

By the Committees on Regulated Industries; Community Affairs;  
and Senator Bennett

580-1992-05

1                                   A bill to be entitled  
2           An act relating to local government land  
3           development requirements; creating s. 163.3219,  
4           F.S.; providing legislative findings,  
5           declarations, and intent relating to local  
6           government impact fees; requiring impact fees  
7           to be based upon certain available data;  
8           requiring a credit against impact fees for  
9           certain taxes, fees, assessments, liens,  
10          charges, or payments; providing criteria;  
11          specifying a time period before collecting an  
12          impact fee or fee increase; prohibiting  
13          application of an impact fee to certain  
14          building permits; requiring independent  
15          certified public accountants who conduct audits  
16          of local governments to report certain  
17          information in accordance with generally  
18          accepted accounting principles relating to  
19          impact fees; requiring audit report statements  
20          concerning compliance from certified public  
21          accountants; limiting imposition of  
22          administrative fees; requiring refund of an  
23          impact fee under certain circumstances;  
24          providing for the distribution of impact fees  
25          collected within an incorporated area;  
26          providing criteria for payment of impact fees;  
27          authorizing a local government to establish a  
28          schedule of payments; providing an exception;  
29          exempting existing impact fees from application  
30          of the act; providing an effective date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 163.3219, Florida Statutes, is  
4 created to read:

5 163.3219 Local government impact fees; credits;  
6 reports; application; payment.--

7 (1) The Legislature finds and declares that there is  
8 an insufficient required connection between development and  
9 the impacts for which it is assessed; that benefits paid for  
10 by impact fees do not always directly benefit the assessed  
11 development; and that there is a lack of consistent criteria  
12 for the determination of the appropriateness, amount, and  
13 collection of impact fees. Consequently, there is a wide  
14 disparity developing in the application and relative burden of  
15 impact fees in different areas of the state. In some areas of  
16 the state, impact fees are driving up the cost of housing to  
17 an unreasonable degree, and there is insufficient oversight of  
18 local governments that collect and use impact fees. Therefore,  
19 it is the intent of the Legislature to ensure that impact fees  
20 be imposed only to offset those capital costs specifically  
21 caused by the development for which they are assessed; to  
22 ensure that the impact fees directly benefit the fee payer; to  
23 ensure greater consistency in the determination of the  
24 appropriateness, amount, and collection of impact fees; to  
25 ensure flexibility in the timing of payment of impact fees; to  
26 provide appropriate notice to fee payers of new fees or fee  
27 increases; and to ensure the accountability of local  
28 governments for the collection and expenditure of all impact  
29 fees.

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

4           (3)(a) Any local government that imposes an impact fee  
5 must include in the calculation of the amount of the fee to be  
6 paid a credit for the full present value of all taxes, fees,  
7 assessments, liens, charges, or other payments of any kind  
8 that have been or will be directly paid by the fee payer or  
9 property owner to the local government or other service  
10 provider and that will be used to construct capital facilities  
11 of the same type for which the impact fee is imposed. The  
12 calculation of the credit shall estimate such payments for a  
13 period of not less than 30 years; shall include adjustments in  
14 the estimated annual payments to account for inflation,  
15 increased taxable values, and increased payments; shall use a  
16 discount rate no greater than the current costs of borrowing  
17 to finance such capital improvements; and shall be based  
18 solely upon the estimated payments from new development and  
19 the property upon which the new development is located.

20           (b) A local government that imposes an impact fee  
21 shall also provide a credit for all taxes or other payments of  
22 any kind through state, federal, or other revenues anticipated  
23 to be expended to construct capital facilities of the same  
24 type for which the impact fee is imposed.

25           (4)(a) An impact fee or impact fee increase may be  
26 collected only after 6 months following the date of final  
27 adoption of the ordinance imposing the impact fee or impact  
28 fee increase.

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

3 (5)(a) Independent certified public accountants that  
4 conduct audits of units of local government pursuant to s.  
5 218.39 shall report, as part of the audit, the amounts,  
6 collections, expenditures, refunds, administrative expenses,  
7 and any other applicable information in accordance with  
8 generally accepted accounting principles relating to impact  
9 fees. Certified public accountants conducting audits of units  
10 of local government pursuant to s. 218.39 shall report, as  
11 part of the audit, whether or not the unit of local government  
12 has complied with this section.

