**Special School/Charter School Provisions**

- Cannot delay construction of school over impact fee dispute. **§11-36a-202(1)(b)**
- May not impose an impact fee on a school for park, recreation facility, open space or trail. **§11-36a-202(2)(a)(ii)**
- May not impose an impact fee on a school for replacement school. **§11-36a-202(2)(b)(i)**
- Sidewalk built by school including in Impact Fee Facilities Plan. **§11-36a-302(4)(c)(ii)**
- Impact fee can provide exception for school (but must establish another source of funds besides impact fees). **§11-36a-403(1)**
- Schools can require mediation of impact fee disputes. **11-36a-704**
- Schools cannot charge impact fees. **53A-20-100.5**

**Impact Fees under SB146**

- Capital facilities plan is now "Impact Fees Facilities Plan." **§11-36a-301**
- Impact fee imposed and calculated according to impact. **§11-36a-102(8), §11-36a-603(3)**
- Act applies equally to counties, cities, local districts, special districts, private entities. **§11-36a-102(11), (12), §11-36a-203**
- Cost recovery only. Not for maintenance/operation costs, curing deficiencies, or raising LOS. **§11-36a-202**
- Formalities not necessary to reduce fees. **§11-36a-403(3)**
- Recoupment of costs actually incurred, not replacement at present value. **§11-36a-202(1)(a)(iii)**
- Overhead expenses OK, but must be calculated according to generally accepted methods. **§11-36a-202(1)(a)(iv)**
- Fees must be spent or encumbered within 6 years of being collected, or else refunded. **§11-36a-602**
- All notices on public notice website. **§11-36a-501, -502, -503, -504**
- May include attorney fees to prevailing party in a dispute. **§11-36a-701(4)(a)(i)(A), §11-36a-703(5)**

**How to Review an Impact Fee**

- Take advantage of education opportunities.
- Consult with experienced professionals/attorneys, including the Property Rights Ombudsman.
- Obtain a professional review of impact fees from an experienced attorney or consultant.
- Read the Act, and then read it again.
- Practice, practice, practice.

## Impact Fees Act – Title 11, Chapter 36

Section 101 *Title.*
Section 102 *Definitions.*
Section 201 *Impact fees -- Analysis – Capital facilities plan -- Notice of plan -- Summary -- Exemptions.*
Section 202 *Impact fees -- Enactment – Required and allowed provisions – Limitations -- Effective date.*
Section 301 *Impact fees -- Accounting – Report.*
Section 302 *Impact fees -- Expenditure.*
Section 303 *Refunds.*
Section 401 *Impact fees -- Challenges – Appeals.*
Section 401.5 *Mediation.*
Section 402 *Challenging an impact fee by arbitration -- Procedure -- Appeal – Costs.*
Section 501 *Private entity assessment of impact fees -- Notice and hearing – Audit.*

## 2011 Revised Impact Fee Act – Title 11, Chapter 36a

**PART 1. GENERAL PROVISIONS**
Section 101 Title
Section 102 Definitions
**PART 2. IMPACT FEES**
Section 201 Impact Fees
Section 202 Prohibitions on impact fees
Section 203 Private entity assessment of impact fees -- Charges for water rights, physical infrastructure -- Notice -- Audit.
Section 204 Other names for impact fees
Section 205 Environmental mitigation impact fees
**PART 3. IMPACT FEES -- ESTABLISHMENT**
Section 301 Impact fee facilities plan
Section 302 Impact fee facilities plan requirements -- Limitations – School district or charter school.
Section 303 Impact fee analysis
Section 304 Impact fee analysis requirements
Section 305 Calculating impact fees
Section 306 Certification of impact fee analysis
**PART 4. IMPACT FEES -- ENACTMENT**
Section 401 Impact fee enactment
Section 402 Required provisions of impact fee enactment
Section 403 Other provisions in impact fee enactment
**PART 5. NOTICES**
Section 501 Notice of intent to prepare an impact fee facilities plan
Section 502 Notice to adopt or amend an impact fee facilities plan
Section 503 Notice of preparation of an impact fee analysis
Section 504 Notice of intent to adopt impact fee enactment -- Hearing -- Protections
**PART 6. IMPACT FEE PROCEEDS**
Section 601 Accounting of impact fees
Section 602 Expenditure of impact fees
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**PART 7. CHALLENGING IMPACT FEES**
Section 701 Impact fee challenge
Section 702 Time limitations
Section 703 Procedures for challenging an impact fee
Section 704 Mediation
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