

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 credits may not be  
 8           applied; specifying conditions under which a local  
 9           government, school district, or special district may  
 10          increase an impact fee; requiring specified entities  
 11          to file an affidavit attesting that impact fees were  
 12          appropriately collected and expended; requiring school  
 13          districts to report specified items regarding impact  
 14          fees; providing an effective date.

15

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

89 (5) (a) (4) Notwithstanding any charter provision,  
 90 comprehensive plan policy, ordinance, development order,  
 91 development permit, or resolution, the local government or  
 92 special district must credit against the collection of the  
 93 impact fee any contribution, whether identified in a  
 94 proportionate share agreement or other form of exaction, which  
 95 relates to the improvement of ~~related to~~ public ~~education~~  
 96 facilities or infrastructure, including land dedication, site  
 97 planning and design, or construction. Any contribution must be  
 98 applied on a dollar-for-dollar basis at fair market value to  
 99 reduce any ~~education-based~~ impact fee collected for the general

100 category or class of public facilities or infrastructure for  
101 which the contribution was made ~~fees on a dollar-for-dollar~~  
102 ~~basis at fair market value.~~

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

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

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

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

117 (c) An increase to a current impact fee rate that exceeds  
118 25 percent but not more than 50 percent of the current rate must  
119 be implemented in four equal installments beginning with the  
120 date the increased fee is adopted.

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

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

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

127 (g) Notwithstanding paragraphs (b), (c), (d), or (e), a  
128 local government, school district, or special district may  
129 increase an impact fee rate by establishing the need for such  
130 increase in full compliance with the requirements of subsection  
131 (4).

132 (h) If an impact fee is increased ~~a local government~~  
133 ~~increases its impact fee rates,~~ the holder of any impact fee  
134 credits, whether such credits are granted under s. 163.3180, s.  
135 380.06, or otherwise, which were in existence before the  
136 increase, is entitled to the full benefit of the intensity or  
137 density prepaid by the credit balance as of the date it was  
138 first established.

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

141 (7)~~(6)~~ A local government, school district, or special  
142 district must submit with its annual financial report under s.  
143 218.32 or its financial audit report under s. 218.39 an  
144 affidavit signed by its chief financial officer attesting, to  
145 the best of his or her knowledge, that all impact fees were  
146 collected and expended by the local government, school district,  
147 or special district, or were collected and expended on its  
148 behalf, in compliance with this section. The affidavit must also  
149 attest that the local government, school district, or special

150 district complied with the spending period provision in the  
151 local ordinance or resolution, and that funds expended from each  
152 impact fee account were used only to acquire, construct, or  
153 improve specific infrastructure needs as defined in this section  
154 ~~Audits of financial statements of local governmental entities~~  
155 ~~and district school boards which are performed by a certified~~  
156 ~~public accountant pursuant to s. 218.39 and submitted to the~~  
157 ~~Auditor General must include an affidavit signed by the chief~~  
158 ~~financial officer of the local governmental entity or district~~  
159 ~~school board stating that the local governmental entity or~~  
160 ~~district school board has complied with this section.~~

161 ~~(12)-(11)~~ In addition to the items that must be reported in  
162 the annual financial reports under s. 218.32, a local  
163 government, school district ~~county, municipality,~~ or special  
164 district must report all of the following information ~~data~~ on  
165 all impact fees charged:

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

169 (b) The impact fee schedule policy describing the method  
170 of calculating impact fees, such as flat fees, tiered scales  
171 based on number of bedrooms, or tiered scales based on square  
172 footage.

173 (c) The amount assessed for each purpose and for each type  
174 of dwelling.

175           (d) The total amount of impact fees charged by type of  
176 dwelling.

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

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