

# State of Wisconsin



2005 Senate Bill 681

Date of enactment: **May 30, 2006**  
Date of publication\*: **June 13, 2006**

## 2005 WISCONSIN ACT 477

AN ACT *to repeal* 66.0617 (2) (am); *to amend* 66.0617 (1) (a), 66.0617 (1) (c), 66.0617 (1) (d), 66.0617 (1) (e), 66.0617 (1) (f), 66.0617 (1) (g), 66.0617 (1) (h), 66.0617 (2) (a), 66.0617 (2) (b), 66.0617 (2) (c), 66.0617 (3), 66.0617 (4) (a) (intro.), 66.0617 (4) (a) 3., 66.0617 (4) (b), 66.0617 (5) (b), 66.0617 (6) (b), 66.0617 (6) (d), 66.0617 (6) (g), 66.0617 (7), 66.0617 (8), 66.0617 (9) (a) and 66.0617 (10); and *to create* 65.90 (3) (b) 3. and 236.45 (6) of the statutes; **relating to**: changes to the impact fee law, imposing certain publication requirements for the budget summaries that are published by political subdivisions, and imposing certain requirements on plat approval conditions.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1g.** 65.90 (3) (b) 3. of the statutes is created to read:

65.90 (3) (b) 3. Revenue and expenditure totals for each impact fee that is imposed by a municipality.

**SECTION 1r.** 66.0617 (1) (a) of the statutes is amended to read:

66.0617 (1) (a) "Capital costs" means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless the ~~political subdivision~~ municipality can demonstrate that its legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed 10% of capital costs. "Capital costs" does not include other noncapital costs to construct, expand or improve public facilities, vehicles; or the costs of equipment to construct, expand or improve public facilities.

**SECTION 2.** 66.0617 (1) (c) of the statutes is amended to read:

66.0617 (1) (c) "Impact fees" means cash contributions, contributions of land or interests in land or any other items of value that are imposed on a developer by a ~~political subdivision~~ municipality under this section.

**SECTION 3.** 66.0617 (1) (d) of the statutes is amended to read:

66.0617 (1) (d) "Land development" means the construction or modification of improvements to real property that creates additional residential dwelling units within a ~~political subdivision~~ municipality or that results in nonresidential uses that create a need for new, expanded or improved public facilities within a ~~political subdivision~~ municipality.

**SECTION 4.** 66.0617 (1) (e) of the statutes is amended to read:

66.0617 (1) (e) "~~Political subdivision~~" "Municipality" means a city, village, ~~town or county or town~~.

**SECTION 5.** 66.0617 (1) (f) of the statutes is amended to read:

66.0617 (1) (f) "Public facilities" means highways, as defined in s. 340.01 (22), and other transportation

\* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing, and distributing water, parks, playgrounds, and ~~other recreational land for athletic fields~~, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries ~~except that, with regard to counties, "public facilities" does not include highways, as defined in s. 340.01 (22), other transportation facilities or traffic control devices.~~ "Public facilities" does not include facilities owned by a school district.

**SECTION 6.** 66.0617 (1) (g) of the statutes is amended to read:

66.0617 (1) (g) "Service area" means a geographic area delineated by a ~~political subdivision~~ municipality within which there are public facilities.

**SECTION 7.** 66.0617 (1) (h) of the statutes is amended to read:

66.0617 (1) (h) "Service standard" means a certain quantity or quality of public facilities relative to a certain number of persons, parcels of land or other appropriate measure, as specified by the ~~political subdivision~~ municipality.

**SECTION 8.** 66.0617 (2) (a) of the statutes is amended to read:

66.0617 (2) (a) ~~Subject to par. (am), a political subdivision~~ A municipality may enact an ordinance under this section that imposes impact fees on developers to pay for the capital costs that are necessary to accommodate land development.

**SECTION 9.** 66.0617 (2) (am) of the statutes is repealed.

**SECTION 10.** 66.0617 (2) (b) of the statutes is amended to read:

66.0617 (2) (b) Subject to par. (c), this section does not prohibit or limit the authority of a ~~political subdivision~~ municipality to finance public facilities by any other means authorized by law, except that the amount of an impact fee imposed by a ~~political subdivision~~ municipality shall be reduced, under sub. (6) (d), to compensate for any other costs of public facilities imposed by the ~~political subdivision~~ municipality on developers to provide or pay for capital costs.

**SECTION 11.** 66.0617 (2) (c) of the statutes is amended to read:

66.0617 (2) (c) Beginning on May 1, 1995, a ~~political subdivision~~ municipality may impose and collect impact fees only under this section.

**SECTION 12.** 66.0617 (3) of the statutes is amended to read:

66.0617 (3) PUBLIC HEARING; NOTICE. Before enacting an ordinance that imposes impact fees, or amending an existing ordinance that imposes impact fees, a ~~political subdivision~~ municipality shall hold a public hearing on the proposed ordinance or amendment. Notice of the

public hearing shall be published as a class 1 notice under ch. 985, and shall specify where a copy of the proposed ordinance or amendment and the public facilities needs assessment may be obtained.

