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of Paying for Growth

by

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THE EMERGENCE OF IMPACT FEES AS A WAY OF PAYING FOR GROWTH

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William Doebele has ironically observed that investing in infrastructure creates wealth, but that governments are increasingly bankrupt and unable to finance the improvements necessary for wealth-creating development to occur.^{2/} Doebele's observation has become more and more true as the "taxpayers revolt" has spread throughout the country. Opposition to paying *property taxes*—the single most important source of revenue for local governments—has been particularly intense. Voters in California passed Proposition 13 in 1978, significantly reducing property taxes and imposing a cap on how much property taxes could be increased in the future. A year later, voters in Massachusetts passed a similar measure limiting property taxes in that state. By 1989, 39 states had adopted some form of explicit limitation on the amount of fiscal resources available to state and/or local governments.^{3/} Wisconsin remains one of few states without a state-imposed restriction on local government tax and expenditure powers (Ibid.). Nevertheless, citizens in Wisconsin, like those in other states, are increasingly concerned about rising property taxes, and pressure is intensifying on the Governor and state legislators to reduce local governments's heavy dependency on the property tax.

In this increasingly stringent fiscal climate, local governments have looked for new ways to finance major capital projects. One solution has been to increase user fees, such as for public water and sewer services, to cover capital costs. Another way of paying for capital improvements and facilities has been to impose *impact fees* on new development. Impact fees were first used in areas experiencing extraordinary rates of growth, such as California and Florida. However, in recent years impact fees have begun to appear in the East and Midwest. A bill authorizing impact fees was passed in Indiana in 1991, and impact fees are now in widespread use in Illinois. Impact fees in one form or another are now in use in over half of the states in the U.S. They have been particularly common (and important as a revenue source) in states which have adopted strict property tax limitations.

Developers have traditionally been required to pay for costs of *on-site* improvements associated with their developments. What is new and different about impact fees is that they require developers to pay for *off-site* improvements as well. Through the use of impact fees, localities have charged developers for the cost of constructing schools, libraries, police and

1. Assistant Professor of Urban and Regional Planning, UW-Madison/Extension.

2. William A. Doebele, *Land Readjustment*. Lexington, Massachusetts: Lexington Books, 1982.

3. Advisory Commission on Intergovernmental Relations, *Significant Features of Fiscal Federalism*, Vol. 1, February 1991.

service of fire stations, and recreation facilities, as well as for the cost of acquiring land for such facilities. Impact fees have also frequently been imposed to pay for off-site road improvements. For example, Naperville, Illinois imposes what it calls a "fair share" assessment for road improvements. Each new development must pay a fee, which varies depending on the amount of additional traffic the development generates.

Impact fees have begun to make an appearance in Wisconsin. As of June 1993, sixteen communities in the Milwaukee metropolitan area had adopted impact fees for various purposes, such as parks, wetlands, bikeways, schools, libraries, sanitary sewers and/or wastewater treatment, storm sewers and off-site drainage improvements, public site acquisition, etc. Localities in other parts of the state are considering adoption of similar fees. Unlike other states, Wisconsin currently has no state legislation specifically authorizing or regulating the imposition of impact fees by local governments. Rather, local governments in Wisconsin have justified impact fees as a legitimate exercise of local police power. Moreover, local governments in Wisconsin have traditionally been granted considerable freedom to impose special assessment for a wide range of purposes, as long as those improvements are beneficial to assessed properties. The imposition of impact fees has simply taken this commonly used financing practice a step further. However, as impact fees have become more common, they have attracted greater attention and opposition. Some state legislators apparently now feel that legislation is needed to regulate and possibly limit local government use of impact fees—and at least to establish guidelines for acceptable practice.

Communities in Wisconsin and throughout the U.S. have historically welcomed new development. To a significant extent, the strong dependence of local governments on the local property tax reinforced this positive attitude toward development. Local taxpayers have viewed new development as a way of increasing the local tax base, and of lowering their tax burden. However, as opposition to property taxes has intensified, and as costs of providing infrastructure and services have increased, growing evidence has appeared that new development is not as fiscally desirable as previously assumed. A major study conducted by Helen Ladd found that counties with high rates of growth, and large amounts of tax-paying new development, actually had *higher levels of public expenditure*, and *higher tax rates*, than slower growing communities.⁴ Similarly, a detailed study conducted in DuPage County, Illinois found that even forms of non-residential development normally considered to be fiscally desirable imposed requirements for additional service provision that translated into increased tax levies.

Impact fees have come into increased use at a time when more and more communities are questioning the fiscal benefits of growth. As James Nicholas has put it, "the act of imposing impact fees indicates that a legislative determination has been made that insufficient public benefits exist to warrant increased general taxation" to finance facilities in support of new development.⁵ If property tax limitation legislation is enacted in Wisconsin, look for Wisconsin communities to make even greater use of impact fees. If the ability of Wisconsin local governments to impose impact fees is significantly limited by pending legislation, look for local resistance to new growth and development to increase.

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4. Helen F. Ladd, "Effects of Population Growth on Local Spending and Taxes." Cambridge, Mass.: Lincoln Institute of Land Policy, Working Papers, 1990.

5. James C. Nicholas, "Designing Proportionate-Share Impact Fees," in Alterman (ed.), *Private Supply of Public Services*. New York: New York University Press, 1988, p. 138.