

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

SENATE BILL 2155

By: Thompson

AS INTRODUCED

An Act relating to cities and towns; amending 62 O.S. 2021, Section 895, which relates to municipal development fees; permitting municipalities to consider the competitiveness of development fee schedules when imposing or increasing development fees; clarifying uniformity of development fees among municipalities is not required; requiring periodic review of municipal development fee schedules; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 2021, Section 895, is amended to read as follows:

Section 895. A. Municipalities that adopt ordinances, resolutions, or regulations for the implementation and collection of development fees shall provide that such development fees are adopted and governed pursuant to the provisions of this section. As used in this section:

1. "Development fee" means any payment of money imposed, in whole or in part, as a condition of approval of any building permit, plat approval, or zoning change, to the extent the fee is to pay for

1 public infrastructure systems that are attributable to new
2 development or to expand or modify existing development;

3 2. "Expanded or modified development" is one in which the
4 expansion or modification results in an increased demand or
5 increased impact upon the public infrastructure system as compared
6 to the demand or impact prior to the expansion or modifications;

7 3. "Public infrastructure system" includes any real property
8 improvement, fixture, or accession that is included within, but not
9 limited to, any of the following categories of public systems:

- 10 a. water systems, including supply, production,
11 treatment, and distribution facilities,
- 12 b. wastewater systems, including collection, treatment,
13 and disposal facilities,
- 14 c. street systems, including roads, streets, boulevards,
15 bridges, sidewalks, bicycle routes, drainage, traffic
16 signals and systems, traffic control devices and
17 signage, traffic calming devices, landscaping
18 associated with street rights-of-way, and any local
19 components of county, state, or federal highways to
20 the extent and to the proportionate cost that the
21 local components are not funded by state or federal
22 grants or other state or federal permanent funding
23 sources,

- d. storm water systems, including collection, retention, detention, treatment, channelization, disposal, discharge, flood control, and bank and shoreline protection facilities,
- e. parks systems, including parks, open spaces, trails, bicycle paths, and natural recreation areas and related facilities,
- f. public safety systems, including police, fire, emergency medical, and rescue facilities,
- g. solid waste systems, including facilities,
- h. public transportation systems, including facilities, and
- i. public capital improvement communications facilities; and

4. "Public infrastructure system costs" means capital improvements that have a projected useful life of at least ten (10) years or more, and that result in an increase or expansion to the functional service capacity of that public infrastructure system.

B. New development and expanded or modified existing development may only be charged the development fee for capital improvement costs for increases or expansion to the capacity of public infrastructure systems attributable to that development.

1. Development fees shall not exceed a clear, ascertainable, and reasonably determined proportionate share of the cost of capital

1 improvement to the public infrastructure system attributable to the
2 expansion or increase in functional service capacity generated, or
3 to be generated by, the development being charged the fee. There
4 shall be a clearly established functional nexus between the purpose
5 and amount of the development fee being charged and the development
6 against which the fee is charged. In determining the development
7 fee, the municipality shall make a documented effort to quantify the
8 projected impact from development and determine that the proposed
9 development fee is reasonably and roughly proportional to the nature
10 and extent of the impact of development.

11 2. Development fees cannot be adopted or used to fund repairs,
12 maintenance, restorations, refurbishments, alterations,
13 improvements, or fixes to existing public infrastructure systems in
14 any way that does not result in an increase or expansion in the
15 functional service capacity of the system which is available to
16 serve new or expanded existing growth and development in the
17 applicable service area.

18 3. The development fees shall be based on actual system
19 improvement costs or reliable, ascertainable and reasonable
20 projected estimates of the costs. Any estimates of costs shall be
21 based upon factual and historically realized costs for similar
22 system capital improvements.

23 4. Development fees may only be imposed to recover or fund the
24 costs of public infrastructure system capital improvements,

1 including, but not limited to, the cost of real property interest
2 acquisitions, rights-of-ways, capital improvements, design,
3 construction, inspection, and capital improvement construction
4 administration, related to one or more public infrastructure
5 systems.

6 C. A municipal development fee ordinance, resolution, or
7 regulation shall provide for the following:

8 1. A schedule of development fees specifying the development
9 fee for various land uses per unit of development, the purpose for
10 the development fee, and termination of the development fee when the
11 applicable public infrastructure system has been fully funded and
12 the expanded or modified development has no additional impact on the
13 public infrastructure system; ~~and~~

14 2. A component capital improvement plan that:

- 15 a. lists public infrastructure system capital projects or
16 facility expansions that are necessitated by
17 development of various land uses in designated areas,
- 18 b. provides reasonable notice to developers of specific
19 public infrastructure system impacts from development
20 of various land uses within the area of the
21 development, and
- 22 c. delineates the property locations that are clearly
23 served by the public infrastructure system that will
24 be funded through the development fee.

