

Gilbert reduces impact-fee structure, putting some projects in jeopardy

by **Parker Leavitt** - Dec. 20, 2011 12:33 PM
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Developers in Gilbert will pay about 6 percent less in impact fees after the Town Council last week adopted a new rate structure as mandated by state law.

Senate Bill 1525, signed by the governor earlier this year, added restrictions on how municipalities can assess developer fees and what kind of projects on which the money can be spent.

Previously, each community was permitted to assess impact fees for growth-related projects it deemed a "necessary public service." The new law takes that determination away from municipalities and replaces it with a narrower statewide definition. Cities and towns were given until Jan. 1 to bring their fee structures into compliance with state law.

In September, the council approved a \$130,000 contract with Maryland-based consultant TischlerBise to help revise the town's impact fees.

The new structure reduces the amount assessed for parks, fire, police and government infrastructure by about \$1,200 per single-family unit. Impact fees for water and wastewater projects remain unchanged.

Before SB 1525, Gilbert imposed eight types of impact fees on developers for \$19,684 per single-family home. For a new subdivision of 500 homes, the developer paid about \$9.8 million.

Under the new structure, the developer would pay \$9.2 million for the same subdivision, or \$18,532 per unit.

Town officials are waiting for TischlerBise to complete a more comprehensive report, which will include updates on specific projects and explore alternative financing methods, according to a town staff report.

According to its website, TischlerBise has calculated more than 700 impact fees/excise taxes throughout North America -- more than any firm in the country. None of its interpretations on the use

of impact fees have been successfully challenged, the firm claims.

SB 1525 passed the Legislature with support of all six lawmakers from Districts 21 and 22 in Gilbert, despite municipalities' widespread concerns about its impact. Gilbert Mayor John Lewis had warned it could have a "massive" impact on the way the town funds projects.

The law includes the following under its definition of necessary public service:

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

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The new law 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.

funding sources for several large-scale projects in Gilbert may be in jeopardy because of the new law, including a new riparian preserve in the southern part of town, two aquatic centers and two large parks.

System-development fees make up the largest funding source in Gilbert's Capital Improvement Plan, 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.

SB 1525 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.

Projects in jeopardy

The following parks projects rely on system-development fees as a major funding source but may no longer be eligible under Senate Bill 1525.

Riparian preserve. The riparian preserve would be near Higley and Ocotillo roads in south Gilbert. The town expected to use about \$8.5 million in park system-development fees to complete the preserve by 2018. The 140-acre park would double as a water recharge site. The new law specifically excludes water reclamation or riparian areas and wetlands from its definition of a "necessary public service."

Southwest Activity Center/Field Complex. The land for this site near Greenfield and Chandler Heights roads was purchased using bond debt, but the town planned to use about \$17 million in development-fee revenue to complete construction by build-out in 2027. The park would likely include ballfields, sport courts, a lake and ramadas, according to the Capital Improvement Plan. At about 80 acres, the park is larger than the 30 acres allowed in SB 1525.

Larger parks are allowed, however, if they provide a "direct benefit" to the development where impact fees are being assessed.

Hetchler Park. Located near Queen Creek and Greenfield roads, a 55-acre site is scheduled to become a large park with ballfields, sport courts, concessions, lake, ramadas, play areas and restrooms. Nearly \$20 million in funding was expected to come from park impact fees. The park may be too large to qualify for impact-fee funding.

Aquatic centers. Gilbert's CIP includes vague plans for two future aquatic centers, one at a Gilbert Public Schools site and another at a Higley Unified School District site. The aquatic centers were to be funded through \$15.5 million in park impact fees. The legislation allows for pools but not aquatic centers.

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