

1 A bill to be entitled
 2 An act relating to impact fees; amending s. 163.31801,
 3 F.S.; revising the minimum requirements for the
 4 adoption of impact fees; providing an effective date.

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 6 Be It Enacted by the Legislature of the State of Florida:

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 8 Section 1. Section 163.31801, Florida Statutes, is amended
 9 to read:

10 163.31801 Impact fees; short title; intent; minimum
 11 requirements; audits; challenges ~~definitions; ordinances levying~~
 12 ~~impact fees.~~-

13 (1) This section may be cited as the "Florida Impact Fee
 14 Act."

15 (2) The Legislature finds that impact fees are an
 16 important source of revenue for a local government to use in
 17 funding the infrastructure necessitated by new growth. The
 18 Legislature further finds that impact fees are an outgrowth of
 19 the home rule power of a local government to provide certain
 20 services within its jurisdiction. Due to the growth of impact
 21 fee collections and local governments' reliance on impact fees,
 22 it is the intent of the Legislature to ensure that, when a
 23 county or municipality adopts an impact fee by ordinance or a
 24 special district adopts an impact fee by resolution, the
 25 governing authority complies with this section.

26 (3) At a minimum, an impact fee ~~An impact fee~~ adopted by
 27 ordinance of a county or municipality or by resolution of a
 28 special district must satisfy the following conditions, ~~at~~
 29 ~~minimum:~~

30 (a) ~~Require that~~ The calculation of the impact fee must
 31 ~~fee~~ be based on the most recent and localized data.

32 (b) The local government must provide for accounting and
 33 reporting of impact fee collections and expenditures. If a local
 34 governmental entity imposes an impact fee to address its
 35 infrastructure needs, the entity shall account for the revenues
 36 and expenditures of such impact fee in a separate accounting
 37 fund.

38 (c) ~~Limit~~ Administrative charges for the collection of
 39 impact fees must be limited to actual costs.

40 (d) ~~Require that~~ Notice must be provided no less than 90
 41 days before the effective date of an ordinance or resolution
 42 imposing a new or increased impact fee. A county or municipality
 43 is not required to wait 90 days to decrease, suspend, or
 44 eliminate an impact fee.

45 (e) Collection of the impact fee may not be required to
 46 occur earlier than the issuance of the building permit for the
 47 property that is subject to the fee.

48 (f) The impact fee must be reasonably connected to, or
 49 have a rational nexus with, the need for additional capital
 50 facilities and the increased impact generated by the new

51 residential or commercial construction.

52 (g) The impact fee must be reasonably connected to, or
53 have a rational nexus with, the expenditures of the funds
54 collected and the benefits accruing to the new residential or
55 commercial construction.

56 (h) The local government must specifically earmark funds
57 collected by the impact fee for use in acquiring, constructing,
58 or improving capital facilities to benefit the new users.

59 (i) The collection or expenditure of the impact fee
60 revenues may not be used, in whole or part, to pay existing debt
61 or be used for previously approved projects unless the
62 expenditure is reasonably connected to, or has a rational nexus
63 with, the increased impact generated by the new residential or
64 commercial construction.

65 (4) Audits of financial statements of local governmental
66 entities and district school boards which are performed by a
67 certified public accountant pursuant to s. 218.39 and submitted
68 to the Auditor General must include an affidavit signed by the
69 chief financial officer of the local governmental entity or
70 district school board stating that the local governmental entity
71 or district school board has complied with this section.

72 (5) In any action challenging an impact fee, the
73 government has the burden of proving by a preponderance of the
74 evidence that the imposition or amount of the fee meets the
75 requirements of state legal precedent or this section. The court

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76 | may not use a deferential standard.

77 | Section 2. This act shall take effect July 1, 2018.