1 In the alternative, a municipality may establish one or more
2 service areas for the collection of development fees. As used in
3 this section, "service area" means a geographic area defined by a
4 municipality in which a defined public infrastructure system
5 provides service to developments within that service area. Service
6 areas shall be carefully drawn so as to include only property
7 locations that are clearly served by the cost of capital
8 improvements that increase or expand the functional service capacity
9 of the public infrastructure system that will be funded through the
10 development fee that is associated with the service area. The
11 determinations regarding the establishment of one or more service
12 areas will be a matter of legislative determination and discretion.
13 Different public infrastructure systems may have different and
14 separately defined service areas unique to each system's coverage.
15 The development fees within a particular service area may be
16 different as applied to different types of land uses; and

17 3. An adoption process that provides for at least the following
18 before any development fees, capital improvement plan, service plan,
19 or creation of service areas shall become effective:

- 20 a. a public hearing before the municipal planning
21 commission. Notice of the time, date and place of the
22 hearing shall be published in a newspaper of general
23 circulation in the municipality at least fifteen (15)
24 days prior to the hearing,

1 b. a subsequent public hearing before the municipal
2 governing body. Notice of the time, date and place of
3 the hearing shall be published in a newspaper of
4 general circulation in the municipality at least
5 fifteen (15) days prior to the hearing.

6 All duly enacted ordinances, resolutions, or regulations
7 existing at the time of the effective date of this section shall
8 remain in full force and effect; provided, no existing impact or
9 development fees shall be amended, modified, or renewed except in
10 accordance with this act.

11 D. The development fees collected pursuant to a component
12 capital improvement plan or within a service area, and any interest
13 on the funds, shall be spent only for capital improvements that
14 expand or increase the functional service capacity of that
15 particular public infrastructure system to serve the area
16 encompassing the development or only within that service area from
17 which the funds were collected.

18 1. Every assessment of a development fee shall be in writing
19 and a copy shall be provided to the developer and property owner(s)
20 affected, as such names and addresses of the property owner(s) are
21 provided by the developer. The assessment shall specify the purpose
22 or service area for which the development fee is being collected,
23 the basis for calculation of the assessment, and the amount of the
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1 assessment. No development fee collected for one purpose shall be
2 devoted to another purpose except as hereinafter provided.

3 2. If the purpose, component capital improvement plan, or
4 service area is changed or redrawn, or if a development spans more
5 than one component capital improvement plan or service area, the
6 development fees collected prior to the change shall be spent
7 proportionately pursuant to the new purpose or within the new
8 component capital improvement plan or service area or areas that
9 encompass the development at the time of expenditure from which the
10 fee was originally collected. Any change or expansion in a purpose,
11 component capital improvement plan, or service area shall be done
12 through the full hearing process as set forth in paragraph 3 of
13 subsection C of this section.

14 E. Each municipality shall present an annual report to its
15 governing body on:

16 1. The collection, investment, and expenditure of development-
17 fee funds as separately reported upon for each development capital
18 project or service area, and each public infrastructure system for
19 each development capital project or in each service area;

20 2. The recovery of costs from development-fee revenues; and

21 3. Estimates of the timing of system-capacity-expansion
22 improvements, as such construction is funded by development fees.

23 If the municipality determines that the development fees as
24 collected within a service area are no longer needed or desired for
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1 the purpose for which they were collected, the municipality may
2 either refund the collected fees to the current owners of the
3 property within the development for which the fees were paid, or
4 proceed through the hearing process as set forth in paragraph 3 of
5 subsection C of this section in order to adopt a new purpose for the
6 fees.

7 F. Municipalities may establish a process for the collection of
8 development fees to occur at a point in time no earlier than the
9 issuance of a building permit.

10 G. Municipalities may enter into written agreements with
11 developers to construct capital improvements to expand or increase
12 the functional service capacity of a public infrastructure system
13 within the designated development area or to serve a service area
14 and provide a credit against or an adjustment to payment of all or
15 part of the development fee for that system and that development.
16 The credit or adjustment may not exceed the cost of the capital
17 improvement or the amount of the development fee that would have
18 been collected from that developer for the development and that
19 system. No credit or adjustment will be carried over or transferred
20 to a different development, a subsequent development, a subsequent
21 change to that development, or against a development fee for a
22 different system.

23 H. Nothing in this section will:
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1 1. Preclude a municipality from requiring the developer to
2 donate or dedicate real property or capital improvements, or to
3 install, construct, operate, maintain, or repair capital
4 improvements; or

5 2. Require a credit against or an adjustment to a development
6 fee for contribution of, or to the cost of, any real property or
7 capital improvement provided by a developer if the direct cost of
8 the specific contribution is not specifically and directly included
9 in the calculation of the applicable development fees.

