

ACT No. 2006-300

- 1 SB296
- 2 83972-3
- 3 By Senator Byrne (N & P)
- 4 RFD: Local Legislation No. 1
- 5 First Read: 19-JAN-06



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With Notice and Proof

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ENROLLED, An Act,

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Relating to Baldwin County; to authorize the county

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and any municipality in the county to assess and collect

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impact fees on new development for governmental infrastructure

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purposes.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. This act shall apply only in Baldwin

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County.

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Section 2. For the purposes of this act, the

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following words have the following meanings:

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(1) GOVERNMENTAL INFRASTRUCTURE. Any facilities,

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systems, or services that are owned and operated by or on

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behalf of a political subdivision for any of the following

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purposes:

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a. Storm water, drainage, and flood control.

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b. Roads and bridges.

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c. Capital expenditures related to law enforcement

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and public safety, fire protection, emergency medical

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services, public park and recreational facilities, and public

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schools.

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1           (2) IMPACT FEE. A charge or assessment imposed by a  
2 political subdivision against new development in order to  
3 generate revenue for funding or recouping the costs of  
4 governmental infrastructure necessitated by and attributable  
5 directly to the new development. The term includes the  
6 dedication of land for public parks or payments made in lieu  
7 of the dedication to serve park needs and includes amortized  
8 charges, lump-sum charges, capital recovery fees,  
9 contributions in aid of construction, and any other similar  
10 fee that functions as described by this definition. The term  
11 does not include any of the following:

12           a. Dedication of rights-of-way or easements or  
13 construction or dedication on-site or off-site water  
14 distribution, wastewater collection or drainage facilities, or  
15 streets, sidewalks, or curbs if the dedication or construction  
16 is required or necessitated by and attributable to the new  
17 development.

18           b. Lot or acreage fees to be placed in trust funds  
19 for the purpose of reimbursing developers for oversizing or  
20 constructing water or sewer mains or lines.

21           c. Other pro rata fees for reimbursement of water or  
22 sewer mains or lines extended by the political subdivision.

23           (3) NEW DEVELOPMENT. The subdivision of land; the  
24 ~~construction. reconstruction. redevelopment. conversion.~~  
25 structural alteration, relocation, or enlargement of any

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1 structure; or any use or extension of the use of land; any of  
2 which increases the demands on governmental infrastructure.

3 (4) POLITICAL SUBDIVISION. A municipality or the  
4 county.

5 (5) ROADS AND BRIDGES. Any public highway, road, or  
6 bridge in the political subdivision, together with all  
7 necessary appurtenances. The term includes the political  
8 subdivision's share of costs for roadways and associated  
9 improvements designated on the federal or state highway  
10 system, including local matching funds and costs related to  
11 utility line relocation and the establishment of curbs,  
12 gutters, sidewalks, drainage appurtenances, and rights-of-way.

13 Section 3. (a) Unless otherwise specifically  
14 authorized by state law or this act, the Baldwin County  
15 Commission or a municipality in the county may not enact or  
16 impose an impact fee.

17 (b) Municipalities may enact or impose impact fees  
18 only on land within their corporate limits by complying with  
19 this act. The Baldwin County Commission may enact or impose  
20 impact fees only on land outside of the corporate limits of a  
21 municipality by complying with this act.

22 (c) A municipality may contract with the Baldwin  
23 County Commission to provide governmental infrastructure,  
24 except roadway facilities, to an area outside its corporate  
25 limits.

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1           Section 4. An impact fee may be imposed only for  
2 governmental infrastructure and costs directly related  
3 thereto.

4           Section 5. (a) (1) An impact fee per service unit of  
5 new development may be set by the political subdivision not to  
6 exceed one percent of the estimated fair and reasonable market  
7 value of the new development after completion.

8           (2) The estimated fair and reasonable market value  
9 of a new development for the purpose of setting an impact fee  
10 pursuant to subdivision (1) shall be based on the amount set  
11 forth for the issuance of the building permit plus the value  
12 of the land or an estimated fair and reasonable market value  
13 based on information submitted by the developer. If the  
14 political subdivision does not agree with the estimated fair  
15 and reasonable market value submitted by the developer, the  
16 political subdivision may obtain an appraisal by a licensed  
17 appraiser. If the value of the development as submitted by the  
18 developer and the value as set forth in the appraisal obtained  
19 by the political subdivision are within 10 percent of each  
20 other, the two values shall be averaged to determine the  
21 estimated fair and reasonable market value of the development.  
22 If the two values are not within 10 percent of each other, the  
23 developer and the political subdivision shall together select  
24 a licensed appraiser to submit an appraisal that would be  
25 binding on both parties.

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1 (b) An impact fee may be levied only once on a  
2 service unit.

3 (c) A political subdivision, by ordinance, may  
4 provide for credits against any impact fees for expenditures  
5 for governmental infrastructure by the developer of a new  
6 development and may provide credits based on the demonstrated  
7 public benefit of the development. The political subdivision  
8 may provide the procedure for the approval of any credit  
9 against any impact fees on the development as provided in this  
10 subsection.

11 Section 6. A political subdivision may collect  
12 impact fees at either the time of the transfer of a lot or  
13 service unit, at the time of connection to the political  
14 subdivision's water or sewer system, or at the time the  
15 political subdivision issues either the building permit or the  
16 certificate of occupancy. Any impact fees assessed pursuant to  
17 this act shall be paid by the developer and shall be a lien on  
18 the property.

19 Section 7. Prior to the adoption of an impact fee  
20 for the political subdivision, the political subdivision shall  
21 hold a public hearing on the governmental infrastructure needs  
22 as a result of new development. Notice of the public hearing  
23 shall be published at least once in a newspaper of general  
24 circulation in the political subdivision not less than two  
25 weeks prior to the public hearing. Action on the resolution or

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1 ordinance setting the impact fee in the political subdivision  
2 may be taken at a regularly scheduled meeting of the governing  
3 body of the political subdivision not less than two weeks  
4 after the public hearing. The political subdivision shall make  
5 a specific finding that the impact fee will benefit the new  
6 development.

7 Section 8. Any impact fees collected within a  
8 political subdivision shall be used only for governmental  
9 infrastructure purposes. Any impact fees collected pursuant to  
10 this act shall be expended or contracted to be expended within  
11 two years of the collection of the fees unless the development  
12 or the expenditure or contracting for expenditure of the fees  
13 is delayed by an Act of God or litigation. Any impact fee not  
14 expended or contracted for within two years unless subject to  
15 an exception as provided above shall be refunded to the  
16 developer.

17 Section 9. All laws or parts of laws which conflict  
18 with this act are repealed.

19 Section 10. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law.

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*Leroy Baxley*

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President and Presiding Officer of the Senate

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*Sam Hunt*

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Speaker of the House of Representatives

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Senate 14-MAR-06

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I hereby certify that the within Act originated in and passed  
the Senate, as amended.

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McDowell Lee  
Secretary

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House of Representatives  
Amended and passed 29-MAR-06

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Senate concurred in House amendment 30-MAR-06

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By: Senator Byrne

APPROVED *April 4, 2006*

TIME *8:45 a.m.*

*Bob Riley*  
GOVERNOR

Alabama Secretary of State

Act Num....: 2006-300  
Bill Num....: 5-296

Recv'd 04/04/06 01:23pmKCW