Service District Act.

109 (b) "Local political subdivision" does not mean a school district, whose impact fee
110 activity is governed by Section 53A-20-100.5.

111 (9) "Private entity" means an entity with private ownership that provides culinary water
112 that is required to be used as a condition of development.

113 (10) (a) "Project improvements" means site improvements and facilities that are:

114 (i) planned and designed to provide service for development resulting from a
115 development activity; and

116 (ii) necessary for the use and convenience of the occupants or users of development
117 resulting from a development activity.

118 (b) "Project improvements" does not mean system improvements.

119 (11) "Proportionate share" means the cost of public facility improvements that are
120 roughly proportionate and reasonably related to the service demands and needs of any
121 development activity.

122 (12) "Public facilities" means only the following capital facilities that have a life
123 expectancy of ten or more years and are owned or operated by or on behalf of a local political
124 subdivision or private entity:

125 (a) water rights and water supply, treatment, and distribution facilities;

126 (b) wastewater collection and treatment facilities;

127 (c) storm water, drainage, and flood control facilities;

128 (d) municipal power facilities;

129 (e) roadway facilities;

130 (f) parks, recreation facilities, open space, and trails; and

131 (g) public safety facilities.

132 (13) (a) "Public safety facility" means:

133 (i) a building constructed or leased to house police, fire, or other public safety entities;

134 or

135 (ii) a fire suppression vehicle [~~with a ladder reach of at least 75 feet,~~] costing in excess
136 of [~~\$1,250,000, that is necessary for fire suppression in commercial areas with one or more~~
137 ~~buildings at least five stories high~~] \$500,000.

138 (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary
139 incarceration.

140 (14) (a) "Roadway facilities" means streets or roads that have been designated on an
141 officially adopted subdivision plat, roadway plan, or general plan of a political subdivision,
142 together with all necessary appurtenances.

143 (b) "Roadway facilities" includes associated improvements to federal or state roadways
144 only when the associated improvements:

145 (i) are necessitated by the new development; and

146 (ii) are not funded by the state or federal government.

147 (c) "Roadway facilities" does not mean federal or state roadways.

148 (15) (a) "Service area" means a geographic area designated by a local political
149 subdivision on the basis of sound planning or engineering principles in which a defined set of

150 public facilities provide service within the area.

151 (b) "Service area" may include the entire local political subdivision.

152 (16) (a) "System improvements" means:

153 (i) existing public facilities that are designed to provide services to service areas within
154 the community at large; and

155 (ii) future public facilities identified in a capital facilities plan that are intended to
156 provide services to service areas within the community at large.

157 (b) "System improvements" does not mean project improvements.

158 Section 4. Section 11-36-201 is amended to read:

159 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**
160 **Summary -- Exemptions.**

161 (1) (a) Each local political subdivision and private entity shall comply with the
162 requirements of this chapter before establishing or modifying any impact fee.

163 (b) A local political subdivision may not:

164 (i) establish any new impact fees that are not authorized by this chapter; or

165 (ii) impose or charge any other fees as a condition of development approval unless
166 those fees are a reasonable charge for the service provided.

167 (c) ~~[Notwithstanding any other requirements of this chapter, each]~~ Each local political
168 subdivision shall ~~[ensure that each existing impact fee that is charged for any public facility not~~
169 ~~authorized by Subsection 11-36-102(12) is repealed by July 1, 1995. (d) (i) Existing impact~~
170 ~~fees that a local political subdivision charges for public facilities authorized in Subsection~~
171 ~~11-36-102(12) need not comply with the requirements of this chapter until July 1, 1997. (ii) By~~
172 ~~July 1, 1997, each local political subdivision shall: (A) review any impact fees in existence as~~
173 ~~of the effective date of this act, and prepare and approve the analysis required by this section~~
174 ~~for each of those impact fees; and (B)]~~ ensure that the impact fees comply with the
175 requirements of this chapter.

176 (2) (a) Before imposing impact fees, each local political subdivision and private entity
177 shall, except as provided in Subsection (2)(f), prepare a capital facilities plan.

