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HOUSE BILL 302

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

Joshua N. Hernandez

AN ACT

RELATING TO LOCAL GOVERNMENTS; AMENDING SECTIONS OF THE DEVELOPMENT FEES ACT; PROVIDING THAT IMPACT FEE CREDITS ARE NOT REDUCED BY PROPORTIONAL SHARE CONCEPTS; PROVIDING THAT MUNICIPALITIES AND COUNTIES CANNOT REQUIRE THE WAIVER OF ANY PROVISIONS OF THE DEVELOPMENT FEES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 5-8-10 NMSA 1978 (being Laws 1993, Chapter 122, Section 10) is amended to read:

"5-8-10. AGREEMENT WITH OWNER REGARDING PAYMENT.--A municipality or county is authorized to enter into an agreement with the owner of a tract of land for which a plat has been recorded providing for a method of payment of the impact fees over an extended period of time otherwise in compliance with the Development Fees Act. No municipality or county may permit

underscored material = new  
[bracketed material] = delete

1 or require a person or entity, including an owner of land, to  
2 wave a provision of the Development Fees Act."

3 SECTION 2. Section 5-8-15 NMSA 1978 (being Laws 1993,  
4 Chapter 122, Section 15) is amended to read:

5 "5-8-15. CREDITS AGAINST FACILITIES FEES.--Any  
6 construction of, contributions to or dedications of on-site or  
7 off-site facilities, improvements or real or personal property  
8 with off-site benefits [~~not required to serve the new~~  
9 ~~development, in excess of minimum municipal and county~~  
10 ~~standards established by a previously adopted and valid~~  
11 ~~ordinance or regulation and]~~ required by a municipality or  
12 county as a condition of development approval shall be credited  
13 against impact fees otherwise due from the development or, if  
14 in excess of the impact fees due from such development, to the  
15 developer as excess credits. A municipality or county shall  
16 enter into an agreement with the person or entity constructing,  
17 contributing or dedicating such facilities, improvements or  
18 real or personal property that provides for the issuance of  
19 such credits against impact fees in compliance with the  
20 Development Fees Act; provided that no municipality or county  
21 shall require any person or entity to waive any provision of  
22 the Development Fees Act as a condition to entering into an  
23 agreement. No municipality or county may impose any  
24 requirements, restrictions or limitations with respect to the  
25 use, issuance or transfer of credits against impact fees unless

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1 otherwise specifically authorized by the Development Fees Act,  
2 and any requirements, restrictions or limitations in existing  
3 credit agreements shall be deemed void, shall be of no further  
4 force or effect and shall not be enforceable. The credit shall  
5 include one hundred percent of the value, without reduction,  
6 of:

7 A. dedication of land for parks, recreational  
8 areas, open space trails and related areas and facilities or  
9 payments in lieu of that dedication; ~~and~~

10 B. dedication of rights of way or easements or  
11 construction or dedication of on-site water distribution,  
12 wastewater collection or drainage facilities or streets,  
13 sidewalks or curbs; and

14 C. the entire cost of any capital improvement,  
15 which cost shall not be reduced by any proportionate share of  
16 the cost of the capital improvement or facility expansion  
17 required to serve the new development."

18 SECTION 3. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2025.