



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 the
 4 adoption of impact fees; providing an exception;
 5 amending s. 163.3245, F.S.; specifying the process for
 6 the local government review and approval of detailed
 7 specific area plans or related development orders;
 8 providing an effective date.

9

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

11

12 Section 1. Section 163.31801, Florida Statutes, is amended
 13 to read:

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

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

19 (2) The Legislature finds that impact fees are an
 20 important source of revenue for a local government to use in
 21 funding the infrastructure necessitated by new growth. The
 22 Legislature further finds that impact fees are an outgrowth of
 23 the home rule power of a local government to provide certain
 24 services within its jurisdiction. Due to the growth of impact
 25 fee collections and local governments' reliance on impact fees,



26 | it is the intent of the Legislature to ensure that, when a
27 | county or municipality adopts an impact fee by ordinance or a
28 | special district adopts an impact fee by resolution, the
29 | governing authority complies with this section.

30 | (3) At a minimum, an impact fee ~~An impact fee~~ adopted by
31 | ordinance of a county or municipality or by resolution of a
32 | special district must satisfy the following conditions, ~~at~~
33 | ~~minimum~~:

34 | (a) ~~Require that~~ The calculation of the impact fee must
35 | ~~fee~~ be based on the most recent and localized data.

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

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

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

49 | (e) Collection of the impact fee may not be required to
50 | occur earlier than the issuance of the building permit for the



51 property that is subject to the fee.

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

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

60 (h) The local government must specifically earmark funds
61 collected by the impact fee for use in acquiring, constructing,
62 or improving capital facilities to benefit the new users.

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

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



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

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

83 Section 2. Paragraph (b) of subsection (3) of section
84 163.3245, Florida Statutes, is amended to read:

85 163.3245 Sector plans.—

86 (3) Sector planning encompasses two levels: adoption
87 pursuant to s. 163.3184 of a long-term master plan for the
88 entire planning area as part of the comprehensive plan, and
89 adoption by local development order of two or more detailed
90 specific area plans that implement the long-term master plan and
91 within which s. 380.06 is waived.

92 (b) In addition to the other requirements of this
93 chapter, except for those that are inconsistent with or
94 superseded by the planning standards of this paragraph, the
95 detailed specific area plans shall be consistent with the long-
96 term master plan and must include conditions and commitments
97 that provide for:

98 1. Development or conservation of an area of at least
99 1,000 acres consistent with the long-term master plan. The local
100 government may approve detailed specific area plans of less than



101 1,000 acres based on local circumstances if it is determined
102 that the detailed specific area plan furthers the purposes of
103 this part and part I of chapter 380.

104 2. Detailed identification and analysis of the maximum
105 and minimum densities and intensities of use and the
106 distribution, extent, and location of future land uses.

107 3. Detailed identification of water resource development
108 and water supply development projects and related infrastructure
109 and water conservation measures to address water needs of
110 development in the detailed specific area plan.

111 4. Detailed identification of the transportation
112 facilities to serve the future land uses in the detailed
113 specific area plan.

114 5. Detailed identification of other regionally
115 significant public facilities, including public facilities
116 outside the jurisdiction of the host local government, impacts
117 of future land uses on those facilities, and required
118 improvements consistent with the long-term master plan.

119 6. Public facilities necessary to serve development in
120 the detailed specific area plan, including developer
121 contributions in a 5-year capital improvement schedule of the
122 affected local government.

123 7. Detailed analysis and identification of specific
124 measures to ensure the protection and, as appropriate,
125 restoration and management of lands within the boundary of the



126 detailed specific area plan identified for permanent
127 preservation through recordation of conservation easements
128 consistent with s. 704.06, which easements shall be effective
129 before or concurrent with the effective date of the detailed
130 specific area plan and other important resources both within and
131 outside the host jurisdiction. Any such conservation easement
132 may be based on digital orthophotography prepared by a surveyor
133 and mapper licensed under chapter 472 and may include a right of
134 adjustment authorizing the grantor to modify portions of the
135 area protected by a conservation easement and substitute other
136 lands in their place if the lands to be substituted contain no
137 less gross acreage than the lands to be removed; have equivalent
138 values in the proportion and quality of wetlands, uplands, and
139 wildlife habitat; and are contiguous to other lands protected by
140 the conservation easement. Substitution is accomplished by
141 recording an amendment to the conservation easement as accepted
142 by and with the consent of the grantee, and which consent may
143 not be unreasonably withheld.

144 8. Detailed principles and guidelines addressing the
145 urban form and the interrelationships of future land uses;
146 achieving a more clean, healthy environment; limiting urban
147 sprawl; providing a range of housing types; protecting wildlife
148 and natural areas; advancing the efficient use of land and other
149 resources; creating quality communities of a design that
150 promotes travel by multiple transportation modes; and enhancing



151 the prospects for the creation of jobs.

152 9. Identification of specific procedures to facilitate
153 intergovernmental coordination to address extrajurisdictional
154 impacts from the detailed specific area plan.

155 10. Within 30 days after receiving an application for
156 approval of a detailed specific area plan or related development
157 order, a local government must review the application for
158 completeness and issue a letter indicating all required
159 information is submitted or specifying with particularity any
160 areas which are deficient. If deficient the applicant has 30
161 days to address the deficiencies by submitting the required
162 additional information. Within 90 days of the initial
163 submission, if complete, or the supplemental submission,
164 whichever is later, the local government shall approve, approve
165 with conditions or deny the application for the detailed
166 specific area plan. This time period may be waived in writing by
167 the applicant. An approval or denial of the application for a
168 detailed specific area plan or related development order
169 approval must include written findings supporting the local
170 government decision.

171
172 A detailed specific area plan adopted by local development order
173 pursuant to this section may be based upon a planning period
174 longer than the generally applicable planning period of the
175 local comprehensive plan and shall specify the projected



176 population within the specific planning area during the chosen
177 planning period. A detailed specific area plan adopted pursuant
178 to this section is not required to demonstrate need based upon
179 projected population growth or on any other basis. All lands
180 identified in the long-term master plan for permanent
181 preservation shall be subject to a recorded conservation
182 easement consistent with s. 704.06 before or concurrent with the
183 effective date of the final detailed specific area plan to be
184 approved within the planning area. Any such conservation
185 easement may be based on digital orthophotography prepared by a
186 surveyor and mapper licensed under chapter 472 and may include a
187 right of adjustment authorizing the grantor to modify portions
188 of the area protected by a conservation easement and substitute
189 other lands in their place if the lands to be substituted
190 contain no less gross acreage than the lands to be removed; have
191 equivalent values in the proportion and quality of wetlands,
192 uplands, and wildlife habitat; and are contiguous to other lands
193 protected by the conservation easement. Substitution is
194 accomplished by recording an amendment to the conservation
195 easement as accepted by and with the consent of the grantee, and
196 which consent may not be unreasonably withheld.

197 Section 3. This act shall take effect July 1, 2018.