

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, municipality, or  
7           school district to impose a surcharge on documents  
8           taxable under s. 201.02, F.S., for the purpose of  
9           funding certain capital improvements and capital  
10          facilities in lieu of imposing impact fees;  
11          restricting the amount of the surcharge; specifying  
12          procedures to enact an ordinance to impose the  
13          surcharge and specifying the effective date and  
14          termination date of such ordinance; specifying  
15          requirements for a county to notify the Department of  
16          Revenue when adopting certain ordinances relating to  
17          the surcharge; requiring the department to pay certain  
18          moneys to a county, municipality, or school district  
19          that imposes the surcharge; requiring a county,  
20          municipality, or school district to deposit revenues  
21          from the surcharge into a special trust fund and to  
22          annually provide certain information about such fund  
23          to the department; specifying authorized uses of  
24          surcharge revenues; prohibiting a county,  
25          municipality, or school district that imposes a  
26          surcharge for an authorized purpose from also imposing

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27 an impact fee for the same purpose; providing  
28 applicability; providing for construction; providing  
29 an effective date.

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

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

37 163.31801 Impact fees; short title; intent; definitions;  
38 ordinances levying impact fees.—

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

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

51 201.032 Discretionary surcharge on deeds and other  
52 instruments in lieu of impact fees.—

53 (1) In lieu of imposing an impact fee, a county,  
54 municipality, or school district may impose a discretionary  
55 surcharge on documents taxable under s. 201.02 for the purpose  
56 of financing capital improvements and facilities authorized  
57 under subsection (6). A county, municipality, or school district  
58 may impose more than one surcharge pursuant to this section;  
59 however, the combined total of all surcharges imposed by a  
60 county and each municipality and school district within such  
61 county may not exceed the rate of \$1 for each \$100, or  
62 fractional part thereof, of the consideration for the real  
63 property interest transferred.

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

70 (3) A discretionary surcharge imposed pursuant to this  
71 section must be established by ordinance. The ordinance must be  
72 proposed at a regular meeting of the governing authority of the  
73 county, municipality, or school district at least 2 weeks before  
74 formal adoption, must explicitly state the purpose under  
75 subsection (6) for which the surcharge is imposed, and must  
76 restrict the use of the revenues of the surcharge, including  
77 penalties and accrued interest thereon, for such purpose. Formal  
78 adoption of such ordinance is not effective unless approved on a

79 final vote by a majority of the total membership of the  
80 governing authority of the county, municipality, or school  
81 district. The ordinance may take effect only on January 1 of any  
82 given year and may terminate only on December 31 of any given  
83 year. The county shall notify the department within 10 days  
84 after final adoption of the ordinance imposing, terminating, or  
85 changing the rate of a surcharge, but no later than September 1  
86 before the effective date.

87 (4) The Department of Revenue shall pay to the governing  
88 authority of a county, municipality, or school district that  
89 imposes a discretionary surcharge all moneys, penalties, and  
90 interest collected under this section, less any administrative  
91 costs.

92 (5) The county, municipality, or school district shall  
93 deposit revenues from the imposition of a discretionary  
94 surcharge into a trust fund created solely for that purpose.  
95 Revenues from each individual discretionary surcharge must be  
96 deposited into a separate trust fund, except revenues from the  
97 imposition of surcharges for the same purpose, which may be  
98 deposited into one trust fund. The county, municipality, or  
99 school district shall include in the financial report required  
100 under s. 218.32 information showing the revenues and expenses of  
101 each trust fund of a discretionary surcharge for the fiscal  
102 year.

103 (6) The revenues of a discretionary surcharge imposed  
104 pursuant to this section, including penalties and accrued

105 interest thereon, may be used to provide, construct, improve,  
106 repair, alter, or replace facilities, including, but not limited  
107 to:

108 (a) Utilities and water and sewer systems.

109 (b) Transportation facilities.

110 (c) Park, recreational, library, and health system  
111 facilities.

112 (d) Educational facilities.

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

117 2. A school district receiving funds pursuant to this  
118 section shall prepare and submit an annual report to the  
119 governing authority of the county detailing the expenditure of  
120 funds transferred to the school district pursuant to this  
121 section.

122 (7) A county, municipality, or school district that  
123 imposes a discretionary surcharge on documents pursuant to this  
124 section for a purpose authorized under subsection (6) may not  
125 also impose an impact fee for the same purpose while the  
126 surcharge is in effect.

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

130 (9) The imposition of a discretionary surcharge pursuant

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131 | to this section shall be construed as being authorized by  
132 | general law in accordance with ss. 1 and 9, Art. VII of the  
133 | State Constitution.

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