

1 (1) The Legislature finds and declares that there is a
2 lack of consistent criteria for the determination of the
3 appropriateness, amount, and collection of impact fees.
4 Consequently, there is a wide disparity developing in the
5 application and relative burden of impact fees in different
6 areas of the state. In some areas of the state, impact fees
7 are driving up the cost of housing to an unreasonable degree,
8 and there is insufficient oversight of local governments who
9 collect and use impact fees. Therefore, it is the intent of
10 the Legislature to ensure greater consistency in the
11 determination of the appropriateness, amount, and collection
12 of impact fees; ensure flexibility in the timing of payment of
13 impact fees; provide appropriate notice to fee payers of new
14 fees or fee increases; and ensure the accountability of local
15 governments for the collection and expenditure of all impact
16 fees.

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

20 (3)(a) Any local government that imposes an impact fee
21 must include in the calculation of the amount of the fee to be
22 paid a credit for the full present value of all taxes, fees,
23 assessments, liens, charges, or other payments of any kind
24 that have been or will be directly paid by the fee payer or
25 property owner to the local government or other service
26 provider and that will be used to construct capital facilities
27 of the same type for which the impact fee is imposed. The
28 calculation of the credit shall estimate such payments for a
29 period of not less than 30 years; shall include adjustments in
30 the estimated annual payments to account for inflation,
31 increased taxable values, and increased payments; shall use a

1 discount rate no greater than the current costs of borrowing
2 to finance such capital improvements; and shall be based
3 solely upon the estimated payments from new development and
4 the property upon which the new development is located.

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

11 (4)(a) An impact fee or impact fee increase may be
12 collected only after 6 months following the date of final
13 adoption of the ordinance imposing the impact fee or impact
14 fee increase.

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

19 (5)(a) Each local government that collects impact fees
20 shall report to the Auditor General annually on all
21 collections, expenditures, refunds, and administrative
22 expenses relating to such fees.

23 (b) A local government may not impose an
24 administrative fee for collecting, accounting for, and
25 disbursing impact fees which exceeds the actual direct costs
26 associated with collecting, accounting for, and disbursing the
27 impact fees. In no event shall the administrative fee exceed 3
28 percent of the total fees collected.

29 (c) Any local government that has not expended an
30 impact fee for the purpose for which the fee was collected
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1 within 6 years after receiving the fee shall refund the fee,
2 with interest, to the person who paid the fee.

3 (d) If impact fees are collected as a result of new
4 development within an incorporated area, the impact fees shall
5 be expended pursuant to an interlocal agreement between the
6 county and the municipality in which the fees are collected.
7 If there is no interlocal agreement for expending the impact
8 fees, the fees shall be expended for infrastructure
9 improvements within the municipality in which the impact fees
10 are collected and for infrastructure improvements outside the
11 municipality which directly benefit the new development.

12 (6) Any local government that collects impact fees
13 shall permit the fees to be paid in whole or in part at the
14 time of the first closing to transfer real estate or title
15 following issuance of a certificate of occupancy for the
16 property subject to the fee and shall allow any remainder to
17 be assessed as part of the local government's tax bill and
18 paid over a 10-year to 20-year period. If the fee is not fully
19 paid at the time of closing, the local government may
20 establish a schedule of payments including any costs of
21 deferring payment of the fee.

22 (7) For purposes of the section, an impact fee does
23 not include any charge or fee imposed for a municipally owned
24 utility, including, but not limited to, electric, gas, water,
25 or wastewater facilities.

26 Section 2. This act shall take effect July 1, 2005.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2302

The committee substitute (CS) provides for the expenditure of impact fees collected within a municipality pursuant to an interlocal agreement between the county and municipality. In the absence of such an interlocal agreement, the impact fees must be spent for infrastructure improvements within the municipality or, if the infrastructure improvements directly benefit the new development, in the unincorporated area.

This CS amends the phrase "first real estate closing" to read the "first closing to transfer real estate or title." The CS also exempts any charge or fee imposed for a municipally owned utility, including, but not limited to, electric, gas, water, or wastewater facilities.