178 (b) (i) As used in this Subsection (2)(b):

179 (A) (I) "Affected entity" means each county, municipality, local district under Title
180 17B, Limited Purpose Local Government Entities - Local Districts, special service district

181 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation
182 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

183 (Aa) whose services or facilities are likely to require expansion or significant
184 modification because of the facilities proposed in the proposed capital facilities plan; or

185 (Bb) that has filed with the local political subdivision or private entity a copy of the
186 general or long-range plan of the county, municipality, local district, special service district,
187 school district, interlocal cooperation entity, or specified public utility.

188 (II) "Affected entity" does not include the local political subdivision or private entity
189 that is required under this Subsection (2) to provide notice.

190 (B) "Specified public utility" means an electrical corporation, gas corporation, or
191 telephone corporation, as those terms are defined in Section 54-2-1.

192 (ii) Before preparing or amending a capital facilities plan, each local political
193 subdivision and each private entity shall provide written notice, as provided in this Subsection
194 (2)(b), of its intent to prepare or amend a capital facilities plan.

195 (iii) Each notice under Subsection (2)(b)(ii) shall:

196 (A) indicate that the local political subdivision or private entity intends to prepare or
197 amend a capital facilities plan;

198 (B) describe or provide a map of the geographic area where the proposed capital
199 facilities will be located;

200 (C) be sent to:

201 (I) each county in whose unincorporated area and each municipality in whose
202 boundaries is located the land on which the proposed facilities will be located;

203 (II) each affected entity;

204 (III) the Automated Geographic Reference Center created in Section 63F-1-506;

205 (IV) the association of governments, established pursuant to an interlocal agreement
206 under [~~Title 11;~~] Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to
207 be located;

208 (V) the state planning coordinator appointed under Section 63J-4-202;

209 (VI) the registered agent of the Utah Home Builders Association;

210 (VII) the registered agent of the Utah Association of Realtors; and

211 (VIII) the registered agent of the Utah Chapter of the Associated General Contractors

212 of America; and

213 (D) with respect to the notice to an affected entity, invite the affected entity to provide
214 information for the local political subdivision or private entity to consider in the process of
215 preparing, adopting, and implementing or amending a capital facilities plan concerning:

216 (I) impacts that the facilities proposed in the capital facilities plan may have on the
217 affected entity; and

218 (II) facilities or uses of land that the affected entity is planning or considering that may
219 conflict with the facilities proposed in the capital facilities plan.

220 (c) The plan shall identify:

221 (i) demands placed upon existing public facilities by new development activity; and

222 (ii) the proposed means by which the local political subdivision will meet those
223 demands.

224 (d) A municipality or county need not prepare a separate capital facilities plan if the
225 general plan required by Section 10-9a-401 or 17-27a-401, respectively, contains the elements
226 required by Subsection (2)(c).

227 (e) (i) If a local political subdivision chooses to prepare an independent capital
228 facilities plan rather than include a capital facilities element in the general plan, the local
229 political subdivision shall:

230 (A) before preparing or contracting to prepare or amending or contracting to amend the
231 independent capital facilities plan, send written notice:

232 (I) to:

233 (Aa) the registered agent of the Utah Home Builders Association;

234 (Bb) the registered agent of the Utah Association of Realtors; and

235 (Cc) the registered agent of the Utah Chapter of the Associated General Contractors of
236 America;

237 (II) stating the local political subdivision's intent to prepare or amend a capital facilities
238 plan; and

239 (III) inviting each of the notice recipients to participate in the preparation of or
240 amendment to the capital facilities plan; and

241 (B) before adopting or amending the capital facilities plan:

242 (I) give public notice of the plan or amendment according to Subsection (2)(e)(ii)(A),

243 (B), or (C), as the case may be, at least [~~14~~] ten days before the date of the public hearing;

244 (II) make a copy of the plan or amendment, together with a summary designed to be
245 understood by a lay person, available to the public;

246 (III) place a copy of the plan or amendment and summary in each public library within
247 the local political subdivision; and

248 (IV) hold a public hearing to hear public comment on the plan or amendment.

