

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
2 Representative DiCeglie offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:  
6 Section 1. Subsections (32) through (52) of section  
7 163.3164, Florida Statutes, are renumbered as subsections (34)  
8 through (54) and subsections (32) and (33) are created to read:  
9 (32) "Mobility fee" means a local government fee schedule  
10 established by ordinance and based on the projects included in  
11 the adopted mobility plan. The fee is designed to pay the costs  
12 of those multimodal transportation projects identified in a  
13 mobility plan that are attributable to the per person travel  
14 demand created by new development and redevelopment. The fee  
15 must include measurable standards for per person mobility and  
16 quantifiable per person capacity for the projects included in

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17 the adopted mobility plan. The mobility fee shall be a one-time  
18 payment by the development or redevelopment project and cannot  
19 use recurring multimodal transportation costs in the formula.  
20 The payment from the development or redevelopment project may be  
21 used as a contribution to the operating expenses for autonomous  
22 vehicle shuttles or shared mobility programs and services  
23 identified in the mobility plan that results in an increase in  
24 per person capacity to offset the projected increase in per  
25 person travel demand from such projects.

26 (33) "Mobility plan" means an integrated land use and  
27 transportation plan adopted into a local government  
28 comprehensive plan that promotes compact, mixed-use, and  
29 interconnected development served by a multimodal transportation  
30 system. The plan shall include measurable standards for the  
31 movement of people and quantifying the per person capacity of  
32 multimodal transportation projects included in the plan. The  
33 projects shall include improvements, programs, and services to  
34 encourage the safe and efficient movement of people through  
35 means such as walking, bicycling, scooting, riding transit,  
36 autonomous transit shuttles, driving, and utilizing shared  
37 mobility and new mobility technologies. The plan shall serve as  
38 the basis for an adopted transportation mitigation improvement  
39 fee to fund projects for the movement of people through viable  
40 multimodal transportation options without sole reliance upon a  
41 motor vehicle for personal mobility.

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42 Section 2. Section 163.31801, Florida Statutes, is amended  
43 to read:

44 163.31801 Impact fees; short title; intent; minimum  
45 requirements; audits; challenges.—

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

48 (2) The Legislature finds that impact fees are an  
49 important source of revenue for a local government to use in  
50 funding the infrastructure necessitated by new growth. The  
51 Legislature further finds that impact fees are an outgrowth of  
52 the home rule power of a local government to provide certain  
53 services within its jurisdiction. Due to the growth of impact  
54 fee collections and local governments' reliance on impact fees,  
55 it is the intent of the Legislature to ensure that, when a  
56 county or municipality adopts, collects, and administers an  
57 impact fee by ordinance or a special district adopts, collects,  
58 and administers an impact fee by resolution, the governing  
59 authority complies with this section to ensure a consistent  
60 statewide process.

61 (3) For purposes of this section:

62 (a) The term "infrastructure" means any fixed capital  
63 expenditure or fixed capital outlay associated with the  
64 construction, reconstruction, or improvement of a public  
65 facility, excluding the cost of repairs or maintenance, that  
66 have a life expectancy of 5 or more years; any related land

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67 acquisition, land improvement, design, engineering, and  
68 permitting costs; and all other related construction costs  
69 required to bring the public facility into service. For  
70 independent special fire control districts, the term  
71 "infrastructure" shall also include "new facilities" as defined  
72 in s. 191.009(4).

73 (b) The term "public facility" means any facility as  
74 defined in s. 163.3164(39), and includes public libraries,  
75 parks, emergency medical services, and any fire and law  
76 enforcement facility.

