

Impact Fee Amendments
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Calvin R. Musselman
House Sponsor:

LONG TITLE

General Description:

This bill modifies requirements for implementing and expending an impact fee.

Highlighted Provisions:

This bill:

- modifies the requirements for impact fee service areas;
- restricts where a local political subdivision may expend the revenue generated by impact fees; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-36a-102, as last amended by Laws of Utah 2025, First Special Session, Chapter 16

11-36a-301, as last amended by Laws of Utah 2025, First Special Session, Chapter 15

11-36a-601, as last amended by Laws of Utah 2017, Chapter 394

11-36a-602, as last amended by Laws of Utah 2017, Chapter 190

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

Section 1. 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, special district under Title 17B, Limited Purpose Local Government Entities - Special 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, special 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 10-20-102:

(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 special 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.

(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, special district, special service district, or private entity.

(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.

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

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

- (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.
- (13)(a) "Local political subdivision" means a county, a municipality, a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.
- (b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.
- (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.
- (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.
- (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.
- (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.

(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.

(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.

(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 not include the entire local political subdivision or an entire area served by a private entity.

(21) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

(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 2. Section **11-36a-301** is amended to read:

11-36a-301 . Impact fee facilities plan.

(1) Before imposing an impact fee, ~~[each]~~ a local political subdivision or private entity shall, except as provided in Subsection (3), prepare an impact fee facilities plan;

(a) to determine the public facilities required to serve development resulting from new development activity[-] ;

(b) that designates a service area for each impact fee the local political subdivision or private entity imposes; and

(c) that demonstrates that the geographic area included in each service area is necessary to include in the service area based on specific planning or engineering principles.

(2) A municipality or county need not prepare a separate impact fee facilities plan if the general plan required by Section 10-20-401 or 17-79-401, respectively, contains the elements required by Section 11-36a-302.

(3) A local political subdivision or a private entity with a population, or serving a population, of less than 5,000 as of the last federal census that charges impact fees of less than \$250,000 annually need not comply with the impact fee facilities plan requirements of this part, but shall ensure that:

(a) the impact fees that the local political subdivision or private entity imposes are based upon a reasonable plan that otherwise complies with the common law and this chapter; and

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

Section 3. Section **11-36a-601** is amended to read:

11-36a-601 . Accounting of impact fees.

A local political subdivision that collects an impact fee shall:

(1) establish a separate interest bearing ledger account for each service area and for each type of public facility for which an impact fee is collected;

(2) deposit a receipt for an impact fee in the appropriate ledger account established under Subsection (1);

(3) retain the interest earned on each fund or ledger account in the fund or ledger account;

(4) at the end of each fiscal year, prepare a report that:

(a) for each fund or ledger account, shows:

- (i) the source and amount of all money collected, earned, and received by the fund or ledger account during the fiscal year; and
- (ii) each expenditure from the fund or ledger account;
- (b) accounts for all impact fee funds that the local political subdivision has on hand at the end of the fiscal year;
- (c) identifies the impact fee funds described in Subsection (4)(b) by:
 - (i) the year in which the impact fee funds were received;
 - (ii) the project from which the impact fee funds were collected;
 - (iii) the project for which the impact fee funds are budgeted; and
 - (iv) the projected schedule for expenditure; and
- (d) is:
 - (i) in a format developed by the state auditor;
 - (ii) certified by the local political subdivision's chief financial officer; and
 - (iii) transmitted to the state auditor within 180 days after the day on which the fiscal year ends.

Section 4. Section **11-36a-602** is amended to read:

11-36a-602 . Expenditure of impact fees.

- (1) A local political subdivision may expend an impact [fees] fee only for a system improvement:
 - (a) identified in the adopted impact fee facilities plan when the local political subdivision collected the impact fee;[-and]
 - (b) for the [specifie-]public facility type for which the [fee was collected:] local political subdivision collects the impact fee; and
 - (c) within the service area for which the local political subdivision collects the impact fee.
- (2)(a) Except as provided in Subsection (2)(b), a local political subdivision shall expend or encumber an impact fee collected with respect to a lot:
 - (i) for a permissible use; and
 - (ii) within six years after the impact fee with respect to that lot is collected.
- (b) A local political subdivision may hold the fees for longer than six years if it identifies, in writing:
 - (i) an extraordinary and compelling reason why the fees should be held longer than six years; and
 - (ii) an absolute date by which the fees will be expended.

235 Section 5. **Effective Date.**
236 This bill takes effect on May 6, 2026.