249 (ii) With respect to the public notice required under Subsection (2)(e)(i)(B)(I):

250 (A) each municipality shall comply with the notice and hearing requirements of, and,
251 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
252 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

253 (B) each county shall comply with the notice and hearing requirements of, and, except
254 as provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
255 17-27a-801 and Subsection 17-27a-502(2); and

256 (C) each local district, special service district, and private entity shall comply with the
257 notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

258 (iii) Nothing contained in this Subsection (2)(e) or in the subsections referenced in
259 Subsections (2)(e)(ii)(A) and (B) may be construed to require involvement by a planning
260 commission in the capital facilities planning process.

261 (f) (i) A local political subdivision with a population or serving a population of less
262 than 5,000 as of the last federal census need not comply with the capital facilities plan
263 requirements of this part, but shall ensure that:

264 (A) the impact fees that the local political subdivision imposes are based upon a
265 reasonable plan; and

266 (B) each applicable notice required by this chapter is given.

267 (ii) Subsection (2)(f)(i) does not apply to private entities.

268 (3) In preparing the plan, each local political subdivision shall generally consider all
269 revenue sources, including impact fees, to finance the impacts on system improvements.

270 (4) A local political subdivision or private entity may only impose impact fees on
271 development activities when its plan for financing system improvements establishes that
272 impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to
273 be borne in the future, in comparison to the benefits already received and yet to be received.

274 (5) (a) Subject to the notice requirement of Subsection (5)(b), each local political
275 subdivision and private entity intending to impose an impact fee shall prepare a written analysis
276 of each impact fee that:

277 (i) identifies the impact on system improvements required by the development activity;

278 (ii) demonstrates how those impacts on system improvements are reasonably related to
279 the development activity;

280 (iii) estimates the proportionate share of the costs of impacts on system improvements
281 that are reasonably related to the new development activity; and

282 (iv) based upon those factors and the requirements of this chapter, identifies how the
283 impact fee was calculated.

284 (b) Before preparing or contracting to prepare the written analysis required under
285 Subsection (5)(a), each local political subdivision or private entity shall provide:

286 (i) public notice; and

287 (ii) written notice:

288 (A) to:

289 (I) the registered agent of the Utah Home Builders Association;

290 (II) the registered agent of the Utah Association of Realtors; and

291 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
292 America;

293 (B) indicating the local political subdivision or private entity's intent to prepare or
294 contract to prepare a written analysis of an impact fee; and

295 (C) inviting each notice recipient to participate in the preparation of the written
296 analysis.

297 (c) In analyzing whether or not the proportionate share of the costs of public facilities
298 are reasonably related to the new development activity, the local political subdivision or private
299 entity, as the case may be, shall identify, if applicable:

300 (i) the cost of existing public facilities;

301 (ii) the manner of financing existing public facilities, such as user charges, special
302 assessments, bonded indebtedness, general taxes, or federal grants;

303 (iii) the relative extent to which the newly developed properties and other properties
304 have already contributed to the cost of existing public facilities, by such means as user charges,

305 special assessments, or payment from the proceeds of general taxes;

306 (iv) the relative extent to which the newly developed properties and other properties
307 will contribute to the cost of existing public facilities in the future;

308 (v) the extent to which the newly developed properties are entitled to a credit because
309 the local political subdivision or private entity, as the case may be, requires its developers or
310 owners, by contractual arrangement or otherwise, to provide common facilities, inside or
311 outside the proposed development, that have been provided by the local political subdivision or
312 private entity, respectively, and financed through general taxation or other means, apart from
313 user charges, in other parts of the service area;

314 (vi) extraordinary costs, if any, in servicing the newly developed properties; and

315 (vii) the time-price differential inherent in fair comparisons of amounts paid at
316 different times.

317 (d) Each local political subdivision and private entity that prepares a written analysis
318 under this Subsection (5) [~~on or after July 1, 2000~~] shall also prepare a summary of the written
319 analysis, designed to be understood by a lay person.

