

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 41

BY NECOCHEA

AN ACT

1 RELATING TO DEVELOPMENT IMPACT FEES; AMENDING SECTION 67-8203, IDAHO CODE,
2 TO REVISE A DEFINITION; AMENDING SECTION 67-8204A, IDAHO CODE, TO RE-
3 VISE PROVISIONS REGARDING INTERGOVERNMENTAL AGREEMENTS; AND DECLARING
4 AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 67-8203, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 67-8203. DEFINITIONS. As used in this chapter:

10 (1) "Affordable housing" means housing affordable to families whose
11 incomes do not exceed eighty percent (80%) of the median income for the ser-
12 vice area or areas within the jurisdiction of the governmental entity.

13 (2) "Appropriate" means to legally obligate by contract or otherwise
14 commit to use by appropriation or other official act of a governmental en-
15 tity.

16 (3) "Capital improvements" means improvements with a useful life of ten
17 (10) years or more, by new construction or other action, which increase the
18 service capacity of a public facility.

19 (4) "Capital improvement element" means a component of a comprehensive
20 plan adopted pursuant to chapter 65, title 67, Idaho Code, which component
21 meets the requirements of a capital improvements plan pursuant to this chap-
22 ter.

23 (5) "Capital improvements plan" means a plan adopted pursuant to this
24 chapter that identifies capital improvements for which development impact
25 fees may be used as a funding source.

26 (6) "Developer" means any person or legal entity undertaking develop-
27 ment, including a party that undertakes the subdivision of property pursuant
28 to sections 50-1301 through 50-1334, Idaho Code.

29 (7) "Development" means any construction or installation of a building
30 or structure, or any change in use of a building or structure, or any change
31 in the use, character or appearance of land, which creates additional demand
32 and need for public facilities or the subdivision of property that would per-
33 mit any change in the use, character or appearance of land. As used in this
34 chapter, "development" shall not include activities that would otherwise
35 be subject to payment of the development impact fee if such activities are
36 undertaken by a taxing district, as defined in section 63-201, Idaho Code,
37 or by an authorized public charter school, as defined in section 33-5202A,
38 Idaho Code, in the course of carrying out its statutory responsibilities,
39 unless the adopted impact fee ordinance expressly includes taxing districts
40 or public charter schools as being subject to development impact fees.

41 (8) "Development approval" means any written authorization from a gov-
42 ernmental entity that authorizes the commencement of a development.

1 (9) "Development impact fee" means a payment of money imposed as a con-
2 dition of development approval to pay for a proportionate share of the cost
3 of system improvements needed to serve development. This term is also re-
4 ferred to as an impact fee in this chapter. The term does not include the fol-
5 lowing:

6 (a) A charge or fee to pay the administrative, plan review, or inspec-
7 tion costs associated with permits required for development;

8 (b) Connection or hookup charges;

9 (c) Availability charges for drainage, sewer, water, or transportation
10 charges for services provided directly to the development; or

11 (d) Amounts collected from a developer in a transaction in which the
12 governmental entity has incurred expenses in constructing capital im-
13 provements for the development if the owner or developer has agreed to
14 be financially responsible for the construction or installation of the
15 capital improvements, unless a written agreement is made pursuant to
16 section 67-8209(3), Idaho Code, for credit or reimbursement.

17 (10) "Development requirement" means a requirement attached to a devel-
18 opmental approval or other governmental action approving or authorizing a
19 particular development project including, but not limited to, a rezoning,
20 which requirement compels the payment, dedication or contribution of goods,
21 services, land, or money as a condition of approval.

22 (11) "Extraordinary costs" means those costs incurred as a result of an
23 extraordinary impact.

24 (12) "Extraordinary impact" means an impact that is reasonably deter-
25 mined by the governmental entity to:

26 (a) Result in the need for system improvements, the cost of which will
27 significantly exceed the sum of the development impact fees to be gener-
28 ated from the project or the sum agreed to be paid pursuant to a develop-
29 ment agreement as allowed by section 67-8214(2), Idaho Code; or

30 (b) Result in the need for system improvements that are not identified
31 in the capital improvements plan.

32 (13) "Fee payer" means that person who pays or is required to pay a de-
33 velopment impact fee.

34 (14) "Governmental entity" means any unit of local government that is
35 empowered in this enabling legislation to adopt a development impact fee or-
36 dinance.

37 (15) "Impact fee." See development impact fee.

38 (16) "Land use assumptions" means a description of the service area and
39 projections of land uses, densities, intensities, and population in the ser-
40 vice area over at least a twenty (20) year period.

41 (17) "Level of service" means a measure of the relationship between ser-
42 vice capacity and service demand for public facilities.

