

By: Senator(s) Davis

To: Municipalities; County
Affairs

SENATE BILL NO. 2967

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 or county;

20 (c) "Development impact fee" means a fee or charge
21 imposed by a municipality or county upon or against a development
22 in order to generate revenue for funding or for recouping
23 expenditures of the municipality or county that are reasonably
24 attributable to the use and 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 or county may assess by ordinance a
52 development impact fee to offset costs reasonably attributable to
53 providing necessary public facilities to new development. The
54 development impact fee is to be assessed against the owner and not
55 the builder or contractor of the property, or, if the builder or
56 contractor is the owner, against the first purchaser of the
57 property from the builder or contractor who is the owner. A
58 development impact fee may not exceed One Thousand Dollars
59 (\$1,000.00).

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

63 public facilities that expand its capacity or for the recoupment
64 of prior capital improvements to public facilities that created
65 capacity available to serve new development.

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

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

74 (d) The proceeds of development impact fees may not be
75 deposited to nor transferred to the local governmental unit's
76 general fund.

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

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

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

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

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

95 (i) A statement of the new public facilities and
96 capital improvements to existing public facilities that are to be
97 financed by impact fees and the level of service standards
98 included in the capital plan for the public facilities that are to
99 be financed with impact fees;

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

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

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

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

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

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

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

128 deposited into the special account and the interest earned shall
129 be expended only in accordance with this section.

130 (7) This section does not invalidate any development impact
131 fee or a similar fee adopted by a municipality or county before
132 July 1, 2005; provided that existing ordinances shall be amended
133 to conform to this act in order to remain valid after October 1,
134 2005.

135 **SECTION 2.** This act shall take effect and be in force from
136 and after July 1, 2005.