

BILL ANALYSIS

Senate Research Center

H.B. 2045
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Administration
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Engrossed

DIGEST

Current law authorizes certain political subdivisions of this state to impose impact fees on new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions attributable to the new development. However, taxes and fees generated by new development may exceed the additional cost to a political subdivision necessitated by the development. H.B. 2045 provides that a service unit, the basis of impact fees, is established based on historical data and trends applicable to the political subdivision in which the individual unit of development was located during the previous ten years. This bill also modifies the imposition and use of impact fees.

PURPOSE

As proposed, H.B. 2045 establishes provisions regarding financing capital improvements and facility expansions through the assessment of impact fees.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 395.001(4), (8), (9), and (10), Local Government Code, to redefine "impact fee," "roadway facilities," "service area," and "service unit."

SECTION 2. Amends Section 395.014(a), Local Government Code, to provide that a capital improvement plan must contain, among other specified information, a credit for the portion of ad valorem tax revenue generated by new service units identified in the land use assumptions that is used for the payment of construction costs, including the debt service on bonds to pay for the construction costs, for the political subdivision's construction projects, and a credit for the portion of the monthly water and wastewater service charges received from new service units identified in the land use assumptions that is used for the payment of construction costs for water and wastewater infrastructure to serve new development, including the debt service on bonds to pay for the water and wastewater infrastructure. Makes conforming changes.

SECTION 3. Amends Section 395.015(a), Local Government Code, to modify the formula for the maximum impact fee per service unit.

SECTION 4. Amends Section 395.016(d), Local Government Code, to provide an exception only if water and wastewater is available. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Subchapter C, Chapter 395, Local Government Code, by adding Section 395.0411 and amending Sections 395.042-395.045, 395.047, and 395.049-395.051, as follows:

Sec. 395.0411. CAPITAL IMPROVEMENTS PLAN. Requires the political subdivision to provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section 395.014.

Sec. 395.042. New heading: HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. Makes conforming changes.

Sec. 395.043. New heading: INFORMATION ABOUT LAND USE ASSUMPTIONS AND

CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. Makes conforming changes.

Sec. 395.044. New heading: NOTICE OF HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. Requires the political subdivision to publish notice of the hearing before the 30th day set for the hearing, rather than once a week for three consecutive weeks. The first notice to appear before the 30th day before the date set for the hearing. Makes conforming changes.

Sec. 395.045. New heading: APPROVAL OF LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN REQUIRED. Makes conforming changes.

Sec. 395.047. New heading: HEARING ON IMPACT FEE. Makes conforming changes.

Sec. 395.049. New heading: NOTICE OF HEARING ON IMPACT FEE. Makes conforming changes.

Sec. 395.050. New heading: ADVISORY COMMITTEE COMMENTS ON IMPACT FEES. Makes conforming changes.

Sec. 395.051. New heading: APPROVAL OF IMPACT FEE REQUIRED. Makes conforming changes.

SECTION 6. Amends Section 395.052(a), Local Government Code, to require a political subdivision to update the land use assumptions and capital improvements plan at least every five years, rather than three years. Makes a conforming change.

SECTION 7. Amends Chapter 395D, Local Government Code, by adding Section 395.082, as follows:

Sec. 395.082. CERTIFICATION OF COMPLIANCE REQUIRED. Requires a political subdivision that imposes an impact fee to submit a written certification verifying compliance with this chapter to the attorney general each year not later than the last day of the political subdivision's fiscal year. Provides for the content of the certification statement and for the signing of the certification. Provides that a political subdivision that fails to submit a certification as required by this section is liable to the state for a civil penalty in an amount equal to 10 percent of the amount of the impact fees erroneously charged

SECTION 8. Repealer: Sections 395.025(b) (Refunds), 395.046 (Capital Improvements Plan Required After Approval of Land Use Assumptions), 395.048 (Information About Plan Available to Public), and 395.0515 (Consolidation of Land Use Assumptions and Capital Improvements Plan), Local Government Code.

SECTION 9. Effective date: September 1, 1999.

SECTION 10. Emergency clause