

The Daily Courier

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New law restricts impact fees on new homes

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A new law governing municipal impact fees will force Prescott and Prescott Valley to place fees on commercial and industrial construction.

Gov. Jan Brewer signed the bill into law last week, and all the members of the Legislature representing Yavapai County (districts 1 and 4) supported it. Rep. Judy Burges, R-Skull Valley was a major co-sponsor, and minor co-sponsors included Sen. Steve Pierce, R-Prescott, and Rep. Jack Harper, R-Surprise.

Prescott and PV won a lawsuit on appeal last year that the Home Builders Association of Central Arizona filed against them for charging impact fees on new homes but not new businesses. Now the new law overrides that court decision.



The Associated Press

The Central Arizona Homebuilders also sued Mesa over its impact fees for cultural facilities, losing on appeal to the Supreme Court on April 19. The new law also trumps that court decision.

The new law specifically prohibits municipalities from charging impact fees on a long list of amenities including amusement parks, aquariums, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers larger than 3,000 square feet, environmental education centers, equestrian facilities, golf courses, greenhouses, lakes, libraries larger than 10,000 square feet, museums, parks larger than 30 acres unless they provide a direct benefit to the development, theme parks, riparian areas, wetlands, and zoos.

Swimming pools are OK, but not more elaborate "aquatic centers."

Prescott, Prescott Valley and Chino Valley all have impact fees on new homes for construction of libraries and parks/recreation, although Chino currently has a self-imposed moratorium on its impact fees.

The bill worried municipalities more than any bill in the Legislature this year. Homebuilders' groups have tried to get legislators to restrict impact fees for six years in a row.

The first draft of the bill would have effectively eliminated impact fees because it gave homebuilders so many credits and offsets, said Ken Strobeck, executive director of the Arizona League of Cities and Towns.

After weeks of negotiations, the Central Arizona Home Builders and the League of Cities and Towns

came up with a compromise.

The new law requires all municipalities to re-evaluate their fees and rewrite their infrastructure improvement plans by 2014. They must re-evaluate fees each year.

Some municipalities were abusing the fee concept, and now that will stop, said Spencer Kamps, VP of legislative affairs for the Central Arizona Home Builders.

For example, he said some cities were charging fees for services they never provided. The homebuilders also like the statewide uniformity the law provides, he said.

"Development impact fees are a necessity to municipalities if they are going to keep up with growth and have growth pay its way," countered Richard Parker, Prescott Valley's Community Development director.

Prescott charges an average impact fee of \$15,073 per home and home values here last year averaged \$251,347, said Joe Brehm, the city's legislative analyst.

"I can't imagine a six percent fee breaking the back of a home builder," he said. The city's fees are for new construction costs related to water, police, fire, streets, public buildings, libraries and parks and recreation.

Prescott Valley's impact fees total \$12,856 for new construction related to water, public safety, roads, parks and recreation, and libraries.

Kamps said he's not aware of any Arizona municipalities other than Prescott and PV that don't charge impact fees on commercial and industrial development.

Commercial businesses generate sales tax revenues and industrial construction means new jobs, Parker said.

Under the new law, non-residential construction doesn't have to have the same impact fees as residential construction. Parker believes the commercial fees can be minimal.

Any municipalities with higher sales taxes on new homes than retail purchases will have to credit back those taxes against construction impact fees beginning Aug. 1, 2014. Prescott-area municipalities don't charge higher sales taxes on home construction.

The current moratorium on new and increased impact fees, which the Legislature placed on municipalities on June 30, 2009, will now end six months earlier at the end of this year because of the new law.

Dewey-Humboldt officials had hoped to expand that town's impact fees to include more than the \$1,575 fee for roads, but it has been unable to do so, D-H Accountant Jane Fuller said.

Chino Valley placed its own moratorium on its \$4,180 impact fee on homes about two years ago, and that moratorium ends in July. Its impact fees cover new construction on libraries, government facilities, police, roads, and parks and recreation.

Strobeck said the League will come up with a model ordinance to help municipalities comply with the new complicated law, which takes effect Jan. 1. Prescott and Chino officials said they are counting on the League's help to interpret the law.

Saying both sides have agreed to a moratorium on future impact fee legislation until at least 2015, Brewer's signing letter stated she won't sign any more impact fee bills until 2015.

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