320 (6) Each local political subdivision that adopts an impact fee enactment under Section
321 11-36-202 on or after July 1, 2000 shall, at least [~~14~~] ten days before adopting the enactment[;];

322 (a) submit a copy of the written analysis required by Subsection (5)(a) and a copy of
323 the summary required by Subsection (5)(d) to:

324 [~~(a)~~] (i) each public library within the local political subdivision;

325 [~~(b)~~] (ii) the registered agent of the Utah Home Builders Association;

326 [~~(c)~~] (iii) the registered agent of the Utah Association of Realtors; and

327 [~~(d)~~] (iv) the registered agent of the Utah Chapter of the Associated General
328 Contractors of America[;]; and

329 (b) obtain a written certification from the person or entity that prepares the written
330 analysis which states as follows:

331 "I certify that the attached impact fee analysis:

332 1. includes only the costs for qualifying public facilities that are:

333 a. allowed under the Impact Fees Act; and

334 b. projected to be incurred or encumbered within six years after each
335 impact fee is paid;

- 336 2. contains no cost for operation and maintenance of public facilities;
- 337 3. offsets costs with grants or other alternate sources of payment;
- 338 4. does not include costs for qualifying public facilities that will raise the level
- 339 of service for the facilities, through impact fees, above the level of service that
- 340 is supported by existing residents; and
- 341 5. complies in each and every relevant respect with the Impact Fees Act."

342 (7) Nothing in this chapter may be construed to repeal or otherwise eliminate any

343 impact fee in effect on the effective date of this chapter that is pledged as a source of revenues

344 to pay bonded indebtedness that was incurred before the effective date of this chapter.

345 Section 5. Section **11-36-202** is amended to read:

346 **11-36-202. Impact fees -- Enactment -- Required provisions -- Effective date.**

347 (1) (a) Each local political subdivision and private entity wishing to impose impact fees

348 shall pass an impact fee enactment.

349 (b) The impact fee imposed by that enactment may not exceed the highest fee justified

350 by the impact fee analysis performed pursuant to Section 11-36-201.

351 (c) In calculating the impact fee, a local political subdivision or private entity may

352 include:

- 353 (i) the construction contract price;
- 354 (ii) the cost of acquiring land, improvements, materials, and fixtures;
- 355 (iii) the cost for planning, surveying, and engineering fees for services provided for and
- 356 directly related to the construction of the system improvements; and
- 357 (iv) debt service charges, if the political subdivision might use impact fees as a revenue
- 358 stream to pay the principal and interest on bonds, notes, or other obligations issued to finance
- 359 the costs of the system improvements.

360 (d) In calculating an impact fee, a local political subdivision may not include an

361 expense for overhead unless the expense is calculated pursuant to a methodology that is

362 consistent with:

- 363 (i) generally accepted cost accounting practices; and
- 364 (ii) the methodological standards set forth by the federal Office of Management and
- 365 Budget for federal grant reimbursement.

366 (e) In calculating an impact fee, each local political subdivision shall base amounts

367 calculated under Subsection (1)(c) on realistic estimates, and the assumptions underlying those
368 estimates shall be disclosed in the impact fee analysis.

369 (f) Each local political subdivision and private entity that intends to enact an impact fee
370 enactment shall:

371 (i) at least [~~14~~] ten days before the date of the public hearing:

372 (A) make a copy of the impact fee enactment available to the public; and

373 (B) mail a written copy of the impact fee enactment to:

374 (I) the registered agent of the Utah Home Builders Association;

375 (II) the registered agent of the Utah Association of Realtors; and

376 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
377 America; and

378 (ii) (A) for a municipality, comply with the notice and hearing requirements of, and,
379 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
380 10-9a-205 and 10-9a-801;

381 (B) for a county, comply with the notice and hearing requirements of, and, except as
382 provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
383 17-27a-801; and

384 (C) for a local district or special service district, comply with the notice and hearing
385 requirements of, and receive the protections of, Section 17B-1-111.