**SECTION 13.** 66.0617 (4) (a) (intro.) of the statutes is amended to read:

66.0617 (4) (a) (intro.) Before enacting an ordinance that imposes impact fees or amending an ordinance that imposes impact fees by revising the amount of the fee or altering the public facilities for which impact fees may be imposed, a ~~political subdivision~~ municipality shall prepare a needs assessment for the public facilities for which it is anticipated that impact fees may be imposed. The public facilities needs assessment shall include, but not be limited to, the following:

**SECTION 14.** 66.0617 (4) (a) 3. of the statutes is amended to read:

66.0617 (4) (a) 3. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2., including an estimate of the effect of recovering these capital costs through impact fees on the availability of affordable housing within the ~~political subdivision~~ municipality.

**SECTION 15.** 66.0617 (4) (b) of the statutes is amended to read:

66.0617 (4) (b) A public facilities needs assessment or revised public facilities needs assessment that is prepared under this subsection shall be available for public inspection and copying in the office of the clerk of the ~~political subdivision~~ municipality at least 20 days before the hearing under sub. (3).

**SECTION 16.** 66.0617 (5) (b) of the statutes is amended to read:

66.0617 (5) (b) An ordinance enacted under this section may delineate geographically defined zones within the ~~political subdivision~~ municipality and may impose impact fees on land development in a zone that differ from impact fees imposed on land development in other zones within the ~~political subdivision~~ municipality. The public facilities needs assessment that is required under sub. (4) shall explicitly identify the differences, such as land development or the need for those public facilities, which justify the differences between zones in the amount of impact fees imposed.

**SECTION 17.** 66.0617 (6) (b) of the statutes is amended to read:

66.0617 (6) (b) May not exceed the proportionate share of the capital costs that are required to serve land development, as compared to existing uses of land within the ~~political subdivision~~ municipality.

**SECTION 18.** 66.0617 (6) (d) of the statutes is amended to read:

66.0617 (6) (d) Shall be reduced to compensate for other capital costs imposed by the ~~political subdivision~~ municipality with respect to land development to provide

or pay for public facilities, including special assessments, special charges, land dedications or fees in lieu of land dedications under ch. 236 or any other items of value.

**SECTION 19.** 66.0617 (6) (g) of the statutes is amended to read:

66.0617 (6) (g) Shall be payable by the developer ~~or the property owner~~ to the ~~political subdivision, either municipality~~ in full ~~or in installment payments that are approved by the political subdivision, before~~ within 14 days of the issuance of a building permit may be issued or other required approval may be given within 14 days of the issuance of an occupancy permit by the ~~political subdivision~~ municipality.

**SECTION 20.** 66.0617 (7) of the statutes is amended to read:

66.0617 (7) **LOW-COST HOUSING.** An ordinance enacted under this section may provide for an exemption from, or a reduction in the amount of, impact fees on land development that provides low-cost housing, except that no amount of an impact fee for which an exemption or reduction is provided under this subsection may be shifted to any other development in the land development in which the low-cost housing is located or to any other land development in the ~~political subdivision~~ municipality.

**SECTION 21.** 66.0617 (8) of the statutes is amended to read:

66.0617 (8) **REQUIREMENTS FOR IMPACT FEE REVENUES.** Revenues from each impact fees ~~fee that is imposed~~ shall be placed in a separate segregated, interest-bearing account and shall be accounted for separately from the other funds of the ~~political subdivision~~ municipality. Impact fee revenues and interest earned on impact fee revenues may be expended only for the particular capital costs for which the impact fees ~~were~~ fee was imposed, unless the fee is refunded under sub. (9).

**SECTION 22.** 66.0617 (9) (a) of the statutes, as affected by 2005 Wisconsin Act 203, is amended to read:

66.0617 (9) (a) Subject to par. (b), an ordinance enacted under this section shall specify that impact fees that are imposed and collected by a ~~political subdivision~~ municipality but are not used within 7 years after they are collected to pay the capital costs for which they were

imposed shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, in described in sub. (8). The ordinance shall specify, by type of public facility, reasonable time periods within which impact fees must be spent or refunded under this subsection, subject to the 7-year limit in this paragraph and the extended time period specified in par. (b). In determining the length of the time periods under the ordinance, a ~~political subdivision~~ municipality shall consider what are appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed.

**SECTION 23.** 66.0617 (10) of the statutes is amended to read:

66.0617 (10) **APPEAL.** A ~~political subdivision~~ municipality that enacts an impact fee ordinance under this section shall, by ordinance, specify a procedure under which a developer upon whom an impact fee is imposed has the right to contest the amount, collection or use of the impact fee to the governing body of the ~~political subdivision~~ municipality.

**SECTION 25m.** 236.45 (6) of the statutes is created to read:

236.45 (6) **REQUIREMENTS FOR APPROVAL CONDITIONS.** (a) Notwithstanding subs. (1) and (2) (a) (intro.), a municipality, town, or county may not, as a condition of approval under this chapter, impose any fees or other charges to fund the acquisition or improvement of land, infrastructure, or other real or personal property.

(b) Any land dedication, easement, or other public improvement required by a municipality, town, or county as a condition of approval under this chapter must bear a rational relationship to a need for the land dedication, easement, or other public improvement resulting from the subdivision or other division of land.

**SECTION 26m. Initial applicability.**

(1) **REQUIREMENTS FOR APPROVAL CONDITIONS.** The treatment of section 236.45 (6) of the statutes first applies to a certified survey map, a preliminary plat, or, if no preliminary plat was submitted, a final plat that is submitted for approval on the effective date of this subsection.