

1 A bill to be entitled
 2 An act relating to impact fees; amending s. 163.31801,
 3 F.S.; providing definitions; revising the conditions
 4 that counties, municipalities, and special districts
 5 must satisfy before enacting an impact fee by
 6 ordinance or passing an impact fee by resolution;
 7 providing timeframes for the collection of impact fees
 8 by local governments; 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 holding meetings and establishing
 14 quorums; providing committee duties; providing an
 15 effective date.

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

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 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, collects,
35 | or administers an impact fee by resolution, the governing
36 | authority complies with this section to ensure a consistent
37 | statewide process.

38 | (3) For purposes of this section:

39 | (a) The term "infrastructure" means any fixed capital
40 | expenditure or fixed capital outlay associated with the
41 | construction, reconstruction, or improvement of a public
42 | facility, excluding the cost of repairs or maintenance, that
43 | have a life expectancy of 5 or more years; any related land
44 | acquisition, land improvement, design, engineering, and
45 | permitting costs; and all other related construction costs
46 | required to bring the public facility into service.

47 | (b) The term "public facility" means any facility as
48 | defined in s. 163.3164(39), and includes any fire and law
49 | enforcement facility.

50 | (4) At a minimum, each county and municipality that

51 adopts, collects, or administers an impact fee by ordinance and
52 each special district that adopts, collects, or administers an
53 impact fee by resolution ~~an impact fee adopted by ordinance of a~~
54 ~~county or municipality or by resolution of a special district~~
55 ~~must satisfy all of the following conditions:~~

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

60 (b) Account for the revenues and expenditures of such
61 impact fee in a separate impact fee account, if the local
62 governmental entity imposes an impact fee to address its
63 infrastructure needs. ~~The local government must provide for~~
64 ~~accounting and reporting of impact fee collections and~~
65 ~~expenditures. If a local governmental entity imposes an impact~~
66 ~~fee to address its infrastructure needs, the entity must account~~
67 ~~for the revenues and expenditures of such impact fee in a~~
68 ~~separate accounting fund.~~

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

74 (d) ~~The local government must~~ Provide notice not less than
75 90 days before the effective date of an ordinance or resolution

76 imposing a new or increased impact fee. New or increased impact
77 fees may not apply to current or pending permit applications
78 submitted before the effective date of an ordinance or
79 resolution imposing a new or increased impact fee. A county or
80 municipality is not required to wait 90 days to decrease,
81 suspend, or eliminate an impact fee.

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

85 (e)(f) Ensure that the impact fee is ~~must be~~ proportional
86 and reasonably connected to, or has ~~have~~ a rational nexus with,
87 the need for additional infrastructure ~~capital facilities~~ and
88 the increased impact generated by the new residential or
89 commercial construction.

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

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

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

101 (6)~~(i)~~ Revenues generated by the impact fee may not be
102 used, in whole or in part, to pay existing debt or for
103 previously approved projects unless the expenditure is
104 reasonably connected to, or has a rational nexus with, the
105 increased impact generated by the new residential or
106 nonresidential construction.

107 (7)~~(4)~~ The local government must credit against the
108 collection of the impact fee any contribution, whether
109 identified in a proportionate share agreement or other form of
110 exaction, related to public education facilities, including land
111 dedication, site planning and design, or construction. Any
112 contribution must be applied to reduce any education-based
113 impact fees on a dollar-for-dollar basis at fair market value.

114 (8)~~(5)~~ If a local government increases its impact fee
115 rates, the holder of any impact fee credits, whether such
116 credits are granted under s. 163.3180, s. 380.06, or otherwise,
117 which were in existence before the increase, is entitled to the
118 full benefit of the intensity or density prepaid by the credit
119 balance as of the date it was first established. This subsection
120 shall operate prospectively and not retrospectively.

121 (9)~~(6)~~ Audits of financial statements of local
122 governmental entities and district school boards which are
123 performed by a certified public accountant pursuant to s. 218.39
124 and submitted to the Auditor General must include an affidavit
125 signed by the chief financial officer of the local governmental

126 entity or district school board stating that the local
127 governmental entity or district school board has complied with
128 this section and the spending period provision in the local
129 ordinance or resolution.

130 (10)-(7) In any action challenging an impact fee or the
131 government's failure to provide required dollar-for-dollar
132 credits for the payment of impact fees or for contributions made
133 as provided in this chapter s. 163.3180(6)(h)2.b., the
134 government has the burden of proving by a preponderance of the
135 evidence that the imposition or amount of the fee or credit
136 meets the requirements of state legal precedent and this
137 section. The court may not use a deferential standard for the
138 benefit of the government.

139 (11) Impact fee credits are assignable and transferable at
140 any time after establishment from one development or parcel to
141 any other development or parcel within the same impact fee
142 jurisdiction for the same type of public facility for which the
143 impact fee applies.

144 (12)-(8) A county, municipality, or special district may
145 provide an exception or waiver for an impact fee for the
146 development or construction of housing that is affordable, as
147 defined in s. 420.9071. If a county, municipality, or special
148 district provides such an exception or waiver, it is not
149 required to use any revenues to offset the impact. To ensure
150 impact fees or equivalent contributions are only collected once,

151 a local government shall provide impact fee credits or other
152 forms of compensation if a contribution is greater in value than
153 the applicable impact fee. Contributions related to the
154 transportation system are creditable against the combined total
155 of all impact fees and exactions charged for mobility. This
156 subsection applies at the time any contribution is accepted,
157 regardless of when the contributions were agreed upon or
158 committed to.

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

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

164 a. Two members who are employed by the county or
165 municipality.

166 b. Two members who represent the business community.

167 c. Two members who are local licensed general or
168 residential contractors.

169 d. One at-large member.

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

175 3. Members and alternate members must be qualified

176 electors of the county or municipality, as applicable, for at
 177 least 2 years before their appointment.

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

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

182 2. A meeting may not be held unless a quorum is present. A
 183 quorum consists of a majority of members of the committee, but
 184 an alternate member shall count toward the quorum when a regular
 185 member is absent.

186 3. A member who fails to attend three consecutive meetings
 187 or fails to attend two-thirds of the meetings within a calendar
 188 year automatically forfeits the appointment, and the county
 189 commissioners or members of the governing body of the
 190 municipality, as applicable, shall promptly fill the vacancy.

191 4. Members of the committee shall serve without
 192 compensation.

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

194 1. Establish a policy and methodology for determining
 195 impact fees on new developments.

196 2. Review the proposed impact fee on each new development
 197 before the fee becomes final.

198 3. Submit recommendations made by the impact fee committee
 199 to the county commission or governing body of the municipality,
 200 as applicable. The recommendations must be presented at the

201 meeting when the impact fee on the new development will be
202 discussed and voted upon.

203 4. After each impact fee is adopted by the local
204 government, review all proposed expenditures of that impact fee
205 to ensure the fee is used for capital projects within the
206 jurisdiction.

207 (14)-(9) This section does not apply to water and sewer
208 connection fees.

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