

Amendment No. 1

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WITHDRAWN (Y/N)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

1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative DiCeglie offered the following:

3
4 **Amendment**

5 Remove lines 34-175 and insert:

6 impact fee by ordinance or a special district adopts, collects,
7 or administers an impact fee by resolution, the governing
8 authority complies with this section to ensure a consistent
9 statewide process.

10 (3) For purposes of this section:

11 (a) The term "infrastructure" means any fixed capital
12 expenditure or fixed capital outlay associated with the
13 construction, reconstruction, or improvement of public
14 facilities, excluding costs of repair or maintenance, that have
15 a life expectancy of 5 or more years; any related land
16 acquisition, land improvement, design, engineering, and

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17 permitting costs; and all other related construction costs
18 required to bring the public facilities into service.

19 (b) The term "public facilities" means facilities as
20 defined in s. 163.3164(39), and includes fire and law
21 enforcement facilities.

22 (4) ~~(3)~~ At a minimum, each county and municipality that
23 adopts, collects, or administers an impact fee by ordinance and
24 each special district that adopts, collects, or administers an
25 impact fee by resolution ~~an impact fee adopted by ordinance of a~~
26 ~~county or municipality or by resolution of a special district~~
27 ~~must satisfy all of the following conditions:~~

28 (a) Require that the calculation of the impact fee ~~must~~ be
29 based on the most recent and localized data collected within the
30 last 36 months, and exclude any cost that does not meet the
31 definition of infrastructure.

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

41 (c) Limit administrative charges for the collection of

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42 impact fees ~~must be limited~~ to actual costs. The cost per
43 student station established in school impact fee calculations
44 may not exceed that statutory total maximum cost per student
45 station calculated under s. 1013.64(6).

46 (d) ~~The local government must~~ Provide notice not less than
47 90 days before the effective date of an ordinance or resolution
48 imposing a new or increased impact fee. New or increased impact
49 fees may not apply to current or pending permit applications
50 submitted before the effective date of an ordinance or
51 resolution imposing a new or increased impact fee. A county or
52 municipality is not required to wait 90 days to decrease,
53 suspend, or eliminate an impact fee.

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

57 ~~(e)-(f)~~ Ensure that the impact fee is ~~must be~~ proportional
58 and reasonably connected to, or has ~~have~~ a rational nexus with,
59 the need for additional ~~capital facilities~~ infrastructure and
60 the increased impact generated by the new residential or
61 commercial construction.

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

66 ~~(g)-(h)~~ ~~The local government must~~ Specifically earmark

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67 funds collected under the impact fee for use in acquiring,
68 constructing, or improving ~~capital facilities~~ infrastructure to
69 benefit new users.

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

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

79 (7)~~(4)~~ The local government must credit against the
80 collection of the impact fee any contribution, whether
81 identified in a proportionate share agreement or other form of
82 exaction, related to public education facilities, including land
83 dedication, site planning and design, or construction. Any
84 contribution must be applied to reduce any education-based
85 impact fees on a dollar-for-dollar basis at fair market value.

86 (8)~~(5)~~ If a local government increases its impact fee
87 rates, the holder of any impact fee credits, whether such
88 credits are granted under s. 163.3180, s. 380.06, or otherwise,
89 which were in existence before the increase, is entitled to the
90 full benefit of the intensity or density prepaid by the credit
91 balance as of the date it was first established. This subsection

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92 shall operate prospectively and not retrospectively.

93 ~~(9)(6)~~ Audits of financial statements of local
94 governmental entities and district school boards which are
95 performed by a certified public accountant pursuant to s. 218.39
96 and submitted to the Auditor General must include an affidavit
97 signed by the chief financial officer of the local governmental
98 entity or district school board stating that the local
99 governmental entity or district school board has complied with
100 this section and the spending period provision in the local
101 ordinance or resolution.

102 ~~(10)(7)~~ In any action challenging an impact fee or the
103 government's failure to provide required dollar-for-dollar
104 credits for the payment of impact fees or for contributions made
105 as provided in this chapter s. 163.3180(6)(h)2.b., the
106 government has the burden of proving by a preponderance of the
107 evidence that the imposition or amount of the fee or credit
108 meets the requirements of state legal precedent and this
109 section. The court may not use a deferential standard for the
110 benefit of the government.

111 (11) Impact fee credits are assignable and transferable at
112 any time after establishment from one development or parcel to
113 any other within the same impact fee jurisdiction for the same
114 type of public facility for which the impact fee is applicable.

115 ~~(12)(8)~~ A county, municipality, or special district may
116 provide an exception or waiver for an impact fee for the

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117 development or construction of housing that is affordable, as
118 defined in s. 420.9071. If a county, municipality, or special
119 district provides such an exception or waiver, it is not
120 required to use any revenues to offset the impact. To ensure
121 impact fees or equivalent contributions are only collected once,
122 a local government shall provide impact fee credits or other
123 forms of compensation where a contribution is greater in value
124 than the applicable impact fee. Contributions relating to the
125 transportation system shall be creditable against the combined
126 total of all impact fees and exactions charged for mobility.
127 This subsection shall be complied with at the time any
128 contribution is accepted, regardless of when those contributions
129 were agreed upon or committed to.

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

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

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

137 b. Two members who represent the business community.

138 c. Two members who are local licensed general or
139 residential contractors.

140 d. One at-large member.

141 2. The county commission or the governing body of the

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142 municipality, as applicable, shall appoint three alternate
143 members, consisting of one representative from each of the
144 categories described in sub-subparagraphs 1.a., b., and c., who
145 shall serve in the absence of their respective member.

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

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

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