

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WITHDRAWN	_____	(Y/N)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		

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

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

6 Section 1. Subsections (3) through (11) of section
 7 163.31801, Florida Statutes, are renumbered as subsections (4)
 8 through (12), respectively, present subsections (3), (4), (5),
 9 (6), (8), and (11) are amended, and new subsections (3) and (13)
 10 are added to that section, to read:

11 163.31801 Impact fees; short title; intent; minimum
 12 requirements; audits; challenges.-

(3) For purposes of this section, the term:

14 (a) "Infrastructure" means a fixed capital expenditure or
 15 fixed capital outlay, excluding the cost of repairs or
 16 maintenance, associated with the construction, reconstruction,

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17 or improvement of public facilities that have a life expectancy
18 of at least 5 years; related land acquisition, land improvement,
19 design, engineering, and permitting costs; and other related
20 construction costs required to bring the public facility into
21 service. The term includes a fire department vehicle, an
22 emergency medical service vehicle, a sheriff's office vehicle, a
23 police department vehicle, and the equipment necessary to outfit
24 the vehicle for its official use. For independent special fire
25 control districts, the term infrastructure includes new
26 facilities as defined in s. 191.009(4).

27 (b) "Public facilities" has the same meaning as in s.
28 163.3164 and includes emergency medical, fire, and law
29 enforcement facilities.

30 (4)-(3) At a minimum, each local government that adopts and
31 collects an impact fee by ordinance and each special district
32 that adopts, collects, and administers an impact fee by
33 resolution must ~~an impact fee adopted by ordinance of a county~~
34 ~~or municipality or by resolution of a special district must~~
35 satisfy all of the following conditions:

36 (a) ~~Ensure that~~ the calculation of the impact fee ~~is~~ ~~must~~
37 ~~be~~ based on the most recent and localized data incorporated into
38 a report documenting the need for such impact fee completed and
39 submitted to the governing body of the local government or
40 special district no earlier than 12 months before the adoption
41 of the fee.

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42 (b) Conduct at least 2 public hearings on the need for
43 such impact fee prior to the public hearing at which the impact
44 fee is considered for final adoption.

45 ~~(c)(b) The local government must~~ Provide for accounting
46 and reporting of impact fee collections and expenditures and. ~~If~~
47 ~~a local governmental entity imposes an impact fee to address its~~
48 ~~infrastructure needs, the entity must~~ account for the revenues
49 and expenditures of such impact fee in a separate accounting
50 fund.

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

53 ~~(e)(d) The local government must~~ Provide notice at least
54 ~~not less than~~ 90 days before the effective date of an ordinance
55 or resolution imposing a new or increased impact fee. A local
56 government ~~county or municipality~~ is not required to wait 90
57 days to decrease, suspend, or eliminate an impact fee. Unless
58 the result is to reduce the total mitigation costs or impact
59 fees imposed on an applicant, new or increased impact fees may
60 not apply to current or pending permit applications submitted
61 before the effective date of ~~an ordinance or resolution imposing~~
62 a new or increased impact fee.

63 ~~(f)(e)~~ Ensure that collection of the impact fee may not be
64 required to occur earlier than the date of issuance of the
65 building permit for the property that is subject to the fee.

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66 (g)-(f) Ensure that the impact fee is ~~must be~~ proportional
67 and reasonably connected to, or has ~~have~~ a rational nexus with,
68 the need for additional capital facilities and the increased
69 impact generated by the new residential or commercial
70 construction.

71 (h)-(g) Ensure that the impact fee is ~~must be~~ proportional
72 and reasonably connected to, or has ~~have~~ a rational nexus with,
73 the expenditures of the funds collected and the benefits
74 accruing to the new residential or nonresidential construction.

75 (i)-(h) ~~The local government must~~ Specifically earmark
76 funds collected under the impact fee for use in acquiring,
77 constructing, or improving capital facilities to benefit new
78 users.

79 (j)-(i) Ensure that revenues generated by the impact fee
80 are ~~may~~ not ~~be~~ used, in whole or in part, to pay existing debt
81 or for previously approved projects unless the expenditure is
82 reasonably connected to, or has a rational nexus with, the
83 increased impact generated by the new residential or
84 nonresidential construction.

85 (5)(a)-(4) Notwithstanding any charter provision,
86 comprehensive plan policy, ordinance, development order,
87 development permit, or resolution, the local government or
88 special district must credit against the collection of the
89 impact fee any contribution, whether identified in a
90 proportionate share agreement or other form of exaction, related

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91 to public ~~education~~ facilities or infrastructure, including land
92 dedication, site planning and design, or construction. Any
93 contribution must be applied on a dollar-for-dollar basis at
94 fair market value to reduce any ~~education-based~~ impact fee
95 collected for the general category or class of public facilities
96 or infrastructure for which the contribution was made ~~fees on a~~
97 ~~dollar-for-dollar basis at fair market value.~~

98 (b) If a local government or special district does not
99 charge and collect an impact fee for the general category or
100 class of public facilities or infrastructure contributed, a
101 credit may not be applied under paragraph (a).