386 (g) Nothing contained in Subsection (1)(f) may be construed to require involvement by
387 a planning commission in the impact fee enactment process.

388 (2) The local political subdivision or private entity shall ensure that the impact fee
389 enactment:

390 (a) contains:

391 (i) a provision establishing one or more service areas within which the local political
392 subdivision or private entity calculates and imposes impact fees for various land use categories;

393 (ii) (A) a schedule of impact fees for each type of development activity that specifies
394 the amount of the impact fee to be imposed for each type of system improvement; or

395 (B) the formula that the local political subdivision or private entity, as the case may be,
396 will use to calculate each impact fee;

397 (iii) a provision authorizing the local political subdivision or private entity, as the case

398 may be, to adjust the standard impact fee at the time the fee is charged to:

399 (A) respond to unusual circumstances in specific cases; and

400 (B) ensure that the impact fees are imposed fairly; and

401 (iv) a provision governing calculation of the amount of the impact fee to be imposed on
402 a particular development that permits adjustment of the amount of the fee based upon studies
403 and data submitted by the developer; and

404 (b) allows a developer to receive a credit against or proportionate reimbursement of an
405 impact fee if:

406 (i) the developer is required by the local political subdivision, as a condition of
407 development activity approval, to:

408 (A) dedicate land for a system improvement;

409 (B) improve a system improvement; or

410 (C) provide new construction for a system improvement;

411 (ii) the system improvement is included in the impact fee analysis; and

412 (iii) the land, improvement, or new construction provides a system improvement that
413 exceeds the requirements for the project.

414 (3) A local political subdivision or private entity may include a provision in an impact
415 fee enactment that:

416 (a) exempts low income housing and other development activities with broad public
417 purposes from impact fees and establishes one or more sources of funds other than impact fees
418 to pay for that development activity;

419 (b) imposes an impact fee for public facility costs previously incurred by a local
420 political subdivision or private entity, as the case may be, to the extent that new growth and
421 development will be served by the previously constructed improvement; and

422 (c) allows a credit against impact fees for any dedication of land for, improvement to,
423 or new construction of, any system improvements provided by the developer if the facilities:

424 (i) are identified in the capital facilities plan; and

425 (ii) are required by the local political subdivision as a condition of approving the
426 development activity.

427 (4) Except as provided in Subsection (3)(b), the local political subdivision may not
428 impose an impact fee to cure deficiencies in public facilities serving existing development.

429 (5) Notwithstanding the requirements and prohibitions of this chapter, a local political
430 subdivision may impose and assess an impact fee for environmental mitigation when:

431 (a) the local political subdivision has formally agreed to fund a Habitat Conservation
432 Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec 1531, et seq.
433 or other state or federal environmental law or regulation;

434 (b) the impact fee bears a reasonable relationship to the environmental mitigation
435 required by the Habitat Conservation Plan; and

436 (c) the legislative body of the local political subdivision adopts an ordinance or
437 resolution:

438 (i) declaring that an impact fee is required to finance the Habitat Conservation Plan;

439 (ii) establishing periodic sunset dates for the impact fee; and

440 (iii) requiring the legislative body to:

441 (A) review the impact fee on those sunset dates;

442 (B) determine whether or not the impact fee is still required to finance the Habitat
443 Conservation Plan; and

444 (C) affirmatively reauthorize the impact fee if the legislative body finds that the impact
445 fee must remain in effect.

446 [~~(6) Each political subdivision shall ensure that any existing impact fee for
447 environmental mitigation meets the requirements of Subsection (5) by July 1, 1995.]~~

448 [~~(7) (6) Notwithstanding any other provision of this chapter[: (a) a municipality
449 imposing impact fees to fund fire trucks as of the effective date of this act may impose impact
450 fees for fire trucks until July 1, 1997; and (b)],~~ an impact fee to pay for a public safety facility
451 that is a fire suppression vehicle may not be imposed [~~with respect to land that has a zoning
452 designation other than commercial] on residential components of development.~~

