

**Second Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 02-0680.01 Bob Lackner

HOUSE BILL 02-1251

HOUSE SPONSORSHIP

Vigil

SENATE SPONSORSHIP

(None)

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROVISION OF MONEYS FOR PUBLIC SCHOOL**
102 **CAPITAL CONSTRUCTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

For purposes of existing statutory provisions authorizing local governments to impose impact fees or other development charges, includes capital facilities of a school district among the capital facilities needed to serve new development for which a local government may impose an impact fee or other similar development charge.

Expands the meaning of capital facility, the projected impacts on which are to be considered in imposing the fee or other charge, to include any improvement or facility that is directly related to any service that a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

school district is authorized to provide.

Eliminates the prohibition on impact fees as a funding source for capital construction projects that are the subject of an intergovernmental agreement between a local government and a school district. Specifies that nothing in such statutory prohibition shall be interpreted to limit a local government's ability to levy impact fees or other similar development charges or fees to fund the capital projects of school districts.

Defines "school district".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 29-20-103, Colorado Revised Statutes, is amended

3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **29-20-103. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (3) "SCHOOL DISTRICT" MEANS ANY PUBLIC SCHOOL DISTRICT
7 ORGANIZED UNDER THE LAWS OF COLORADO, EXCEPT A JUNIOR COLLEGE
8 DISTRICT.

9 **SECTION 2.** The introductory portion to 29-20-104.5 (1) and
10 29-20-104.5 (4) (a), Colorado Revised Statutes, are amended to read:

11 **29-20-104.5. Impact fees.** (1) Pursuant to the authority granted
12 in section 29-20-104 (1) (g) and as a condition of issuance of a
13 development permit, a local government may impose an impact fee or
14 other similar development charge to fund ~~expenditures by such local~~
15 ~~government on~~ capital facilities needed to serve new development,
16 INCLUDING CAPITAL FACILITIES OF A SCHOOL DISTRICT WITHIN THE
17 MEANING OF SUBSECTION (4) OF THIS SECTION. No impact fee or other
18 similar development charge shall be imposed except pursuant to a
19 schedule that is:

20 (4) As used in this section, the term "capital facility" means any

1 improvement or facility that:

2 (a) Is directly related to any service that a local government is
3 authorized to provide OR THAT IS AN IMPROVEMENT OR FACILITY
4 REQUIRED BY A SCHOOL DISTRICT TO PROVIDE ELEMENTARY OR
5 SECONDARY EDUCATION;

6 **SECTION 3.** 22-54-102 (3), Colorado Revised Statutes, is
7 amended to read:

8 **22-54-102. Legislative declaration - statewide applicability -**
9 **intergovernmental agreements.** (3) (a) Nothing in this article shall be
10 construed to prohibit local governments from cooperating with school
11 districts through intergovernmental agreements to fund, construct,
12 maintain, or manage capital construction projects or other facilities as set
13 forth in section 22-45-103 (1) (c) (I) (A) or (1) (c) (I) (D), including, but
14 not limited to, swimming pools, playgrounds, or ball fields, as long as
15 funding for such projects is provided solely from a source of local
16 government revenue that is otherwise authorized by law. ~~except impact~~
17 ~~fees or other similar development charges or fees.~~

18 (b) Notwithstanding any provision of paragraph (a) of this
19 subsection (3) to the contrary, nothing in this subsection (3) shall be
20 construed to:

21 (I) Limit or restrict a county's power to require the reservation or
22 dedication of sites and land areas for schools or the payment of moneys
23 in lieu thereof pursuant to section 30-28-133 (4) (a), C.R.S., or to limit
24 a local government's ability to LEVY, accept, and expend impact fees or
25 other similar development charges or fees ~~contributed voluntarily on or~~
26 ~~before December 31, 1997,~~ to fund the capital projects of school districts;
27 ~~according to the terms of agreements voluntarily entered into on or before~~

1 ~~June 4, 1996, between all affected parties;~~

2 (II) ~~Affect any agreements entered into before May 1, 1996, that~~
3 ~~were the subject of litigation pending before the Colorado supreme court~~
4 ~~on May 1, 1996. If a supreme court decision affirms the right to impose~~
5 ~~impact fees or other similar development charges or fees, a local~~
6 ~~government that had imposed such fees or charges prior to May 1, 1996,~~
7 ~~may impose and collect such fees and charges until July 1, 1997. If a~~
8 ~~decision of the supreme court rejects the right to impose such fees or~~
9 ~~charges, such local government may impose and collect such fees and~~
10 ~~charges in connection with or as required by a voluntary agreement~~
11 ~~entered into before July 1, 1996, for the term of the agreement. In either~~
12 ~~event, all such impact fees or other similar development charges or fees~~
13 ~~shall be appropriated on or before December 31, 1997.~~

14 (III) Grant authority to local governments to require the
15 reservation or dedication of sites and land areas for schools or the
16 payment of moneys in lieu thereof. ~~however, the prohibition on impact~~
17 ~~fees or other similar development charges or fees contained in this~~
18 ~~subsection (3) shall not be construed to restrict the authority of any local~~
19 ~~government to require the reservation or dedication of sites and land areas~~
20 ~~for schools or the payment of moneys in lieu thereof if such local~~
21 ~~government otherwise has such authority granted by law.~~

22 **SECTION 4. Effective date.** This act shall take effect October
23 1, 2002 unless a referendum petition is filed during the ninety-day period
24 after final adjournment of the general assembly that is allowed for
25 submitting a referendum petition pursuant to article V, section 1 (3) of the
26 state constitution. If such a referendum petition is filed against this act
27 or an item, section, or part of this act within such period, then the act,

1 item, section, or part, if approved by the people, shall take effect on the
2 date of the official declaration of the vote thereon by proclamation of the
3 governor.