13 (b) A local government may not impose an  
14 administrative fee for collecting, accounting for, and  
15 disbursing impact fees which exceeds the actual direct costs  
16 associated with collecting, accounting for, and disbursing the  
17 impact fees. In no event shall the administrative fee exceed 3  
18 percent of the total fees collected.

19 (c) Any local government that has not expended an  
20 impact fee for the purpose for which the fee was collected  
21 within 6 years after receiving the fee shall refund the fee,  
22 with interest, to the owner of the property against which the  
23 fee was assessed.

24 (d) Impact fees must be directly proportional to the  
25 needs and burdens specifically created by the development for  
26 which the fee is assessed. If impact fees are collected from  
27 development occurring within an incorporated area, the impact  
28 fees for capital expenditures may be expended pursuant to an  
29 interlocal agreement between the county and the municipality  
30 in which the development occurs. The interlocal agreement  
31 shall specify the areas of impact for development that occurs

1 within or adjacent to a municipality and shall direct the  
2 expenditure of impact fees in a manner that directly benefits  
3 the property for which the fee is assessed. If there is no  
4 interlocal agreement for expending such impact fees and the  
5 development occurs within municipal limits, such moneys from  
6 the impact fee shall be expended within municipal limits or  
7 outside municipal limits if the expenditures directly benefit  
8 the property for which the fee is assessed. If the development  
9 occurs outside municipal limits, the moneys from the impact  
10 fee may be expended outside municipal limits if the  
11 expenditures directly benefit the property for which the fee  
12 is assessed.

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

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

27 Section 2. Existing impact fees that were adopted  
28 before July 1, 2005, may remain in place and effective.  
29 Revisions made in order to comply with this act are not  
30 subject to section 163.3219(4), Florida Statutes. New impact  
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1 fee ordinances, or increases to impact fees, which are adopted  
2 on or after July 1, 2005, must comply with this act.

3           Section 3. This act shall take effect July 1, 2005.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   CS/Senate Bill 2302

4 The committee substitute (CS) amends s. 163.3219(1), F.S., to  
5 provide the additional findings that there is an insufficient  
6 connection between development and impacts for which fees are  
7 assessed, and that the benefits paid for by impact fees do not  
8 always directly benefit the assessed development. The CS  
9 provides that it is the Legislative intent that impact fees  
10 should only be imposed to offset those capital costs  
11 specifically caused by the development, and to ensure that the  
12 impact fees directly benefit the fee payer.

13 The CS amends s. 163.3219(3)(b), F.S., to provide that the  
14 local government must provide a credit for taxes and other  
15 payments of any kind through state, federal, and other  
16 revenues anticipated as part of the funding of the capital  
17 facilities for which the impact fee is being imposed.

18 The CS amends s. 163.3219(5)(a), F.S., to delete the  
19 requirement for an annual report to the Auditor General by  
20 local governments. It requires that certified public  
21 accountants (CPA) that audit a local government unit report  
22 specified information in accordance with generally accepted  
23 accounting principles. It also requires that CPA's report  
24 whether or not the local government unit has complied with s.  
25 163.3219, F.S.

26 The CS amends s. 163.3219(5)(c), F.S., to provide that the  
27 required refund is to the owner of the property against which  
28 the fee was collected.

29 The CS amends s. 163.3219(5)(d), F.S., to require that impact  
30 fees be directly proportional to the needs and burdens created  
31 by the development. It also requires that interlocal  
agreements specify certain areas of impact and manner of the  
expenditure of impact fees.

The CS amends s. 163.3219(6), F.S., to provide that a local  
government collecting an impact fee may, rather than shall,  
allow the fees to be paid in the specified manner at first  
closing. It also permits, if the fee is paid in part, that  
the local government may, rather than shall, allow the  
remainder to be assessed as part of the tax bill and paid over  
a 10-20 year period.

The CS creates section 2 of the bill to provide that impact  
fees that were adopted before July 1, 2005 may remain in place  
and effective. It provides that revisions made to comply with  
the act are not subject to s. 163.3219(4), F.S., but requires  
compliance for new fee ordinances, or increases to impact  
fees, that are adopted after July 1, 2005.