

## **BILL ANALYSIS**

Senate Research Center  
77R2563 PAM-D

S.B. 243  
By: Harris  
Intergovernmental Relations  
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As Filed

### **DIGEST AND PURPOSE**

Under current law, a city can charge a new development for the cost of capital improvements related to and used for the new development. As proposed, S.B. 243 requires a political subdivision to credit the new development for a portion of the ad valorem tax and utility service revenues that will be generated by the new development, or a credit equal to 50 percent of the total projected cost of the capital improvements.

### **RULEMAKING AUTHORITY**

This bill does not expressly 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 add Subdivision (7), to include in the list of items required to be specifically enumerated in the capital improvements plan a plan for awarding: a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvement plan; or in the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvement plan. Makes nonsubstantive changes.

SECTION 3. Amends Section 395.015(a), Local Government Code, to prohibit the impact fee per service unit from exceeding the amount determined by subtracting the amount in Section 395.014(a)(7) from the costs of the capital improvements described by Section 395.014(a)(3), and dividing that amount by the total number of projected service units described by Section 395.014(a)(5). Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 395.016(d), Local Government Code, to authorize the political subdivision, if water and wastewater capacity is available, to collect the fees at the time the political subdivision issues a building permit. Deletes language related to the recordation of the subdivision plat and the certificate of occupancy.

SECTION 5. Amends Chapter 395C, Local Government Code, to add Section 395.0411 and amend 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. Requires a political subdivision to impose an impact fee, to adopt an order, ordinance, or resolution establishing a public hearing date to consider the land use assumptions and capital improvements plan for the designated service area. Deletes language regarding the development of the capital improvements plan. Makes nonsubstantive changes.

Sec. 395.043. New heading: INFORMATION ABOUT LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. Deletes language regarding the general nature of the capital improvement facilities. 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 before the date set for the hearing, rather than once a week for three consecutive weeks, the first notice to appear before the 30th day but on or after the 60th day before the date set for the hearing. Deletes language regarding restrictions on the publication of the notification of the hearing. Deletes language related to a map of the service area. Makes conforming and nonsubstantive 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. Requires the governing body, on adoption of the land use assumptions and capital improvements plan, rather than on completion of the capital improvements plan, to adopt an order or resolution setting a public hearing to discuss the imposition of the impact fee. Makes conforming changes.

Sec. 395.049. New heading: NOTICE OF HEARING ON IMPACT FEE. Makes conforming and nonsubstantive 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 imposing an impact fee to update the land use assumptions and capital improvements plan at least every five, rather than three years. Makes a conforming change.

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

Sec. 395.082. CERTIFICATION OF COMPLIANCE REQUIRED. (a) 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.

(b) Requires the presiding officer of the governing body of a political subdivision to sign the certification, which is required to include a certain statement of certification of compliance.

(c) 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. Requires the attorney general to collect the civil penalty and deposit the amount collected to the credit of the housing trust fund.

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

SECTION 9. Effective date: September 1, 2001.