

HB 1431

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CHAMBER ACTION

1 The Growth Management Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to impact fees; creating s. 163.31801,
7 F.S.; creating the "Impact Fee Act"; providing legislative
8 intent; providing definitions; requiring that an impact
9 fee meet certain specified requirements; authorizing local
10 governments to adopt ordinances to levy impact fees to
11 fund certain infrastructure needs; requiring public notice
12 before such ordinances are enacted; requiring such
13 ordinances to specify certain criteria for calculating and
14 imposing impact fees; specifying certain requirements for
15 the use of fee revenues; providing a process for refunding
16 fees, including certain credits; specifying the use of fee
17 revenues to supplement certain funds; authorizing certain
18 credits and exemptions for certain developments; providing
19 certain dates for compliance; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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

25 163.31801 Impact fees; short title; intent; definitions;
26 ordinances levying impact fees.--

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

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

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

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

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

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

53 (d) "Public notice" means notice as required by s.
54 125.66(2) for a county, s. 166.041(3)(a) for a municipality, or
55 s. 189.417 for a special district. The procedures for public
56 notice which are required in this section are established as the
57 minimum procedures for public notice.

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

59 (4) An impact fee must:

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

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

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

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

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

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78 | (7) The ordinance levying an impact fee must:

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

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

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

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

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

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

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

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

103 | (i) Specify that the revenue from the impact fee and
104 | disbursement shall be accounted for and reported separately from
105 | other governmental sources of revenue. The accounting and

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106 reporting of the revenue from an impact fee shall be available
107 for audit pursuant to s. 218.39.

108 (j) Provide a process for refunding an impact fee that was
109 not expended on or encumbered for the capital outlay project for
110 which it was collected within a reasonable amount of time, not
111 to exceed 8 years following the date of the adoption of the
112 ordinance. A refund may be required after the time for
113 construction of the capital outlay project has expired. An
114 ordinance levying an impact fee must specify who is entitled to
115 the refund, whether it is the developer, the property owner of
116 record at the time of the refund, or some other individual or
117 entity.

118 (8) An ordinance levying an impact fee must include the
119 calculation of the amount of the fee to be paid a credit for the
120 full present value of all taxes, fees, assessments, liens,
121 charges, or other payments of any kind that have been or will be
122 available to the local government or other facility provider and
123 that will be used to construct capital outlay projects of the
124 same type for which the impact fee is imposed. The calculation
125 of the credit shall:

126 (a) Estimate such payments for a period of not less than
127 the useful life of the type of project for which the fee is
128 imposed.

129 (b) Include adjustments in the estimated annual payments
130 to account for inflation, increased taxable values, and
131 increased payments.

132 (c) Use a discount rate no greater than the current costs
133 of borrowing to finance such capital improvements.

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134 (d) Be based solely upon the estimated payments from new
135 development and the property upon which the new development is
136 located.

137 (9) A local government imposing an impact fee shall also
138 provide a credit for all taxes or other payments of any kind
139 through state, federal, or other revenues anticipated to be
140 expended to construct capital outlay projects of the same type
141 for which the impact fee is imposed.

142 (10) An ordinance levying an impact fee must specify that
143 impact fees may only be used to supplement other funds utilized
144 to construct capital outlay projects.

145 (11) An ordinance levying an impact fee may provide
146 credits for outside funding sources, improvements initiated by
147 developers, in-kind contributions, and local tax payments that
148 fund capital improvements.

149 (12) An ordinance levying an impact fee may exempt all or
150 part of a development from the impact fee. The ordinance must
151 specify the criteria used in determining an exemption and the
152 alternative source of revenue which will offset the fee that is
153 exempted.

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

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