

REFERENCE TITLE: development fees; public transportation

State of Arizona
House of Representatives
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HB 2131

Introduced by
Representatives Farley, Sinema: Ableser, Bradley, Campbell CL, Lopes,
Prezelski

AN ACT

AMENDING SECTIONS 9-463.05 AND 11-1102, ARIZONA REVISED STATUTES; RELATING TO
MUNICIPAL AND COUNTY DEVELOPMENT FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-463.05, Arizona Revised Statutes, is amended to
3 read:

4 9-463.05. Development fees; imposition by cities and towns;
5 annual report

6 A. A municipality may assess development fees to offset costs to the
7 municipality associated with providing necessary public services, **INCLUDING**
8 **PUBLIC TRANSPORTATION**, to a development.

9 B. Development fees assessed by a municipality under this section are
10 subject to the following requirements:

11 1. Development fees shall result in a beneficial use to the
12 development.

13 2. Monies received from development fees assessed pursuant to this
14 section shall be placed in a separate fund and accounted for separately and
15 may only be used for the purposes authorized by this section. Interest
16 earned on monies in the separate fund shall be credited to the fund.

17 3. The schedule for payment of fees shall be provided by the
18 municipality. The municipality shall provide a credit toward the payment of
19 a development fee for the required dedication of public sites and
20 improvements provided by the developer for which that development fee is
21 assessed. The developer of residential dwelling units shall be required to
22 pay development fees when construction permits for the dwelling units are
23 issued.

24 4. The amount of any development fees assessed pursuant to this
25 section must bear a reasonable relationship to the burden imposed upon the
26 municipality to provide additional necessary public services to the
27 development. The municipality, in determining the extent of the burden
28 imposed by the development, shall consider, among other things, the
29 contribution made or to be made in the future in cash or by taxes, fees or
30 assessments by the property owner towards the capital costs of the necessary
31 public service covered by the development fee.

32 5. If development fees are assessed by a municipality, such fees shall
33 be assessed in a non-discriminatory manner.

34 6. In determining and assessing a development fee applying to land in
35 a community facilities district established under title 48, chapter 4,
36 article 6, the municipality shall take into account all public infrastructure
37 provided by the district and capital costs paid by the district for necessary
38 public services and shall not assess a portion of the development fee based
39 on the infrastructure or costs.

40 C. A municipality shall give at least sixty days' advance notice of
41 intention to assess a new or increased development fee and shall release to
42 the public a written report including all documentation that supports the
43 assessment of a new or increased development fee. The municipality shall
44 conduct a public hearing on the proposed new or increased development fee at
45 any time after the expiration of the sixty day notice of intention to assess

1 a new or increased development fee and at least fourteen days prior to the
2 scheduled date of adoption of the new or increased fee by the governing
3 body. A development fee assessed pursuant to this section shall not be
4 effective until ninety days after its formal adoption by the governing body
5 of the municipality. Nothing in this subsection shall affect any development
6 fee adopted prior to July 24, 1982.

7 D. Each municipality that assesses development fees shall submit an
8 annual report accounting for the collection and use of the fees. The annual
9 report shall include the following:

10 1. The amount assessed by the municipality for each type of
11 development fee.

12 2. The balance of each fund maintained for each type of development
13 fee assessed as of the beginning and end of the fiscal year.

14 3. The amount of interest or other earnings on the monies in each fund
15 as of the end of the fiscal year.

16 4. The amount of development fee monies used to repay:

17 (a) Bonds issued by the municipality to pay the cost of a capital
18 improvement project that is the subject of a development fee assessment.

19 (b) Monies advanced by the municipality from funds other than the
20 funds established for development fees in order to pay the cost of a capital
21 improvement project that is the subject of a development fee assessment.

22 5. The amount of development fee monies spent on each capital
23 improvement project that is the subject of a development fee assessment and
24 the physical location of each capital improvement project.

25 6. The amount of development fee monies spent for each purpose other
26 than a capital improvement project that is the subject of a development fee
27 assessment.

