

1 B. Facilities fees shall not be used to fund repairs,
2 maintenance, restorations, refurbishments, or fixes to existing
3 systems in any way that does not result in an increase or expansion
4 in the capacity of the system to serve new or expanded existing
5 growth and development.

6 C. Facilities fees may be imposed if the municipality
7 determines there is a nexus between the new or expanded development
8 and the need for new or enlarged facilities. The fee shall be based
9 on the proportionate impact of the development on the cost of the
10 capital improvement necessitated by the development.

11 D. Upon judicial review of any ordinance, resolution, or
12 regulation adopted pursuant to this section, the municipal
13 determination shall be upheld if there are any reasonably
14 conceivable facts that provide a rational basis for such adoption or
15 if the question is fairly debatable.

16 E. As used in this section, "facilities fee" means any payment
17 of money, imposed, in whole or in part, as a condition of approval
18 upon any building permit, plat approval, or zoning change, to the
19 extent the fee is to pay for capital costs for the public
20 infrastructure or public services that are attributable to new
21 development or to expanded or modified existing development.

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1 SECTION 2. This act shall become effective November 1, 2011.

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3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04-12-2011 - DO
4 PASS, As Amended.
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