

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Roberts

1 Amend the Local Government and Housing Committee Report, dated
2 April 11, 2024, page 1, line 1, strike "page 6, after line 18 insert:" and
3 substitute "page 5, line 17, after "(d.5)" insert "(I)".

4 Page 1 of the report, after line 1 insert:

5 "Page 5 of the bill, strike lines 23 through 27.

6 Page 6 of the bill, strike lines 1 through 14 and substitute: "THE
7 DISTRICT'S JURISDICTIONAL BOUNDARIES PURSUANT TO A SCHEDULE THAT
8 IS:

9 (A) LEGISLATIVELY ADOPTED;

10 (B) GENERALLY APPLICABLE TO A BROAD CLASS OF PROPERTY;

11 AND

12 (C) INTENDED TO DEFRAY THE PROJECTED IMPACTS ON CAPITAL
13 FACILITIES CAUSED BY THE PROPOSED CONSTRUCTION.

14 (II) A DISTRICT SHALL QUANTIFY THE REASONABLE IMPACTS OF
15 PROPOSED CONSTRUCTION ON EXISTING CAPITAL FACILITIES AND
16 ESTABLISH THE IMPACT FEE AT A LEVEL NO GREATER THAN NECESSARY TO
17 DEFRAY SUCH IMPACTS DIRECTLY RELATED TO THE PROPOSED
18 CONSTRUCTION. AN IMPACT FEE SHALL NOT BE IMPOSED TO REMEDY ANY
19 DEFICIENCY IN CAPITAL FACILITIES THAT EXISTS WITHOUT REGARD TO THE
20 PROPOSED CONSTRUCTION.

21 (III) ANY SCHEDULE OF IMPACT FEES ADOPTED BY A DISTRICT
22 PURSUANT TO THIS SUBSECTION (1)(d.5) MUST INCLUDE PROVISIONS TO
23 ENSURE THAT NO INDIVIDUAL LANDOWNER IS REQUIRED TO PROVIDE ANY
24 SITE SPECIFIC DEDICATION OR IMPROVEMENT TO MEET THE SAME NEED FOR
25 CAPITAL FACILITIES FOR WHICH THE IMPACT FEE IS IMPOSED.

26 (IV) NO LATER THAN SIXTY CALENDAR DAYS BEFORE ADOPTING
27 AN IMPACT FEE SCHEDULE PURSUANT TO THIS SUBSECTION (1)(d.5), A
28 DISTRICT SHALL NOTIFY THE CLERK OF EVERY MUNICIPALITY OR COUNTY
29 THAT INCLUDES TERRITORY THAT IS WHOLLY OR PARTLY LOCATED WITHIN
30 THE DISTRICT'S JURISDICTIONAL BOUNDARIES AND THAT MAY BE IMPACTED
31 BY THE PROPOSED IMPACT FEE SCHEDULE OF THE DISTRICT'S INTENT TO
32 ADOPT THE SCHEDULE AND PROVIDE A REASONABLE OPPORTUNITY FOR
33 THE MUNICIPALITY OR COUNTY TO SUBMIT WRITTEN COMMENTS
34 REGARDING THE SCHEDULE OF IMPACT FEES TO THE BOARD OF THE
35 DISTRICT.

36 (V) AN IMPACT FEE IMPOSED PURSUANT TO THIS SUBSECTION
37 (1)(d.5) MUST BE COLLECTED AND ACCOUNTED FOR IN THE SAME MANNER
38 AS A LAND DEVELOPMENT CHARGE IS REQUIRED TO BE COLLECTED AND

1 ACCOUNTED FOR PURSUANT TO PART 8 OF ARTICLE 1 OF TITLE 29.

2 (VI) AN IMPACT FEE SHALL NOT BE IMPOSED ON ANY
3 CONSTRUCTION OF NEW BUILDINGS, STRUCTURES, FACILITIES, OR
4 IMPROVEMENTS, INCLUDING OIL OR GAS WELLS AND RELATED EQUIPMENT,
5 ON PREVIOUSLY IMPROVED OR ON UNIMPROVED REAL PROPERTY WITHIN
6 THE DISTRICT'S JURISDICTIONAL BOUNDARIES, FOR WHICH AN INDIVIDUAL
7 OR ENTITY HAS SUBMITTED A COMPLETED APPLICATION FOR A
8 DEVELOPMENT PERMIT TO AN APPROVING LOCAL GOVERNMENT PRIOR TO
9 THE ADOPTION OF A SCHEDULE OF IMPACT FEES BY THE DISTRICT
10 PURSUANT TO THIS SUBSECTION (1)(d.5). A DISTRICT SHALL NOT COLLECT
11 AN IMPACT FEE BEFORE THE ISSUANCE OF A BUILDING PERMIT BY THE
12 APPROVING LOCAL GOVERNMENT. THE APPROVING LOCAL GOVERNMENT
13 SHALL NOTIFY THE DISTRICT OF THE ISSUANCE OF A BUILDING PERMIT FOR
14 THE CONSTRUCTION OF NEW BUILDINGS, STRUCTURES, FACILITIES, OR
15 IMPROVEMENTS, INCLUDING OIL OR GAS WELLS AND RELATED EQUIPMENT,
16 ON PREVIOUSLY IMPROVED OR ON UNIMPROVED REAL PROPERTY WITHIN
17 THE DISTRICT'S JURISDICTIONAL BOUNDARIES AT THE TIME OF ISSUANCE.