43 (18) "Manufactured home" means a structure, constructed according to
44 HUD/FHA mobile home construction and safety standards, transportable in one
45 (1) or more sections, which, in the traveling mode, is eight (8) feet or more
46 in width or is forty (40) body feet or more in length, or when erected on site,
47 is three hundred twenty (320) or more square feet, and which is built on a
48 permanent chassis and designed to be used as a dwelling with or without a
49 permanent foundation when connected to the required utilities, and includes
50 the plumbing, heating, air conditioning, and electrical systems contained

1 therein, except that such term shall include any structure that meets all the
2 requirements of this subsection except the size requirements and with re-
3 spect to which the manufacturer voluntarily files a certification required
4 by the secretary of housing and urban development and complies with the stan-
5 dards established under 42 U.S.C. 5401 et seq.

6 (19) "Modular building" is as defined in section 39-4301, Idaho Code.

7 (20) "Present value" means the total current monetary value of past,
8 present, or future payments, contributions or dedications of goods, ser-
9 vices, materials, construction or money.

10 (21) "Project" means a particular development on an identified parcel
11 of land.

12 (22) "Project improvements" means site improvements and facilities
13 that are planned and designed to provide service for a particular devel-
14 opment project and that are necessary for the use and convenience of the
15 occupants or users of the project.

16 (23) "Proportionate share" means that portion of the cost of system im-
17 provements determined pursuant to section 67-8207, Idaho Code, which rea-
18 sonably relates to the service demands and needs of the project.

19 (24) "Public facilities" means:

20 (a) Water supply production, treatment, storage and distribution fa-
21 cilities;

22 (b) Wastewater collection, treatment and disposal facilities;

23 (c) Roads, streets and bridges, including rights-of-way, traffic
24 signals, landscaping and any local components of state or federal high-
25 ways;

26 (d) Stormwater collection, retention, detention, treatment and dis-
27 posal facilities, flood control facilities, and bank and shore protec-
28 tion and enhancement improvements;

29 (e) Parks, open space and recreation areas, and related capital im-
30 provements; and

31 (f) School district facilities; and

32 (g) Public safety facilities, including law enforcement, fire stations
33 and apparatus, emergency medical and rescue, and street lighting facil-
34 ities.

35 (25) "Recreational vehicle" means a vehicular type unit primarily de-
36 signed as temporary quarters for recreational, camping, or travel use, which
37 either has its own motive power or is mounted on or drawn by another vehicle.

38 (26) "Service area" means any defined geographic area identified by a
39 governmental entity or by intergovernmental agreement in which specific
40 public facilities provide service to development within the area defined, on
41 the basis of sound planning or engineering principles or both.

42 (27) "Service unit" means a standardized measure of consumption, use,
43 generation or discharge attributable to an individual unit of development
44 calculated in accordance with generally accepted engineering or planning
45 standards for a particular category of capital improvements.

46 (28) "System improvements," in contrast to project improvements, means
47 capital improvements to public facilities designed to provide service to a
48 service area including, without limitation, the type of improvements de-
49 scribed in section 50-1703, Idaho Code.

1 (29) "System improvement costs" means costs incurred for construction
2 or reconstruction of system improvements, including design, acquisition,
3 engineering and other costs attributable thereto, and also including, with-
4 out limitation, the type of costs described in section 50-1702(h), Idaho
5 Code, to provide additional public facilities needed to serve new growth and
6 development. For clarification, system improvement costs do not include:

7 (a) Construction, acquisition or expansion of public facilities other
8 than capital improvements identified in the capital improvements plan;

9 (b) Repair, operation or maintenance of existing or new capital im-
10 provements;

11 (c) Upgrading, updating, expanding or replacing existing capital im-
12 provements to serve existing development in order to meet stricter
13 safety, efficiency, environmental or regulatory standards;

14 (d) Upgrading, updating, expanding or replacing existing capital im-
15 provements to provide better service to existing development;

16 (e) Administrative and operating costs of the governmental entity un-
17 less such costs are attributable to development of the capital improve-
18 ments plan, as provided in section 67-8208, Idaho Code; or

19 (f) Principal payments and interest or other finance charges on bonds
20 or other indebtedness except financial obligations issued by or on be-
21 half of the governmental entity to finance capital improvements identi-
22 fied in the capital improvements plan.

23 SECTION 2. That Section 67-8204A, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 67-8204A. INTERGOVERNMENTAL AGREEMENTS. Governmental entities as
26 defined in section 67-8203(14), Idaho Code, that are jointly affected by
27 development are authorized to enter into intergovernmental agreements with
28 each other or with highway districts, school districts, fire districts, am-
29 bulance districts, water districts, sewer districts, recreational water and
30 sewer districts, or irrigation districts for the purpose of developing joint
31 plans for capital improvements or for the purpose of agreeing to collect and
32 expend development impact fees for system improvements, or both, provided
33 that such agreement complies with any applicable state laws. Governmen-
34 tal entities are also authorized to enter into agreements with the Idaho
35 transportation department for the expenditure of development impact fees
36 pursuant to a developer's agreement under section 67-8214, Idaho Code.

37 SECTION 3. An emergency existing therefor, which emergency is hereby
38 declared to exist, this act shall be in full force and effect on and after
39 July 1, 2023.