

SENATE BILL NO. 237

INTRODUCED BY M. BLASDEL

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REQUIREMENTS GOVERNING A LOCAL GOVERNMENT IMPACT FEE SERVICE AREA REPORT AND IMPACT FEE ADVISORY COMMITTEE; INCREASING THE TIME PERIOD FOR WHEN THE BUDGET COMPONENT OF AN IMPACT FEE SERVICE AREA REPORT MUST BE REVIEWED; ELIMINATING THE REQUIREMENT THAT AN ACCOUNTANT SERVE ON AN IMPACT FEE ADVISORY COMMITTEE; AND AMENDING SECTIONS 7-6-1602 AND 7-6-1604, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-6-1602, MCA, is amended to read:

**"7-6-1602. Calculation of impact fees -- documentation required -- ordinance or resolution -- requirements for impact fees.** (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve a service area report.

(2) The service area report is a written analysis that must:

- (a) describe existing conditions of the facility;
- (b) establish level-of-service standards;
- (c) forecast future additional needs for service for a defined period of time;
- (d) identify capital improvements necessary to meet future needs for service;
- (e) identify those capital improvements needed for continued operation and maintenance of the facility;
- (f) make a determination as to whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;
- (g) make a determination as to whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;
- (h) establish the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;
- (i) establish the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;

- 1 (j) establish the amount of the impact fee that will be imposed for each unit of increased service demand;  
2 and
- 3 (k) have a component of the budget of the governmental entity that:
- 4 (i) schedules construction of public facility capital improvements to serve projected growth;  
5 (ii) projects costs of the capital improvements;  
6 (iii) allocates collected impact fees for construction of the capital improvements; and  
7 (iv) covers at least a 5-year period and is reviewed and updated at least every 2 5 years.
- 8 (3) The service area report is a written analysis that must contain documentation of sources and  
9 methodology used for purposes of subsection (2) and must document how each impact fee meets the  
10 requirements of subsection (7).
- 11 (4) The service area report that supports adoption and calculation of an impact fee must be available  
12 to the public upon request.
- 13 (5) The amount of each impact fee imposed must be based upon the actual cost of public facility  
14 expansion or improvements or reasonable estimates of the cost to be incurred by the governmental entity as a  
15 result of new development. The calculation of each impact fee must be in accordance with generally accepted  
16 accounting principles.
- 17 (6) The ordinance or resolution adopting the impact fee must include a time schedule for periodically  
18 updating the documentation required under subsection (2).
- 19 (7) An impact fee must meet the following requirements:
- 20 (a) The amount of the impact fee must be reasonably related to and reasonably attributable to the  
21 development's share of the cost of infrastructure improvements made necessary by the new development.
- 22 (b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be  
23 incurred by the governmental entity in accommodating the development. The following factors must be  
24 considered in determining a proportionate share of public facilities capital improvements costs:
- 25 (i) the need for public facilities capital improvements required to serve new development; and  
26 (ii) consideration of payments for system improvements reasonably anticipated to be made by or as a  
27 result of the development in the form of user fees, debt service payments, taxes, and other available sources of  
28 funding the system improvements.
- 29 (c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.
- 30 (d) New development may not be held to a higher level of service than existing users unless there is a

1 mechanism in place for the existing users to make improvements to the existing system to match the higher level  
2 of service.

3 (e) Impact fees may not include expenses for operations and maintenance of the facility."  
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5 **Section 2.** Section 7-6-1604, MCA, is amended to read:

6 **"7-6-1604. Impact fee advisory committee.** (1) A governmental entity that intends to propose an impact  
7 fee ordinance or resolution shall establish an impact fee advisory committee.

8 (2) An impact fee advisory committee must include at least one representative of the development  
9 community ~~and one certified public accountant~~. The committee shall review and monitor the process of  
10 calculating, assessing, and spending impact fees.

11 (3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the  
12 governmental entity."

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