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1
2 An act relating to impact fees; amending s. 163.31801,
3 F.S.; prohibiting new or increased impact fees from
4 applying to certain applications; providing that
5 impact fee credits are assignable and transferable
6 under certain conditions; providing an effective date.
7

8 Be It Enacted by the Legislature of the State of Florida:
9

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

12 163.31801 Impact fees; short title; intent; minimum
13 requirements; audits; challenges.—

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

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

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

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

32 (b) The local government must provide for accounting and
33 reporting of impact fee collections and expenditures. If a local
34 governmental entity imposes an impact fee to address its
35 infrastructure needs, the entity must account for the revenues
36 and expenditures of such impact fee in a separate accounting
37 fund.

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

40 (d) The local government must provide notice not less than
41 90 days before the effective date of an ordinance or resolution
42 imposing a new or increased impact fee. A county or municipality
43 is not required to wait 90 days to decrease, suspend, or
44 eliminate an impact fee. Unless the result is to reduce the
45 total mitigation costs or impact fees imposed on an applicant,
46 new or increased impact fees may not apply to current or pending
47 permit applications submitted before the effective date of an
48 ordinance or resolution imposing a new or increased impact fee.

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

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

56 (g) The impact fee must be proportional and reasonably
57 connected to, or have a rational nexus with, the expenditures of
58 the funds collected and the benefits accruing to the new

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59 residential or nonresidential construction.

60 (h) The local government must specifically earmark funds
61 collected under the impact fee for use in acquiring,
62 constructing, or improving capital facilities to benefit new
63 users.

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

69 (4) Notwithstanding any charter provision, comprehensive
70 plan policy, ordinance, or resolution, the local government must
71 credit against the collection of the impact fee any
72 contribution, whether identified in a proportionate share
73 agreement or other form of exaction, related to public education
74 facilities, including land dedication, site planning and design,
75 or construction. Any contribution must be applied to reduce any
76 education-based impact fees on a dollar-for-dollar basis at fair
77 market value.

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

85 (6) Audits of financial statements of local governmental
86 entities and district school boards which are performed by a
87 certified public accountant pursuant to s. 218.39 and submitted

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88 to the Auditor General must include an affidavit signed by the
89 chief financial officer of the local governmental entity or
90 district school board stating that the local governmental entity
91 or district school board has complied with this section.

92 (7) In any action challenging an impact fee or the
93 government's failure to provide required dollar-for-dollar
94 credits for the payment of impact fees as provided in s.
95 163.3180(6)(h)2.b., the government has the burden of proving by
96 a preponderance of the evidence that the imposition or amount of
97 the fee or credit meets the requirements of state legal
98 precedent and this section. The court may not use a deferential
99 standard for the benefit of the government.

100 (8) Impact fee credits are assignable and transferable at
101 any time after establishment from one development or parcel to
102 any other that is within the same impact fee zone or impact fee
103 district or that is within an adjoining impact fee zone or
104 impact fee district within the same local government
105 jurisdiction and receives benefits from the improvement or
106 contribution that generated the credits.

107 (9)~~(8)~~ A county, municipality, or special district may
108 provide an exception or waiver for an impact fee for the
109 development or construction of housing that is affordable, as
110 defined in s. 420.9071. If a county, municipality, or special
111 district provides such an exception or waiver, it is not
112 required to use any revenues to offset the impact.

113 (10)~~(9)~~ This section does not apply to water and sewer
114 connection fees.

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