

1 A bill to be entitled
 2 An act relating to impact fees; amending s. 163.31801,
 3 F.S.; defining the terms "infrastructure" and "public
 4 facilities"; requiring local governments and special
 5 districts to credit against the collection of impact
 6 fees any contribution related to public facilities;
 7 specifying conditions under which a local government,
 8 school district, or special district may increase an
 9 impact fee; requiring specified entities to file an
 10 affidavit attesting that impact fees were
 11 appropriately collected and expended; requiring school
 12 districts to report specified items regarding impact
 13 fees; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Subsections (3) through (11) of section
 18 163.31801, Florida Statutes, are renumbered as subsections (4)
 19 through (12), respectively, present subsections (3), (4), (5),
 20 (6), and (11) are amended, and a new subsection (3) is added to
 21 that section, to read:

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

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

25 (a) "Infrastructure" means a fixed capital expenditure or

26 fixed capital outlay, excluding the cost of repairs or
 27 maintenance, associated with the construction, reconstruction,
 28 or improvement of public facilities that have a life expectancy
 29 of at least 5 years; related land acquisition, land improvement,
 30 design, engineering, and permitting costs; and other related
 31 construction costs required to bring the public facility into
 32 service. For independent special fire control and rescue
 33 districts, the term "infrastructure" includes new facilities as
 34 defined in s. 191.009(4).

35 (b) "Public facilities" has the same meaning as in s.
 36 163.3164 and includes emergency medical, fire, and law
 37 enforcement facilities.

38 (4)(3) At a minimum, each local government that adopts and
 39 collects an impact fee by ordinance and each special district
 40 that adopts, collects, and administers an impact fee by
 41 resolution must an impact fee adopted by ordinance of a county
 42 or municipality or by resolution of a special district must
 43 satisfy all of the following conditions:

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

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

51 fund.

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

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

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

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

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

75 (h) ~~The local government must~~ Specifically earmark funds

76 collected under the impact fee for use in acquiring,
 77 constructing, or improving capital facilities to benefit new
 78 users.

79 (i) Ensure that revenues generated by the impact fee are
 80 ~~may not be~~ used, in whole or in part, to pay existing debt or
 81 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)(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
 91 to public ~~education~~ facilities, including land dedication, site
 92 planning and design, or construction. Any contribution must be
 93 applied to reduce any ~~education-based~~ impact fees on a dollar-
 94 for-dollar basis at fair market value.

95 ~~(6)(5)~~ Impact fee increases.—A local government, school
 96 district, or special district may increase an impact fee only as
 97 provided in this subsection.

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

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

105 (c) An increase to a current impact fee rate that exceeds
106 25 percent but not more than 50 percent of the current rate must
107 be implemented in four equal installments beginning with the
108 date the increased fee is adopted.

109 (d) No impact fee increase may exceed 50 percent of the
110 current impact fee rate.

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

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

115 (g) Notwithstanding paragraphs (b), (c), (d), or (e), a
116 local government, school district, or special district may
117 increase an impact fee rate by establishing the need for such
118 increase in full compliance with the requirements of subsection
119 (4).

120 (h) If an impact fee is increased ~~a local government~~
121 ~~increases its impact fee rates,~~ the holder of any impact fee
122 credits, whether such credits are granted under s. 163.3180, s.
123 380.06, or otherwise, which were in existence before the
124 increase, is entitled to the full benefit of the intensity or
125 density prepaid by the credit balance as of the date it was

126 first established.

127 (i) This subsection shall operate ~~prospectively and not~~
 128 ~~retrospectively to January 1, 2021.~~

129 ~~(7)-(6)~~ A local government, school district, or special
 130 district must submit with its annual financial report under s.
 131 218.32 or its financial audit report under s. 218.39 an
 132 affidavit signed by its chief financial officer attesting that
 133 all impact fees were collected and expended by the local
 134 government, school district, or special district, or were
 135 collected and expended on its behalf, in full compliance with
 136 this section. The affidavit must also attest that the local
 137 government, school district, or special district complied with
 138 the spending period provision in the local ordinance or
 139 resolution, and that funds expended from each impact fee account
 140 were used only to acquire, construct, or improve specific
 141 infrastructure needs as defined in this section ~~Audits of~~
 142 ~~financial statements of local governmental entities and district~~
 143 ~~school boards which are performed by a certified public~~
 144 ~~accountant pursuant to s. 218.39 and submitted to the Auditor~~
 145 ~~General must include an affidavit signed by the chief financial~~
 146 ~~officer of the local governmental entity or district school~~
 147 ~~board stating that the local governmental entity or district~~
 148 ~~school board has complied with this section.~~

149 ~~(12)-(11)~~ In addition to the items that must be reported in
 150 the annual financial reports under s. 218.32, a local

151 government, school district ~~county, municipality,~~ or special
152 district must report all of the following information ~~data~~ on
153 all impact fees charged:

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

157 (b) The impact fee schedule policy describing the method
158 of calculating impact fees, such as flat fees, tiered scales
159 based on number of bedrooms, or tiered scales based on square
160 footage.

161 (c) The amount assessed for each purpose and for each type
162 of dwelling.

163 (d) The total amount of impact fees charged by type of
164 dwelling.

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

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