18 (VII) ANY PERSON OR ENTITY THAT OWNS OR HAS AN INTEREST IN
19 LAND THAT IS OR BECOMES SUBJECT TO A SCHEDULE OF IMPACT FEES
20 IMPOSED BY A DISTRICT PURSUANT TO THIS SUBSECTION (1)(d.5) SHALL,
21 BY RECEIVING A BUILDING PERMIT FROM THE APPROVING LOCAL
22 GOVERNMENT, HAVE STANDING TO FILE AN ACTION FOR DECLARATORY
23 JUDGMENT TO DETERMINE WHETHER THE IMPACT FEE SCHEDULE COMPLIES
24 WITH THE PROVISIONS OF THIS SUBSECTION (1)(d.5). A PERSON OR ENTITY
25 WITH STANDING WHO BELIEVES THAT A DISTRICT HAS IMPROPERLY
26 APPLIED AN IMPACT FEE SCHEDULE PURSUANT TO THIS SUBSECTION
27 (1)(d.5) TO THE CONSTRUCTION OF ANY NEW BUILDINGS, STRUCTURES,
28 FACILITIES, OR IMPROVEMENTS, INCLUDING OIL OR GAS WELL AND
29 RELATED EQUIPMENT, ON PREVIOUSLY IMPROVED OR ON UNIMPROVED
30 REAL PROPERTY WITHIN THE DISTRICT'S JURISDICTIONAL BOUNDARIES MAY
31 PAY THE FEE IMPOSED AND PROCEED WITH CONSTRUCTION WITHOUT
32 PREJUDICE TO THE PERSON OR ENTITY'S RIGHT TO CHALLENGE THE IMPACT
33 FEE IMPOSED UNDER RULE 106 OF THE COLORADO RULES OF CIVIL
34 PROCEDURE. IF THE COURT DETERMINES THAT THE DISTRICT HAS EITHER
35 IMPOSED AN IMPACT FEE ON CONSTRUCTION THAT IS NOT SUBJECT TO THE
36 ADOPTED SCHEDULE OF IMPACT FEES OR IMPROPERLY CALCULATED THE
37 IMPACT FEE AMOUNT, IT MAY ENTER JUDGMENT IN FAVOR OF THE PERSON
38 OR ENTITY FOR THE AMOUNT OF ANY IMPACT FEE WRONGFULLY
39 COLLECTED WITH INTEREST THEREON FROM THE DATE OF COLLECTION.

40 (VIII) AS USED IN THIS SUBSECTION (1)(d.5):

41 (A) "CAPITAL FACILITY" MEANS ANY IMPROVEMENT OR FACILITY
42 THAT IS DIRECTLY RELATED TO ANY SERVICE THAT A DISTRICT IS
43 AUTHORIZED TO PROVIDE, HAS AN ESTIMATED USEFUL LIFE OF FIVE YEARS

1 OR LONGER, AND IS REQUIRED BY THE BYLAWS, RULES, OR REGULATIONS
2 OF A DISTRICT, AS ADOPTED BY THE BOARD OF THE DISTRICT.

3 (B) "LOCAL GOVERNMENT" HAS THE SAME MEANING AS SET FORTH
4 IN SECTION 29-20-103 (1.5).".

5 Page 6 of the bill, after line 18 insert:".

6 Page 1 of the report, line 18, after "(c)" insert "(I)".

7 Page 1 of the report, strike lines 22 through 27.

8 Page 2 of the report, strike lines 1 through 13 and substitute "BOUNDARIES
9 PURSUANT TO A SCHEDULE THAT IS:

10 (A) LEGISLATIVELY ADOPTED;

11 (B) GENERALLY APPLICABLE TO A BROAD CLASS OF PROPERTY;

12 AND

13 (C) INTENDED TO DEFRAY THE PROJECTED IMPACTS ON CAPITAL
14 FACILITIES CAUSED BY THE PROPOSED CONSTRUCTION.

15 (II) A DISTRICT SHALL QUANTIFY THE REASONABLE IMPACTS OF
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20 DEFICIENCY IN CAPITAL FACILITIES THAT EXISTS WITHOUT REGARD TO THE
21 PROPOSED CONSTRUCTION.

22 (III) ANY SCHEDULE OF IMPACT FEES ADOPTED BY A DISTRICT
23 PURSUANT TO THIS SUBSECTION (1)(c) MUST INCLUDE PROVISIONS TO
24 ENSURE THAT NO INDIVIDUAL LANDOWNER IS REQUIRED TO PROVIDE ANY
25 SITE SPECIFIC DEDICATION OR IMPROVEMENT TO MEET THE SAME NEED FOR
26 CAPITAL FACILITIES FOR WHICH THE IMPACT FEE IS IMPOSED.

27 (IV) NO LATER THAN SIXTY CALENDAR DAYS BEFORE ADOPTING
28 AN IMPACT FEE SCHEDULE PURSUANT TO THIS SUBSECTION (1)(c), A
29 DISTRICT SHALL NOTIFY THE CLERK OF EVERY MUNICIPALITY OR COUNTY
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