

AMWUA Monitors HB2249

[HB2249: Municipal Development Fees; Refunds](#)

HB2249 would require a municipality to refund to the payor (homebuilder) all development fees that were collected, if a facility for which the fee is collected is not completed within seven (7) years of the first fee being collected. The requirement would not apply to fees assessed for water, wastewater or sewer systems.

HB2249 creates a disconcerting precedent for refunds of impact fees. While the homebuilder pays the initial fee at the issuance of building permit, or up to 15 days after closing by development agreement, the cost of the fee is passed on to the buyer. The builder is reimbursed for the impact fee. This language would create a situation, though it is unlikely facilities would not be built, where the builder is doubly reimbursed by the municipality for a fee for which the builder (payor) has already been compensated. This is troubling in terms of fairness and equity, in addition to the administrative challenges posed for the municipalities in tracking and refunding to ephemeral LLCs and partnerships that built the home and were already reimbursed by buyer.

This language also creates a troubling opening under which future impact fees for longer term projects – such as water and wastewater plants – may be subject to this refunding.

Title 9 authorizes cities and towns to assess development fees, more commonly known as “impact fees,” in order to pay for the infrastructure costs generated by expanding development. By law, a city or town must conduct a rigorous study and infrastructure improvements plan (IIP) that identifies the categories of improvements that must be made. The municipality is required to explain the relationship between the fee that is to be assessed and the infrastructure improvements plan.

Current law also requires the IIP to be released to the public at least 90 days prior to the adoption of the fee and at least 30 days prior to the required public hearing on the plan. The fees are also not effective for an additional 75 days following the adoption of the fee.

The amount of an impact fee must bear a reasonable relationship to the burden imposed on the municipality for new infrastructure that is necessary for the new development.

Sponsor: Representative Biggs

Titles Affected: 9

Last action: Referred to House Government

