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CHAMBER ACTION

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|---------------|---|--------------|
| <u>Senate</u> | . | <u>House</u> |
| Comm: WD      | . |              |
| 4/9/2008      | . |              |
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1 The Committee on Community Affairs (Haridopolos) recommended the  
 2 following **amendment**:

**Senate Amendment (with title amendment)**

5 Between line(s) 2129 and 2130,  
6 insert:

8 Section 8. Subsections (5), (6), and (7) are added to  
9 section 163.31801, Florida Statutes, to read:

10 163.31801 Impact fees; short title; intent; definitions;  
11 ordinances levying impact fees.--

12 (5) In any challenge filed regarding the validity of an  
 13 impact fee, the local government imposing the fee has the burden  
 14 of proving, by a preponderance of the evidence, that the fee  
 15 calculation is directly proportional and limited to the actual  
 16 need and impact created by the development for which the fee is  
 17 assessed, that the fee is based upon the actual cost of any



679088

18 capital improvements for which the fee will be expended, and that  
19 the capital expenditures paid for by the impact fee provide a  
20 direct benefit to the property upon which the fee is imposed.

21 (6) An impact fee may not be assessed unless the local  
22 government has determined that the capital costs offset by the  
23 impact fee are specifically and uniquely attributable to the  
24 development against which the fee is proposed to be assessed and  
25 that the capital expenditures paid for by the impact fee provides  
26 a direct benefit to the property for which the fee was assessed.

27 (7) (a) Any local government that imposes an impact fee must  
28 include in the calculation of the amount of the fee to be paid a  
29 credit for the full present value of all taxes, fees,  
30 assessments, liens, charges, or other payments of any kind that  
31 have been or will be directly paid by the fee payer or property  
32 owner to the local government or other service provider and that  
33 will be used to construct capital facilities of the same type for  
34 which the impact fee is imposed. The calculation of the credit  
35 shall estimate such payments for a period of not less than 30  
36 years; shall include adjustments in the estimated annual payments  
37 to account for inflation, increased taxable values, and increased  
38 payments; shall use a discount rate no greater than the current  
39 costs of borrowing to finance such capital improvements; and  
40 shall be based upon the estimated payments from new developments  
41 and the estimated taxable value of property on which a new  
42 development is located. The basis for the calculation of a credit  
43 does not include an "average valuation" of all existing  
44 developments.

45 (b) A local government that imposes an impact fee shall  
46 also provide a credit for all taxes or other payments of any kind  
47 through state, federal, or other revenues that the local



679088

48 government anticipates to expend for the construction of the same  
49 type of capital facilities for which the impact fee is imposed.

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51 ===== T I T L E A M E N D M E N T =====

52 And the title is amended as follows:

53 On line(s) 87, after the first semicolon,  
54 insert:

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56 amending s. 163.31801, F.S.; providing that a local  
57 government has the burden of proof in a challenge to the  
58 validity of an impact fee; prohibiting the assessment of  
59 an impact fee unless the local government has made certain  
60 determinations; requiring a local government to include a  
61 credit in the impact fee calculation; providing a  
62 calculation for determining the credit; requiring a local  
63 government to provide a credit for taxes or other payments  
64 through state, federal, or other revenues under certain  
65 circumstances;