

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WITHDRAWN \_\_\_\_\_ (Y/N)  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:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 163.31801, Florida Statutes, is amended  
7 to read:

8 163.31801 Impact fees; short title; intent; minimum  
9 requirements; audits; challenges.-

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

12 (2) The Legislature finds that impact fees are an  
13 important source of revenue for a local government to use in  
14 funding the infrastructure necessitated by new growth. The  
15 Legislature further finds that impact fees are an outgrowth of  
16 the home rule power of a local government to provide certain

Amendment No.

17 services within its jurisdiction. Due to the growth of impact  
18 fee collections and local governments' reliance on impact fees,  
19 it is the intent of the Legislature to ensure that, when a  
20 county or municipality adopts an impact fee by ordinance or a  
21 special district adopts an impact fee by resolution, the  
22 governing authority complies with this section.

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

24 (a) "Infrastructure" means a fixed capital expenditure or  
25 fixed capital outlay, excluding the cost of repairs or  
26 maintenance, associated with the construction, reconstruction,  
27 or improvement of public facilities that have a life expectancy  
28 of at least 5 years; related land acquisition, land improvement,  
29 design, engineering, and permitting costs; and other related  
30 construction costs required to bring the public facility into  
31 service. The term also includes a fire department vehicle, an  
32 emergency medical service vehicle, a sheriff's office vehicle, a  
33 police department vehicle, a school bus as defined in s.  
34 1006.25, and the equipment necessary to outfit the vehicle or  
35 bus for its official use. For independent special fire control  
36 districts, the term "infrastructure" includes new facilities as  
37 defined in s. 191.009(4).

38 (b) "Public facilities" has the same meaning as in s.  
39 163.3164 and includes emergency medical, fire, and law  
40 enforcement facilities.

41 (4)~~(3)~~ At a minimum, each local government that adopts and

609439 - h0337-strike.docx

Published On: 4/14/2021 6:15:36 PM

Amendment No.

42 collects an impact fee by ordinance and each special district  
43 that adopts, collects, and administers an impact fee by  
44 resolution must ~~an impact fee adopted by ordinance of a county~~  
45 ~~or municipality or by resolution of a special district must~~  
46 ~~satisfy all of the following conditions:~~

47 (a) Ensure that the calculation of the impact fee is ~~must~~  
48 ~~be~~ based on the most recent and localized data.

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

55 (c) Limit administrative charges for the collection of  
56 impact fees ~~must be limited~~ to actual costs.

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

609439 - h0337-strike.docx

Published On: 4/14/2021 6:15:36 PM

Amendment No.

67 (e) Ensure that collection of the impact fee may not be  
68 required to occur earlier than the date of issuance of the  
69 building permit for the property that is subject to the fee.

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

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

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

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

88 ~~(5) (a) (4)~~ Notwithstanding any charter provision,  
89 comprehensive plan policy, ordinance, development order,  
90 development permit, or resolution, the local government or  
91 special district must credit against the collection of the

609439 - h0337-strike.docx

Published On: 4/14/2021 6:15:36 PM

Amendment No.

92 impact fee any contribution, whether identified in a  
93 proportionate share agreement or other form of exaction, related  
94 to public ~~education~~ facilities or infrastructure, including land  
95 dedication, site planning and design, or construction. Any  
96 contribution must be applied on a dollar-for-dollar basis at  
97 fair market value to reduce any ~~education-based~~ impact fee  
98 collected for the general category or class of public facilities  
99 or infrastructure for which the contribution was made ~~fees on a~~  
100 ~~dollar-for-dollar basis at fair market value.~~

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

105 (6)-(5) A local government, school district, or special  
106 district may increase an impact fee only as provided in this  
107 subsection.

108 (a) An impact fee may be increased only pursuant to a plan  
109 for the imposition, collection, and use of the increased impact  
110 fees which complies with this section.

111 (b) An increase to a current impact fee rate of not more  
112 than 25 percent of the current rate must be implemented in two  
113 equal annual increments beginning with the date on which the  
114 increased fee is adopted.

115 (c) An increase to a current impact fee rate which exceeds  
116 25 percent but is not more than 50 percent of the current rate

609439 - h0337-strike.docx

Published On: 4/14/2021 6:15:36 PM

Amendment No.

117 must be implemented in four equal installments beginning with  
118 the date the increased fee is adopted.

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

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

123 (f) An impact fee may not be increased retroactively for a  
124 previous or current fiscal or calendar year.

125 (g) A local government, school district, or special  
126 district may increase an impact fee rate beyond the phase-in  
127 limitations established under paragraph (b), paragraph (c),  
128 paragraph (d), or paragraph (e) by establishing the need for  
129 such increase in full compliance with the requirements of  
130 subsection (4), provided the following criteria are met:

131 1. A demonstrated-need study justifying any increase in  
132 excess of paragraph (b), paragraph (c), paragraph (d), or  
133 paragraph (e) has been completed within the 12 months prior to  
134 the adoption of the impact fee increase and expressly  
135 demonstrates the extraordinary circumstances necessitating the  
136 need to exceed the phase-in limitations;

137 2. The local government jurisdiction has held no less than  
138 two publicly-noticed workshops dedicated to the extraordinary  
139 circumstances necessitating the need to exceed the phase-in  
140 limitations of paragraph (b), paragraph (c), paragraph (d), or  
141 paragraph (e); and

609439 - h0337-strike.docx

Published On: 4/14/2021 6:15:36 PM

Amendment No.

