

BILL ANALYSIS

Senate Research Center

S.B. 1883
By: Bettencourt
Local Government
6/6/2025
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Certain political subdivisions of the state are authorized by the Local Government Code to impose an impact fee on new development to generate revenue for funding or recouping the costs of specified capital improvements or facility expansions necessitated by and attributable to the new development. The law requires political subdivisions to issue public notices and hold hearings before adopting or updating impact fees. Political subdivisions must also appoint an advisory committee and prepare a capital improvement plan with land use assumptions before adopting an impact fee. Forty percent of the advisory committee must include representatives of the real estate, development, or building industries. If the political subdivision, however, has a planning and zoning commission, the commission may act as the advisory committee. A political subdivision is not limited to how frequently it may increase an impact fee.

Additional transparency provisions are needed to ensure accountability and due process. Capital improvement plans are complex reports, and current law does not provide the public with sufficient time to review the proposed capital improvement plan and land use assumptions and prepare comments for the public hearing. Impact fees increase the cost of housing and other new development and adoptions or increases must be carefully considered before being imposed.

S.B. 1883 amends current law related to the public notice requirements and adoption procedures for impact fees. S.B. 1883 requires a political subdivision considering an impact fee make publicly available the capital improvement plan and land use assumptions at least 60 days before the first publication of the hearing notice. S.B. 1883 increases the approval threshold to adopt impact fees from a simple majority vote to two-thirds vote. S.B. 1883 adds a provision governing how frequently a political subdivision may increase an impact fee.

S.B. 1883 increases the public notice requirements for political subdivisions considering updates and amendments to the capital improvement plan and land use assumptions. S.B. 1883 increases the required representation of real estate, development, and building industries professionals on the advisory committee from 40 percent to 50 percent and removes the authority allowing a planning and zoning commission to act as the advisory committee.

These changes would allow the public more time to analyze and participate in the public process of impact fee adoption or increases. Additionally, a higher approval threshold for imposing an impact fee helps ensure that the imposition of an impact fee reflects a broader consensus and would minimize the risk of rapid increases driven by short-term political pressures that negatively affect new development.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1883 amends current law relating to the approval of land use assumptions, capital improvement plans, and impact fees.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 395.043, Local Government Code, as follows:

Sec. 395.043. INFORMATION ABOUT LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN AVAILABLE TO PUBLIC. Requires the political subdivision, at least 60 days before the date, rather than on or before the date, of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan, to make available to the public its land use assumptions, the time period of the projections, and a description of the capital improvement facilities that are authorized to be proposed.

SECTION 2. Amends Section 395.051(a), Local Government Code, to provide that approval of the imposition of an impact fee by a political subdivision requires an affirmative vote of two-thirds of the members of the governing body of the political subdivision.

SECTION 3. Amends Subchapter C, Chapter 395, Local Government Code, by adding Section 395.0515, as follows:

Sec. 395.0515. LIMITATION ON IMPACT FEE INCREASE. Prohibits a political subdivision from increasing the amount of an impact fee for three years from the later of the date the fee was adopted or most recently increased, if applicable. Provides that nothing in this section prohibits the political subdivision from implementing an impact fee collection schedule that allows less than the maximum adopted impact fee to be collected or phased in up to the maximum adopted impact fee for a period not to exceed ten years, as authorized by Chapter 395 (Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments).

SECTION 4. Amends Section 395.053, Local Government Code, as follows:

Sec. 395.053. HEARING ON UPDATED LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN. Increases from 60 days to 120 days after the date the governing body of the political subdivision receives the update of the land use assumptions and the capital improvements plan the time period in which the governing body is required to adopt an order setting a public hearing to discuss and review the update and determine whether to amend the plan.

SECTION 5. Amends Section 395.054, Local Government Code, to make a conforming change.

SECTION 6. Amends Section 395.058(b), Local Government Code, as follows:

(b) Increases from 40 percent to 50 percent the minimum percentage of the membership of a capital improvements committee required to be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity.

Deletes existing text authorizing the planning and zoning commission (commission), if the political subdivision has a commission, to act as the advisory committee if the commission includes at least one representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. Deletes existing text authorizing the commission, if no such representative is a member of the commission, to still act as the advisory committee if at least one such representative is appointed by the political subdivision as an ad hoc voting member of the commission when it acts as the advisory committee.

SECTION 7. Amends Subchapter C, Chapter 395, Local Government Code, by adding Section 395.059, as follows:

Sec. 395.059. INDEPENDENT FINANCIAL AUDIT. (a) Requires a political subdivision, before the political subdivision is authorized to increase an existing impact

fee or adopt a new impact fee for a service area where an impact fee had previously been adopted, to conduct an independent financial audit in accordance with this section.

(b) Requires that an independent financial audit conducted under this section be performed by an independent auditor who is a certified public accountant or public accountant licensed by the Texas State Board of Public Accountancy and is not, and has not been during the 12 months preceding the commencement of the audit, under contract to provide any other service to the political subdivision or a related entity of the political subdivision.

(c) Requires that an independent financial audit conducted under this section provide, if applicable, a detailed accounting of certain financial information on the political subdivision.

(d) Requires that an independent financial audit conducted under this section be submitted to the political subdivision and capital improvements advisory committee described by Section 395.058 (Advisory Committee). Requires a political subdivision, before the political subdivision is authorized to increase an existing impact fee or adopt a new impact fee for a service area where an impact fee had previously been adopted, to hold a public hearing on the results of the audit received under this subsection.

(e) Requires a political subdivision to make available to the public on the political subdivision's Internet website an applicable independent financial audit at least 30 days before the publication of notice required under Section 395.044 (Notice of Hearing on Land Use Assumptions and Capital Improvements Plan) and the adoption of an order as required under Section 395.053.

(f) Authorizes a political subdivision to use money collected from an impact fee to conduct an audit required under this section.

SECTION 8. Amends Section 395.077, Local Government Code, by adding Subsection (f) to authorize the attorney general to bring an action on behalf of a property owner to contest an impact fee or to recover a refund for an impact fee under Section 395.025 (Refunds).

SECTION 9. Repealer: Section 395.078 (Substantial Compliance with Notice Requirements), Local Government Code.

SECTION 10. Makes application of Section 395.059, Local Government Code, as added by this Act, prospective.

SECTION 11. Makes application of Sections 395.043 and 395.054, Local Government Code, as amended by this Act, prospective to the 90th day after the effective date of this Act.

SECTION 12. Makes application of Section 395.051(a), Local Government Code, as amended by this Act, prospective.

SECTION 13. Makes application of Section 395.0515, Local Government Code, as added by this Act, prospective.

SECTION 14. Effective date: September 1, 2025.