

Gilbert projects in jeopardy due to new impact-fee limits

by **Parker Leavitt** - May. 12, 2011 10:31 AM
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Gilbert could lose a primary funding source for several major parks projects because new state legislation limits impact fees charged to homebuilders to help pay for growth-related infrastructure.

A new riparian preserve, two aquatic centers and two large parks in Gilbert's Capital Improvement Plan were expected to draw on nearly \$63 million in system-development fees, but language in Senate Bill 1525 could make those projects ineligible.

Officials in Queen Creek, meanwhile, worry the new law could hinder their plans for courts and two large parks, Town Manager John Kross told the *Gilbert Republic*.

Gov. Jan Brewer signed SB 1525 on April 26 after it passed the state House and Senate by wide margins. All six legislators from Districts 21 and 22 in Gilbert voted for it.

Homebuilders and cities struck a compromise last month that helped mitigate some of the law's most severe restrictions, but Gilbert officials are still analyzing it to determine exactly how the town will be affected.

"While it is not a perfect bill, it is better than what was originally introduced," Gilbert spokeswoman Beth Lucas said.

Even with the revisions, however, the bill may jeopardize certain projects it excludes from "necessary public services," such as large

parks or "general government" buildings.

The bill instantly sparked concern from Valley municipalities when introduced in February. The League of Arizona Cities and Towns advised its members that it would effectively end the impact fee system and shift growth-related costs to current residents.

Mayor John Lewis had warned it could have a "massive" impact on the way Gilbert funds future projects.

"Cursory review indicates a rewrite of the entire development fee program will be required, and new impact fee structures will need to be in effect within two years," Lucas said.

Gilbert assesses eight types of impact fees to developers for a total of \$19,684 per single-family residential unit. For a new subdivision of 500 homes, the developer would end up paying \$9.8 million, which is then distributed among police, fire, parks, traffic, water and "general government" funds.

System-development fees make up the

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largest funding source in Gilbert's CIP, a document that includes future parks, roads, utilities and public-safety facilities. Those infrastructure costs over the next few decades are expected to total about \$1.2 billion, according to the plan.

SB 1525 limits impact fees to projects it deems a "necessary public service," including:

- Water and wastewater facilities.
- Storm-water, drainage and flood-control facilities.
- Libraries up to 10,000 square feet.
- Roads improvements.
- Fire and police facilities, not including administrative vehicles, helicopters or training facilities.
- Neighborhood parks and recreation centers up to 30 acres.

The compromise will allow municipalities to continue using impact fees to repay bond debt for projects that are currently being financed, "even if those projects would not be an eligible use of impact fees in the future due to more restrictive definitions," according to a League of Arizona Cities and Towns report.

The Homebuilders Association of Central Arizona also "committed in writing to not promote new legislation changing the impact fee statutes . . . until at least the 2015 legislative session," according to the League report.

The compromise was enough to sway state Rep. Steve Urie, R-Gilbert, who initially

opposed the bill and voted against it in the House Government Committee.

"I had some real heartburn with some of this stuff," Urie said. "In its original form, it was unacceptable, and it paralyzed communities."

But amendments to the bill extended timelines and allowed more projects to remain eligible for impact-fee funding, Urie said.

"I don't think everybody got everything that they wanted," Urie said. "I checked with the municipalities, and they said they're not excited about it, but if it stops the fight, let's do it."

The bill allows cities to use impact fees to fund park facilities larger than 30 acres only if they provide a "direct benefit" to the development.

At least two large parks planned for south Gilbert would appear to meet that standard because they double as flood-control facilities, Urie said.

Chandler Heights Lower Basin, near Higley

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and Queen Creek roads, is expected to need more than \$40 million in park impact fees, and Rittenhouse District Park, near Power and Pecos roads, is expected to require nearly an additional \$29 million.

SB 1525 includes pools in its definition of a necessary public service but excludes aquariums, aquatic centers, arenas, arts and cultural facilities, environmental education centers, equestrian facilities, golf courses, lakes, museums, riparian areas and zoos.

That concerns Queen Creek officials.

"From our perspective, it's a major shift from where Arizona has been over the years, when policies were in place to ensure growth was paying for growth in a proportionate share," Kross said.

The bill also puts restrictions on non-recreational infrastructure, such as roads and water facilities.

Impact fees must be spent within 15 years if intended for water or wastewater projects or within 10 years for any other project. If the municipality cannot keep that deadline, the fees must be refunded.

The law also requires municipalities to appoint an advisory committee with 50 percent of the members from the real-estate, development or building industries and one member from the homebuilding industry. Municipal employees or officials may not serve on the committee.

In lieu of forming an advisory committee, a municipality may instead conduct a certified audit every two years and post the audit findings online.

Both Gilbert and Queen Creek are

considering bringing in a consultant for advice in understanding the bill and restructuring their impact-fee programs. Kross said such contracts often cost more than \$75,000.

Gilbert officials plan to hold a CIP stakeholders meeting at 9:30 this morning at Gilbert Municipal Center, 50 E. Civic Center Drive. Those meetings typically include members of the development community and utility company representatives and are intended for anyone involved with the town's capital improvement plan, Budget Administrator Dawn Irvine said.

Lewis said he's asked officials to provide a summary of the bill at a council meeting on May 23.

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