

## Surprise, other cities discuss new impact-fee limits

by *Dustin Gardiner* - Jul. 8, 2011 12:00 AM  
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Surprise is not alone in its frustration and confusion about a new state law limiting what fees cities can assess builders.

Representatives from cities across metropolitan Phoenix met last month at a workshop to discuss the law's impact. Many said they were unsure about how pieces would be interpreted, but all agreed the law is an albatross for cities.

"You can't change the rules midstream on these communities," said Avondale City Attorney Andrew McGuire, who negotiated with lawmakers on the bill.

The law, Senate Bill 1525, overhauls the types of projects paid through impact fees. Cities assess builders impact fees to fund infrastructure needed for new homes and businesses, such as roads, utilities, and police and fire stations.

Some fees will be outlawed when the law takes effect in January, including those used to build government buildings such as city halls and courts. Parks bigger than 30 acres and libraries of more than 10,000 square feet are also banned.

At last week's meeting, attorneys working with the League of Arizona Cities and Towns told members that a lack of clarity in the law had opened the door for potential litigation. They advised cities to interpret the law conservatively.

McGuire said cities might avoid legal challenges from the homebuilding industry or further reform by implementing the law uniformly without trying to bend any rules. A group is being formed to help cities draft model ordinances.

League Director Ken Strobeck said it's essential that all cities be "on the same page." In the past, he said, differences in how impact fees were used bolstered the homebuilding industry's case against the fees.

"The homebuilder lobbyists are experts at taking isolated practices in individual cities and convincing legislators that all cities are abusing impact fees," he said. "In this way, marginal practices by one city end up affecting us all, and we all end up paying the price."

Developers and municipalities have long been at odds over impact fees. Proponents of the new law argue cities have misused the fees to pay for cultural facilities, artwork and other non-essential services. They said misuse had driven up home prices.

The law could have a devastating impact on

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Surprise's finances. In a last-ditch effort, the city passed a series of resolutions in May that it hopes will allow it to continue collecting impact fees needed to repay debts tied to impact-fee projects, including \$40 million for City Hall.

A grandfather clause in the law states that cities can collect impact fees needed to repay debt pledged to an impact-fee project. City officials said the resolutions memorialize that Surprise uses fees to repay money that was borrowed from other city accounts to fund City Hall.

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