IMPACT FEES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to impact fees.

Highlighted Provisions:

This bill:

- defines terms;
- modifies provisions regarding the calculation of impact fees; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-305, as last amended by Laws of Utah 2018, Chapter 415

10-9a-510, as last amended by Laws of Utah 2013, Chapter 200

11-36a-102, as last amended by Laws of Utah 2018, Chapters 196 and 415

11-36a-202, as last amended by Laws of Utah 2018, Chapter 415

11-36a-305, as enacted by Laws of Utah 2011, Chapter 47

11-36a-306, as last amended by Laws of Utah 2013, Chapter 278

17-27a-305, as last amended by Laws of Utah 2018, Chapter 415

17-27a-509, as last amended by Laws of Utah 2013, Chapter 200

17B-1-118, as last amended by Laws of Utah 2013, Chapter 200

17B-1-121, as last amended by Laws of Utah 2014, Chapter 189

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

Section 1. Section **10-9a-305** is amended to read:

10-9a-305. Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

(b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a municipality may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for

prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a municipal building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to

the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a municipality.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district or charter school used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an

inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 10-9a-510;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 10-9a-304; or

(b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 2. Section **10-9a-510** is amended to read:

10-9a-510. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A municipality may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the municipality charges for a building permit fee for that building.

(2) Subject to Subsection (1), a municipality may impose and collect only a nominal fee for reviewing and approving identical floor plans.

(3) A municipality may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the municipal water, sewer, storm water, power, or other utility system.

(4) A municipality may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the municipality shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the municipality to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A municipality shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance

with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A municipality may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:

(a) Subsections (5) and (6);

(b) Section 10-9a-508; and

(c) Section 10-9a-509.5.

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

11-36a-102. Definitions.

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

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

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

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

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

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

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

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

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

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Expense for overhead" means a cost that a local political subdivision or private entity:

(a) incurs in connection with:

(i) developing an impact fee facilities plan;

(ii) developing an impact fee analysis; or

(iii) imposing an impact fee, including any related overhead expenses; and

(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.

[~~(7)~~] (8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.

[~~(8)~~] (9) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development

on public infrastructure.

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

[~~(9)~~] (10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

[~~(10)~~] (11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

[~~(11)~~] (12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

[~~(12)~~] (13) (a) "Local political subdivision" means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.

[~~(13)~~] (14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

[~~(14)~~] (15) (a) "Project improvements" means site improvements and facilities that are:

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

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

(iii) not identified or reimbursed as a system improvement.

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

[~~(15)~~] (16) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

[~~(16)~~] (17) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

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

(b) wastewater collection and treatment facilities;

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

(d) municipal power facilities;

(e) roadway facilities;

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

(g) public safety facilities;

(h) environmental mitigation as provided in Section 11-36a-205; or

(i) municipal natural gas facilities.

[~~(17)~~] (18) (a) "Public safety facility" means:

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

(ii) a fire suppression vehicle costing in excess of $500,000.

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

[~~(18)~~] (19) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

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

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

[~~(19)~~] (20) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

[~~(20)~~] (21) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(21)~~] (22) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

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

Section 4. Section **11-36a-202** is amended to read:

11-36a-202. Prohibitions on impact fees.

(1) A local political subdivision or private entity may not:

(a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development; or

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement; [~~or~~]

[~~(iv) include an expense for overhead, unless the expense is calculated pursuant to a~~

~~methodology that is consistent with:~~]

[~~(A) generally accepted cost accounting practices; and~~]

[~~(B) the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;~~]

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

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

(2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) a state institution of higher education that has its own police force; or

(v) on development activity on the state fair park, as defined in Section 63H-6-102.

(b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the

construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Section 5. Section **11-36a-305** is amended to read:

11-36a-305. Calculating impact fees.

(1) In calculating an impact fee, a local political subdivision or private entity may include:

(a) the construction contract price;

(b) the cost of acquiring land, improvements, materials, and fixtures;

(c) [~~the cost for planning, surveying, and engineering fees~~] for services provided for and directly related to the construction of the system improvements[~~; and~~], the cost for planning and surveying, and engineering fees;

(d) for a political subdivision, debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements[~~.~~]; and

(e) one or more expenses for overhead.