77 (4) At a minimum, each county and municipality that  
78 adopts, collects, and administers an impact fee by ordinance and  
79 each special district that adopts, collects, and administers an  
80 impact fee by resolution must ~~an impact fee adopted by ordinance~~  
81 of a county or municipality or by resolution of a special  
82 district must satisfy all of the following conditions:

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

87 (b) Account for the revenues and expenditures of such  
88 impact fee in a separate impact fee account, if the local  
89 governmental entity imposes an impact fee to address its  
90 infrastructure needs. ~~The local government must provide for~~  
91 accounting and reporting of impact fee collections and

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92 ~~expenditures. If a local governmental entity imposes an impact~~  
93 ~~fee to address its infrastructure needs, the entity must account~~  
94 ~~for the revenues and expenditures of such impact fee in a~~  
95 ~~separate accounting fund.~~

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

101 (d) ~~The local government must~~ Provide notice not less than  
102 90 days before the effective date of an ordinance or resolution  
103 imposing a new or increased impact fee. Unless the result is to  
104 reduce the total mitigation costs or impact fees imposed on an  
105 applicant, new or increased impact fees may not apply to current  
106 or pending permit applications submitted before the effective  
107 date of an ordinance or resolution imposing a new or increased  
108 impact fee. A county or municipality is not required to wait 90  
109 days to decrease, suspend, or eliminate an impact fee.

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

113 (e)-(f) Ensure that the impact fee is ~~must be~~ proportional  
114 and reasonably connected to, or has ~~have~~ a rational nexus with,  
115 the need for additional infrastructure ~~capital facilities~~ and  
116 the increased impact generated by the new residential or

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117 commercial construction.

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

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

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

129 ~~(6)(i)~~ Revenues generated by the impact fee may not be  
130 used, in whole or in part, to pay existing debt or for  
131 previously approved projects unless the expenditure is  
132 reasonably connected to, or has a rational nexus with, the  
133 increased impact generated by the new residential or  
134 nonresidential construction.

135 ~~(7)(4)~~ The local government must credit against the  
136 collection of the impact fee any contribution, whether  
137 identified in a proportionate share agreement or other form of  
138 exaction, related to public education facilities, including land  
139 dedication, site planning and design, or construction. Any  
140 contribution must be applied to reduce any education-based  
141 impact fees on a dollar-for-dollar basis at fair market value.

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142 (8)-(5) If a local government increases its impact fee  
143 rates, the holder of any impact fee credits, whether such  
144 credits are granted under s. 163.3180, s. 380.06, or otherwise,  
145 which were in existence before the increase, is entitled to the  
146 full benefit of the intensity or density prepaid by the credit  
147 balance as of the date it was first established. This subsection  
148 shall operate prospectively and not retrospectively.

149 (9) (a)-(6) No later than 9 months from the end of the  
150 fiscal year of the local governmental entity or the district  
151 school board, the chief financial officer of the local  
152 governmental entity or the district school board shall file an  
153 affidavit with the governing body for the applicable local  
154 governmental entity attesting under penalty of perjury that all  
155 impact fees were collected and expended by the local  
156 governmental entity, or were collected and expended on behalf of  
157 the district school board, in full compliance with this section.

158 1. The affidavit shall also attest that the local  
159 governmental entity or district school board has complied with  
160 this section and the spending period provision in the local  
161 ordinance or resolution, and that funds expended from each  
162 separate impact fee account were used only to acquire,  
163 construct, or improve public facilities to meet the specific  
164 infrastructure need for which the impact fee account was  
165 created.

166 2. The affidavit shall be posted on the website for the

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167 local governmental entity or the district school board, as  
168 applicable, for at least 12 months from the date of its filing  
169 with the governing body.

170 (b) Audits of financial statements of local governmental  
171 entities and district school boards which are performed by a  
172 certified public accountant pursuant to s. 218.39 and submitted  
173 to the Auditor General must include the ~~an~~ affidavit signed by  
174 the chief financial officer required in paragraph (a) ~~of the~~  
175 ~~local governmental entity or district school board stating that~~  
176 ~~the local governmental entity or district school board has~~  
177 ~~complied with this section.~~

178 ~~(10)(7)~~ In any action challenging an impact fee or the  
179 government's failure to provide required dollar-for-dollar  
180 credits for the payment of impact fees or for contributions made  
181 as provided in this chapter ~~s. 163.3180(6)(h)2.b.~~, the  
182 government has the burden of proving by a preponderance of the  
183 evidence that the imposition or amount of the fee or credit  
184 meets the requirements of state legal precedent and this  
185 section. The court may not use a deferential standard for the  
186 benefit of the government.

