

HB456 INTRODUCED



1 07KTMJ-1

2 By Representative Cole (N & P)

3 RFD: Madison County Legislation

4 First Read: 11-May-23

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6 2023 Regular Session



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4 A BILL
5 TO BE ENTITLED
6 AN ACT

9 Relating to Madison County and its municipalities; to
10 provide for an impact fee to be collected by the county and
11 its municipalities to offset the costs of expanding public
12 infrastructure required by new development.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. For the purposes of this act, the following
15 words have the following meanings:

16 (1) COUNTY. Madison County.

17 (2) 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:

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

22 b. Roads and bridges.

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

26 d. Maintenance and upkeep of facilities or resurfacing
27 of roadways where needed because of the impact of new
28 development.



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29 (3) IMPACT FEE. A charge or assessment imposed by a
30 political subdivision against new development in order to
31 generate revenue for funding or recouping the costs of
32 governmental infrastructure necessitated by and attributable
33 directly to the new development. The term includes amortized
34 charges, lump-sum charges, capital recovery fees,
35 contributions in aid of construction, and any other similar
36 fee that functions as described by this definition. The term
37 may also include dedication of land for public parks or
38 payments made in lieu of the dedication to serve park needs.
39 The term does not include any of the following:

40 a. Lot or acreage fees to be placed in trust funds for
41 the purpose of reimbursing developers for oversizing or
42 constructing water or sewer mains or lines.

43 b. Other pro rata fees for reimbursement of water or
44 sewer mains or lines extended by the political subdivision.

45 (4) NEW DEVELOPMENT. Any of the following that increase
46 the demands on governmental infrastructure:

47 a. The subdivision of land.

48 b. The construction, reconstruction, redevelopment,
49 conversion, structural alteration, relocation, or enlargement
50 of any structure.

51 c. Any use or extension of the use of land.

52 (5) POLITICAL SUBDIVISION. The county or municipality
53 within the county.

54 (6) ROADS AND BRIDGES. Any public highway, road, or
55 bridge in a political subdivision, together with all necessary
56 appurtenances. The term includes a political subdivision's



57 share of costs for roadways and associated improvements
58 designated on the federal or state highway system, including
59 local matching funds and costs related to utility line
60 relocation and the establishment of curbs, gutters, sidewalks,
61 drainage appurtenances, and rights-of-way.

62 (7) SERVICE UNIT. The unit as determined by the
63 political subdivision of new development that increases
64 demands on governmental infrastructure against which the
65 political subdivision imposes the impact fee. The term may
66 include a unit of land, such as a lot, or an improvement.

67 Section 2. (a) The Madison County Commission, on land
68 outside the corporate limits of a municipality, or a
69 municipality, on land within the municipality's corporate
70 limits, may only enact or impose an impact fee in accordance
71 with this act. An impact fee may be imposed only for
72 governmental infrastructure and costs directly related
73 thereto.

74 (b) A municipality may contract with the Madison County
75 Commission to provide governmental infrastructure, except
76 roadway facilities, to an area outside its corporate limits.

77 Section 3. (a) (1) An impact fee per service unit of new
78 development may be set by the political subdivision not to
79 exceed one percent of the estimated fair and reasonable market
80 value of the new development after completion.

81 (2) The estimated fair and reasonable market value of a
82 new development for the purpose of setting an impact fee
83 pursuant to subdivision (1) shall be based on the amount set
84 forth for the issuance of the building permit plus the value



85 of the land or an estimated fair and reasonable market value
86 based on information submitted by the developer. If the
87 political subdivision does not agree with the estimated fair
88 and reasonable market value submitted by the developer, the
89 political subdivision may obtain an appraisal by a licensed
90 appraiser. If the value of the development as submitted by the
91 developer and the value as set forth in the appraisal obtained
92 by the political subdivision are within 10 percent of each
93 other, the two values shall be averaged to determine the
94 estimated fair and reasonable market value of the development.
95 If the two values are not within 10 percent of each other, the
96 developer and the political subdivision shall together select
97 a licensed appraiser to submit an appraisal that would be
98 binding on both parties.

99 (b) An impact fee may be levied only once on a service
100 unit.

101 (c) A political subdivision, by ordinance, may provide
102 for credits against any impact fees for expenditures for
103 governmental infrastructure by the developer of a new
104 development and may provide credits based on the demonstrated
105 public benefit of the new development. The political
106 subdivision may provide the procedure for the approval of any
107 credit against any impact fees on the new development as
108 provided in this subsection.

109 (d) The county may elect to share revenues from the
110 collection of impact fees with a municipality when the
111 revenues are generated in the police jurisdiction of the
112 municipality. Any revenues shared pursuant to this subsection

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113 shall be used by the municipality in accordance with this act.

114 Section 4. (a) A political subdivision may collect
115 impact fees at either the time of the transfer of a service
116 unit, at the time of connection to the political subdivision's
117 water or sewer system, or at the time the political
118 subdivision issues either the building permit or the
119 certificate of occupancy.

120 (b) Any impact fees assessed pursuant to this act shall
121 be paid by the developer and shall be a lien on the property.

122 Section 5. (a) Prior to the adoption of an impact fee
123 for the political subdivision, the political subdivision shall
124 hold a public hearing on the governmental infrastructure needs
125 as a result of new development. Notice of the public hearing
126 shall be published at least once in a newspaper of general
127 circulation in the political subdivision and on the website of
128 the political subdivision not less than two weeks prior to the
129 public hearing.

130 (b) Action on the resolution or ordinance setting the
131 impact fee in the political subdivision may be taken at a
132 regularly scheduled meeting of the governing body of the
133 political subdivision not less than two weeks after the public
134 hearing. The political subdivision shall make a specific
135 finding that the impact fee will benefit the new development.

136 Section 6. Any impact fees collected within a political
137 subdivision shall be used only for governmental infrastructure
138 purposes. Any impact fees collected pursuant to this act shall
139 be expended or contracted to be expended within five years of
140 the collection of the fees unless the development or the

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141 expenditure or contracting for expenditure of the fees is
142 delayed by an Act of God or litigation. Any impact fee not
143 expended or contracted for within five years, unless subject
144 to an exception as provided in this act, shall be refunded to
145 the developer.

146 Section 7. This act shall become effective on the first
147 day of the third month following its passage and approval by
148 the Governor, or its otherwise becoming law.