

1                   A bill to be entitled  
 2           An act relating to impact fees; amending s. 163.31801,  
 3           F.S.; requiring the government to prove certain elements  
 4           of an impact fee by a preponderance of the evidence;  
 5           prohibiting a court from using a deferential standard in a  
 6           court action; prohibiting certain local governments from  
 7           increasing impact fees or imposing new impact fees;  
 8           providing nonapplication to impact fees pledged to retire  
 9           debt or certain impact fee increases; providing for future  
 10          repeal; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Subsections (5) and (6) are added to section  
 15           163.31801, Florida Statutes, to read:

16           163.31801 Impact fees; short title; intent; definitions;  
 17           ordinances levying impact fees.--

18           (5) In any action challenging an impact fee, the  
 19           government has the burden of proving by a preponderance of the  
 20           evidence that the imposition or amount of the fee meets the  
 21           requirements of state legal precedent or this section. The court  
 22           may not use a deferential standard.

23           (6) Notwithstanding any law, ordinance, or resolution, a  
 24           county, municipality, or special district may not increase any  
 25           impact fees or impose any new impact fees. However, this  
 26           limitation shall not affect impact fees pledged to the  
 27           retirement of debt or impact fee increases previously enacted by  
 28           law, ordinance, or resolution that are phased in over time or

CS/CS/HB 227, Engrossed 1

2009

29 | that included a consumer price index or other yearly escalator.

30 | This subsection is repealed July 1, 2011.

31 | Section 2. This act shall take effect July 1, 2009.