

Surprise's plan to repay \$73 million could stall

by **Dustin Gardiner** - Feb. 28, 2011 09:24 AM
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Surprise's plan to repay nearly \$73 million that was misallocated to build City Hall and other projects could be hitting a snag at the Legislature.

Senate President Russell Pearce, R-Mesa, is sponsoring a bill that would limit the ability of Arizona cities to collect development fees, which are one-time levies builders pay to provide infrastructure for new subdivisions.

Surprise is depending on future development-fee revenue to repay funds that were wrongly used to build City Hall, police and fire headquarters and a sports and recreation campus.

Impact fees were assessed for the projects, but city officials used other funds to pay the bills. State law requires that impact fees be used to pay for projects they were assessed for, so the city has created a series of interfund loans to repay accounts that were drained.

The repayment plan is built on city officials' assumption that eventually enough impact fees will come in to repay \$73 million that was pulled from other funds. Much of the money - \$35 million - is owed to the capital-improvement fund, which is supposed to pay for building upgrades and other repairs.

But if Pearce's bill, Senate Bill 1525, passes, it could cut off much of the development-fee revenue Surprise and other cities would expect to receive when construction picks

up again, city officials said. Here are the bill's key provisions:

- Limits what types of projects cities can assess impact fees for, possibly excluding parks, arts and cultural facilities and other non-essential services. Also prohibits cities from using fees to furnish and equip facilities built by impact fees, such as new fire stations.
- Requires that the taxes a home or business owner is forecasted to pay the city be credited against the development fees assessed. This could offset fees.
- Creates an advisory committee to oversee each city's fee program. At least 60 percent of the committee should be made up by members of the real-estate or homebuilding industries.
- Fees that are in place before the bill's effective date would need to come into compliance by Aug. 1, 2012. It was not immediately clear what impact this could have on Surprise's interfund loans.

Intergovernmental Director Michael Celaya said Surprise has joined other cities in

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opposing the legislation. The League of Arizona Cities and Towns has also spoken against it.

"It's not a good bill for the city, to be honest," Celaya told *The Republic* on Thursday. It has "a lot of potential" to harm cities.

Ken Strobeck, league director, said the proposal all but eliminates development fees. He said the bill undoes years of negotiations between the homebuilding industry and cities.

Supporters say the bill will reduce the burden of development fees on builders and homebuyers as fee costs have soared in recent years. Often, the cost of the fees is passed along to consumers in the form of higher home prices.

"We're just driving people out of the ability to afford a home," Pearce said as he introduced the bill this month.

Pearce said cities have begun collecting fees for projects that aren't really infrastructure-related, such as arts and culture facilities. Mesa won a court fight last year challenging a fee it assessed to pay for museums and arts centers.

"It was never intended for what has happened and this has just got out of hand," Pearce said.

Surprise elected leaders and staff say they plan to watch the bill closely as it moves through the Legislature, where Pearce's clout is sizable.

Councilwoman Sharon Wolcott raised concerns about the Legislature's moves at a council meeting Tuesday night where

members voted to direct staff to release a **consultant's** audit of the accounting errors and conduct an internal audit on the funding of the City Hall project.

"If the Legislature takes the impact-fee program away from us, we still have to find a revenue stream to pay back these funds," she said.

Wolcott asked Scott McCarty, the city's chief financial officer, whether residents could hypothetically be asked to pay more **taxes** if development fees are eliminated and there's no way to repay the interfund loans. He said that "would be one option."

McCarty said Thursday that the city could try to recoup some of the fees through its development agreements with future builders.

"At this time, we don't see any impact to the average Surprise resident," he said. "Their property taxes aren't going up."

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