142 3. The impact fee increase ordinance is approved by no  
143 less than a two-thirds vote of the governing body.

144 (h) This subsection shall operate retroactively to January  
145 1, 2021.

146 (7) If an impact fee is increased a local government  
147 increases its impact fee rates, the holder of any impact fee  
148 credits, whether such credits are granted under s. 163.3180, s.  
149 380.06, or otherwise, which were in existence before the  
150 increase, is entitled to the full benefit of the intensity or  
151 density prepaid by the credit balance as of the date it was  
152 first established. This subsection shall operate prospectively  
153 and not retrospectively.

154 (8)(6) A local government, school district, or special  
155 district must submit with its annual financial report required  
156 under s. 218.32 or its financial audit report required under s.  
157 218.39 a separate affidavit signed by its chief financial  
158 officer or, if there is no chief financial officer, its  
159 executive officer attesting, to the best of his or her  
160 knowledge, that all impact fees were collected and expended by  
161 the local government, school district, or special district, or  
162 were collected and expended on its behalf, in full compliance  
163 with the spending period provision in the local ordinance or  
164 resolution, and that funds expended from each impact fee account  
165 were used only to acquire, construct, or improve specific  
166 infrastructure needs as defined in this section Audits of

609439 - h0337-strike.docx

Published On: 4/14/2021 6:15:36 PM

Amendment No.

167 ~~financial statements of local governmental entities and district~~  
168 ~~school boards which are performed by a certified public~~  
169 ~~accountant pursuant to s. 218.39 and submitted to the Auditor~~  
170 ~~General must include an affidavit signed by the chief financial~~  
171 ~~officer of the local governmental entity or district school~~  
172 ~~board stating that the local governmental entity or district~~  
173 ~~school board has complied with this section.~~

174 (9)~~(7)~~ In any action challenging an impact fee or the  
175 government's failure to provide required dollar-for-dollar  
176 credits for the payment of impact fees as provided in s.  
177 163.3180(6)(h)2.b., the government has the burden of proving by  
178 a preponderance of the evidence that the imposition or amount of  
179 the fee or credit meets the requirements of state legal  
180 precedent and this section. The court may not use a deferential  
181 standard for the benefit of the government.

182 (10)~~(8)~~ Impact fee credits are assignable and transferable  
183 at any time after establishment from one development or parcel  
184 to any other that is within the same impact fee zone or impact  
185 fee district or that is within an adjoining impact fee zone or  
186 impact fee district within the same local government  
187 jurisdiction and which receives benefits from the improvement or  
188 contribution that generated the credits. This subsection applies  
189 to all impact fee credits regardless of whether the credits were  
190 established before or after the effective date of this act.

191 (11)~~(9)~~ A county, municipality, or special district may

609439 - h0337-strike.docx

Published On: 4/14/2021 6:15:36 PM



Amendment No.

192 provide an exception or waiver for an impact fee for the  
193 development or construction of housing that is affordable, as  
194 defined in s. 420.9071. If a county, municipality, or special  
195 district provides such an exception or waiver, it is not  
196 required to use any revenues to offset the impact.

197 ~~(12)-(10)~~ This section does not apply to water and sewer  
198 connection fees.

199 ~~(13)-(11)~~ In addition to the items that must be reported in  
200 the annual financial reports under s. 218.32, a local  
201 government, school district ~~county, municipality,~~ or special  
202 district must report all of the following information ~~data~~ on  
203 all impact fees charged:

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

207 (b) The impact fee schedule policy describing the method  
208 of calculating impact fees, such as flat fees, tiered scales  
209 based on number of bedrooms, or tiered scales based on square  
210 footage.

211 (c) The amount assessed for each purpose and for each type  
212 of dwelling.

213 (d) The total amount of impact fees charged by type of  
214 dwelling.

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

609439 - h0337-strike.docx

Published On: 4/14/2021 6:15:36 PM

Amendment No.

217 Section 2. The Division of Law Revision is directed to  
218 replace the phrase "the effective date of this act" wherever it  
219 occurs in this act with the date the act becomes a law.

220 Section 3. This act shall take effect upon becoming a law.  
221  
222

223 -----

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

225 Remove everything before the enacting clause and insert:  
226 An act relating to impact fees; amending s. 163.31801, F.S.;  
227 defining the terms "infrastructure" and "public facilities";  
228 requiring local governments and special districts to credit  
229 against the collection of impact fees any contribution related  
230 to public facilities or infrastructure; providing conditions  
231 under which credits may not be applied; providing limitations on  
232 impact fee increases; providing for retroactive operation;  
233 requiring specified entities to submit an affidavit attesting  
234 that impact fees were appropriately collected and expended;  
235 providing for retroactive applicability; requiring school  
236 districts to report specified information regarding impact fees;  
237 providing a directive to the Division of Law Revision; providing  
238 an effective date.