

CHAMBER ACTION

1 The Growth Management Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to local government land development
7 requirements; creating s. 163.3219, F.S.; providing
8 legislative findings, declarations, and intent relating to
9 local government impact fees; requiring impact fees to be
10 based upon certain available data; requiring a credit
11 against impact fees for certain taxes, fees, assessments,
12 liens, charges, or payments; providing criteria;
13 specifying a time period before collecting an impact fee
14 or fee increase; prohibiting application of an impact fee
15 to certain building permits; requiring local governments
16 to report certain impact fee information to the Auditor
17 General; limiting imposition of administrative fees;
18 requiring refund of an impact fee under certain
19 circumstances; providing for expenditures of impact fees
20 collected from new development in incorporated areas
21 pursuant to an interlocal agreement; providing for
22 expenditures of collected impact fees in the absence of an
23 interlocal agreement; providing criteria for payment of

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24 | impact fees; authorizing a local government to establish a
 25 | schedule of payments; excluding from impact fees any
 26 | charge or fee imposed for a municipally owned utility;
 27 | specifying nonapplication to certain independent special
 28 | fire control districts under certain circumstances;
 29 | providing an effective date.

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31 | Be It Enacted by the Legislature of the State of Florida:

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33 | Section 1. Section 163.3219, Florida Statutes, is created
 34 | to read:

35 | 163.3219 Local government impact fees; credits; reports;
 36 | application; payment.--

37 | (1) The Legislature finds and declares that there is a
 38 | lack of consistent criteria for the determination of the
 39 | appropriateness, amount, and collection of impact fees.
 40 | Consequently, there is a wide disparity developing in the
 41 | application and relative burden of impact fees in different
 42 | areas of the state. In some areas of the state, impact fees are
 43 | driving up the cost of housing to an unreasonable degree, and
 44 | there is insufficient oversight of local governments who collect
 45 | and use impact fees. Therefore, it is the intent of the
 46 | Legislature to ensure greater consistency in the determination
 47 | of the appropriateness, amount, and collection of impact fees;
 48 | ensure flexibility in the timing of payment of impact fees;
 49 | provide appropriate notice to fee payers of new fees or fee
 50 | increases; and ensure the accountability of local governments
 51 | for the collection and expenditure of all impact fees.

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52 (2) Any impact fee that is adopted or amended shall be
 53 based upon the most recent accurate and relevant data available.

54 (3)(a) Any local government that imposes an impact fee
 55 must include in the calculation of the amount of the fee to be
 56 paid a credit for the full present value of all taxes, fees,
 57 assessments, liens, charges, or other payments of any kind that
 58 have been or will be directly paid by the fee payer or property
 59 owner to the local government or other service provider and that
 60 will be used to construct capital facilities of the same type
 61 for which the impact fee is imposed. The calculation of the
 62 credit shall estimate such payments for a period of not less
 63 than 20 years, shall include adjustments in the estimated annual
 64 payments to account for inflation, increased taxable values, and
 65 increased payments, shall use a discount rate no greater than
 66 the current costs of borrowing to finance such capital
 67 improvements, and shall be based solely upon the estimated
 68 payments from new development and the property upon which the
 69 new development is located.

70 (b) A local government that imposes an impact fee shall
 71 also provide a credit for all taxes or other payments of any
 72 kind indirectly paid by the fee payer or property owner through
 73 state, federal, or other revenues anticipated to be expended to
 74 construct capital facilities of the same type for which the
 75 impact fee is imposed.

76 (4)(a) An impact fee or impact fee increase may be
 77 collected only after 6 months following the date of final
 78 adoption of the ordinance imposing the impact fee or impact fee
 79 increase.

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80 (b) An impact fee or impact fee increase may not apply to
 81 building permits for which a complete application has been filed
 82 with the local government prior to the effective date of the
 83 ordinance adopting the impact fee or impact fee increase.

84 (5)(a) Each local government that collects impact fees
 85 shall report to the Auditor General annually on all collections,
 86 expenditures, refunds, and administrative expenses relating to
 87 such fees.

88 (b) A local government may not impose an administrative
 89 fee for collecting, accounting for, and disbursing impact fees
 90 that exceeds the actual direct costs associated with collecting,
 91 accounting for, and disbursing the impact fees. In no event
 92 shall the administrative fee exceed 3 percent of the total fees
 93 collected.

94 (c) Any local government that has not encumbered an impact
 95 fee for the purpose for which the fee was collected within 9
 96 years after receiving the fee shall refund the fee, with
 97 interest, to the person who paid the fee.

98 (d) Except for school impact fees, if impact fees are
 99 collected from new development within an incorporated area, the
 100 impact fees shall be expended pursuant to an interlocal
 101 agreement between the county and the municipality in which the
 102 impact fees are collected. If there is no interlocal agreement
 103 for expending impact fees, the fees shall be expended for
 104 infrastructure improvements within the municipality in which the
 105 fees are collected and for infrastructure improvements outside
 106 the municipality that directly benefit the new development.

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107 (6) Any local government that collects impact fees shall
 108 permit the fees to be paid in whole or in part at the time of
 109 the first closing to transfer real estate or title following
 110 issuance of a certificate of occupancy for the property subject
 111 to the fee and shall allow any remainder to be assessed as part
 112 of the local government's tax bill and paid over a 10- to 20-
 113 year period. If the fee is not fully paid at the time of
 114 closing, the local government may establish a schedule of
 115 payments including any costs of deferring payment of the fee.

116 (7) For purposes of this section, an impact fee shall not
 117 include any charge or fee imposed for a municipally owned
 118 utility, including, but not limited to, electric, gas, water, or
 119 wastewater facilities.

120 (8) The provisions of this section do not apply to
 121 independent special fire control districts that have adopted an
 122 impact fee for fire services within their jurisdictional
 123 boundaries under s. 191.009(4).

124 Section 2. This act shall take effect July 1, 2005.