

1 A bill to be entitled
 2 An act relating to impact fees; creating s. 163.31801,
 3 F.S.; creating the "Impact Fee Act"; providing legislative
 4 intent; providing definitions; requiring that an impact
 5 fee meet certain specified requirements; authorizing a
 6 local government to adopt an ordinance levying an impact
 7 fee as authorized by law in order to fund the
 8 infrastructure necessitated by new growth; providing for
 9 public notice before an ordinance levying an impact fee is
 10 enacted; requiring that an ordinance levying an impact fee
 11 specify certain criteria used in calculating and imposing
 12 the impact fee; requiring that an ordinance levying an
 13 impact fee specify certain requirements for the use of
 14 revenue from an impact fee; requiring that an ordinance
 15 levying an impact fee provide a process for refunding an
 16 impact fee; authorizing an ordinance levying an impact fee
 17 to provide certain credits; authorizing an ordinance
 18 levying an impact fee to exempt all or part of a
 19 development from an impact fee; providing certain dates
 20 for compliance; providing an effective date.

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

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

26 163.31801 Impact fees; short title; intent; definitions;
 27 ordinances levying impact fees.--

28 (1) This section may be cited as the "Impact Fee Act."

29 (2) The Legislature finds that impact fees are an
30 important source of revenue for a local government to use in
31 funding the infrastructure necessitated by new growth. The
32 Legislature further finds that impact fees are an outgrowth of
33 the home rule power of a local government to provide certain
34 services within its jurisdiction. Due to the increased reliance
35 of local governments on impact fees, it is the intent of the
36 Legislature to ensure that impact fees throughout the state are
37 used to maintain adequate public facilities, represent a
38 proportionate share of the cost of each public facility, and
39 promote orderly growth and development.

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

41 (a) "Capital outlay project" means the buildings,
42 equipment, and structures that are built, installed, or
43 established to serve the need for infrastructure in a new or
44 expanded development, including, but not limited to,
45 transportation, sanitary sewer, solid waste, drainage, potable
46 water, education, parks, and recreational projects.

47 (b) "Impact fee" means a total or partial reimbursement to
48 a local government for the cost of the additional public
49 facilities or services necessitated by new development or the
50 expansion of existing development.

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

54 (d) "Public notice" means notice as required by s.
55 125.66(2) for a county, s. 166.041(3)(a) for a municipality, or
56 s. 189.417 for a special district. The procedures for public

57 notice which are required in this section are established as the
 58 minimum procedures for public notice.

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

60 (4) An impact fee must:

61 (a) Be a one-time charge, although partial payments may be
 62 collected at certain times over the course of the development
 63 process.

64 (b) Be used for capital outlay projects only. Operating
 65 costs and infrastructure deficiencies may not be funded by the
 66 revenue from the impact fee.

67 (c) Represent a proportionate share of the cost of the
 68 capital outlay project that is needed to serve the new
 69 development.

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

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

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

80 (a) Specify the geographical area to be served by the
 81 collection of the impact fee.

82 (b) Specify that there is a rational nexus between the
 83 anticipated need for the capital outlay project and the growth
 84 generated by the new development.

85 (c) Specify that there is a rational nexus between the
86 anticipated use of the revenue that is collected from the impact
87 fee and the benefits that will accrue to the new development
88 upon completion of the capital outlay project.

89 (d) Specify the criteria and methodology used to calculate
90 the amount of the impact fee and the assumptions on which they
91 are based.

92 (e) Demonstrate that the impact fee does not exceed a
93 proportionate share of the cost of the capital outlay project or
94 system improvement needed to serve the new development.

95 (f) Specify certain times during the development process
96 when partial payments of the impact fee are due.

97 (g) Require that the revenue from the impact fee is spent
98 only on the capital outlay project for which the fee was
99 collected.

100 (h) Specify that the revenue from the impact fee that is
101 collected by a local government shall be deposited into an
102 interest-bearing account. The interest from the account shall
103 also be used only for the capital outlay project.

104 (i) Specify that the revenue from the impact fee and
105 disbursement shall be accounted for and reported separately from
106 other governmental sources of revenue. The accounting and
107 reporting of the revenue from an impact fee shall be available
108 for audit pursuant to s. 218.39.

109 (j) Provide a process for refunding an impact fee that was
110 not expended on or encumbered for the capital outlay project for
111 which it was collected within a reasonable amount of time, not
112 to exceed 8 years following the date of the adoption of the

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113 ordinance. A refund may be required after the time for
114 construction of the capital outlay project has expired. An
115 ordinance levying an impact fee must specify who is entitled to
116 the refund, whether it is the developer, the property owner of
117 record at the time of the refund, or some other individual or
118 entity.

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

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

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

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