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Cities blast impact-fee freeze

Struggling municipalities say new law will bring deeper revenue losses

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by [Elias G. Soria](#) - Sept. 20, 2009 12:00 AM
The Arizona Republic

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A newly imposed two-year freeze on development-impact fees is a win for Arizona's battered construction industry but a blow to cities eyeing fee [hikes](#) to pay for services tied to new projects.

"It definitely changes the definition of growth paying its own way," Gilbert Town Manager George Pettit said. "It just pays most of its own way."

Pettit sums up how Valley municipalities see the two-year moratorium on new or increased fees, a provision in the 2009-10 state budget. Gov. Jan Brewer signed the bill into law on Sept. 4 as part of the state's budget package.

The freeze is retroactive to June 30 and is in place through June 30, 2011. It comes at a time when cities have slashed budgets, laid off workers and raised [taxes](#) to offset deep revenue losses.

The League of Arizona Cities and Towns is looking into whether it can challenge the two-year freeze, Executive Director Ken Strobeck said.

"To just single out municipal-impact fees that pay for infrastructure that serves the new development and wouldn't be needed without the new development, I think is totally misguided," he said.

When developers get approval for housing and commercial projects, they pay cities impact fees for new roads, police and fire stations and other services new residents will require.

But amid stagnant demand, the construction industry questioned why impact fees are climbing and lobbied for a freeze to make costs predictable and get projects going.

The freeze doesn't go as far as an earlier proposal that would have prevented cities from collecting any impact fees for three years, but it is "a good interim Band-Aid," said

Spencer Kamps, vice president of legislative affairs for the Home Builders Association of Central Arizona.

Real-estate prices have gone down but regulatory fees haven't, he said, and eliminating impact fees would allow builders to sell houses competitively while creating jobs.

"If the goal is to put people back to work . . . construction can do that quickly," Kamps said.

Builders are trying to work through nearly 50,000 infrastructure-equipped and approved lots in Maricopa County, he said.

Assessing the damage

The effect of the moratorium on Valley cities is mixed.

Some raised the fees before the state budget was adopted but have to put the increase on hold because the freeze is retroactive.

Others planned to review their fees in the next couple of years.

Among those caught by surprise is Buckeye.

The southwest Valley town in August adopted higher impact fees for the first time since 2005, after paying a consultant nearly \$76,000 to develop a zoned fee structure.

Buckeye expects to collect \$2.1 million in fees on 645 building permits this fiscal year, based on the current fee of \$9,942 per [single-family home](#).

That sum would be significantly higher if the increase took effect in November, adding an average of \$3,500 per house.

Mayor Jackie Meck said Buckeye's current fees are "inadequate" and was disappointed that the state budget upends the town's planned increases.

"Implementing the new impact fees in November would have helped us get back more in line with other communities, but we are committed to minimizing any impact it has on our current residents, businesses and customers," he said. "We will evaluate how this adjustment will affect all of our projects."

In the East Valley, Gilbert and Chandler are trying to determine whether the increase cap applies to them. Both raised their rates before the cut-off and started collecting them after June 30.

Gilbert adjusts its rates annually and the latest increase took effect July 27. The town hoped to bring in \$19.7 million in impact fees this fiscal year by collecting \$19,726 per house, up from \$18,390.

Because of the freeze, the town will collect about \$1 million less than expected this year.

"We've clearly stopped most of our projects," Pettit said. "It's just a matter of whether we'll have the financial resources to pay the bonds that are outstanding."

He said the issue pits two state laws against each other. One requires cities to wait 90 days to collect approved impact fees; the other freezes them entirely.

That's a crucial question for Chandler, where increased fees took effect July 1, a day after the cutoff. The city adopted its rates in March and timed collections to start at the beginning of the [fiscal year](#). The 7.4 percent increase to \$22,079 per house was tied to a construction price index.

"Had we known that (cutoff was coming), we could have easily adjusted the effective date," Chandler Management Services Director Dennis Strachota said.

The city collected \$5.8 million in impact fees last year. But it doesn't foresee a pinch until the 2010-11 fiscal year.

"My guess is it won't have an immediate impact," Strachota said.

Gilbert continues to charge higher fees, but Chandler reverted to the old fees on Sept. 11 and will give developers credit or a refund.

Builders seek stability

For developers, the freeze gives them cost stability needed to line up financing now for projects to build after the market recovers, said Richard Hubbard, president and CEO of Valley Partnership.

"In a difficult time like this, developers are able to pencil out quality projects that improve the area and will hopefully bring business and employees," said Hubbard, who represents a commercial-development coalition.

Many projects are on hold, and raising impact fees "would only increase the cost to development at a time when development companies are struggling," Hubbard said.

A lobbyist for the Arizona Multihousing Association, a rental-housing trade group, echoed that freezing the fees makes them predictable for developers.

"We are hopeful that it will bring some projects into the pipeline that have been on the cusp," said lobbyist Courtney LeVinus, with Capitol Consulting. "This gives (developers) some certainty and hopefully will stimulate them to get back into the market."

State Sen. Jack Harper, R-Surprise, voted for the impact-free provision, although the issue wasn't his priority.

Harper, whose district includes much of Buckeye, thinks some cities use the fees as a "cash cow," charging more than needed. But he acknowledged the freeze will keep others from collecting enough.

"It's hard to say which cities are charging fair impact fees and which ones are charging higher-than-necessary impact fees," he said.

Kamps, with the Home Builders Association, believes cities have secured bonds with impact fees and are now jacking them up to cover the payments.

Even when the fee cap goes away, cities will still have to keep close tabs on who pays what.

After June 30, 2011, the law protects individual projects from new fees for two years after cities give their final OK. The cities can still adjust existing fees for inflation.

"You're going to have to track each separate plat approval," said Bridget Schwartz-Manock, [Scottsdale's](#) intergovernmental affairs director. "We're going to have to hire staff probably to do something like this."

The sole exception is [Phoenix](#), which intends to lower impact fees to reflect a decrease in land values. A formal decision could come in November.

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Deirdre Hamill/The Arizona Republic

A PBS worker helps build a house at Fireside at Desert Ridge in Phoenix.

More on this topic

Fee freeze hits cities

Arizona cities and towns can't increase their impact fees for two years. A state budget bill signed into law this month capped the fees at their June 30 levels. Here's how the measure affects Valley cities:

- **Avondale:** No fee increase this year, no immediate plans to review fees.
- **Buckeye:** Increase was slated for Nov. 12, but the town won't be able to collect higher fees.
- **Chandler:** Collected increased fees July 1 through Sept. 11. Builders who paid the higher rate could get a refund or credit.
- **Fountain Hills:** Had been discussing an increase.
- **Gilbert:** Increase took effect July 27, but the town likely will have to go back to older fees.
- **Glendale:** Studying whether it needs an increase.

- **Goodyear:** Raised fees for the Sonoran Valley area in May. Could review fees city-wide in 2010 or '11.
- **Mesa:** Reviews fees every three years. Next review anticipated in 2010.
- **Peoria:** Next review would have been in 2010, but won't pursue an increase.
- **Phoenix:** Expects police, fire and library impact fees to decrease. Lower fees could be adopted in November.
- **Scottsdale:** Increased fees in some areas in January. Rates are typically adjusted each year.
- **Surprise:** No plans to review fees.
- **Tempe:** Raised water and sewer impact fees in February.
- **Tolleson:** No plans to review fees.



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