



891604

LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

163.31801 Impact fees; short title; intent; minimum
requirements; audits; challenges.—

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



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

22 (3) At a minimum, an impact fee adopted by ordinance of a
23 county or municipality or by resolution of a special district
24 must satisfy all of the following conditions:

25 (a) The calculation of the impact fee must be based on the
26 most recent and localized data.

27 (b) The local government must provide for accounting and
28 reporting of impact fee collections and expenditures. If a local
29 governmental entity imposes an impact fee to address its
30 infrastructure needs, the entity must account for the revenues
31 and expenditures of such impact fee in a separate accounting
32 fund.

33 (c) Administrative charges for the collection of impact
34 fees must be limited to actual costs.

35 (d) The local government must provide notice not less than
36 90 days before the effective date of an ordinance or resolution
37 imposing a new or increased impact fee. A county or municipality
38 is not required to wait 90 days to decrease, suspend, or
39 eliminate an impact fee. Unless the result is to reduce the



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40 total mitigation costs or impact fees imposed on an applicant,
41 new or increased impact fees may not apply to current or pending
42 permit applications submitted before the effective date of an
43 ordinance or resolution imposing a new or increased impact fee.

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

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

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

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

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

64 (4) Notwithstanding any charter provision, comprehensive
65 plan policy, ordinance, or resolution, the local government must
66 credit against the collection of the impact fee any
67 contribution, whether identified in a proportionate share
68 agreement or other form of exaction, related to public education



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

91 (5) If a local government increases its impact fee rates,
92 the holder of any impact fee credits, whether such credits are
93 granted under s. 163.3180, s. 380.06, or otherwise, which were
94 in existence before the increase, is entitled to the full
95 benefit of the intensity or density prepaid by the credit
96 balance as of the date it was first established. This subsection
97 shall operate prospectively and not retrospectively.



98 (6) Audits of financial statements of local governmental
99 entities and district school boards which are performed by a
100 certified public accountant pursuant to s. 218.39 and submitted
101 to the Auditor General must include an affidavit signed by the
102 chief financial officer of the local governmental entity or
103 district school board stating that the local governmental entity
104 or district school board has complied with this section.

105 (7) In any action challenging an impact fee or the
106 government's failure to provide required dollar-for-dollar
107 credits for the payment of impact fees as provided in s.
108 163.3180(6)(h)2.b., the government has the burden of proving by
109 a preponderance of the evidence that the imposition or amount of
110 the fee or credit meets the requirements of state legal
111 precedent and this section. The court may not use a deferential
112 standard for the benefit of the government.

113 (8) Impact fee credits are assignable and transferable at
114 any time after establishment from one development or parcel to
115 any other that is within the same impact fee zone or impact fee
116 district or that is within an adjoining impact fee zone or
117 impact fee district within the same local government
118 jurisdiction and receives benefits from the improvement or
119 contribution that generated the credits.

120 (9)~~(8)~~ A county, municipality, or special district may
121 provide an exception or waiver for an impact fee for the
122 development or construction of housing that is affordable, as
123 defined in s. 420.9071. If a county, municipality, or special
124 district provides such an exception or waiver, it is not
125 required to use any revenues to offset the impact.

126 (10)~~(9)~~ This section does not apply to water and sewer



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127 connection fees.

128 Section 2. This act shall take effect July 1, 2020.

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

131 And the title is amended as follows:

132 Delete everything before the enacting clause

133 and insert:

134 A bill to be entitled
135 An act relating to impact fees; amending s. 163.31801,
136 F.S.; prohibiting new or increased impact fees from
137 applying to certain applications; providing an
138 exception; providing applicability; providing a
139 calculation on which contributions to mitigate impacts
140 not otherwise funded by impact fees must be based;
141 prohibiting such contributions from being collected
142 before the issuance of building permits; providing
143 that impact fee credits are assignable and
144 transferable under certain conditions; providing an
145 effective date.