

IMPACT FEE ARBITRATION

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: John W. Hickman

AN ACT RELATING TO CITIES, COUNTIES, AND LOCAL TAXING UNITS; PROVIDING
AN ARBITRATION PROCESS FOR CHALLENGING AN IMPACT FEE; AND MAKING
TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

11-36-402, Utah Code Annotated 1953

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

Section 1. Section **11-36-402** is enacted to read:

11-36-402. Challenging impact fees by arbitration -- Procedure -- Appeal -- Costs.

(1) In addition to the procedure under Section 11-36-401 to challenge an impact fee, a person or entity residing in or owning property within a service area, and an organization, association, or corporation representing the interests of a person or entity owning property within a service area, may submit an impact fee challenge to arbitration by filing a written request for arbitration with the local political subdivision within 30 days after paying an impact fee.

(2) (a) Unless the local political subdivision and the person or entity filing the request agree upon a single arbitrator within ten days after the request for arbitration is filed, each party shall, within 20 days after the request is filed, each select an arbitrator.

(b) If the parties each choose an arbitrator under Subsection (2)(a), those two arbitrators shall select a third arbitrator.

(3) The arbitrator or arbitrators shall hold a hearing on the challenge within 30 days after:

(a) the single arbitrator is chosen by agreement, if the parties agree upon a single arbitrator; or

(b) the selection of the two arbitrators, if the parties do not agree upon a single arbitrator.

1 (4) If the parties agree in writing to binding arbitration:

2 (a) the arbitration shall be binding;

3 (b) the decision of the arbitrator or arbitrators shall be final;

4 (c) neither party may appeal the decision of the arbitrator; and

5 (d) notwithstanding Subsection (9), the person or entity challenging the impact fee may
6 not file an action under Section 11-36-401.

7 (5) (a) The parties may agree to formal or informal arbitration.

8 (b) If the parties agree to formal arbitration, the arbitration shall be governed by the
9 provisions of Title 63, Chapter 46b, Administrative Procedures Act.

10 (6) Except as provided in this section, each arbitration shall be governed by Title 78,
11 Chapter 31a, Utah Arbitration Act.

12 (7) The arbitrator or arbitrators shall issue a decision in writing within ten days from the
13 date of the hearing under Subsection (3).

14 (8) (a) An appeal from a decision in an informal, nonbinding arbitration may be filed with
15 the district court in which the local political subdivision is located.

16 (b) Each appeal under Subsection (8)(a) shall be filed within 30 days after the arbitrator
17 or arbitrators issue a decision under Subsection (7).

18 (c) The district court shall consider de novo each appeal filed under this Subsection (8).

19 (d) Notwithstanding Subsection (9), a person or entity that files an appeal under this
20 Subsection (8) may not file an action under Section 11-36-401.

21 (9) (a) Except as provided in Subsections (4)(d) and (8)(d), no provision of this section
22 may be construed to prohibit a person or entity from challenging an impact fee as provided in
23 Section 11-36-401.

24 (b) The filing of a timely request for arbitration under Subsection (1) tolls all time
25 limitations under Section 11-36-401 until the arbitrator or arbitrators issue a decision.

26 (10) The person or entity filing a request for arbitration and the local political subdivision
27 shall equally share all costs of an arbitration proceeding under this section.

Legislative Review Note
as of 2-11-98 1:48 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

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