

IN THE SENATE

SENATE BILL NO. 1060

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

1 RELATING TO DEVELOPMENT IMPACT FEES; AMENDING SECTION 67-8203, IDAHO CODE,
2 TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-
3 TION 67-8204A, IDAHO CODE, TO PROVIDE THAT SCHOOL DISTRICTS MAY ENTER
4 INTO INTERGOVERNMENTAL AGREEMENTS FOR CERTAIN PURPOSES; AMENDING SEC-
5 TION 50-3102, IDAHO CODE, TO REVISE A PROVISION REGARDING COMMUNITY IN-
6 FRASTRUCTURE AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMER-
7 GENCY AND PROVIDING AN EFFECTIVE DATE.
8

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

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

12 67-8203. DEFINITIONS. As used in this chapter:

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

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

19 (3) "Capital improvements" means improvements with a useful life of ten
20 (10) years or more, by new construction or other action, ~~which~~ that increase
21 the service capacity of a public facility.

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

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

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

32 (7) "Development" means any construction or installation of a build-
33 ing or structure, or any change in use of a building or structure, or any
34 change in the use, character or appearance of land, ~~which~~ that creates addi-
35 tional demand and need for public facilities or the subdivision of property
36 that would permit any change in the use, character or appearance of land. As
37 used in this chapter, "development" shall not include activities that would
38 otherwise be subject to payment of the development impact fee if such ac-
39 tivities are undertaken by a taxing district, as defined in section 63-201,
40 Idaho Code, or by an authorized public charter school, as defined in section
41 33-5202A, Idaho Code, in the course of carrying out its statutory responsi-
42 bilities, unless the adopted impact fee ordinance expressly includes taxing

1 districts or public charter schools as being subject to development impact
2 fees.

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

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

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

12 (b) Connection or hookup charges;

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

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

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

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

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

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

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

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

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

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

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

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

47 (18) "Manufactured home" means a structure, constructed according to
48 HUD/FHA mobile home construction and safety standards, transportable in one
49 (1) or more sections, which, in the traveling mode, is eight (8) feet or more
50 in width or is forty (40) body feet or more in length, or when erected on site,

1 is three hundred twenty (320) or more square feet, and which is built on a
2 permanent chassis and designed to be used as a dwelling with or without a
3 permanent foundation when connected to the required utilities, and includes
4 the plumbing, heating, air conditioning, and electrical systems contained
5 therein, except that such term shall include any structure that meets all the
6 requirements of this subsection except the size requirements and with re-
7 spect to which the manufacturer voluntarily files a certification required
8 by the secretary of housing and urban development and complies with the stan-
9 dards established under 42 U.S.C. 5401 et seq.

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

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

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

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

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

23 (24) "Public facilities" means:

24 (a) Water supply production, treatment, storage and distribution fa-
25 cilities;

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

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

30 (d) Stormwater collection, retention, detention, treatment and dis-
31 posal facilities, flood control facilities, and bank and shore protec-
32 tion and enhancement improvements;

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

35 (f) Public safety facilities, including law enforcement, fire stations
36 and apparatus, emergency medical and rescue, and street lighting facil-
37 ities; and

38 (g) Public schools.

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

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

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

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

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

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

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

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

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

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

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

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

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

41 SECTION 3. That Section 50-3102, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 50-3102. DEFINITIONS. As used in this chapter, the following terms
44 shall have the meanings as stated:

45 (1) "Assessment area" means real property within the boundaries of a
46 community infrastructure district that is the subject of a specific special
47 assessment as set forth in this chapter.

1 (2) "Community infrastructure" means improvements that have a substan-
2 tial nexus to the district and directly or indirectly benefit the district.
3 Community infrastructure excludes public improvements fronting individual
4 single-family residential lots. Community infrastructure includes plan-
5 ning, design, engineering, construction, acquisition or installation of
6 such infrastructure, including the costs of applications, impact fees and
7 other fees, permits and approvals related to the construction, acquisition
8 or installation of such infrastructure, and incurring expenses incident to
9 and reasonably necessary to carry out the purposes of this chapter. Com-
10 munity infrastructure includes all public facilities as defined in section
11 67-8203(24) (a) through (f), Idaho Code, and, to the extent not already in-
12 cluded within the definition in section 67-8203(24) (a) through (f), Idaho
13 Code, the following:

14 (a) Highways, parkways, expressways, interstates, or other such des-
15 ignations, interchanges, bridges, crossing structures, and related ap-
16 purtenances;

17 (b) Public parking facilities, including all areas for vehicular use
18 for travel, ingress, egress and parking;

19 (c) Trails and areas for pedestrian, equestrian, bicycle or other non-
20 motor vehicle use for travel, ingress, egress and parking;

21 (d) Public safety facilities;

22 (e) Acquiring interests in real property for community infrastructure;

23 (f) Financing costs related to the construction of items listed in this
24 subsection; and

25 (g) Impact fees.

