

1 parties affected under this Act have fair and reasonable
2 notice of, and an opportunity to participate in, the
3 adoption of development impact fee ordinances and the
4 collection and use of development impact fees.

5 (4) To preserve the right of municipalities to
6 negotiate annexation agreements, by providing that this
7 Act does not affect the current law of annexation
8 agreements or any annexation agreements existing on the
9 effective date of this Act.

10 Section 10. Definitions. In this Act:

11 "Adopted capital improvement program or budget" means a
12 document that sets out the need for public facility capital
13 improvements, the cost of the improvements, and proposed
14 funding sources. A capital improvement program or budget must
15 cover at least a 3-year period and be adopted by the
16 governing body of the unit of local government or school
17 district.

18 "Credits" means the present value of the contribution of
19 money, dedication of land, debt service payment, or tax
20 revenue generated by a development toward the cost of
21 existing or planned capital improvements, excluding wetland
22 enhancement or mitigation required under local, State, or
23 federal law.

24 "Developer" means any corporation, organization, person,
25 or other legal entity constructing or creating a development.

26 "Development" means any change to improved or unimproved
27 real property or the use of any principal structure or land,
28 including the division of land into parcels.

29 "Development impact fee" means the cash contribution or
30 land dedication that is imposed on a development by a
31 municipality or county to fund all or a portion of public
32 facilities capital improvements that are necessary as a
33 result of the development. Development impact fees are

1 additional and supplemental to, and not a substitute for, any
2 other requirements imposed by the municipality or county as a
3 condition of development approval.

4 "Discount rate" means the interest rate, expressed in
5 terms of percentage per annum, that is used to adjust past or
6 future financial or monetary payments to present value.

7 "Encumbered" means subject to a commitment to use
8 collected development impact fees by legal obligation,
9 appropriation, or other official action of a unit of local
10 government or school district.

11 "Present owner" means the person or persons shown to be
12 in title to the real estate subject to a refund under Section
13 70 as reflected in the official records of the county kept by
14 the assessor as of the previous January 1, prior to any
15 refund.

16 "Present value" means the current value of past, present,
17 or future payments that are adjusted to a base period by a
18 discount rate.

19 "Proportionate share" means the share or portion of total
20 public facilities capital improvement costs that bears a
21 rational nexus to development, minus: (i) any credits for the
22 construction or dedication of public facility capital
23 improvements, (ii) any credits for the dedication of land for
24 public facility capital improvements, and (iii) past or
25 future payments for actual or estimated public facility
26 capital improvement costs made or reasonably anticipated to
27 be made by a developer in the form of debt service payments
28 and taxes.

29 Credits for past or future payments toward capital
30 improvement costs shall be adjusted to present value in order
31 to make fair comparisons of monetary amounts paid or received
32 at different times.

33 "Public facility" means any facility or equipment owned
34 or operated by a unit of local government or school district.

1 "Public facilities capital improvement" or "capital
2 improvement" includes, but is not limited to, any
3 construction, expansion, or enhancement of any publicly-owned
4 facilities, equipment, land acquisitions, and land
5 improvements made necessary by the development.

6 "Public facilities capital improvement costs" include,
7 but are not limited to, the actual or estimated capital
8 improvement costs associated with the construction,
9 expansion, or enhancement of any publicly-owned facilities
10 and the equipment and the necessary materials, land
11 acquisition, land improvement, design, engineering, and
12 professional costs related to the construction, expansion, or
13 enhancement. The costs do not include routine and periodic
14 maintenance expenditures or other operating costs.

15 "Rational nexus" means a connection established between a
16 development and the new or expanded capital facilities
17 required to accommodate the development, identification of
18 the cost of those new or expanded capital facilities required
19 to accommodate development, and appropriate apportionment of
20 that cost to development in relation to benefits reasonably
21 received. A development impact fee is not invalid because the
22 payment of the fee may result in some benefit to other owners
23 or developers.

24 "Service area" means a geographic area delineated by a
25 unit of local government or school district in which a
26 defined set of capital improvements or a defined amount of
27 school lands, park lands, or other land uses provide a
28 service to a development within the area.

29 "Service standard" means the level of service delivery
30 associated with a public facility for which a development
31 impact fee shall be required.

32 "Unit of local government" means all units of local
33 government as defined in Article VII, Section 1 of the State
34 Constitution.

1 Section 15. Authorization to impose development impact
2 fees.

3 (a) Municipalities and counties are authorized to adopt
4 development impact fee ordinances and to impose, collect, and
5 expend development impact fees for all public facilities
6 capital improvements. After the effective date of this Act,
7 development impact fees may be imposed by a municipality and
8 county only under the requirements and limitations set forth
9 in this Act.