187 (11) Impact fee credits are assignable and transferable at  
188 any time after establishment from one development or parcel to  
189 any other development or parcel within the jurisdiction of the  
190 local governmental entity that imposes the impact fee for the  
191 same type of public facility for which the impact fee applies.

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192 (12)(8) A county, municipality, or special district may  
193 provide an exception or waiver for an impact fee for the  
194 development or construction of housing that is affordable, as  
195 defined in s. 420.9071. If a county, municipality, or special  
196 district provides such an exception or waiver, it is not  
197 required to use any revenues to offset the impact.

198 (13) To ensure impact fees or equivalent contributions are  
199 not imposed more than once for the same impacts, a local  
200 government shall provide impact fee credits or other forms of  
201 compensation if a contribution is greater in value than the  
202 applicable impact fee. Contributions related to the  
203 transportation system are creditable against the combined total  
204 of all impact fees, mobility fees, or other forms of exactions  
205 charged to mitigate transportation impacts. This subsection  
206 applies at the time any contribution is accepted, regardless of  
207 when the agreement or commitment of the contribution was made.

208 (14) (a) Each local governmental entity that assesses  
209 impact fees must establish an impact fee review committee.

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

213 a. Two members who represent the business community who  
214 are neither elected officials nor employees of the local  
215 governmental entity.

216 b. Two members who are local licensed general or

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217 residential contractors who are neither elected officials nor  
218 employees of the local governmental entity.

219 c. One at-large member who is neither an elected official  
220 nor an employee of the local governmental entity.

221 2. The county commission or the governing body of the  
222 municipality, as applicable, shall appoint three alternate  
223 members, consisting of one representative from each of the  
224 categories described in subparagraph 1. who shall serve in the  
225 absence of the respective member.

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

229 4. Committee members shall serve at the pleasure of the  
230 local governmental entity and shall serve until they are  
231 replaced.

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

234 2. A meeting may not be held unless a quorum is present. A  
235 quorum consists of a majority of members of the committee, but  
236 an alternate member shall count toward the quorum when a regular  
237 member is absent.

238 3. A member who fails to attend three consecutive meetings  
239 or fails to attend two-thirds of the meetings within a calendar  
240 year automatically forfeits the appointment, and the county  
241 commissioners or members of the governing body of the

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242 municipality, as applicable, shall promptly fill the vacancy.

243 4. Members of the committee shall serve without  
244 compensation.

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

246 1. Establish a policy and methodology for determining  
247 impact fees on new developments.

248 2. Review the proposed impact fee on each new development  
249 before the fee becomes final.

250 3. Submit recommendations made by the impact fee committee  
251 to the county commission or governing body of the municipality,  
252 as applicable. The recommendations must be presented at the  
253 meeting when the impact fee on the new development will be  
254 discussed and voted upon.

255 4. After each impact fee is adopted by the local  
256 government, review all proposed expenditures of that impact fee  
257 to ensure the fee is used for capital projects within the  
258 jurisdiction.

259 (e) In lieu of the impact fee review committee provided  
260 herein, a local governmental entity that assesses an impact fee  
261 may utilize an existing committee which contains representation  
262 from the building or development community and reviews building  
263 or development projects.

264 (15)-(9) This section does not apply to water and sewer  
265 connection fees.

266 Section 3. This act shall take effect July 1, 2020.

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**T I T L E   A M E N D M E N T**

Remove everything before the enacting clause and insert:  
An act relating to impact fees; amending s. 163.3164, F.S.;  
providing definitions; amending s. 163.31801, F.S.; providing  
definitions; revising the conditions that counties,  
municipalities, and special districts must satisfy before  
enacting an impact fee by ordinance or passing an impact fee by  
resolution; providing timeframes for the collection of impact  
fees by local governments; providing that impact fee credits are  
assignable and transferrable under certain conditions; requiring  
certain counties and municipalities to establish impact fee  
review committees; providing for membership; providing  
procedures for holding meetings and establishing quorums;  
providing committee duties; providing an effective date.