

By: Senator(s) Horhn, Frazier

To: Finance

SENATE BILL NO. 2808

1 AN ACT TO AUTHORIZE MUNICIPALITIES AND COUNTIES TO IMPOSE
2 DEVELOPMENT IMPACT FEES; TO ENACT DEFINITIONS; TO REQUIRE THE
3 LOCAL GOVERNMENTAL UNIT TO ENACT THE IMPACT FEES VIA ORDINANCE; TO
4 IMPOSE REQUIREMENTS ON THE ORDINANCES; TO RESTRICT THE PURPOSES
5 FOR WHICH THE PROCEEDS OF THE FEES MAY BE APPLIED; AND FOR RELATED
6 PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** (1) As used in this section, the following terms
9 shall have the meanings ascribed to them unless the context
10 clearly requires otherwise:

11 (a) "Capital plan" means a description of new public
12 facilities or of new capital improvements to existing public
13 facilities or of previous capital improvements to public
14 facilities that continue to provide capacity available for new
15 development that includes cost estimates and capacity available to
16 serve new development;

17 (b) "Development" means any residential, multifamily,
18 commercial or industrial improvement to lands within a
19 municipality;

20 (c) "Development impact fee" means a fee or charge
21 imposed by a municipality upon or against a development in order
22 to generate revenue for funding or for recouping expenditures of
23 the municipality that are reasonably attributable to the use and
24 occupancy of the development.

25 (d) "Development impact fee" shall not include:

26 (i) Any ad valorem real property taxes;

27 (ii) Any special assessments for an improvement
28 district;

29 (iii) Any utility hookup fees or access fees; or

30 (iv) Any fees for filing development plats or
31 plans for building permits or for construction permits assessed by
32 a municipality or a municipal service that are approximately equal
33 to the cost of the plat, plan, or permit review process to the
34 municipality or the municipal service agency;

35 (e) "Public facilities" means publicly owned facilities
36 that are one or more of the following systems or a portion of
37 those systems:

38 (i) Water supply, treatment, and distribution for
39 either domestic water or for suppression of fires;

40 (ii) Wastewater treatment and sanitary sewerage;

41 (iii) Storm water drainage;

42 (iv) Roads, streets, sidewalks, highways and
43 public transportation;

44 (v) Library;

45 (vi) Parks, open space and recreation areas;

46 (vii) Police or public safety;

47 (viii) Fire protection;

48 (ix) Public schools; and

49 (x) Ambulance or emergency medical transportation
50 and response.

51 (2) A municipality may assess by ordinance a development
52 impact fee to offset costs reasonably attributable to providing
53 necessary public facilities to new development. The development
54 impact fee is to be assessed against the owner and not the builder
55 or contractor of the property, or, if the builder or contractor is
56 the owner, against the first purchaser of the property from the
57 builder or contractor who is the owner. A development impact fee
58 may not exceed One Thousand Dollars (\$1,000.00).

59 (a) Development impact fees may be assessed, collected,
60 and expended only for the planning, design, and construction of
61 new public facilities or of capital improvements to existing
62 public facilities that expand its capacity or for the recoupment

63 of prior capital improvements to public facilities that created
64 capacity available to serve new development.

65 (b) The development impact fee may be pledged to the
66 payment of bonds issued by the municipality to finance capital
67 improvements or public facilities for which the development impact
68 fee may be imposed.

69 (c) No development impact fee shall be assessed for or
70 expended upon the operation or maintenance of any public facility
71 or for the construction or improvement of public facilities that
72 does not create additional capacity.

73 (d) The proceeds of development impact fees may not be
74 deposited to nor transferred to the municipality's general fund.

75 (3) (a) A municipality may assess and collect
76 impact fees only from new development and only against a
77 particular new development in reasonable proportion to the demand
78 for additional capacity in public facilities that is reasonably
79 attributable to the use and occupancy of that new development.

80 (b) The owner, resident or tenant of a property that
81 was assessed an impact fee and paid it in full shall have the
82 right to make reasonable use of all public facilities that were
83 financed by the impact fee.

84 (4) (a) A municipality may assess, collect and
85 expend impact fees only under a development impact fee ordinance
86 adopted or amended under this section.

87 (b) A development impact fee ordinance shall be adopted
88 or amended by the governing body of a municipality only after the
89 municipality has adopted a capital plan and level of service
90 standards for all of the public facilities that are to be so
91 financed.

92 (c) The development impact fee ordinance shall contain:

93 (i) A statement of the new public facilities and
94 capital improvements to existing public facilities that are to be
95 financed by impact fees and the level of service standards

96 included in the capital plan for the public facilities that are to
97 be financed with impact fees;

98 (ii) The actual formula or formulas for assessing
99 the impact fee, which shall be consistent with the level of
100 service standards; and

101 (iii) The procedure by which impact fees are to be
102 assessed and collected.

103 (5) (a) The municipality shall collect the development
104 impact fee at the time and manner and from the party as prescribed
105 in the ordinance and shall collect the fee separate and apart from
106 any other charges to the development.

107 (b) A development impact fee shall be collected at
108 either the closing on the property by the owner or the issuance of
109 a certificate of occupancy or its equivalent by the municipality.
110 Alternatively, and subject to subsection (2) of this section, a
111 development impact fee may be collected in connection with and as
112 a condition to the installation of the water meter serving the
113 property.

114 (c) At closing, the development impact fee that has
115 been paid or will be paid for the property shall be separately
116 enumerated on the closing statement.

117 (d) The ordinance may include that the development
118 impact fee may be paid in installments at a reasonable interest
119 rate for a fixed number of years or that the municipality may
120 negotiate agreements with the owner of the property as to the time
121 and method of paying the impact fee.

122 (6) The funds collected under a development impact fee
123 ordinance shall be deposited into a special interest-bearing
124 account. The interest earned on the monies in the separate
125 account shall be credited to the special fund and the funds
126 deposited into the special account and the interest earned shall
127 be expended only in accordance with this section.

128 **SECTION 2.** This act shall take effect and be in force from
129 and after July 1, 2007.