453 [~~(8) (7) Notwithstanding any other provision of this chapter, a local political
454 subdivision may impose and collect impact fees on behalf of a school district if authorized by
455 Section 53A-20-100.5.~~

456 [~~(9) (8) An impact fee enactment may not take effect until 90 days after it is enacted.
457 Section 6. Section 11-36-301 is amended to read:~~

458 **11-36-301. Impact fees -- Accounting.**

459 Each local political subdivision collecting impact fees shall:

- 460 (1) establish separate interest bearing ledger accounts for each type of public facility
- 461 for which an impact fee is collected;
- 462 (2) deposit impact fee receipts in the appropriate ledger account;
- 463 (3) retain the interest earned on each fund or account in the fund or account; and
- 464 (4) at the end of each fiscal year, prepare a report on each fund or account showing:
- 465 (a) the source and amount of all monies collected, earned, and received by the fund or
- 466 account; and
- 467 (b) each expenditure from the fund or account[-]; and
- 468 (5) establish a report that:
- 469 (a) identifies impact fee funds by the year in which they were received, the project
- 470 from which the funds were collected, the capital projects for which the funds were budgeted,
- 471 and the projected schedule for expenditure;
- 472 (b) is on a form developed by the state auditor;
- 473 (c) is certified by the local political subdivision's chief financial officer; and
- 474 (d) is transmitted annually to the state auditor.

475 Section 7. Section **17-36-37** is amended to read:

476 **17-36-37. Budget officer -- Annual financial statement -- Contents.**

- 477 (1) The budget officer of each county, within 180 days after the close of each fiscal
- 478 period or, for a county that has adopted a fiscal period that is a biennial period, within 180 days
- 479 after both the midpoint and the close of the fiscal period, except as provided by Section
- 480 17-36-38, shall prepare and make available to the governing body an annual financial report
- 481 which shall contain:
- 482 (a) a statement of revenues and expenditures and a comparison with the budget of the
- 483 general fund, similar statements of all other funds for which budgets are required, and
- 484 statements of revenues and expenditures or of income and expense, as the case may be, of all
- 485 other operating funds of the county;
- 486 (b) a balance sheet of each fund and a combined balance sheet of all funds as of:
- 487 (i) for a county that has adopted a fiscal period that is a biennial period, the midpoint
- 488 and the close of the fiscal period; and
- 489 (ii) for each other county, the close of the fiscal period; or
- 490 (c) any other reports the governing body may require, including work performance

491 data, tax levies, taxable values, details of bonded indebtedness, and historical facts of interest
492 to the governing body and the public.

493 ~~[(2) Each annual financial report required under Subsection (1) shall identify impact~~
494 ~~fee funds by the year in which they were received, the project from which the funds were~~
495 ~~collected, the capital projects for which the funds are budgeted, and the projected schedule for~~
496 ~~expenditure.]~~

497 ~~[(3)]~~ (2) Copies of the annual report shall be furnished to the state auditor and made a
498 matter of public record in the office of the budget officer.

499 Section 8. Section **17B-1-639** is amended to read:

500 **17B-1-639. Annual financial reports -- Independent audit reports.**

501 (1) ~~[(a)]~~ Within 180 days after the close of each fiscal year, the district shall prepare an
502 annual financial report in conformity with generally accepted accounting principles as
503 prescribed in the Uniform Accounting Manual for Local Districts.

504 ~~[(b) Each annual financial report shall identify impact fee funds by the year in which~~
505 ~~they were received, the project from which the funds were collected, the capital projects for~~
506 ~~which the funds are budgeted, and the projected schedule for expenditure.]~~

507 (2) The requirement under Subsection (1)~~[(a)]~~ to prepare an annual financial report
508 may be satisfied by presentation of the audit report furnished by the independent auditor.

509 (3) Copies of the annual financial report or the audit report furnished by the
510 independent auditor shall be filed with the state auditor and shall be filed as a public document
511 in the district office.

S.B. 84 1st Sub. (Green) - Impact Fees Revisions

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals and local governments. Businesses may be impacted due changes in the proposed statute.
