

Tucson expected to lose millions of dollars under impact fee law

[Rhonda Bodfield](#) Arizona Daily Star | Posted: Monday, November 21, 2011 12:00 am |

The city of Tucson could lose millions in development impact fees under a new state law that will eliminate its ability to charge some of them.

Impact fees are a one-time charge levied against new residential and commercial developments to offset costs of new growth, from additional needs in transportation, parks and public safety.

Republican lawmakers last session rewrote the impact-fee program, forcing cities and towns to completely overhaul their programs by 2014.

Some changes come earlier. For example, one big category - for public facilities - is going away altogether come January. That's collected \$1.3 million for the city since the start of 2008.

Others are going to be scaled back.

New rules on parks, for example, would allow fees for parks up to 30 acres - in conflict with the city's trend of moving toward larger regional parks instead of numerous pocket parks. Bigger parks would be allowed only if a city could demonstrate a "direct benefit" to a particular development.

Cities and towns can continue charging for police and fire services, but they aren't allowed to charge for training, which is something Tucson was doing.

There are also some new elements. If services aren't completed on time, or if the cost ends up 10 percent less than projections, cities must start giving refunds.

"This is going to be very, very cumbersome," predicted City Attorney Mike Rankin.

He predicted impact fees will probably end up more expensive "because they've made the administration of impact fees so much more difficult."

The homebuilders' lobby said the bill was needed to rein in abuse.

Spencer Kamps, the chief lobbyist for the Home Builders Association of Central Arizona, said his members agree they should help pay for growth. But, he contends, cities were charging for services above and beyond what it would take to maintain the level of service they were providing existing residents.

He ticked off some examples. The city of Mesa assessed fees for a \$75 million arts center, which he contends isn't a core service.

The town of Goodyear assessed a fee for a \$20 million parks facility that includes a skate park and an aquatics center, paid for by all new homeowners, even those living 50 miles away.

Queen Creek, which didn't have a library for existing residents, levied impact fees to build a 47,000-square-foot facility for some \$40 million, when 20 years of debt service is included.

Gilbert spent \$42 million for a future park, expected to be completed in 17 years.

"We contend that's no longer a fee," Kamps said. "That's a tax. If cities are going to charge for something, they need to provide that service in some reasonable amount of time."

Rankin said the new law is complicated because it was a "cut-and-paste job" cobbling together language from laws in Nevada, New Mexico and Texas.

Kamps concurred that the language was lifted from other states, but said that shows the new law isn't as onerous as cities say. "Most of what we did in the law are common things that happen in other Western states," he said.

Despite the gripes from cities, Kamps said the changes are reasonable, allowing cities more than 18 months to design their new fee program. And they get to roll the cost of the plans into the fees as well.

Robert Medler, a spokesman for the Metropolitan Tucson Chamber of Commerce, said his organization supported the bill because there was a "recurring theme" coming from members that local jurisdictions weren't complying with the spirit of the fees.

"They don't see their project impact fees going in right in the vicinity where their projects were actually having an impact - and that's something we've been hearing for years," Medler said. "We looked at it as assuring impact fees are going back to their original intent."

Republican City Councilman Steve Kozachik said fixes could have been made to make local impact fees work better - such as having developers pay the fees once projects get under way and are making money, instead of upfront. He said those should be done at the city level, not broad brush, costly fixes coming from the state.

"They whine like stuck pigs when the federal government passes legislation with unfunded mandates, then they turn around and pass obligations on to us, without noticing the same principle applies," he said.

"We contend that's no longer a fee. That's a tax. If cities are going to charge for something, they need to provide that service in some reasonable amount of time."

Spencer Kamps,

Chief lobbyist for the Home Builders Association of Central Arizona

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