

By Senator Hays

11-00234B-16

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1 A bill to be entitled
2 An act relating to local governments; amending s.
3 163.31801, F.S.; authorizing the use of impact fees to
4 construct new capital facilities or to improve, alter,
5 or expand existing capital facilities; creating s.
6 201.032, F.S.; authorizing a county or municipality to
7 impose a surcharge on documents taxable under s.
8 201.02, F.S., for the purpose of funding certain
9 capital improvements and capital facilities in lieu of
10 imposing impact fees; restricting the amount of the
11 surcharge; specifying procedures to enact an ordinance
12 to impose the surcharge and specifying the effective
13 date and termination date of such ordinance;
14 specifying requirements for a county to notify the
15 Department of Revenue when adopting certain ordinances
16 relating to the surcharge; requiring the department to
17 pay certain moneys to a county or municipality that
18 imposes the surcharge; requiring a county or
19 municipality to deposit revenues from the surcharge
20 into a special trust fund and to annually provide
21 certain information about such fund to the department;
22 specifying authorized uses of surcharge revenues;
23 prohibiting a county or municipality that imposes a
24 surcharge for an authorized purpose from also imposing
25 an impact fee for the same purpose; providing
26 applicability; providing for construction; providing
27 an effective date.

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

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Section 1. Subsections (4) and (5) of section 163.31801, Florida Statutes, are renumbered as subsections (5) and (6), respectively, and a new subsection (4) is added to that section, to read:

163.31801 Impact fees; short title; intent; definitions; ordinances levying impact fees.—

(4) Notwithstanding any other provision of law, charter, or ordinance, if such county, municipality, or special district has existing impact fees, such impact fees may be used by the county, municipality, or special district to construct new capital facilities or to improve, alter, or replace existing capital facilities to meet required levels of service requirements. Capital facilities include, but are not limited to, transportation facilities, utilities, water and sewer systems, parks and recreational facilities, libraries, educational facilities, and health systems and facilities.

Section 2. Section 201.032, Florida Statutes, is created to read:

201.032 Discretionary surcharge on deeds and other instruments in lieu of impact fees.—

(1) In lieu of imposing an impact fee, a county or municipality may impose a discretionary surcharge on documents taxable under s. 201.02 for the purpose of financing capital improvements and facilities authorized under subsection (6). A county or municipality may impose more than one surcharge pursuant to this section; however, the combined total of all surcharges imposed by a county and each municipality within such county may not exceed the rate of \$1 for each \$100, or

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59 fractional part thereof, of the consideration for the real
60 property interest transferred.

61 (2) A local government that enacts and implements a
62 discretionary surcharge in lieu of imposing an impact fee shall
63 provide credits on a dollar-for-dollar basis for impact fees,
64 mobility fees, or other exactions previously paid by the entity
65 under a developer agreement, proportionate share agreement, or
66 development order.

67 (3) A discretionary surcharge imposed pursuant to this
68 section must be established by ordinance. The ordinance must be
69 proposed at a regular meeting of the governing authority of the
70 county or municipality at least 2 weeks before formal adoption,
71 must explicitly state the purpose under subsection (6) for which
72 the surcharge is imposed, and must restrict the use of the
73 revenues of the surcharge, including penalties and accrued
74 interest thereon, for such purpose. Formal adoption of such
75 ordinance is not effective unless approved on a final vote by a
76 majority of the total membership of the governing authority of
77 the county or municipality. The ordinance may take effect only
78 on January 1 of any given year and may terminate only on
79 December 31 of any given year. The county shall notify the
80 department within 10 days after final adoption of the ordinance
81 imposing, terminating, or changing the rate of a surcharge, but
82 no later than September 1 prior to the effective date.

83 (4) The Department of Revenue shall pay to the governing
84 authority of a county or municipality that imposes a
85 discretionary surcharge all moneys, penalties, and interest
86 collected under this section, less any administrative costs.

87 (5) The county or municipality shall deposit revenues from

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88 the imposition of a discretionary surcharge into a trust fund
89 created solely for that purpose. Revenues from each individual
90 discretionary surcharge must be deposited into a separate trust
91 fund, except revenues from the imposition of surcharges for the
92 same purpose which may be deposited into one trust fund. The
93 county or municipality shall include in the financial report
94 required under s. 218.32 information showing the revenues and
95 expenses of each trust fund of a discretionary surcharge for the
96 fiscal year.

97 (6) The revenues of a discretionary surcharge imposed
98 pursuant to this section, including penalties and accrued
99 interest thereon, may be used only to provide, construct,
100 improve, repair, alter, or replace any of the following:

101 (a) Utilities and water and sewer systems.

102 (b) Transportation facilities.

103 (c) Park, recreational, library, and health system
104 facilities.

105 (d) Educational facilities.

106 1. Funds from the surcharge revenues trust fund may be
107 transferred to the local school district pursuant to an
108 interlocal agreement, which shall govern the authorized use of
109 the funds and required financial reporting.

110 2. A school district receiving funds pursuant to this
111 section shall prepare and submit an annual report to the
112 governing authority of the county detailing the expenditure of
113 funds transferred to the school district pursuant to this
114 section.

115 (7) A county or municipality that imposes a discretionary
116 surcharge on documents pursuant to this section for a purpose

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117 authorized under subsection (6) may not also impose an impact
118 fee for the same purpose while the surcharge is in effect.

119 (8) All provisions of this chapter, except s. 201.15, apply
120 to a discretionary surcharge imposed pursuant to this section.

121 (9) The imposition of a discretionary surcharge pursuant to
122 this section shall be construed as being authorized by general
123 law in accordance with ss. 1 and 9, Art. VII of the State
124 Constitution.

125 Section 3. This act shall take effect July 1, 2016.