

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 exception;  
 5           amending s. 163.3245, F.S.; prohibiting local  
 6           governments from requiring certain conditions in  
 7           development orders, except under certain conditions;  
 8           specifying the process for the local government review  
 9           and approval of detailed specific area plans or  
 10          related development orders; providing an effective  
 11          date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

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 15           Section 1. Section 163.31801, Florida Statutes, is amended  
 16          to read:

17           163.31801 Impact fees; short title; intent; minimum  
 18          requirements; audits; challenges ~~definitions; ordinances levying~~  
 19          ~~impact fees.~~-

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

22           (2) The Legislature finds that impact fees are an  
 23          important source of revenue for a local government to use in  
 24          funding the infrastructure necessitated by new growth. The  
 25          Legislature further finds that impact fees are an outgrowth of

26 | the home rule power of a local government to provide certain  
27 | services within its jurisdiction. Due to the growth of impact  
28 | fee collections and local governments' reliance on impact fees,  
29 | it is the intent of the Legislature to ensure that, when a  
30 | county or municipality adopts an impact fee by ordinance or a  
31 | special district adopts an impact fee by resolution, the  
32 | governing authority complies with this section.

33 |       (3) At a minimum, an impact fee ~~An impact fee~~ adopted by  
34 | ordinance of a county or municipality or by resolution of a  
35 | special district must satisfy the following conditions, ~~at~~  
36 | ~~minimum~~:

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

39 |       (b) The local government must provide for accounting and  
40 | reporting of impact fee collections and expenditures. If a local  
41 | governmental entity imposes an impact fee to address its  
42 | infrastructure needs, the entity shall account for the revenues  
43 | and expenditures of such impact fee in a separate accounting  
44 | fund.

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

47 |       (d) ~~Require that~~ Notice must be provided no less than 90  
48 | days before the effective date of an ordinance or resolution  
49 | imposing a new or increased impact fee. A county or municipality  
50 | is not required to wait 90 days to decrease, suspend, or

51 eliminate an impact fee.

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

55 (f) The impact fee must be reasonably connected to, or  
56 have a rational nexus with, the need for additional capital  
57 facilities and the increased impact generated by the new  
58 residential or commercial construction.

59 (g) The impact fee must be reasonably connected to, or  
60 have a rational nexus with, the expenditures of the funds  
61 collected and the benefits accruing to the new residential or  
62 commercial construction.

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

66 (i) The collection or expenditure of the impact fee  
67 revenues may not be used, in whole or part, to pay existing debt  
68 or be used for previously approved projects unless the  
69 expenditure is reasonably connected to, or has a rational nexus  
70 with, the increased impact generated by the new residential or  
71 commercial construction.

72 (4) Audits of financial statements of local governmental  
73 entities and district school boards which are performed by a  
74 certified public accountant pursuant to s. 218.39 and submitted  
75 to the Auditor General must include an affidavit signed by the

76 chief financial officer of the local governmental entity or  
77 district school board stating that the local governmental entity  
78 or district school board has complied with this section.

79 (5) In any action challenging an impact fee, the  
80 government has the burden of proving by a preponderance of the  
81 evidence that the imposition or amount of the fee meets the  
82 requirements of state legal precedent or this section. The court  
83 may not use a deferential standard.

84 (6) This section does not apply to water and sewer  
85 connection fees.

86 Section 2. Paragraph (b) of subsection (3) of section  
87 163.3245, Florida Statutes, is amended to read:

88 163.3245 Sector plans.—

89 (3) Sector planning encompasses two levels: adoption  
90 pursuant to s. 163.3184 of a long-term master plan for the  
91 entire planning area as part of the comprehensive plan, and  
92 adoption by local development order of two or more detailed  
93 specific area plans that implement the long-term master plan and  
94 within which s. 380.06 is waived.

95 (b) In addition to the other requirements of this  
96 chapter, except for those that are inconsistent with or  
97 superseded by the planning standards of this paragraph, the  
98 detailed specific area plans shall be consistent with the long-  
99 term master plan and must include conditions and commitments  
100 that provide for:

101           1.    Development or conservation of an area of at least  
102 1,000 acres consistent with the long-term master plan. The local  
103 government may approve detailed specific area plans of less than  
104 1,000 acres based on local circumstances if it is determined  
105 that the detailed specific area plan furthers the purposes of  
106 this part and part I of chapter 380.

107           2.    Detailed identification and analysis of the maximum  
108 and minimum densities and intensities of use and the  
109 distribution, extent, and location of future land uses.

110           3.    Detailed identification of water resource development  
111 and water supply development projects and related infrastructure  
112 and water conservation measures to address water needs of  
113 development in the detailed specific area plan.

114           4.    Detailed identification of the transportation  
115 facilities to serve the future land uses in the detailed  
116 specific area plan.

