PRINT

CLOSE

kdminer.com
Online news source for Kingman, Arizona & Mohave County

Latest state budget fix would allow other uses of impact fees

James Chilton
Miner Staff Reporter

Wednesday, May 13, 2009

KINGMAN - A new budget reconciliation tactic being proposed by the state House Appropriations Committee has local officials scratching their heads at what appears to be yet another not-entirely-legal means of filling the state's gaping $3.3 billion budget deficit for the coming fiscal year.

First heard last week, House Bill 2635 includes language that, if approved, would allow cities to voluntarily use impact fees for general government purposes, rather than just for growth-related infrastructure, such as new water and road connections.

In return, however, any city that does so would be required to use some of the funds to pay its share of $210 million into the state general fund, in twelve monthly payments.

Proponents of the legislation have argued that the provision would allow ailing city governments to free up extra operational cash from their uncommitted impact fee funds.

However, the League of Arizona Cities and Towns has sharply criticized the bill, arguing that all impact fees, by their very nature, are already committed to current or future projects, and that to use them for anything other than growth-related infrastructure would be both unconstitutional and illegal, even if the state statute were altered.

According to a bulletin from the League, the idea for the impact fee legislature came from the Homebuilders Association of Central Arizona - a claim that struck Kingman's Financial Services Director, Coral Loyd, as very unusual.

"I find it highly irregular that the homebuilders' association ... would want (impact fees) to go to the state operating fund," she said. "They benefit the local community, and they directly benefit the subdivisions they're building in."

Loyd agreed with the League's assertion that the only reason builders might support the legislation would be so they can make the argument that impact fees aren't really necessary for city infrastructure projects, should even a single city decide to tap into them for non-growth related uses.

"There has to be some reason the builders' association is doing this, and I guess that's because they don't want to pay the fees," Loyd said. "But they won't find 'undedicated' fees anywhere - you're going to find fees where the project hasn't begun yet, but they're still dedicated to the project."

In fact, Loyd said the only situation where a city would have undedicated impact fees would be a city that has already been fully developed. But she noted that in itself is a catch-22, since any city that is completely built out would have no reason to collect fees for new growth.

"They're totally wasting their time," she said. "Brainstorming is great, but there comes a time when you have to focus on budget solutions that can actually be implemented."

Loyd added that, even if the legislation was passed and implemented, Kingman would not consider using a dime of its impact fees to pay for anything not related to new infrastructure. "We promised our community that we would use these funds specifically for growth-related capital infrastructure," she said. "Changing our minds midstream would be an injustice to the community."

If the bill is passed, Loyd predicted its legality would be challenged almost immediately, an opinion she shared with city attorney Carl Cooper.

"I don't know how they could make it legal at all," Cooper said. "If they said it was retroactive, and for whatever reason we did (use impact fees in the general fund), obviously the contractors would have some cause for legal action (against the city)."

Related Links