(2) In calculating an impact fee, each local political subdivision or private entity shall base amounts calculated under Subsection (1) on realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

Section 6. Section **11-36a-306** is amended to read:

11-36a-306. Certification of impact fee analysis.

(1) An impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan that states the following:

"I certify that the attached impact fee facilities plan:

1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;

2. does not include:

a. costs of operation and maintenance of public facilities; or

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; [~~or~~] and

[~~c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal~~

~~grant reimbursement; and~~]

3. complies in each and every relevant respect with the Impact Fees Act."

(2) An impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis which states as follows:

"I certify that the attached impact fee analysis:

1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;

2. does not include:

a. costs of operation and maintenance of public facilities; or

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; [~~or~~]

[~~c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;~~]

3. offsets costs with grants or other alternate sources of payment; and

4. complies in each and every relevant respect with the Impact Fees Act."

Section 7. Section **17-27a-305** is amended to read:

17-27a-305. Other entities required to conform to county's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area,

land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.

(b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a county may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter

school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a county building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a county official with authority to issue the certificate, if the school district or charter school used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-27a-509;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 17-27a-304; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 8. Section **17-27a-509** is amended to read:

17-27a-509. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A county may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the county charges for a building permit fee for that building.

(2) Subject to Subsection (1), a county may impose and collect only a nominal fee for reviewing and approving identical floor plans.

(3) A county may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county water, sewer, storm water, power, or other utility system.

(4) A county may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the county shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the county shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the county to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A county shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A county may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a county:

(a) Subsections (5) and (6);

(b) Section 17-27a-507; and

(c) Section 17-27a-509.5.

Section 9. Section **17B-1-118** is amended to read:

17B-1-118. Local district hookup fee -- Preliminary design or site plan from a specified public agency.

(1) As used in this section:

(a) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a local district water, sewer, storm water, power, or other utility system.

(b) "Impact fee" has the same meaning as defined in Section 11-36a-102.

(c) "Specified public agency" means:

(i) the state;

(ii) a school district; or

(iii) a charter school.

(d) "State" includes any department, division, or agency of the state.

(2) A local district may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the local district water, sewer, storm water, power, or other utility system.

(3) (a) A specified public agency intending to develop its land shall submit a development plan and schedule to each local district from which the specified public agency anticipates the development will receive service:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the local district to assess:

(A) the demand for public facilities listed in Subsections 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), and (g) caused by the development;

(B) the amount of any hookup fees, or impact fees or substantive equivalent;

(C) any credit against an impact fee; and

(D) the potential for waiving an impact fee.

(b) The local district shall respond to a specified public agency's submission under Subsection (3)(a) with reasonable promptness in order to allow the specified public agency to consider information the local district provides under Subsection (3)(a)(ii) in the process of preparing the budget for the development.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection (3) that complies with the requirements of that subsection, the specified public agency vests in the local district's hookup fees and impact fees in effect on the date of submission.

Section 10. Section **17B-1-121** is amended to read:

17B-1-121. Limit on fees -- Requirement to itemize and account for fees -- Appeals.

(1) A local district may not impose or collect:

(a) an application fee that exceeds the reasonable cost of processing the application; or

(b) an inspection or review fee that exceeds the reasonable cost of performing an inspection or review.

(2) (a) Upon request by a service applicant who is charged a fee or an owner of residential property upon which a fee is imposed, a local district shall provide a statement of each itemized fee and calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for a statement of each itemized fee no later than 30 days after the day on which the applicant or owner pays the fee, the local district shall, no later than 10 days after the day on which the request is received, provide or commit to provide within a

specific time:

(i) for each fee, any studies, reports, or methods relied upon by the local district to create the calculation method described in Subsection (2)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed by the local district; and

(iv) information on filing a fee appeal through the process described in Subsection (2)(c).

(c) (i) A local district shall establish an impartial fee appeal process to determine whether a fee reflects only the reasonable estimated cost of delivering the service for which the fee was paid.

(ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial review of the local district's final decision.

(3) A local district may not impose on or collect from a public agency a fee associated with the public agency's development of the public agency's land other than:

(a) subject to Subsection (1), a hookup fee; or

(b) an impact fee, as defined in Section 11-36a-102 and subject to Section 11-36a-402, for a public facility listed in Subsection 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), or (g).