10 (b) Development impact fees may be imposed only for those
11 projects specifically in or covered by a unit of local
12 government's or school district's approved capital
13 improvements program or budget. The program or budget must
14 specify the service standards for each facility that is to be
15 the subject of a development impact fee, and these standards
16 shall apply equally to developments.

17 (c) Development impact fees shall be assessed in a
18 non-discriminatory manner.

19 (d) In order to preserve the right of municipalities to
20 negotiate agreements, this Act does not affect the current
21 law of annexation agreements or affect any annexation
22 agreements existing on the effective date of this Act.

23 (e) Development impact fees are additional and
24 supplemental to, and not a substitute for, any other
25 requirements imposed by the municipality or county as a
26 condition of development approval.

27 Section 20. Ordinance requirements.

28 (a) A municipality or county that desires to adopt a
29 development impact fee ordinance shall conduct or cause to be
30 conducted a needs assessment for the public facility or
31 project for which the development impact fee is to be
32 imposed. The needs assessment must distinguish existing needs
33 from the projected needs of development and must contain

1 components that describe (i) an inventory of existing
2 facilities, (ii) the identification of service standards upon
3 which the development impact fee is to be based, and (iii) a
4 projection of community needs. The municipality or county
5 shall use the needs assessment in formulating its development
6 impact fee program.

7 (b) In adopting a development impact fee ordinance, a
8 municipality or county shall adhere to all of the following:

9 (1) The creation, assessment, collection, and
10 expenditure of any development impact fees under this Act
11 must bear a rational nexus to the burden imposed upon the
12 unit of local government or school district to provide
13 additional capital improvements to support the
14 development.

15 (2) The development impact fees imposed upon a
16 development may not exceed the proportionate share of the
17 costs incurred or to be incurred by the unit of local
18 government or school district in accommodating the
19 development. In calculating the proportionate share, the
20 unit of local government or school district shall take
21 the actual or estimated cost of the public facility or
22 capital improvement project that bears a rational nexus
23 to a development and subtract from that amount: (i) any
24 credits for the construction or dedication of public
25 facility capital improvements, (ii) any credits for the
26 dedication of land for public facility capital
27 improvements, and (iii) past or future payments for
28 actual or estimated public facility capital improvement
29 costs made or reasonably anticipated to be made by a
30 developer in the form of debt service payments and taxes.

31 (3) The amount of each development impact fee
32 imposed under this Act must be based upon actual costs or
33 reasonable estimates of costs for the creation or
34 expansion of capital improvements to be incurred by the

1 unit of local government or school district as a result
2 of the development.

3 (c) Municipalities and counties requiring the payment of
4 development impact fees shall incorporate these fee
5 requirements within their broader system of development and
6 land use regulations in such a manner that developments,
7 either collectively or individually, are not required to pay
8 or otherwise contribute more than a proportionate share of
9 capital improvement costs resulting from the development.

10 (d) Municipalities and counties shall develop a method of
11 calculating development impact fees that is consistent with
12 the requirements of this Act.

13 (e) All documents prepared by a unit of local government
14 or school district under this Section shall be on file with
15 the unit of local government or school district and be
16 available for public inspection.

17 Section 25. Use of development impact fees.

18 (a) Development impact fees may be imposed and expended
19 for, but not limited to, the following purposes:

20 (1) The construction of public facilities capital
21 improvements.

22 (2) Upgrading, updating, or expanding existing
23 capital improvements to serve developments.

24 (3) The acquisition of lands for schools, parks,
25 libraries, roads, capital facility sites, and other
26 necessities caused by developments.

27 (4) General improvements to lands that are made
28 necessary by developments.

29 (5) Wastewater treatment facilities and sanitary
30 sewer collection systems.

31 (6) Potable water treatment and storage facilities
32 and distribution systems.

33 (7) Stormwater management facilities and systems.

1 (8) Payments advanced by a unit of local government
2 or school district as part of an authorized development
3 impact fee expenditure.

4 (9) Fees and costs associated with the use of
5 development impact fees for independent engineers,
6 financial contractors, other contractual services,
7 planning, surveying, designing, engineering, and similar
8 costs as well as attorney's fees and costs.

9 (b) Projected interest charges and other finance costs
10 may be included in determining the amount of development
11 impact fees to the extent that the development impact fees
12 are used for the payment of principal and interest on bonds,
13 notes, or other obligations that are issued by or on behalf
14 of a unit of local government or school district and that are
15 used to finance capital improvements made necessary by
16 development.

17 Section 30. Collection and expenditure of fees;
18 accounting. Development impact fees imposed under this Act
19 shall be paid prior to the issuance of a building permit or
20 other appropriate permission to proceed with a development.

21 Moneys received from development impact fees shall be
22 placed in a separate fund and accounted for separately and
23 may be used only for the purposes authorized by this Act.
24 Interest earned on all moneys deposited in the separate fund
25 shall be credited toward that account.

