

The Proper Role and Function of Impact Fees to Fund Local Public Services

Written Testimony of

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Chairman Wolpert and members of the committee, thank you for giving me this opportunity to discuss impact fees and their potential role in funding capital improvements in Ohio's local governments and jurisdictions.

As some of our communities face unprecedented growth pressures, the time to review how we finance local government services is long overdue. However, in consideration changes to current law, we should also consider the hazards of impact fees.

Hazards of Impact Fees

In principle, and when properly administered, impact fees have an important role to play in financing local public services. They are also becoming more practical as new technology allows us to estimate and allocate costs more efficiently and directly. Impact fees should be a one-time source of revenues, but often local governments and activists use them for inappropriate purposes.

Among the negative consequences of poorly designed and implemented impact fees are:

- ✓ Higher housing costs and less affordable housing;
- ✓ Limiting the supply of new housing, particularly in growing markets;
- ✓ Reduced transparency in local government finance as fees are used as a general source of new revenues;
- ✓ Subsidization of services for older residents by new residents and households.

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Requirements for an Effective Impact Fee

The negative impacts of impact fees can be mitigated by following a few key principles in their design and implementation. The principles for a sound application of impact fees:

1. **Transparency.** The benefits of the public service should be clearly and transparently tied to the new development. Language in the impact fee ordinance should clearly identify the service delivered, who will receive the benefits, and how the funds will be used.
2. **Professional standards and measurement.** Local governments should not have complete discretion over setting impact fees and fee schedules. They should not be based on a “reasonable relationship” between the services provides and fees generated, but on current professional standards. This is reasonable because the point of an impact fee is to generate revenues for a very specific investment in long-term, capital facility that cannot or will not be funded through operating revenues or other general tax revenues.
3. **Well-defined service area.** The impact fee should be levied in a clearly identified service area to minimize the potential for cross subsidization. Impact fees should not be used to subsidize facilities primarily benefiting existing residents (jurisdiction-wide property taxes should fund these facilities) nor should existing residents subsidize new households and businesses.
4. **Sunset provision.** The impact fee should have a sunset provision that requires local governments to proactively extend the fee rather than let it continue in perpetuity. In some cases, such as transportation impact fees, road infrastructure may be completed and property taxes should be more than sufficient to cover maintenance and upgrades. In the case of public schools, student populations rise and fall depending the age and demographic make-up of the school district. Ongoing impact fees could inadvertently and unjustifiably create a situation where new residents and businesses are “paying” for facility upgrades when the system (school, water, sewer) is faced with over capacity.
5. **Financial accountability.** Local governments should have specific accounts established for funds collected through impact fees and spent on public services. These accounts should be clearly represented on the balance sheet of the local government and open to public inspection.
6. **Rebates on unused funds.** The potential exists for efficiencies to be gained as public services expand or for new infrastructure to cost less than anticipated. Impact fees should have provisions for rebating funds to homeowners and businesses if an accounting of expenses finds costs were less than anticipated.

7. **Right to Appeal.** A mechanism for objectively challenging and requiring a evaluation of the impact fee and/or the impact fee schedule should be provided to provide accountability at the local level as well as establish certainty in procedures and the administration of the fee within the local community. The first stage of this appeal procedure should be at the jurisdictional level, moving to the court system only if this procedure fails to resolve the dispute.

The following table applies these criteria to H.B. 299 and the city of Beavercreek transportation impact fee program (which set Ohio precedent).

Effective Impact Fee Requirements		
Criteria	H.B. 299	Beavercreek
Transparency	Yes	Yes
Professional standards	Yes	Yes
Well-defined service area	Yes	Yes
Sunset provision	No	No
Financial accountability	Yes	Yes
Rebate on unused funds	Yes*	No
Right to appeal	Yes	Yes
<i>*The bill allows for the refund of revenues if the facility is not built within ten years.</i>		

H.B. 299 compares well based on the principles and criteria I outline here. I have the following qualifications and comments:

- ✓ The committee should further consider the types of public facilities that should be funded through impact fees. While the language noting that the primary beneficiaries should be in the defined service area, some public services are more suitable to impact fees than others. Roads, water, sewer, and stormwater services are often well suited to impact fee approaches to financing capital facilities. Recreation centers, schools, and open space are more problematic because the benefits are harder to localize. (I discuss schools in more depth below.)
- ✓ The committee should consider adding a sunset provision that requires an explicit extension of the impact fee program at specific intervals (e.g. every 5 years);
- ✓ The committee should consider a rebate on unused funds in the event actual facility costs are lower than projected.

A Concluding Note on School Impact Fees

The committee should seriously consider the problems associated with allowing schools to levy impact fees. *While many Ohio public school districts face financial challenges,, impact fees may not be the appropriate tool for addressing these issues.* Roads, water,

and sewer are clearly defined public services that are transparent with respect to their relevance to new development. New homes need running water, effective sewers, and access to transportation.

The impact of new homes on local public schools is *significantly less transparent*. While the addition of new students increases costs, particularly in growing areas, the impact of *new* housing units and businesses is far less clear. New households may not send any children to the local schools or place new capacity demands on the local district because they may:

- ✓ Homeschool their children;
- ✓ Send their children to private schools;
- ✓ Be childless;
- ✓ Have moved within the school district to a newly built home.

Moreover, the cost of educating a child is tied to the number of children attending. Predicting whether a household will have one, two, three or more children in the local schools is virtually impossible to predict, making the estimation and calculation of an impact fee relevant to the capital facilities needs of the school district problematic at best.

Moreover, many schools do not even track where their children live. In Pickerington, for example, new housing would have subsidized the construction of a new school even though most of the students in the new building would not have come from the new subdivisions.

In short, school impact fees:

- Lack transparency;
- Have poorly defined service areas;
- Lack professional standards for estimating the impact of a new housing unit on the costs of educating children in public schools.

Providing a sufficient and adequate public education is a constitutional duty and public responsibility in Ohio. Given the danger of shifting the burden of financing new facilities to new residents and businesses even though they will have broad-based community benefits may compromise this general community wide duty.

Thank you for your attention. I'm available for questions or comments at this time.