10 I. No credit or adjustment shall be carried over from one
11 development to a development at a different location. No credit or
12 adjustment will be carried over from one development to a subsequent
13 development at the same location, unless the development fee
14 collected previously is for the same purpose, making any subsequent
15 collection a repeat charge for the same purpose.

16 J. Development fees shall be deemed dedicated and restricted
17 revenues and therefore shall require accounting for development
18 proceeds as restricted funds. Interest earned on development fees
19 shall be considered funds of the account on which it is earned and
20 shall be subject to all restrictions placed on the use of
21 development fees under the provisions of this section. The
22 accounting records and details thereof shall be maintained as public
23 records of the municipality, be accessible to the public through
24 open records requests, and include at least the following

1 information, as relates both to each development capital project or
2 service area and each public infrastructure system for each
3 development capital project or within each service area:

- 4 1. The receipt of development fees;
- 5 2. The development capital project or service area from which
6 the development fee was collected;
- 7 3. The accumulation of interest on the development fee funds;
- 8 4. The type of public infrastructure system for which the funds
9 were collected;
- 10 5. The cost of the capital improvements to which the
11 development fees were applied; and
- 12 6. The dates when development fee funds were expended to fund,
13 or applied to reimburse, the cost of capital improvements to public
14 infrastructure systems.

15 K. Any ordinance, resolution, or regulation adopted in
16 compliance with this section which is thereafter challenged in any
17 future court action shall be reviewed through rational-basis
18 scrutiny, such that it shall be upheld if it substantially complies
19 with this section and if the municipality documented reasonably
20 conceivable facts that provided a rational basis for the adoption.

21 L. No municipality is required to adopt development fees and it
22 is within the discretion of the municipality as to whether
23 development fees should be considered for adoption. Any municipal
24 development fee ordinance, resolution, or regulation may provide for

1 appeal to the governing body for exemption of all or part of
2 particular development projects from development fees if:

3 1. The projects are determined to create desirable economic
4 development, quality jobs, a type of desirable land use that is in
5 short supply within the municipality, or affordable housing; or

6 2. The exempt development project's proportionate share of the
7 system expansion improvements is funded through a revenue source
8 other than development fees.

9 M. Any payment of a development fee by a payor shall not be
10 deemed to have waived the standing or rights of the payor to later
11 challenge or protest the payment as being invalid and not required.

12 N. A municipality may not recover the public infrastructure
13 system costs as a development fee by way of connection fees, hook-up
14 fees or other fees in any manner that results in charges beyond the
15 public infrastructure system cost that the development fee already
16 collected. Any connection fees, hook-up fees or any other fees
17 charged by a municipality as related to the cost of capital
18 improvements necessary to increase or expand the functional service
19 capacity of public infrastructure systems shall be determined
20 relative to the functional service capacity actually being provided
21 or made available to the fee payor, and any amounts in excess
22 thereof shall be considered development fees and may only be applied
23 if put forth in accordance with this section. Nothing herein shall
24 prevent a municipality to separately impose and collect connection

1 fees, hook-up fees or any other fees that are reasonably related in
2 character and amount charged to the costs of regulation of the
3 activities for which the fees were enacted or enforcement of
4 municipal health or safety codes.

5 O. This section shall not prohibit municipalities from self-
6 funding capital improvements by use of pay-back agreements utilizing
7 recoupment districts or lease-purchase agreements in order to
8 finance improvements to public infrastructure systems, by borrowing
9 or on a cash basis, so long as such procedures are utilized in a
10 manner that is consistent with the requirements of this section to
11 the extent such procedures pertain to development fees. Nothing in
12 this section shall limit, regulate, or prohibit a municipality from
13 investing public resources in public infrastructure systems in
14 anticipation of development, recovering those public resources
15 through proportional reimbursement payments equal to the total cost
16 of the public investment in those public infrastructure systems, and
17 subsequently expending the proceeds from those reimbursement
18 payments for any purpose determined by the jurisdiction.

19 P. A municipality that imposes or increases a development fee
20 may consider whether the total development fee schedule remains
21 reasonably competitive with those imposed by comparable communities.

22 Q. Nothing in this section shall be construed to require
23 uniformity of development fees among municipalities or to prohibit
24 reasonable variation based on local conditions.

1 R. Municipalities shall periodically review their development
2 fee schedules, no less than once every five (5) years, to assess
3 ongoing competitiveness and alignment with growth and infrastructure
4 needs.

5 SECTION 2. This act shall become effective November 1, 2026.

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