

**IMPACT FEES AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Derrin R. Owens**

Senate Sponsor: Ralph Okerlund

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**LONG TITLE**

**General Description:**

This bill addresses the definition of public facilities for the purpose of impact fees.

**Highlighted Provisions:**

This bill:

- ▶ amends a definition; and
- ▶ makes technical 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 2014, Chapter 363

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*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, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district



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

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

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

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

37 (2) "Charter school" includes:

38 (a) an operating charter school;

39 (b) an applicant for a charter school whose application has been approved by a charter  
40 school authorizer as provided in Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;  
41 and

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

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

47 (4) "Development approval" means:

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

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

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

54 (i) to reserve or provide:

55 (A) a water right;

56 (B) a system capacity; or

57 (C) a distribution facility; or

58 (ii) to deliver for a development activity:

- 59 (A) culinary water; or
- 60 (B) irrigation water; or
- 61 (d) a written authorization from a sanitary sewer authority, as defined in Section
- 62 10-9a-103:
- 63 (i) to reserve or provide:
- 64 (A) sewer collection capacity; or
- 65 (B) treatment capacity; or
- 66 (ii) to provide sewer service for a development activity.
- 67 (5) "Enactment" means:
- 68 (a) a municipal ordinance, for a municipality;
- 69 (b) a county ordinance, for a county; and
- 70 (c) a governing board resolution, for a local district, special service district, or private
- 71 entity.
- 72 (6) "Encumber" means:
- 73 (a) a pledge to retire a debt; or
- 74 (b) an allocation to a current purchase order or contract.
- 75 (7) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 76 meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility
- 77 system of a municipality, county, local district, special service district, or private entity.
- 78 (8) (a) "Impact fee" means a payment of money imposed upon new development
- 79 activity as a condition of development approval to mitigate the impact of the new development
- 80 on public infrastructure.
- 81 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a
- 82 hookup fee, a fee for project improvements, or other reasonable permit or application fee.
- 83 (9) "Impact fee analysis" means the written analysis of each impact fee required by
- 84 Section 11-36a-303.
- 85 (10) "Impact fee facilities plan" means the plan required by Section 11-36a-301.
- 86 (11) "Level of service" means the defined performance standard or unit of demand for
- 87 each capital component of a public facility within a service area.
- 88 (12) (a) "Local political subdivision" means a county, a municipality, a local district
- 89 under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special

90 service district under Title 17D, Chapter 1, Special Service District Act.

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

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

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

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

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

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

102 (14) (a) "Project improvements" means site improvements and facilities that are:

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

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

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

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

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

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

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

116 (b) wastewater collection and treatment facilities;

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

118 (d) municipal power facilities;

119 (e) roadway facilities;

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

121 (g) public safety facilities; [or]

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

123 (i) ~~the~~ **municipal** ~~natural gas facilities~~ ~~as that term is defined in~~

123a ~~Section 58-55-308.1]~~ ~~.~~

124 (17) (a) "Public safety facility" means:

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

126 or

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

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

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

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

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

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

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

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

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

143 (20) "Specified public agency" means:

144 (a) the state;

145 (b) a school district; or

146 (c) a charter school.

147 (21) (a) "System improvements" means:

148 (i) existing public facilities that are:

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

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

151 (ii) future public facilities identified in the impact fee analysis under Section

152 [11-36a-304](#) that are intended to provide services to service areas within the community at large.

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

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**