26 (3) "Community infrastructure segment" means a separate or a dis-
27 cernible portion of a construction contract attributable to community
28 infrastructure.

29 (4) "Debt service" means the principal of, interest on and premium, if
30 any, on the bonds when due, whether at maturity or prior redemption, and fees
31 and costs of registrars, trustees, paying agents or other agents necessary
32 to handle the bonds and the costs of credit enhancement or liquidity support.

33 (5) "District" means a community infrastructure district formed pur-
34 suant to this chapter. A district formed after July 1, 2022, shall not ex-
35 clude from the district any land that is completely surrounded by property in
36 the district. A district shall ~~only~~ include only contiguous property at the
37 time of formation. Land that is connected by only a shoestring or strip of
38 land that comprises a railroad or highway right-of-way shall not be consid-
39 ered contiguous for the purposes of this chapter. Subsequent to a district's
40 formation, a district may include noncontiguous property but only if specif-
41 ically determined by the district board to have a substantial nexus to the
42 initial district or to the community infrastructure contemplated by the ini-
43 tial district and then authorized by the district board in its discretion and
44 pursuant to section 50-3106, Idaho Code.

45 (6) "District board" means the board of directors of the district.

46 (7) "District development agreement" means an agreement between a
47 property owner or developer, the county or city, any other political subdivi-
48 sion of the state, and/or the district. A district development agreement
49 shall be used to establish obligations of the parties to the agreement re-
50 lating to district financing and development, including: intergovernmental

1 agreements; the ultimate public ownership of the community infrastructure
2 financed by the district; the understanding of the parties with regard to
3 future annexations of property into the district; the total amount of bonds
4 to be issued by the district and the property taxes and special assessments
5 to be levied and imposed to repay the bonds and the provisions regarding
6 the disbursement of bond proceeds; the financial assurances, if any, to be
7 provided with respect to the bonds; impact and other fees imposed by govern-
8 mental authorities, including credit, prepayment and/or reimbursement with
9 respect thereto; and other matters relating to the community infrastruc-
10 ture, such as construction, acquisition, planning, design, inspection, own-
11 ership and control. A district development agreement shall be in addition
12 to and shall not supplant any development agreement entered into pursuant to
13 section 67-6511A, Idaho Code, pursuant to which a governing body may require
14 or permit as a condition of rezoning that an owner or developer make a written
15 commitment concerning the use or development of the subject parcel.

16 (8) "General plan" means the general plan described in section
17 50-3103(1), Idaho Code, as the plan may be amended from time to time.

18 (9) "Governing body" means the county commissioners or city council
19 that by law is constituted as the governing body of the county or city in
20 which the district is located. Reference in this chapter to "governing body
21 or bodies" shall mean the governing body or bodies of each county and city in
22 which the district is located.

23 (10) "Owner" means the person listed as the owner of real property
24 within the district or a proposed district on the current property rolls
25 in effect at the time that the action, proceeding, hearing or election has
26 begun; provided however, that if a person listed on the property rolls is no
27 longer the owner of real property within the district or a proposed district
28 and the name of the successor owner becomes known and is verified by recorded
29 deed or other similar evidence of transfer of ownership, the successor owner
30 shall be deemed to be the owner for the purposes of this chapter.

31 (11) "Market value for assessment purposes" means the amount of the
32 last preceding equalized assessment of all taxable property and excludes
33 all property exempt from taxation pursuant to section 63-602G, Idaho Code,
34 within the community infrastructure district on the tax rolls completed and
35 available as of the date of approval in the district bond issuance.

36 (12) "Person" means any entity, individual, corporation, partnership,
37 firm, association, limited liability company, limited liability partner-
38 ship, trust or other such entities as recognized by the state of Idaho. A
39 "person in interest" is any person who is a qualified elector in the dis-
40 trict, who is an owner of real property in the district or who is a real prop-
41 erty taxpayer in the district.

42 (13) "Qualified elector" means a person who possesses all of the quali-
43 fications required of electors under the general laws of the state of Idaho
44 and:

45 (a) Resides within the boundaries of a district or a proposed district
46 and who is a qualified elector. For purposes of this chapter, such elec-
47 tor shall also be known as a "resident qualified elector"; or

48 (b) Is an owner of real property that is located within the district or a
49 proposed district, who is not a resident qualified elector as set forth

1 above. For purposes of this chapter, such elector shall also be known as
2 an "owner qualified elector."

3 (14) "Special assessment" means an assessment imposed upon real prop-
4 erty located within an assessment area for a specific purpose and of a
5 special benefit to the affected property, collected and enforced in the same
6 manner as property taxes, that may be apportioned according to the direct or
7 indirect special benefits conferred upon the affected property, as well as
8 any, or any combination, of the following: acreage, square footage, front
9 footage, the cost of providing community infrastructure for the affected
10 property, or any other reasonable method as determined by the district
11 board.

12 SECTION 4. An emergency existing therefor, which emergency is hereby
13 declared to exist, this act shall be in full force and effect on and after
14 July 1, 2023.