

By the Committees on Appropriations; and Community Affairs; and  
Senator Young

576-03814-18

2018324c2

1 A bill to be entitled  
2 An act relating to impact fees; amending s. 163.31801,  
3 F.S.; revising the minimum requirements for impact  
4 fees; prohibiting the application of impact fee  
5 provisions to water and sewer connection fees;  
6 providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
10 Section 1. Section 163.31801, Florida Statutes, is amended  
11 to read:

12 163.31801 Impact fees; short title; intent; minimum  
13 requirements; audits; challenges ~~definitions; ordinances levying~~  
14 ~~impact fees.~~-

15 (1) This section may be cited as the "Florida Impact Fee  
16 Act."

17 (2) The Legislature finds that impact fees are an important  
18 source of revenue for a local government to use in funding the  
19 infrastructure necessitated by new growth. The Legislature  
20 further finds that impact fees are an outgrowth of the home rule  
21 power of a local government to provide certain services within  
22 its jurisdiction. Due to the growth of impact fee collections  
23 and local governments' reliance on impact fees, it is the intent  
24 of the Legislature to ensure that, when a county or municipality  
25 adopts an impact fee by ordinance or a special district adopts  
26 an impact fee by resolution, the governing authority complies  
27 with this section.

28 (3) At a minimum, impact fees ~~An impact fee~~ adopted by  
29 ordinance of a county or municipality or by resolution of a

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30 special district must, ~~at minimum~~ satisfy the following  
31 conditions:

32 (a) ~~Require that~~ The calculation of the impact fees must  
33 ~~fee~~ be based on the most recent and localized data.

34 (b) The local government must provide for accounting and  
35 reporting of impact fee collections and expenditures. If a local  
36 governmental entity imposes an impact fee to address its  
37 infrastructure needs, the entity shall account for the revenues  
38 and expenditures of such impact fee in a separate accounting  
39 fund.

40 (c) ~~Limit~~ Administrative charges for the collection of  
41 impact fees must be limited to actual costs.

42 (d) ~~Require that~~ Notice must be provided no less than 90  
43 days before the effective date of an ordinance or resolution  
44 imposing a new or increased impact fees fee. A county or  
45 municipality is not required to wait 90 days to decrease,  
46 suspend, or eliminate ~~an~~ impact fees fee.

47 (e) Collection of the impact fees may not be required to  
48 occur earlier than the issuance of the building permit for the  
49 property that is subject to the fee.

50 (f) The impact fees must be reasonably connected to, or  
51 have a rational nexus with, the need for additional capital  
52 facilities and the increased impact generated by the new  
53 residential or commercial construction.

54 (g) The impact fees must be reasonably connected to, or  
55 have a rational nexus with, the expenditures of the funds  
56 collected and the benefits accruing to the new residential or  
57 commercial construction.

58 (h) The local government must specifically earmark funds

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59 collected pursuant to the impact fees for use in acquiring,  
60 constructing, or improving capital facilities to benefit the new  
61 users.

62 (i) The collection or expenditure of the impact fee  
63 revenues may not be used, in whole or part, to pay existing debt  
64 or be used for prior approved projects unless the expenditure is  
65 reasonably connected to, or has a rational nexus with, the  
66 increased impact generated by the new residential or commercial  
67 construction.

68 (4) Audits of financial statements of local governmental  
69 entities and district school boards which are performed by a  
70 certified public accountant pursuant to s. 218.39 and submitted  
71 to the Auditor General must include an affidavit signed by the  
72 chief financial officer of the local governmental entity or  
73 district school board stating that the local governmental entity  
74 or district school board has complied with this section.

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

80 (6) This section does not apply to water and sewer  
81 connection fees.

82 Section 2. This act shall take effect July 1, 2018.