117           5.    Detailed identification of other regionally  
118 significant public facilities, including public facilities  
119 outside the jurisdiction of the host local government, impacts  
120 of future land uses on those facilities, and required  
121 improvements consistent with the long-term master plan.

122           6.    Public facilities necessary to serve development in  
123 the detailed specific area plan, including developer  
124 contributions in a 5-year capital improvement schedule of the  
125 affected local government.

126           7. Detailed analysis and identification of specific  
127 measures to ensure the protection and, as appropriate,  
128 restoration and management of lands within the boundary of the  
129 detailed specific area plan identified for permanent  
130 preservation through recordation of conservation easements  
131 consistent with s. 704.06, which easements shall be effective  
132 before or concurrent with the effective date of the detailed  
133 specific area plan and other important resources both within and  
134 outside the host jurisdiction. Any such conservation easement  
135 may be based on digital orthophotography prepared by a surveyor  
136 and mapper licensed under chapter 472 and may include a right of  
137 adjustment authorizing the grantor to modify portions of the  
138 area protected by a conservation easement and substitute other  
139 lands in their place if the lands to be substituted contain no  
140 less gross acreage than the lands to be removed; have equivalent  
141 values in the proportion and quality of wetlands, uplands, and  
142 wildlife habitat; and are contiguous to other lands protected by  
143 the conservation easement. Substitution is accomplished by  
144 recording an amendment to the conservation easement as accepted  
145 by and with the consent of the grantee, and which consent may  
146 not be unreasonably withheld.

147           8. Detailed principles and guidelines addressing the  
148 urban form and the interrelationships of future land uses;  
149 achieving a more clean, healthy environment; limiting urban  
150 sprawl; providing a range of housing types; protecting wildlife

151 and natural areas; advancing the efficient use of land and other  
152 resources; creating quality communities of a design that  
153 promotes travel by multiple transportation modes; and enhancing  
154 the prospects for the creation of jobs.

155 9. Identification of specific procedures to facilitate  
156 intergovernmental coordination to address extrajurisdictional  
157 impacts from the detailed specific area plan.

158 10. In adopting a detailed specific area plan or related  
159 development order, a local government may not include or impose  
160 as a condition of a development order any requirement that a  
161 developer contribute or pay for land acquisition or construction  
162 or expansion of public facilities or portions thereof unless the  
163 local government has enacted a local ordinance which requires  
164 other development not within a sector planning area to  
165 contribute its proportionate share of the funds, land, or public  
166 facilities necessary to accommodate any impacts having a  
167 rational nexus to the proposed development. When allowed under  
168 this section, the obligation to fund or construct new facilities  
169 or add to the present system of public facilities must have an  
170 essential nexus and be roughly proportionate to the proposed  
171 development.

172 11. Within 30 days after receiving an application for  
173 approval of a detailed specific area plan or related development  
174 order, a local government must review the application for  
175 completeness and issue a letter indicating all required

176 information is submitted or specifying with particularity any  
177 areas which are deficient. If deficient the applicant has 30  
178 days to address the deficiencies by submitting the required  
179 additional information. Within 90 days of the initial  
180 submission, if complete, or the supplemental submission,  
181 whichever is later, the local government shall approve, approve  
182 with conditions or deny the application for the detailed  
183 specific area plan. This time period may be waived in writing by  
184 the applicant. An approval or denial of the application for a  
185 detailed specific area plan or related development order  
186 approval must include written findings supporting the local  
187 government decision.

188  
189 A detailed specific area plan adopted by local development order  
190 pursuant to this section may be based upon a planning period  
191 longer than the generally applicable planning period of the  
192 local comprehensive plan and shall specify the projected  
193 population within the specific planning area during the chosen  
194 planning period. A detailed specific area plan adopted pursuant  
195 to this section is not required to demonstrate need based upon  
196 projected population growth or on any other basis. All lands  
197 identified in the long-term master plan for permanent  
198 preservation shall be subject to a recorded conservation  
199 easement consistent with s. 704.06 before or concurrent with the  
200 effective date of the final detailed specific area plan to be



201 approved within the planning area. Any such conservation  
202 easement may be based on digital orthophotography prepared by a  
203 surveyor and mapper licensed under chapter 472 and may include a  
204 right of adjustment authorizing the grantor to modify portions  
205 of the area protected by a conservation easement and substitute  
206 other lands in their place if the lands to be substituted  
207 contain no less gross acreage than the lands to be removed; have  
208 equivalent values in the proportion and quality of wetlands,  
209 uplands, and wildlife habitat; and are contiguous to other lands  
210 protected by the conservation easement. Substitution is  
211 accomplished by recording an amendment to the conservation  
212 easement as accepted by and with the consent of the grantee, and  
213 which consent may not be unreasonably withheld.

214 Section 3. This act shall take effect July 1, 2018.