

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 conditions that counties,
4 municipalities, and special districts must satisfy
5 before enacting an impact fee by ordinance or passing
6 an impact fee by resolution; providing timeframes for
7 the collection of impact fees by local governments;
8 providing that impact fee credits are assignable and
9 transferable under certain conditions; requiring
10 certain counties and municipalities to establish
11 impact fee review committees; providing for
12 membership; providing procedures for meetings and
13 establishing quorums; providing committee duties;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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

20 163.31801 Impact fees; short title; intent; minimum
21 requirements; audits; challenges.-

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

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

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

35 (3) At a minimum, each county and municipality that adopts
36 an impact fee by ordinance and each special district that adopts
37 an impact fee by resolution ~~an impact fee adopted by ordinance~~
38 ~~of a county or municipality or by resolution of a special~~
39 ~~district~~ must satisfy all of the following conditions:

40 (a) Require that the calculation of the impact fee be based
41 on the most recent and localized data and exclude any cost that
42 does not meet the definition of the term "capital asset" under
43 generally accepted accounting principles as applied to local
44 governments. The cost per student station established in school
45 impact fee calculations may not exceed the statutory total
46 maximum cost per student station calculated under s. 1013.64(6).
47 The calculation of the impact fee must be based on the most
48 recent and localized data.

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

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

57 (d) The local government must provide notice not less than
58 90 days before the effective date of an ordinance or resolution

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59 imposing a new or increased impact fee. A county or municipality
60 is not required to wait 90 days to decrease, suspend, or
61 eliminate an impact fee.

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

65 ~~(f)~~ The impact fee must be proportional and reasonably
66 connected to, or have a rational nexus with, the need for
67 additional capital facilities and the increased impact generated
68 by the new residential or commercial construction.

69 (f) ~~(g)~~ The impact fee must be proportional and reasonably
70 connected to, or have a rational nexus with, the expenditures of
71 the funds collected and the benefits accruing to the new
72 residential or nonresidential construction.

73 (g) ~~(h)~~ The local government must specifically earmark funds
74 collected under the impact fee for use in acquiring,
75 constructing, or improving capital facilities to benefit new
76 users.

77 (h) ~~(i)~~ Revenues generated by the impact fee may not be
78 used, in whole or in part, to pay existing debt or for
79 previously approved projects unless the expenditure is
80 reasonably connected to, or has a rational nexus with, the
81 increased impact generated by the new residential or
82 nonresidential construction.

83 (4) The local government may not require the collection of
84 the impact fee to occur earlier than the date on which the
85 building permit for the property that is subject to the fee is
86 issued.

87 (5) ~~(4)~~ The local government must credit against the

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88 collection of the impact fee any contribution, whether
89 identified in a proportionate share agreement or other form of
90 exaction, related to public education facilities, including land
91 dedication, site planning and design, or construction. Any
92 contribution must be applied to reduce any education-based
93 impact fees on a dollar-for-dollar basis at fair market value.

94 (6)~~(5)~~ If a local government increases its impact fee
95 rates, the holder of any impact fee credits, whether such
96 credits are granted under s. 163.3180, s. 380.06, or otherwise,
97 which were in existence before the increase, is entitled to the
98 full benefit of the intensity or density prepaid by the credit
99 balance as of the date it was first established. This subsection
100 shall operate prospectively and not retrospectively.

101 (7)~~(6)~~ Audits of financial statements of local governmental
102 entities and district school boards which are performed by a
103 certified public accountant pursuant to s. 218.39 and submitted
104 to the Auditor General must include an affidavit signed by the
105 chief financial officer of the local governmental entity or
106 district school board stating that the local governmental entity
107 or district school board has complied with this section and the
108 spending period provision in the local ordinance.

109 (8)~~(7)~~ In any action challenging an impact fee or the
110 government's failure to provide required dollar-for-dollar
111 credits for the payment of impact fees as provided in s.
112 163.3180(6)(h)2.b., the government has the burden of proving by
113 a preponderance of the evidence that the imposition or amount of
114 the fee or credit meets the requirements of state legal
115 precedent and this section. The court may not use a deferential
116 standard for the benefit of the government.

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117 (9)~~(8)~~ A county, municipality, or special district may
118 provide an exception or waiver for an impact fee for the
119 development or construction of housing that is affordable, as
120 defined in s. 420.9071. If a county, municipality, or special
121 district provides such an exception or waiver, it is not
122 required to use any revenues to offset the impact.

123 (10)~~(9)~~ This section does not apply to water and sewer
124 connection fees.

125 (11) Impact fee credits are assignable and transferable at
126 any time after establishment from one development or parcel to
127 another within the same impact fee district or zone for the same
128 type of public facility for which the impact fee is applicable.

129 (12) (a) Each county or municipality that assesses impact
130 fees shall establish an impact fee review committee.

131 (b)1. The committee must be composed of the following
132 members appointed by the county commission or the governing body
133 of the municipality, as applicable:

134 a. Two members who are employed by the county or
135 municipality.

136 b. Two members who represent the business community.

137 c. Two members who are local residential contractors.

138 d. One at-large member.

139 2. The county commission or the governing body of the
140 municipality, as applicable, shall appoint three alternate
141 members, consisting of one representative from each of the
142 categories described in sub-subparagraphs 1.a., b., and c., who
143 shall serve in the absence of their respective member.

144 3. Members and alternate members must be qualified electors
145 of the county or municipality for at least 2 years before their

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146 appointment.

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

149 (c)1. Each committee meeting must be duly noticed.

150 2. A meeting may not be held unless a quorum is present. A
151 quorum consists of a majority of members of the committee, but
152 an alternate member shall count toward the quorum when a regular
153 member is absent.

154 3. A member who fails to attend three consecutive meetings
155 or fails to attend two-thirds of the meetings within a calendar
156 year automatically forfeits the appointment, and the county
157 commissioners or members of the governing body of the
158 municipality, as applicable, shall promptly fill the vacancy.

159 4. Members of the committee shall serve without
160 compensation.

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

162 1. Establish a policy and methodology for determining
163 impact fees on new developments.

164 2. Review the proposed impact fee on each new development
165 before the fee becomes final.

166 3. Submit recommendations made by the impact fee consultant
167 to the county commission or governing body of the municipality,
168 as applicable. The recommendations must be presented at the
169 meeting when the impact fee on the new development will be
170 discussed and voted upon.

171 4. After each impact fee is adopted by the local
172 government, review all proposed expenditures of that impact fee
173 to ensure the fee is used for capital projects within the
174 jurisdiction.

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175 (e) The committee shall select an impact fee consultant to
176 develop the impact fee recommendations.

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