

1st Sub. H.B. 259
CHANGES TO IMPACT FEES

Senator **Howard A. Stephenson** proposes the following amendments:

1. *Page 1, Line 18*

House Floor Amendments

2-27-2009:

- 18 ▶ limits impacts fees that can be imposed on a school district or charter school; ~~{-and}~~ =
 ▶ requires local political subdivisions and private entities to ensure that their impact fees comply with the requirements of this bill, even if the impact fee was earlier imposed but not paid;
 ▶ requires a local political subdivision or private entity to participate in mediation of any applicable fee if the state, a school district, or a charter school requests mediation; and

2. *Page 1, Line 23*

House Floor Amendments

2-27-2009:

- 23 ~~{None}~~ This bill coordinates with S.B. 84, Impact Fees Revisions, by technically superseding and merging amendments.

3. *Page 2, Line 28:*

28 11-36-202, as last amended by Laws of Utah 2008, Chapter 70

ENACTS:

11-36-401.5, Utah Code Annotated 1953

4. *Page 4, Line 108:*

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

(16) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

5. *Page 5, Lines 124 through 126:*

124 ~~{(c) Notwithstanding any other requirements of this chapter, each local political~~
125 ~~subdivision shall ensure that each existing impact fee that is charged for any public facility not~~
126 ~~authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.}~~ =

(c)(i) Each local political subdivision and private entity shall ensure that each impact fee collected on or after May 12, 2009 complies with the provisions of this chapter, even if the impact fee was imposed but not paid before May 12, 2009.

(ii) Subsection (1)(c)(i) does not apply to an impact fee that was paid before May 12, 2009.

6. *Page 15, Lines 433 through 434*

Senate Committee Amendments

3-4-2009:

433 ~~[(7)]~~ ~~(6)~~ (a) Notwithstanding any other provision of this chapter:

434 ~~{(a)}~~ (i) a municipality imposing impact fees to fund fire trucks as of the effective date of

7. *Page 15, Line 436*

Senate Committee Amendments

3-4-2009:

436 ~~{(b)}~~ (ii) an impact fee to pay for a public safety facility that is a fire suppression vehicle

8. *Page 15, Line 439*

Senate Committee Amendments

3-4-2009:

439 ~~{(c)}~~ (iii) an impact fee may not be imposed on a school district or charter school for a park,

9. *Page 15, Line 441*

Senate Committee Amendments

3-4-2009:

441 ~~{(d)}~~ (iv) an impact fee may not be imposed on development activity that consists of the

10. *Page 15, Line 443*

Senate Committee Amendments

3-4-2009:

443 ~~{(i)}~~ (A) the school is intended to replace another school, whether on the same or a different

11. *Page 15, Line 444a*

Senate Committee Amendments

3-4-2009:

444a ~~{(ii)}~~ (B) the new school creates no greater demand or need for public facilities than the

12. *Page 15, Lines 445 through 449*

Senate Committee Amendments

3-4-2009:

- 445 ~~(ii)~~ ~~{(iii)}~~ (C) ←§ the new school and the school being replaced are both within:
446 ~~{(A)}~~ (I) the boundary of the local political subdivision; or
447 ~~{(B)}~~ (II) the jurisdiction of the private entity; and
448 ~~{(c)}~~ (v) an impact fee may not be imposed on a school district or charter school unless:
449 ~~{(f)}~~ (A) the development resulting from the school district or charter school's development

13. Page 15, Lines 452 through 453

Senate Committee Amendments

3-4-2009:

- 452 ~~{(ii)}~~ (B) the impact fee is calculated to cover only the school district or charter school's
453 proportionate share of the cost of those additional system improvements.

(b) If the imposition of an impact fee on a new school is not prohibited under Subsection (6)(a)(iv) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee may 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.

14. Page 15, Line 457

Senate Committee Amendments

3-4-2009:

- 457 ~~(9)~~ (8) An impact fee enactment may not take effect until 90 days after it is enacted.

Section 4. Section 11-36-401.5 is enacted to read:

11-36-401.5. Mediation.

(1) In addition to the methods of challenging an impact fee under Section 11-36-401, a specified public agency may require a local political subdivision or private entity to participate in mediation of any applicable fee.

(2) To require mediation, the specified public agency shall submit a written request for mediation to the local political subdivision or private entity.

(3) The specified public agency may submit a request for mediation under this section at any time, but no later than 30 days after the impact fee is paid.

(4) Upon the submission of a request for mediation under this section, the local political subdivision or private entity shall:

(a) cooperate with the specified public agency in the selection of a mediator; and

(b) participate in the mediation process.

Section 5. Coordinating H.B. 259 with S.B. 84, Impact Fees Revisions -- Technically superseding and merging amendments.

If this H.B. 259 and S.B. 84, Impact Fees Revisions, both pass, it is the intent of the Legislature that:

(1) this coordination clause supersede the coordination clause in S.B. 84 relating to Subsection 11-36-202(6); and

(2) the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Subsection 11-36-202(6) to read:

"~~[(7)] (6)(a)~~ Notwithstanding any other provision of this chapter:

~~[(a) a municipality imposing impact fees to fund fire trucks as of the effective date of this act may impose impact fees for fire trucks until July 1, 1997; and (b)]~~

~~(i) an impact fee to pay for a public safety facility that is a fire suppression vehicle may not be imposed [with respect to land that has a zoning designation other than commercial] on residential components of development[-] ;~~

~~(ii) an impact fee may not be imposed on a school district or charter school for a park, recreation facility, open space, or trail;~~

~~(iii) an impact fee may not be imposed 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 being replaced; and~~

~~(C) the new school and the school being replaced are both within:~~

~~(I) the boundary of the local political subdivision; or~~

~~(II) the jurisdiction of the private entity; and~~

~~(iv) an impact fee may not be imposed on a school district or charter school unless:~~

~~(A) the development resulting from the school district 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 or charter school's proportionate share of the cost of those additional system improvements.~~

~~(b) If the imposition of an impact fee on a new school is not prohibited under Subsection (6)(a)(iii) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee may 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."~~