

By Senator Constantine

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A bill to be entitled

An act relating to impact fees; creating s.
163.31801, F.S.; creating the "Impact Fee Act;"
providing legislative intent; providing
definitions; requiring that an impact fee meet
certain specified requirements; authorizing a
local government to adopt an ordinance levying
an impact fee as authorized by law in order to
fund the infrastructure necessitated by new
growth; providing for public notice before an
ordinance levying an impact fee is enacted;
requiring that an ordinance levying an impact
fee specify certain criteria used in
calculating and imposing the impact fee;
requiring that an ordinance levying an impact
fee specify certain requirements for the use of
revenue from an impact fee; requiring that an
ordinance levying an impact fee provide a
process for refunding an impact fee;
authorizing an ordinance levying an impact fee
to provide certain credits; authorizing an
ordinance levying an impact fee to exempt all
or part of a development from an impact fee;
providing certain dates for compliance;
providing an effective date.

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

Section 1. Section 163.31801, Florida Statutes, is
created to read:

1 163.31801 Impact fees; short title; intent;
2 definitions; ordinances levying impact fees.--

3 (1) This part may be cited as the "Impact Fee Act."

4 (2) The Legislature finds that impact fees are an
5 important source of revenue for a local government to use in
6 funding the infrastructure necessitated by new growth. The
7 Legislature further finds that impact fees are an outgrowth of
8 the home rule power of a local government to provide certain
9 services within its jurisdiction. Due to the increased
10 reliance of local governments on impact fees, it is the intent
11 of the Legislature to ensure that impact fees throughout the
12 state are used to maintain adequate public facilities,
13 represent a proportionate share of the cost of each public
14 facility, and promote orderly growth and development.

15 (3) As used in this section, the term:

16 (a) "Capital outlay project" means the buildings,
17 equipment, and structures that are built, installed, or
18 established to serve the need for infrastructure in a new or
19 expanded development, including, but not limited to,
20 transportation, sanitary sewer, solid waste, drainage, potable
21 water, education, parks, and recreational projects.

22 (b) "Impact fee" means a total or partial
23 reimbursement to a local government for the cost of the
24 additional public facilities or services necessitated by new
25 development or the expansion of existing development.

26 (c) "Local government" means a county, municipality,
27 or special district that is authorized by its enabling
28 legislation or by general law to impose an impact fee.

29 (d) "Public notice" means notice as required by s.
30 125.66(2) for a county, s. 166.041(3)(a) for a municipality,
31 or s. 189.417 for a special district. The procedures for

1 public notice which are required in this part are established
2 as the minimum procedures for public notice.

3 (e) "Rational nexus" means a reasonable connection.

4 (4) An impact fee must:

5 (a) Be a one-time charge, although partial payments
6 may be collected at certain times over the course of the
7 development process;

8 (b) Be used for capital outlay projects only.
9 Operating costs and infrastructure deficiencies may not be
10 funded by the revenue from the impact fee; and

11 (c) Represent a proportionate share of the cost of the
12 capital outlay project that is needed to serve the new
13 development.

14 (5) A local government is authorized by its home rule
15 power to adopt an ordinance levying an impact fee within its
16 jurisdiction in order to fund the need for infrastructure
17 created by new development or the expansion of existing
18 development. A special district may levy an impact fee only
19 if it is authorized to do so by general law.

20 (6) Before enacting an ordinance levying an impact
21 fee, a county, municipality, or special district must give
22 public notice of the proposed enactment.

23 (7) The ordinance levying an impact fee must:

24 (a) Specify the geographical area to be served by the
25 collection of the impact fee;

26 (b) Specify that there is a rational nexus between the
27 anticipated need for the capital outlay project and the growth
28 generated by the new development;

29 (c) Specify that there is a rational nexus between the
30 anticipated use of the revenue that is collected from the
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1 impact fee and the benefits that will accrue to the new
2 development upon completion of the capital outlay project;
3 (d) Specify the criteria and methodology used to
4 calculate the amount of the impact fee and the assumptions on
5 which they are based;
6 (e) Demonstrate that the impact fee does not exceed a
7 proportionate share of the cost of the capital outlay project
8 or system improvement needed to serve the new development;
9 (f) Specify certain times during the development
10 process when partial payments of the impact fee are due;
11 (g) Require that the revenue from the impact fee is
12 spent only on the capital outlay project for which the fee was
13 collected;
14 (h) Specify that the revenue from the impact fee that
15 is collected by a local government shall be deposited into an
16 interest-bearing account. The interest from the account shall
17 also be used only for the capital outlay project;
18 (i) Specify that the revenue from the impact fee and
19 disbursement shall be accounted for and reported separately
20 from other governmental sources of revenue. The accounting
21 and reporting of the revenue from an impact fee shall be
22 available for audit pursuant to s. 218.39; and
23 (j) Provide a process for refunding an impact fee that
24 was not expended on or encumbered for the capital outlay
25 project for which it was collected within a reasonable amount
26 of time, not to exceed 8 years following the date of the
27 adoption of the ordinance. A refund may be required after the
28 time for construction of the capital outlay project has
29 expired. An ordinance levying an impact fee must specify who
30 is entitled to the refund, whether it is the developer, the
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1 property owner of record at the time of the refund, or some
2 other individual or entity.

3 (8) An ordinance levying an impact fee may provide
4 credits for outside funding sources, improvements initiated by
5 developers, in-kind contributions, and local tax payments that
6 fund capital improvements.

7 (9) An ordinance levying an impact fee may exempt all
8 or part of a development from the impact fee. The ordinance
9 must specify the criteria used in determining an exemption and
10 the alternative source of revenue which will offset the fee
11 that is exempted.

12 (10) An ordinance levying an impact fee which is
13 enacted before July 1, 2006, need not comply with the
14 provisions of this section until July 1, 2008.

15 Section 2. This act shall take effect July 1, 2006.

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18 SENATE SUMMARY

19 Provides a short title. Provides legislative intent.
20 Provides definitions. Requires that an impact fee meet
21 certain specified requirements. Allows a local government
22 to adopt an ordinance levying an impact fee as authorized
23 by law in order to fund the infrastructure necessitated
24 by new growth. Provides for public notice before an
25 ordinance levying an impact fee is enacted. Requires that
26 an ordinance levying an impact fee specify certain
27 criteria used in calculating and imposing the impact fee.
28 Requires that an ordinance levying an impact fee specify
29 certain requirements for the use of revenue from an
30 impact fee. Requires that an ordinance levying an impact
31 fee provide a process for refunding an impact fee. Allows
an ordinance levying an impact fee to provide certain
credits. Allows an ordinance levying an impact fee to
exempt all or part of a development from an impact fee.
Provides certain dates for compliance.