26 Section 35. Public hearing required. Municipalities and
27 counties must conduct a public hearing regarding any proposal
28 for new or amended development impact fee ordinances and must
29 publish a notice 30 days before the hearing in at least one
30 newspaper of general circulation within the unit of local
31 government or school district. The notice shall include the
32 date, time, and location of the hearing, as well as the

1 general type of development impact fee ordinance that is to
2 be considered. A development impact ordinance fee may not
3 take effect sooner than 60 days after its adoption.

4 Section 40. Appeals and judicial review. Any developer
5 paying a development impact fee under this Act shall have the
6 right to contest the imposition, collection, or use of the
7 development impact fee, as well as other related matters. The
8 initial appeal shall be made to the governing body of the
9 municipality or county responsible for creating the
10 development impact fee in accordance with any procedures
11 adopted in the development impact fee ordinance.

12 Any subsequent relief shall be sought in a de novo
13 proceeding in a court with proper jurisdiction and venue.

14 Section 45. Intergovernmental agreements. Units of local
15 government and school districts that are jointly affected by
16 developments may enter into intergovernmental agreements with
17 each other, with other governmental authorities, or with the
18 State to create, assess, collect, and expend development
19 impact fees in a manner that is consistent with this Act.

20 Section 50. Service areas. If a municipality or county,
21 in its sole discretion, requires delineation of service
22 areas, a unit of local government or school district shall
23 establish these service areas for the collection and
24 expenditure of development impact fees. Any service areas
25 must be appropriate to the nature of the particular capital
26 improvement.

27 Section 55. Land dedications. A municipality or county
28 may, in its sole discretion, require a developer to dedicate
29 land in place of development impact fees. The value of any
30 required land dedication may not exceed a development's

1 proportionate share. The requirement for a land dedication
2 must bear a rational nexus to the development and must
3 conform to the other requirements of this Act.

4 Section 60. Construction of capital improvements. This
5 Act shall not prevent a municipality from acting in
6 accordance with any planning or zoning powers under Article
7 11 of the Illinois Municipal Code and shall not prevent a
8 county from acting in accordance with any planning or zoning
9 powers under Article 5 of the Counties Code.

10 Section 65. Recoupment. A unit of local government may
11 recoup costs of excess capacity in existing facilities, where
12 the excess capacity has been provided in anticipation of the
13 needs of a development. The development impact fees imposed
14 to recoup these costs must be based on the unit of local
15 government's actual cost of acquiring or constructing the
16 facility and must be no more than a proportionate share of
17 such costs.

18 Section 70. Reversion of unencumbered funds; refunds. All
19 development impact fees collected under this Act must be
20 expended or encumbered for capital improvements within 20
21 years of the date of collection. If the fees are not expended
22 or encumbered within 20 years, the unit of local government
23 holding the funds shall return to the present owner the
24 amount of the unencumbered fee plus any interest collected
25 upon proper request for a refund and a determination that a
26 refund is proper.

27 Where land is dedicated and is not used for the purposes
28 dedicated, the unit of local government, at its option, may
29 return either the land or the fair value of the land at the
30 date on which it was dedicated.

31 If eligible for a refund, a present owner must submit to

1 the municipality or county a written request within one year
2 after the date the right to claim a refund arises. If the
3 refund is proper, the municipality or county shall return, or
4 require a unit of local government or school district to
5 return, the amount to be refunded. All refunds due and not
6 claimed within the required time period shall remain in the
7 special fund and be expended only as provided in this Act.

8 Section 75. Repeal of development impact fee ordinances.
9 A municipality or county may, by ordinance, repeal any or all
10 development impact fee ordinances and make any unexpended or
11 unencumbered funds available for a refund to the present
12 owners.

13 Upon the repeal of any development impact fee ordinance,
14 the municipality or county shall publish notice of the repeal
15 and of the availability of any refunds in a newspaper of
16 general circulation within the unit of local government or
17 school district. If at the end of one year no request for a
18 refund is made, the remaining development impact fee funds
19 may be transferred to the unit of local government's or
20 school district's general fund and be used for any public
21 purpose. A municipality or county need not comply with this
22 notice requirement if there are no unexpended or unencumbered
23 balances of development impact fee funds.

24 Section 80. Compliance. No later than 2 years after the
25 effective date of this Act, municipalities and counties must
26 amend any existing development impact fee ordinances to
27 comply with the requirements of this Act. Until this date,
28 the failure of development impact fee ordinances adopted
29 before the effective date of this Act to comply with the
30 requirements of this Act shall not be grounds to challenge
31 their validity. This Act applies only to road impact fee
32 ordinances adopted after the effective date of this Act.

1 Section 97. Severability. The provisions of this Act
2 are severable under Section 1.31 of the Statute on Statutes.

3 Section 99. Effective date. This Act takes effect on
4 January 1, 2004."