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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/04/2020	.	
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The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 247
and insert:
defined in s. 163.3164(39) and includes public libraries,
emergency medical services, and any fire and law enforcement
facility. For independent special fire control and rescue
districts, the term "infrastructure" also includes new
facilities as defined in s. 191.009(4).

(4) At a minimum, each county and municipality that adopts,



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11 collects, or administers an impact fee by ordinance and each
12 special district that adopts, collects, and administers an
13 impact fee by resolution ~~an impact fee adopted by ordinance of a~~
14 ~~county or municipality or by resolution of a special district~~
15 ~~must satisfy all of the following conditions:~~

16 (a) Require that the calculation of any new or updated the
17 impact fee must be based on the most recent and localized data
18 collected within the last 36 months and excludes any cost that
19 does not meet the definition of infrastructure.

20 (b) Account for the revenues and expenditures of such
21 impact fee in a separate impact fee account, if the local
22 governmental entity imposes an impact fee to address its
23 infrastructure needs ~~The local government must provide for~~
24 ~~accounting and reporting of impact fee collections and~~
25 ~~expenditures. If a local governmental entity imposes an impact~~
26 ~~fee to address its infrastructure needs, the entity must account~~
27 ~~for the revenues and expenditures of such impact fee in a~~
28 ~~separate accounting fund.~~

29 (c) Limit administrative charges for the collection of
30 impact fees must be limited to actual costs. The cost per
31 student station established in school impact fee calculations
32 may not exceed that statutory total maximum cost per student
33 station calculated under s. 1013.64(6).

34 (d) ~~The local government must~~ Provide notice not less than
35 90 days before the effective date of an ordinance or resolution
36 imposing a new or increased impact fee. Unless the result is to
37 reduce the total mitigation costs or impact fees imposed on an
38 applicant, new or increased impact fees may not apply to current
39 or pending permit applications submitted before the effective



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40 date of an ordinance or resolution imposing a new or increased
41 impact fee. A county or municipality is not required to wait 90
42 days to decrease, suspend, or eliminate an impact fee.

43 ~~(e) Collection of the impact fee may not be required to~~
44 ~~occur earlier than the date of issuance of the building permit~~
45 ~~for the property that is subject to the fee.~~

46 ~~(f)~~ Ensure that the impact fee ~~is~~ must be proportional and
47 reasonably connected to, or has ~~have~~ a rational nexus with, the
48 need for additional infrastructure ~~capital facilities~~ and the
49 increased impact generated by the new residential or commercial
50 construction.

51 ~~(f)(g)~~ Ensure that the impact fee ~~is~~ must be proportional
52 and reasonably connected to, or has ~~have~~ a rational nexus with,
53 the expenditures of the funds collected and the benefits
54 accruing to the new residential or nonresidential construction.

55 ~~(g)(h)~~ The local government must Specifically earmark funds
56 collected under the impact fee for use in acquiring,
57 constructing, or improving infrastructure ~~capital facilities~~ to
58 benefit new users.

59 (5) Collection of the impact fee may not be required to
60 occur earlier than the date of issuance of the building permit
61 for the property that is subject to the fee.

62 ~~(6)(i)~~ Revenues generated by the impact fee may not be
63 used, in whole or in part, to pay existing debt or for
64 previously 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
67 nonresidential construction.

68 ~~(7)(4)~~ Notwithstanding any charter provision, comprehensive



69 plan policy, ordinance, or resolution, the local government must
70 credit against the collection of the impact fee any form of
71 contribution, whether identified in a proportionate share
72 agreement or other form of exaction, related to public education
73 facilities, including land dedication, site planning and design,
74 or construction. Any contribution must be applied to reduce any
75 education-based impact fees on a dollar-for-dollar basis at fair
76 market value. This subsection does not apply to a local
77 government governed by a charter that was adopted and
78 implemented before December 31, 2006, which charter language
79 contains provisions for providing school capacity so long as the
80 funds collected pursuant to the charter provision are used to
81 mitigate impacts not otherwise funded by impact fees or other
82 local exactions relating to public education facilities and the
83 funds are applied in a manner that is proportional and
84 reasonably connected to, or has a rational nexus with, the need
85 for additional capital facilities, the need for which is
86 generated by the new residential development. Contributions to
87 mitigate impacts not otherwise funded by impact fees must be
88 based on the difference between the cost per student station as
89 determined by the educational facilities impact fee study on
90 which the then-current education-based impact fee is based,
91 subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per
92 student station funded by the education-based impact fee. Such
93 contributions may not be collected before the issuance of a
94 building permit.

95 (8) ~~(5)~~ If a local government increases its impact fee
96 rates, the holder of any impact fee credits, whether such
97 credits are granted under s. 163.3180, s. 380.06, or otherwise,



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98 which were in existence before the increase, is entitled to the
99 full benefit of the intensity or density prepaid by the credit
100 balance as of the date it was first established. This subsection
101 shall operate prospectively and not retrospectively.

102 (9)-(6) Audits of financial statements of local governmental
103 entities and district school boards which are performed by a
104 certified public accountant pursuant to s. 218.39 and submitted
105 to the Auditor General must include an affidavit signed by the
106 chief financial officer of the local governmental entity or
107 district school board stating that the local governmental entity
108 or district school board has complied with this section and the
109 spending period provision in the local ordinance or resolution.

110 (10)-(7) In any action challenging an impact fee or the
111 government's failure to provide required dollar-for-dollar
112 credits for the payment of impact fees or for contributions made
113 as provided in this chapter s. 163.3180(6)(h)2.b., the
114 government has the burden of proving by a preponderance of the
115 evidence that the imposition or amount of the fee or credit
116 meets the requirements of state legal precedent and this
117 section. The court may not use a deferential standard for the
118 benefit of the government.

119 (11) Impact fee credits are assignable and transferable at
120 any time after establishment from one development or parcel to
121 any other within the same impact fee zone or district or in an
122 adjoining zone or district which receives benefits from the
123 improvement or contribution that generated the credits.

124 (12)-(8) A county, municipality, or special district may
125 provide an exception or waiver for an impact fee for the
126 development or construction of housing that is affordable, as



127 defined in s. 420.9071. If a county, municipality, or special
128 district provides such an exception or waiver, it is not
129 required to use any revenues to offset the impact.

130 (13) To ensure impact fees or equivalent contributions are
131 not imposed more than once for the same impacts, a local
132 government shall provide impact fee credits or other forms of
133 compensation if a contribution is greater in value than the
134 applicable impact fee. Contributions related to the
135 transportation system are creditable against the combined total
136 of all impact fees, mobility fees, or other forms of exactions
137 charged to mitigate transportation impacts. This subsection
138 applies at the time any contribution is accepted, regardless of
139 when the contributions were agreed upon or committed to.

140 (14)~~(9)~~ This section does not apply to water and sewer
141

142 ===== T I T L E A M E N D M E N T =====

143 And the title is amended as follows:

144 Delete lines 13 - 24

145 and insert:

146 governments; providing applicability; providing a
147 calculation on which contributions to mitigate impacts
148 not otherwise funded by impact fees must be based;
149 prohibiting such contributions from being collected
150 before the issuance of building permits; providing
151 that impact fee credits are assignable and
152 transferable under certain conditions;