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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
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The Committee on Community Affairs (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."



977602

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, collects, or administers an impact fee by ordinance or a
20 special district adopts, collects, or administers an impact fee
21 by resolution, the governing authority complies with this
22 section to ensure a consistent statewide process.

23 (3) For purposes of this section:

24 (a) The term "infrastructure" means any fixed capital
25 expenditure or fixed capital outlay associated with the
26 construction, reconstruction, or improvement of a public
27 facility, excluding the cost of repairs or maintenance, that
28 have a life expectancy of 5 or more years; any related land
29 acquisition, land improvement, design, engineering, and
30 permitting costs; and all other related construction costs
31 required to bring the public facility into service.

32 (b) The term "public facility" means any facility as
33 defined in s. 163.3164(39), and includes any fire and law
34 enforcement facility.

35 (4) At a minimum, each county and municipality that adopts,
36 collects, or administers an impact fee by ordinance and each
37 special district that adopts, collects, or administers an impact
38 fee by resolution ~~an impact fee adopted by ordinance of a county~~
39 ~~or municipality or by resolution of a special district~~ must



977602

40 ~~satisfy all of the following conditions:~~

41 (a) Require that the calculation of the impact fee ~~must~~ be
42 based on the most recent and localized data collected within the
43 last 36 months and excludes any cost that does not meet the
44 definition of infrastructure.

45 (b) Account for the revenues and expenditures of such
46 impact fee in a separate impact fee account, if the local
47 governmental entity imposes an impact fee to address its
48 infrastructure needs ~~The local government must provide for~~
49 ~~accounting and reporting of impact fee collections and~~
50 ~~expenditures. If a local governmental entity imposes an impact~~
51 ~~fee to address its infrastructure needs, the entity must account~~
52 ~~for the revenues and expenditures of such impact fee in a~~
53 ~~separate accounting fund.~~

54 (c) Limit administrative charges for the collection of
55 impact fees ~~must be limited~~ to actual costs. The cost per
56 student station established in school impact fee calculations
57 may not exceed that statutory total maximum cost per student
58 station calculated under s. 1013.64(6).

59 (d) ~~The local government must~~ Provide notice not less than
60 90 days before the effective date of an ordinance or resolution
61 imposing a new or increased impact fee. New or increased impact
62 fees may not apply to current or pending permit applications
63 submitted before the effective date of an ordinance or
64 resolution imposing a new or increased impact fee. A county or
65 municipality is not required to wait 90 days to decrease,
66 suspend, or eliminate an impact fee.

67 (e) ~~Collection of the impact fee may not be required to~~
68 ~~occur earlier than the date of issuance of the building permit~~



977602

69 ~~for the property that is subject to the fee.~~

70 ~~(f)~~ Ensure that the impact fee ~~is must be~~ proportional and
71 reasonably connected to, or has ~~have~~ a rational nexus with, the
72 need for additional infrastructure ~~capital facilities~~ and the
73 increased impact generated by the new residential or commercial
74 construction.

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

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

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

86 ~~(6)(i)~~ Revenues generated by the impact fee may not be
87 used, in whole or in part, to pay existing debt or for
88 previously approved projects unless the expenditure is
89 reasonably connected to, or has a rational nexus with, the
90 increased impact generated by the new residential or
91 nonresidential construction.

92 ~~(7)(4)~~ The local government must credit against the
93 collection of the impact fee any contribution, whether
94 identified in a proportionate share agreement or other form of
95 exaction, related to public education facilities, including land
96 dedication, site planning and design, or construction. Any
97 contribution must be applied to reduce any education-based



977602

98 impact fees on a dollar-for-dollar basis at fair market value.

99 ~~(8)-(5)~~ If a local government increases its impact fee
100 rates, the holder of any impact fee credits, whether such
101 credits are granted under s. 163.3180, s. 380.06, or otherwise,
102 which were in existence before the increase, is entitled to the
103 full benefit of the intensity or density prepaid by the credit
104 balance as of the date it was first established. This subsection
105 shall operate prospectively and not retrospectively.

