

By Senator Gruters

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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 adopted by a local government; exempting water  
5       and sewer connection fees from the Florida Impact Fee  
6       Act; providing an effective date.

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

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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, an impact fee adopted by ordinance of a  
29       county or municipality or by resolution of a special district

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30 must satisfy all of the following conditions, ~~at minimum~~:

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

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

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

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

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

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

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

57 (h) The local government must specifically earmark funds  
58 collected under the impact fee for use in acquiring,

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59 constructing, or improving capital facilities to benefit new  
60 users.

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

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

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

78 (6) This section does not apply to water and sewer  
79 connection fees.

80 Section 2. This act shall take effect July 1, 2019.