

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 definitions; providing that impact fee  
 9           credits are assignable and transferrable under certain  
 10          conditions; requiring certain counties and  
 11          municipalities to establish impact fee review  
 12          committees; providing for membership; providing  
 13          procedures for meetings and establishing quorums;  
 14          providing committee duties; providing an effective  
 15          date.

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

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

21           163.31801 Impact fees; short title; intent; minimum  
 22 requirements; audits; challenges.—

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

25           (2) The Legislature finds that impact fees are an

26 | important source of revenue for a local government to use in  
 27 | funding the infrastructure necessitated by new growth. The  
 28 | Legislature further finds that impact fees are an outgrowth of  
 29 | the home rule power of a local government to provide certain  
 30 | services within its jurisdiction. Due to the growth of impact  
 31 | fee collections and local governments' reliance on impact fees,  
 32 | it is the intent of the Legislature to ensure that, when a  
 33 | county or municipality adopts, collects, or administers an  
 34 | impact fee by ordinance or a special district adopts an impact  
 35 | fee by resolution, the governing authority complies with this  
 36 | section to ensure a consistent statewide process.

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

43 |             (a) Require that the calculation of the impact fee ~~must~~ be  
 44 | based on the most recent and localized data collected within the  
 45 | last 36 months, and exclude any cost that does not meet the  
 46 | definition of infrastructure as defined in this chapter.

47 |             (b) Account for the revenues and expenditures of such  
 48 | impact fee in a separate impact fee trust fund, if the local  
 49 | governmental entity imposes an impact fee to address its  
 50 | infrastructure needs. ~~The local government must provide for~~

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

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

61 (d) ~~The local government must~~ Provide notice not less than  
62 90 days before the effective date of an ordinance or resolution  
63 imposing a new or increased impact fee. New or increased impact  
64 fees may not apply to current or pending permit applications  
65 submitted before the effective date of an ordinance or  
66 resolution imposing a new or increased impact fee. A county or  
67 municipality is not required to wait 90 days to decrease,  
68 suspend, or eliminate an impact fee.

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

72 (e) ~~(f)~~ Ensure that the impact fee is ~~must be~~ proportional  
73 and reasonably connected to, or have a rational nexus with, the  
74 need for additional capital facilities and the increased impact  
75 generated by the new residential or commercial construction.

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

80            ~~(g)(h)~~ ~~The local government must~~ Specifically earmark  
 81 funds collected under the impact fee for use in acquiring,  
 82 constructing, or improving capital facilities to benefit new  
 83 users.

84  
 85 For the purposes of impact fees, the term "infrastructure"  
 86 means: any fixed capital expenditure or fixed capital outlay  
 87 associated with the construction, reconstruction, or improvement  
 88 of public facilities that have a life expectancy of 5 or more  
 89 years; any related land acquisition, land improvement, design,  
 90 engineering, and permitting costs; and all other professional  
 91 and related costs required to bring the public facilities into  
 92 service. For purposes of this subsection, the term "public  
 93 facilities" means facilities as defined in s. 163.3164(39), s.  
 94 163.3221(13), or s. 189.012(5).

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

98            ~~(5)(i)~~ Revenues generated by the impact fee may not be  
 99 used, in whole or in part, to pay existing debt or for  
 100 previously approved projects unless the expenditure is

101 reasonably connected to, or has a rational nexus with, the  
 102 increased impact generated by the new residential or  
 103 nonresidential construction.

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

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

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

126 ordinance.

127 (9)-(7) In any action challenging an impact fee or the  
128 government's failure to provide required dollar-for-dollar  
129 credits for the payment of impact fees or for contributions made  
130 as provided in this chapter s. 163.3180(6)(h)2.b., the  
131 government has the burden of proving by a preponderance of the  
132 evidence that the imposition or amount of the fee or credit  
133 meets the requirements of state legal precedent and this  
134 section. The court may not use a deferential standard for the  
135 benefit of the government.

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

140 (11)-(8) A county, municipality, or special district may  
141 provide an exception or waiver for an impact fee for the  
142 development or construction of housing that is affordable, as  
143 defined in s. 420.9071. If a county, municipality, or special  
144 district provides such an exception or waiver, it is not  
145 required to use any revenues to offset the impact. To ensure  
146 impact fees or equivalent contributions are only collected once,  
147 a local government shall provide impact fee credits or other  
148 forms of compensation where a contribution is greater in value  
149 than the applicable impact fee. Contributions relating to the  
150 transportation system shall be creditable against the combined

151 total of all impact fees and exactions charged for mobility.  
152 This subsection shall be complied with at the time any  
153 contribution is accepted, regardless of when those contributions  
154 were agreed upon or committed to.

155 (12) (a) Each county and municipality that assesses impact  
156 fees must establish an impact fee review committee.

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

160 a. Two members who are employed by the county or  
161 municipality.

162 b. Two members who represent the business community.

163 c. Two members who are local residential contractors.

164 d. One at-large member.

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

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

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

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

176        2. A meeting may not be held unless a quorum is present. A  
177 quorum consists of a majority of members of the committee, but  
178 an alternate member shall count toward the quorum when a regular  
179 member is absent.

180        3. A member who fails to attend three consecutive meetings  
181 or fails to attend two-thirds of the meetings within a calendar  
182 year automatically forfeits the appointment, and the county  
183 commissioners or members of the governing body of the  
184 municipality, as applicable, shall promptly fill the vacancy.

185        4. Members of the committee shall serve without  
186 compensation.

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

188        1. Establish a policy and methodology for determining  
189 impact fees on new developments.

190        2. Review the proposed impact fee on each new development  
191 before the fee becomes final.

192        3. Submit recommendations made by the impact fee committee  
193 to the county commission or governing body of the municipality,  
194 as applicable. The recommendations must be presented at the  
195 meeting when the impact fee on the new development will be  
196 discussed and voted upon.

197        4. After each impact fee is adopted by the local  
198 government, review all proposed expenditures of that impact fee  
199 to ensure the fee is used for capital projects within the  
200 jurisdiction.



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2020

201 |        (13) ~~(9)~~ This section does not apply to water and sewer  
202 | connection fees.

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