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

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

123 (11) Impact fee credits are assignable and transferable at
124 any time after establishment from one development or parcel to
125 any other development or parcel within the same impact fee
126 jurisdiction for the same type of public facility for which the



977602

127 impact fee applies.

128 (12)(8) A county, municipality, or special district may
129 provide an exception or waiver for an impact fee for the
130 development or construction of housing that is affordable, as
131 defined in s. 420.9071. If a county, municipality, or special
132 district provides such an exception or waiver, it is not
133 required to use any revenues to offset the impact. To ensure
134 impact fees or equivalent contributions are only collected once,
135 a local government shall provide impact fee credits or other
136 forms of compensation if a contribution is greater in value than
137 the applicable impact fee. Contributions related to the
138 transportation system are creditable against the combined total
139 of all impact fees and exactions charged for mobility. This
140 subsection applies at the time any contribution is accepted,
141 regardless of when the contributions were agreed upon or
142 committed to.

143 (13) (a) Each county and municipality that assesses impact
144 fees must establish an impact fee review committee.

145 (b)1. The committee shall be composed of the following
146 members appointed by the county commission or the governing body
147 of the municipality, as applicable:

148 a. Two members who are employed by the county or
149 municipality.

150 b. Two members who represent the business community.

151 c. Two members who are local licensed general or
152 residential contractors.

153 d. One at-large member.

154 2. The county commission or the governing body of the
155 municipality, as applicable, shall appoint three alternate



977602

156 members, consisting of one representative from each of the
157 categories described in sub-subparagraphs 1.a., b., and c., who
158 shall serve in the absence of their respective member.

159 3. Members and alternate members must be qualified electors
160 of the county or municipality, as applicable, for at least 2
161 years before their appointment.

162 4. Committee members shall serve at the pleasure of the
163 local government and shall serve until they are replaced.

164 (c)1. Each committee meeting must be duly noticed and open
165 to the public as required by s. 286.011.

166 2. A meeting may not be held unless a quorum is present. A
167 quorum consists of a majority of members of the committee, but
168 an alternate member shall count toward the quorum when a regular
169 member is absent.

170 3. A member who fails to attend three consecutive meetings
171 or fails to attend two-thirds of the meetings within a calendar
172 year automatically forfeits the appointment, and the county
173 commissioners or members of the governing body of the
174 municipality, as applicable, shall promptly fill the vacancy.

175 4. Members of the committee shall serve without
176 compensation.

177 (d) The committee shall meet as needed to:

178 1. Establish a policy and methodology for determining
179 impact fees on new developments.

180 2. Review the proposed impact fee on each new development
181 before the fee becomes final.

182 3. Submit recommendations made by the impact fee committee
183 to the county commission or governing body of the municipality,
184 as applicable. The recommendations must be presented at the



977602

185 meeting when the impact fee on the new development will be
186 discussed and voted upon.

187 4. After each impact fee is adopted by the local
188 government, review all proposed expenditures of that impact fee
189 to ensure the fee is used for capital projects within the
190 jurisdiction.

191 (14)-(9) This section does not apply to water and sewer
192 connection fees.

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

194

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

196 And the title is amended as follows:

197 Delete everything before the enacting clause
198 and insert:

199 A bill to be entitled
200 An act relating to impact fees; amending s. 163.31801,
201 F.S.; providing definitions; revising requirements for
202 counties and municipalities that adopt, collect, or
203 administer an impact fee by ordinance and for special
204 districts that adopt, collect, or administer an impact
205 fee by resolution; providing timeframes for the
206 collection of impact fees by local governments;
207 providing that impact fee credits are assignable and
208 transferable under certain conditions; requiring local
209 governments to provide impact fee credits or other
210 forms of compensation under certain conditions;
211 providing applicability; requiring certain counties
212 and municipalities to establish impact fee review
213 committees; providing for membership; providing



977602

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procedures for holding meetings and establishing
quorums; providing committee duties; providing an
effective date.