

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 transferrable 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.

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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
 25 important source of revenue for a local government to use in

26 funding the infrastructure necessitated by new growth. The
27 Legislature further finds that impact fees are an outgrowth of
28 the home rule power of a local government to provide certain
29 services within its jurisdiction. Due to the growth of impact
30 fee collections and local governments' reliance on impact fees,
31 it is the intent of the Legislature to ensure that, when a
32 county or municipality adopts an impact fee by ordinance or a
33 special district adopts an impact fee by resolution, the
34 governing authority complies 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
41 based on the most recent and localized data and exclude any cost
42 that does not meet the definition of a capital asset under
43 generally accepted accounting principles for local governments.
44 The cost per student station established in school impact fee
45 calculations may not exceed the statutory total maximum cost per
46 student station established in s. 1013.64(6). The calculation of
47 the impact fee must be based on the most recent and localized
48 data.

49 (b) Segregate the revenues and expenditures of any impact
50 fee that addresses the local governmental entity's

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

57 (c) On an annual basis, prepare a financial report for
58 each impact fee trust fund. The annual financial report must
59 include the following:

- 60 1. An auditable schedule of impact fee collections.
61 2. The balance of the trust fund at the beginning and end
62 of the fiscal year.
63 3. The amount of interest or other earnings on the monies
64 in the trust fund for the fiscal year.
65 4. An auditable schedule of impact fee expenditures.

66 (d) Within 90 days following the end of each fiscal year,
67 post the financial report for each impact fee trust fund on the
68 entity's website. Copies shall be made available to the public
69 on request.

70 (e) Limit administrative charges for the collection of
71 impact fees ~~must be limited~~ to actual costs.

72 (f) ~~(d)~~ The local government must Provide notice not less
73 than 90 days before the effective date of an ordinance or
74 resolution imposing a new or increased impact fee. A county or
75 municipality is not required to wait 90 days to decrease,

76 suspend, or eliminate an impact fee.

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

80 (g)(f) Ensure that the impact fee is ~~must be~~ proportional
81 and reasonably connected to, or have a rational nexus with, the
82 need for additional capital facilities and the increased impact
83 generated by the new residential or commercial construction.

84 (h)(g) Ensure that the impact fee is ~~must be~~ proportional
85 and reasonably connected to, or have a rational nexus with, the
86 expenditures of the funds collected and the benefits accruing to
87 the new residential or nonresidential construction.

88 (i)(h) ~~The local government must~~ Specifically earmark
89 funds collected under the impact fee for use in acquiring,
90 constructing, or improving capital facilities to benefit new
91 users.

92 (4) The local government may not require the collection of
93 the impact fee to occur earlier than the date the building
94 permit for the property that is subject to the fee is issued.

95 (5)(i) Revenues generated by the impact fee may not be
96 used, in whole or in part, to pay existing debt or for
97 previously approved projects unless the expenditure is
98 reasonably connected to, or has a rational nexus with, the
99 increased impact generated by the new residential or
100 nonresidential construction.

101 (6)~~(4)~~ The local government must credit against the
102 collection of the impact fee any contribution, whether
103 identified in a proportionate share agreement or other form of
104 exaction, related to public education facilities, including land
105 dedication, site planning and design, or construction. Any
106 contribution must be applied to reduce any education-based
107 impact fees on a dollar-for-dollar basis at fair market value.

108 (7)~~(5)~~ If a local government increases its impact fee
109 rates, the holder of any impact fee credits, whether such
110 credits are granted under s. 163.3180, s. 380.06, or otherwise,
111 which were in existence before the increase, is entitled to the
112 full benefit of the intensity or density prepaid by the credit
113 balance as of the date it was first established. This subsection
114 shall operate prospectively and not retrospectively.

115 (8)~~(6)~~ Audits of financial statements of local
116 governmental entities and district school boards which are
117 performed by a certified public accountant pursuant to s. 218.39
118 and submitted to the Auditor General must include an affidavit
119 signed by the chief financial officer of the local governmental
120 entity or district school board stating that the local
121 governmental entity or district school board has complied with
122 this section and the spending period provision in the local
123 ordinance.

124 (9)~~(7)~~ In any action challenging an impact fee or the
125 government's failure to provide required dollar-for-dollar

126 credits for the payment of impact fees as provided in s.
 127 163.3180(6)(h)2.b., the government has the burden of proving by
 128 a preponderance of the evidence that the imposition or amount of
 129 the fee or credit meets the requirements of state legal
 130 precedent and this section. The court may not use a deferential
 131 standard for the benefit of the government.

132 (10) Impact fee credits are assignable and transferable at
 133 any time after establishment from one development or parcel to
 134 another within the same impact fee jurisdiction for the same
 135 type of public facility for which the impact fee is applicable.

136 (11)~~(8)~~ A county, municipality, or special district may
 137 provide an exception or waiver for an impact fee for the
 138 development or construction of housing that is affordable, as
 139 defined in s. 420.9071. If a county, municipality, or special
 140 district provides such an exception or waiver, it is not
 141 required to use any revenues to offset the impact.

142 (12) (a) Each county or municipality that assesses impact
 143 fees must establish an impact fee review committee.

144 (b)1. The committee shall be composed of the following
 145 members appointed by the county or city commission:

146 a. Two members who are employed by the local government.

147 b. Two members who represent the business community.

148 c. Two members who are local residential contractors.

149 d. One at-large member.

150 2. The county or city commission shall appoint three

151 alternate members, consisting of one representative from each of
152 the categories described in sub-subparagraphs 1.a.-c. who shall
153 serve in the absence of their respective member.

154 3. Members and alternate members must be qualified
155 electors of the county for at least 2 years before their
156 appointment.

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

159 (c)1. Each committee meeting shall be duly noticed.

160 2. A meeting may not be held unless a quorum is present. A
161 quorum consists of a majority of members of the committee but an
162 alternate member shall count toward the quorum when a regular
163 member is absent.

164 3. A member who fails to attend three consecutive meetings
165 or fails to attend two-thirds of the meetings within a calendar
166 year, automatically forfeits the appointment and the county or
167 city commissioners, as applicable, shall promptly fill the
168 vacancy.

169 4. Members of the committee shall serve without
170 compensation.

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

172 1. Establish a policy and methodology for determining
173 impact fees on new developments.

174 2. Review the proposed impact fee on each new development
175 before the fee becomes final.

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176 3. Submit recommendations made by the impact fee
177 consultant to the county commission or city commission, as
178 applicable. The recommendations must be presented at the meeting
179 when the impact fee on the new development will be discussed and
180 voted upon.

181 4. After each impact fee is adopted by the local
182 government, review all proposed expenditures of that impact fee
183 to ensure the fee is used for capital projects within the
184 jurisdiction.

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

187 ~~(13)-(9)~~ This section does not apply to water and sewer
188 connection fees.

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