

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 by specified local
 5 governments; authorizes the prevailing party in an
 6 action challenging an impact fee to recover attorney
 7 fees; exempting water and sewer connection fees from
 8 the Florida Impact Fee Act; providing an effective
 9 date.

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

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

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

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

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

26 fee collections and local governments' reliance on impact fees,
27 it is the intent of the Legislature to ensure that, when a
28 county or municipality adopts an impact fee by ordinance or a
29 special district adopts an impact fee by resolution, the
30 governing authority complies with this section.

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

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

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

43 (c) The local government must limit administrative charges
44 for the collection of impact fees to actual costs.

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

50 (e) The local government may not require payment of the

51 impact fee before the date of issuance of the building permit
52 for the property that is subject to the fee.

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

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

61 (h) The local government must specifically earmark
62 revenues generated by the impact fee to acquire, construct, or
63 improve capital facilities to benefit new users.

64 (i) The local government may not use revenues generated by
65 the impact fee to pay existing debt or for previously approved
66 projects unless the expenditure is reasonably connected to, or
67 has a rational nexus with, the increased impact generated by the
68 new residential or 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. A challenger who prevails in
81 an action challenging an impact fee under this section may
82 recover attorney fees.

83 (6) This section does not apply to water and sewer
84 connection fees.

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