28 E. Within ninety days following the end of each fiscal year, each
29 municipality shall submit a copy of the annual report to the city
30 clerk. Copies shall be made available to the public on request. The annual
31 report may contain financial information that has not been audited.

32 F. A municipality that fails to file the report required by this
33 section shall not collect development fees until the report is filed.

34 Sec. 2. Section 11-1102, Arizona Revised Statutes, is amended to read:

35 11-1102. County development fees; annual report

36 A. If a county has adopted a capital improvements plan, the county may
37 assess development fees within the covered planning area in order to offset
38 the capital costs for water, sewer, streets, parks, PUBLIC TRANSPORTATION and
39 public safety facilities determined by the plan to be necessary for public
40 services provided by the county to a development in the planning area.

41 B. Development fees assessed under this section are subject to the
42 following requirements:

43 1. Development fees shall result in a beneficial use to the
44 development.

1 2. Monies received from development fees shall be placed in a separate
2 fund and accounted for separately and may only be used for the purposes
3 authorized by this section. Interest earned on monies in the separate fund
4 shall be credited to the fund.

5 3. The county shall prescribe the schedule for paying the development
6 fees. The county shall provide a credit toward the payment of the fee for
7 the required dedication of public sites and improvements provided by the
8 developer for which that fee is assessed. The developer of residential
9 dwelling units shall be required to pay the fees when construction permits
10 for the dwelling units are issued.

11 4. The amount of any development fees must bear a reasonable
12 relationship to the burden of capital costs imposed on the county to provide
13 additional necessary public services to the development. In determining the
14 extent of the burden imposed by the development, the county shall consider,
15 among other things, the contribution made or to be made in the future in cash
16 by taxes, fees or assessments by the property owner toward the capital costs
17 of the necessary public service covered by the development fee.

18 5. Development fees shall be assessed in a nondiscriminatory manner.

19 6. In determining and assessing a development fee applying to land in
20 a community facilities district established under title 48, chapter 4,
21 article 6, the county shall take into account all public infrastructure
22 provided by the district and capital costs paid by the district for necessary
23 public services and shall not assess a portion of the development fee based
24 on the infrastructure or costs.

25 C. Before assessing or increasing a development fee, the county shall:

26 1. Give at least one hundred twenty days' advance notice of intention
27 to assess a new or increased development fee.

28 2. Release to the public a written report including all documentation
29 that supports the assessment of a new or increased development fee.

30 3. Conduct a public hearing on the proposed new or increased
31 development fee at any time after the expiration of the one hundred twenty
32 day notice of intention to assess a new or increased development fee and at
33 least fourteen days before the scheduled date of adoption of the new or
34 increased fee.

35 D. A development fee assessed pursuant to this section is not
36 effective for at least ninety days after its formal adoption by the board of
37 supervisors.

38 E. Each county that assesses development fees shall submit an annual
39 report accounting for the collection and use of the fees. The annual report
40 shall include the following:

41 1. The amount assessed by the county for each type of development fee.

42 2. The balance of each fund maintained for each type of development
43 fee assessed as of the beginning and end of the fiscal year.

44 3. The amount of interest or other earnings on the monies in each fund
45 as of the end of the fiscal year.

1 4. The amount of development fee monies used to repay:
2 (a) Bonds issued by the county to pay the cost of a capital
3 improvement project that is the subject of a development fee assessment.
4 (b) Monies advanced by the county from funds other than the funds
5 established for development fees in order to pay the cost of a capital
6 improvement project that is the subject of a development fee assessment.
7 5. The amount of development fee monies spent on each capital
8 improvement project that is the subject of a development fee assessment and
9 the physical location of each capital improvement project.
10 6. The amount of development fee monies spent for each purpose other
11 than a capital improvement project that is the subject of a development fee
12 assessment.
13 F. Within ninety days following the end of each fiscal year, each
14 county shall submit a copy of the annual report to the clerk of the board of
15 supervisors. Copies shall be made available to the public on request. The
16 annual report may contain financial information that has not been audited.
17 G. A county that fails to file the report required by this section
18 shall not collect development fees until the report is filed.
19 H. This section does not affect any development fee adopted before May
20 18, 2000.