**South Carolina General Assembly**

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**S. 856**

**STATUS INFORMATION**

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Summary: Development Impact Fee

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

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 11/30/2023 Senate Referred to Committee on **Finance**

 1/9/2024 Senate Introduced and read first time (Senate Journal‑page 60)

 1/9/2024 Senate Referred to Committee on **Finance** (Senate Journal‑page 60)

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**VERSIONS OF THIS BILL**

[11/30/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/856_20231130.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 6-1-920, RELATING TO DEFINITIONS PERTAINING TO DEVELOPMENT IMPACT FEES, SO AS TO MODIFY DEFINITIONS; BY AMENDING SECTION 6-1-930, RELATING TO DEVELOPMENTAL IMPACT FEES, SO AS TO PROVIDE THAT SYSTEM IMPROVEMENT COSTS DO NOT INCLUDE REPAIR, OPERATION, OR MAINTENANCE OF EXISTING OR NEW CAPITAL IMPROVEMENTS OR ADMINISTRATIVE AND OPERATING COSTS OF THE RELATED GOVERNMENTAL ENTITY; BY AMENDING SECTION 6-1-960, RELATING TO THE RECOMMENDED CAPITAL IMPROVEMENTS PLAN, SO AS TO MODIFY THE CIRCULATION AND PREPARATION REQUIREMENTS OF THE PLAN; AND BY AMENDING SECTION 6-1-1020, RELATING TO REFUNDS OF IMPACT FEES, SO AS TO PROVIDE THAT IMPACT FEES THAT HAVE NOT BEEN EXPENDED WITHIN SEVEN YEARS OF THE DATE THEY WERE SCHEDULED TO BE EXPENDED MUST BE REFUNDED TO THE OWNER OF RECORD OF PROPERTY ON WHICH A DEVELOPMENT IMPACT FEE HAS BEEN PAID.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1.A. Section 6-1-920(18) of the S.C. Code is amended to read:

 (18) “Public facilities” meansinclude, but are not limited to:

 (a) water supply production, treatment, laboratory, engineering, administration, storage, and transmission facilities;

 (b) wastewater collection, treatment, laboratory, engineering, administration, and disposal facilities;

 (c) solid waste and recycling collection, treatment, and disposal facilities;

 (d) roads, streets, and bridges including, but not limited to, rights-of-way and traffic signals;

 (e) storm water transmission, retention, detention, treatment, and disposal facilities and flood control facilities;

 (f) public safety facilities, including law enforcement, fire, emergency medical and rescue, and street lighting facilities;

 (g) capital equipment and vehicles, with an individual unit purchase price of not less than one hundred thousand dollars including, but not limited to, equipment and vehicles used in the delivery of public safety services, emergency preparedness services, collection and disposal of solid waste, and storm water management and control;

 (h) parks, libraries, and recreational facilities;

 (i) public education facilities for grades K-12 including, but not limited to, schools, offices, classrooms, parking areas, playgrounds, libraries, cafeterias, gymnasiums, health and music rooms, computer and science laboratories, and other facilities considered necessary for the proper public education of the state's children.

B. Section 6-1-920(22) of the S.C. Code is amended to read:

 (22) “System improvement costs” means costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering, and other costs attributable to the improvements, and also including the costs of providing additional public facilities needed to serve new growth and development. System improvement costs do not include:

 (a) construction, acquisition, or expansion of public facilities other than capital improvements identified in the capital improvements plan;

 (b) repair, operation, or maintenance of existing or new capital improvements;

 (c) (b) upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;

 (d) (c) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development; (or)

 (e) administrative and operating costs of the governmental entity; or

 (f) (d) principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements identified in the capital improvements plan.

SECTION 2. Section 6-1-930(B) and (C) of the S.C. Code is amended to read:

 (B)(1) An impact fee may be imposed and collected by the governmental entity only upon the passage of an ordinance approved by a positive majority, as defined in Article 3 of this chapter.

 (2) The amount of the development impact fee must be based on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies.

 (3)(2) An ordinance authorizing the imposition of a development impact fee must:

 (a) establish a procedure for timely processing of applications for determinations by the governmental entity of development impact fees applicable to all property subject to impact fees and for the timely processing of applications for individual assessment of development impact fees, credits, or reimbursements allowed or paid under this article; and

 (b) include a description of acceptable levels of service for system improvements.; and

 (c) provide for the termination of the impact fee.

 (C) A governmental entity shall prepare and publish an annual report describing the amount of all impact fees collected, appropriated, or spent during the preceding year by category of public facility and service area.

SECTION 3. Section 6-1-960 of the S.C. Code is amended to read:

 Section 6-1-960. (A) The local planning commission shall recommend to the governmental entity a capital improvements plan which may be adopted by the governmental entity by ordinance. The recommendations of the commission are not binding on the governmental entity, which may amend or alter the plan. After reasonable public notice, a public hearing must be held before final action to adopt the ordinance approving the capital improvements plan. The notice must be published not less than thirty days before the time of the hearing in at least one newspaper of general circulation in the county or on the governmental entity’s website. The notice must advise the public of the time and place of the hearing, that a copy of the capital improvements plan is available for public inspection in the offices of the governmental entity, and that members of the public will be given an opportunity to be heard.

 (B) The capital improvements plan must contain:

 (1) a general description of all existing public facilities, and their existing deficiencies, within the service area or areas of the governmental entity, a reasonable estimate of all costs, and a plan to develop the funding resources, including existing sources of revenues, related to curing the existing deficiencies including, but not limited to, the upgrading, updating, improving, expanding, or replacing of these facilities to meet existing needs and usage;

 (2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of existing public facilities, which must be prepared by a qualified professional using generally accepted principles and professional standards;

 (3) a description of the land use assumptions;

 (4) a definitive table establishing the specific service unit for each category of system improvements and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, agricultural, and industrial, as appropriate;

 (5) a description of all system improvements and their costs necessitated by and attributable to new development in the service area, based on the approved land use assumptions, to provide a level of service not to exceed the level of service currently existing in the community or service area, unless a different or higher level of service is required by law, court order, or safety consideration;

 (6) the total number of service units necessitated by and attributable to new development within the service area based on the land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

 (7) the projected demand for system improvements required by new service units projected over a reasonable period of time not to exceed twenty years;

 (8) identification of all sources and levels of funding available to the governmental entity for the financing of the system improvements; and

 (9) a schedule setting forth estimated dates for commencing and completing construction of all improvements identified in the capital improvements plan.

 (C) Changes in the capital improvements plan must be approved in the same manner as approval of the original plan.

SECTION 4. Section 6-1-1020 of the S.C. Code is amended to read:

 Section 6-1-1020. (A) An impact fee must be refunded to the owner of record of property on which a development impact fee has been paid if:

 (1) the impact fees have not been expended within three seven years of the date they were scheduled to be expended on a first-in, first-out basis; or

 (2) a building permit or permit for installation of a manufactured home is denied.

 (B) When the right to a refund exists, the governmental entity shall send a refund to the owner of record within ninety days after it is determined by the entity that a refund is due.

 (C) A refund must include the pro rata portion of interest earned while on deposit in the impact fee account.

 (D) A person entitled to a refund has standing to sue for a refund pursuant to this article if there has not been a timely payment of a refund pursuant to subsection (B) of this section.

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. This act takes effect upon approval by the Governor.

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