

ACT No. 2008-486

1 HB894
2 98557-2
3 By Representatives McMillan, Baker (A), Davis, Shiver and
4 Faust (N & P)
5 RFD: Baldwin County Legislation
6 First Read: 17-APR-08



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ENROLLED, An Act,

Relating to Baldwin County; to amend Sections 45-2-243.81, 45-2-243.84, and 45-2-243.87, Code of Alabama 1975, to further provide for the conditions for the county and any municipality in the county to assess and collect impact fees on new development for governmental infrastructure purposes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 45-2-243.81, 45-2-243.84, and 45-2-243.87, Code of Alabama 1975, are amended to read as follows:

"§45-2-243.81.

"For the purposes of this subpart, the following words have the following meanings:

"(1) GOVERNMENTAL INFRASTRUCTURE. Any facilities, systems, or services that are owned and operated by or on behalf of a political subdivision for any of the following purposes:

"a. Storm water, drainage, and flood control.

"b. Roads and bridges.

"c. Capital expenditures related to law enforcement and public safety, fire protection, emergency medical services, public park and recreational facilities, and public schools.

1 "d. Maintenance and upkeep of facilities or
2 resurfacing of roadways where needed because of the impact of
3 new development.

4 "(2) IMPACT FEE. A charge or assessment imposed by a
5 political subdivision against new development in order to
6 generate revenue for funding or recouping the costs of
7 governmental infrastructure necessitated by and attributable
8 directly to the new development. The term includes the
9 dedication of land for public parks or payments made in lieu
10 of the dedication to serve park needs and includes amortized
11 charges, lump-sum charges, capital recovery fees,
12 contributions in aid of construction, and any other similar
13 fee that functions as described by this definition. The term
14 does not include any of the following:

15 "a. Dedication of rights-of-way or easements or
16 construction or dedication of on-site or off-site water
17 distribution, wastewater collection or drainage facilities, or
18 streets, sidewalks, or curbs if the dedication or construction
19 is required or necessitated by and attributable to the new
20 development.

21 "b. Lot or acreage fees to be placed in trust funds
22 for the purpose of reimbursing developers for oversizing or
23 constructing water or sewer mains or lines.

24 "c. Other pro rata fees for reimbursement of water
25 or sewer mains or lines extended by the political subdivision.

1 "(3) NEW DEVELOPMENT. The subdivision of land; the
 2 construction, reconstruction, redevelopment, conversion,
 3 structural alteration, relocation, or enlargement of any
 4 structure; or any use or extension of the use of land; any of
 5 which increases the demands on governmental infrastructure.

6 "(4) POLITICAL SUBDIVISION. A municipality or the
 7 county.

8 "(5) ROADS AND BRIDGES. Any public highway, road, or
 9 bridge in the political subdivision, together with all
 10 necessary appurtenances. The term includes the political
 11 subdivision's share of costs for roadways and associated
 12 improvements designated on the federal or state highway
 13 system, including local matching funds and costs related to
 14 utility line relocation and the establishment of curbs,
 15 gutters, sidewalks, drainage appurtenances, and rights-of-way.

16 "§45-2-243.84.

17 "(a) (1) An impact fee per service unit of new
 18 development may be set by the political subdivision not to
 19 exceed one percent of the estimated fair and reasonable market
 20 value of the new development after completion.

21 "(2) The estimated fair and reasonable market value
 22 of a new development for the purpose of setting an impact fee
 23 pursuant to subdivision (1) shall be based on the amount set
 24 forth for the issuance of the building permit plus the value
 25 of the land or an estimated fair and reasonable market value

1 based on information submitted by the developer. If the
2 political subdivision does not agree with the estimated fair
3 and reasonable market value submitted by the developer, the
4 political subdivision may obtain an appraisal by a licensed
5 appraiser. If the value of the development as submitted by the
6 developer and the value as set forth in the appraisal obtained
7 by the political subdivision are within 10 percent of each
8 other, the two values shall be averaged to determine the
9 estimated fair and reasonable market value of the development.
10 If the two values are not within 10 percent of each other, the
11 developer and the political subdivision shall together select
12 a licensed appraiser to submit an appraisal that would be
13 binding on both parties.

14 "(b) An impact fee may be levied only once on a
15 service unit.

16 "(c) A political subdivision, by ordinance, may
17 provide for credits against any impact fees for expenditures
18 for governmental infrastructure by the developer of a new
19 development and may provide credits based on the demonstrated
20 public benefit of the development. The political subdivision
21 may provide the procedure for the approval of any credit
22 against any impact fees on the development as provided in this
23 subsection.

24 "(d) A county may elect to share revenues from the
25 collection of impact fees with a municipality when the

1 revenues are generated in the police jurisdiction of the
2 municipality. Any revenues shared pursuant to this subsection
3 shall be used by the municipality in accordance with this act.

4 "§45-2-243.87.

5 "Any impact fees collected within a political
6 subdivision shall be used only for governmental infrastructure
7 purposes. Any impact fees collected pursuant to this subpart
8 shall be expended or contracted to be expended within ~~two~~ five
9 years of the collection of the fees unless the development or
10 the expenditure or contracting for expenditure of the fees is
11 delayed by an Act of God or litigation. Any impact fee not
12 expended or contracted for within ~~two~~ five years unless
13 subject to an exception as provided above shall be refunded to
14 the developer."

15 Section 2. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.

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[Handwritten Signature]

Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 24-APR-08.

Greg Pappas
Clerk

Senate

08-MAY-08

Passed

APPROVED *May 29, 2008*
TIME *3:20 p.m.*
Bob Riley
GOVERNOR

Alabama Secretary Of State
Act Num....: 2008-486
Bill Num....: H-894
Recv'd 05/29/08 05:12pm JJB