102 (6)(5) If an impact fee is increased ~~a local government~~
103 ~~increases its impact fee rates,~~ the holder of any impact fee
104 credits, whether such credits are granted under s. 163.3180, s.
105 380.06, or otherwise, which were in existence before the
106 increase, is entitled to the full benefit of the intensity or
107 density prepaid by the credit balance as of the date it was
108 first established. This subsection shall operate prospectively
109 and not retrospectively.

110 (7)(6) A local government, school district, or special
111 district must submit with its annual financial report under s.
112 218.32 or its financial audit report under s. 218.39 an
113 affidavit signed by its chief financial officer attesting, to
114 the best of his or her knowledge, that all impact fees were
115 collected and expended by the local government, school district,

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116 or special district, or were collected and expended on its
117 behalf, in compliance with this section. The affidavit must also
118 attest that the local government, school district, or special
119 district complied with the spending period provision in the
120 local ordinance or resolution, and that funds expended from each
121 impact fee account were used only to acquire, construct, or
122 improve specific infrastructure needs as defined in this section
123 ~~Audits of financial statements of local governmental entities~~
124 ~~and district school boards which are performed by a certified~~
125 ~~public accountant pursuant to s. 218.39 and submitted to the~~
126 ~~Auditor General must include an affidavit signed by the chief~~
127 ~~financial officer of the local governmental entity or district~~
128 ~~school board stating that the local governmental entity or~~
129 ~~district school board has complied with this section.~~

130 (9)~~(8)~~ Impact fee credits are assignable and transferable
131 at any time after establishment from one development or parcel
132 to any other that is within the same impact fee zone or impact
133 fee district or that is within an adjoining impact fee zone or
134 impact fee district within the same local government
135 jurisdiction and which receives benefits from the improvement or
136 contribution that generated the credits.

137 (12)~~(11)~~ In addition to the items that must be reported in
138 the annual financial reports under s. 218.32, a local
139 government, school district ~~county, municipality,~~ or special
140 district must report all of the following information ~~data~~ on

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141 all impact fees charged:

142 (a) The specific purpose of the impact fee, including the
143 specific infrastructure needs to be met, including, but not
144 limited to, transportation, parks, water, sewer, and schools.

145 (b) The impact fee schedule policy describing the method
146 of calculating impact fees, such as flat fees, tiered scales
147 based on number of bedrooms, or tiered scales based on square
148 footage.

149 (c) The amount assessed for each purpose and for each type
150 of dwelling.

151 (d) The total amount of impact fees charged by type of
152 dwelling.

153 (e) Each exception and waiver provided for construction or
154 development of housing that is affordable.

155 (13) A local government, school district, or special
156 district may increase an impact fee only as provided in this
157 subsection.

158 (a) An impact fee may be increased only pursuant to a plan
159 for the imposition, collection, and use of the increased impact
160 fee that complies with this section.

161 (b) Any increase to a current impact fee rate of not more
162 than 25 percent of the current rate must be implemented in two
163 equal annual increments beginning with the date on which the
164 increased fee is adopted.

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165 (c) An increase to a current impact fee rate that exceeds
166 25 percent but not more than 50 percent of the current rate must
167 be implemented in four equal installments beginning with the
168 date the increased fee is adopted.

169 (d) An impact fee increase may not exceed 50 percent of
170 the current impact fee rate.

171 (e) An impact fee may not be increased more than once
172 every 4 years.

173 (f) An impact fee may not be increased retrospectively for
174 a previous or current fiscal or calendar year.

175 (g) Notwithstanding paragraphs (b), (c), (d), or (e), a
176 local government, school district, or special district may
177 increase an impact fee rate by first establishing the need for
178 such increase in full compliance with the requirements of
179 subsection (4) and adopting the increased impact fee rate by
180 supermajority vote of the governing body.

181 (h) This subsection shall operate retrospectively to
182 January 1, 2021.

183 Section 2. This act shall take effect upon becoming a law.

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185

186 **T I T L E A M E N D M E N T**

187 Remove everything before the enacting clause and insert:
188 An act relating to impact fees; amending s. 163.31801, F.S.;
189 defining the terms "infrastructure" and "public facilities";

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 337 (2021)

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190 requiring local governments and special districts to credit
191 against the collection of impact fees any contribution related
192 to public facilities; specifying conditions under which credits
193 may not be applied; providing for retroactive effect of impact
194 fee credits; specifying conditions under which a local
195 government, school district, or special district may increase an
196 impact fee; requiring specified entities to file an affidavit
197 attesting that impact fees were appropriately collected and
198 expended; requiring school districts to report specified items
199 regarding impact fees; providing an effective date.