

Study of impact fee legal effects may cost Gilbert up to \$150K

by [Parker Leavitt](#) - Sept. 2, 2011 11:21 AM
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Gilbert may have to spend as much as \$150,000 for an independent study to determine the legal effects of new impact-fee legislation and rewrite the town's current fee structure.

Officials expect to hire a consulting firm this month and have a new fee structure in place by the end of the year, according to discussions at last weekend's retreat involving Town Council and top town administrators.

The town needs the study because Senate Bill 1525 added restrictions on how municipalities can assess developer fees and what types of projects the money can be spent on.

The legislation appears to threaten the funding sources for several large-scale projects in Gilbert, including a new riparian preserve in the southern part of town, two aquatic centers and two large parks.

The law says impact fees, paid by homebuilders to help cover the cost of growth-related infrastructure, must be used for a "necessary public service."

Interpreting and applying the law, however, can be an inexact science.

Rather than guess at what the state

Legislature may have intended, Gilbert plans to hire an outside firm to take an expert look.

Officials expect to finalize negotiations with a consultant this month, and Maryland-based TischlerBise is the leading candidate.

According to its website, TischlerBise has calculated more than 700 impact fees/excise taxes throughout North America - more than any firm in the country. None of its interpretations on the use of impact fees have been successfully challenged, the firm claims.

Funding for the study, which Budget Administrator Dawn Irvine said could run about \$150,000, has already been included in the current year's budget and can be repaid through future development fees.

Before SB 1525, Gilbert assessed eight types of impact fees on developers for a total of \$19,684 per single-family residential unit. For a new subdivision of 500 homes, the developer would end up paying about \$9.8 million, which was then distributed for police, fire, parks, traffic, water and "general government" uses.

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System-development fees make up the largest funding source in Gilbert's Capital Improvement Plan, a document that includes future parks, roads, utilities and public-safety facilities. Those infrastructure costs over the next few decades are expected to total about \$1.2 billion.

When the controversial impact-fee bill was introduced in February, it instantly sparked concern from municipalities.

The League of Arizona Cities and Towns advised its members that it would effectively end the impact-fee system and shift growth-related costs to current residents.

Gilbert Mayor John Lewis had warned it could have a "massive" impact on the way the town funds projects.

After months of debate, a compromise finally emerged between developers and municipal officials. The revised SB 1525 passed the state House and Senate by wide margins and was signed by Gov. Jan Brewer on April 26. All six legislators from Districts 21 and 22 in Gilbert voted for it.

The bill includes the following under its definition of "necessary public service":

- Water and wastewater facilities.
- Storm-water, drainage and flood-control facilities.
- Libraries up to 10,000 square feet.
- Roads improvements.
- Fire and police facilities, not including administrative vehicles, helicopters or training facilities.

- Neighborhood parks and recreation centers up to 30 acres.

SB 1525 includes pools in its definition of a necessary public service, but excludes aquariums, aquatic centers, arenas, arts and cultural facilities, environmental education centers, equestrian facilities, golf courses, lakes, museums, riparian areas and zoos.

The law also requires municipalities to appoint an advisory committee with 50 percent of the members from the real estate, development or building industries and one member from the homebuilding industry. Municipal employees or officials may not serve on the committee.

In lieu of forming an advisory committee, a municipality may instead conduct a certified audit every two years and post the audit findings online.

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