



355484

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2021	.	
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The Committee on Community Affairs (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present subsections (3) through (11) of section 163.31801, Florida Statutes, are redesignated as subsections (4) through (12), respectively, a new subsection (3) is added to that section, and present subsections (3) through (6) and (11) of that section are amended, to read:

163.31801 Impact fees; short title; intent; minimum



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11 requirements; audits; challenges.-

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

13 (a) "Infrastructure" means a fixed capital expenditure or  
14 fixed capital outlay, excluding the cost of repairs or  
15 maintenance, associated with the construction, reconstruction,  
16 or improvement of public facilities that have a life expectancy  
17 of at least 5 years; related land acquisition, land improvement,  
18 design, engineering, and permitting costs; and other related  
19 construction costs required to bring the public facility into  
20 service. For independent special fire control and rescue  
21 districts, the term "infrastructure" includes new facilities as  
22 defined in s. 191.009(4).

23 (b) "Public facilities" has the same meaning as in s.  
24 163.3164 and includes emergency medical, fire, and law  
25 enforcement facilities.

26 (4)~~(3)~~ At a minimum, each local government that adopts and  
27 collects an impact fee by ordinance and each special district  
28 that adopts, collects, and administers an impact fee by  
29 resolution must ~~an impact fee adopted by ordinance of a county~~  
30 ~~or municipality or by resolution of a special district must~~  
31 satisfy all of the following conditions:

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

34 (b) ~~The local government must~~ Provide for accounting and  
35 reporting of impact fee collections and expenditures and. ~~If a~~  
36 local governmental entity imposes an impact fee to address its  
37 infrastructure needs, the entity ~~must~~ account for the revenues  
38 and expenditures of such impact fee in a separate accounting  
39 fund.



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

42 (d) ~~The local government must~~ Provide notice at least not  
43 ~~less than~~ 90 days before the effective date of an ordinance or  
44 resolution imposing a new or increased impact fee. A local  
45 government ~~county or municipality~~ is not required to wait 90  
46 days to decrease, suspend, or eliminate an impact fee. Unless  
47 the result is to reduce the total mitigation costs or impact  
48 fees imposed on an applicant, new or increased impact fees may  
49 not apply to current or pending permit applications submitted  
50 before the effective date of ~~an ordinance or resolution imposing~~  
51 a new or increased impact fee.

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

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

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

63 (h) ~~The local government must~~ Specifically earmark funds  
64 collected under the impact fee for use in acquiring,  
65 constructing, or improving capital facilities to benefit new  
66 users.

67 (i) Ensure that revenues generated by the impact fee are  
68 ~~may not be~~ used, in whole or in part, to pay existing debt or



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69 for previously approved projects unless the expenditure is  
70 reasonably connected to, or has a rational nexus with, the  
71 increased impact generated by the new residential or  
72 nonresidential construction.

73 (5)(4) Notwithstanding any charter provision, comprehensive  
74 plan policy, ordinance, development order, development permit,  
75 or resolution, the local government or special district must  
76 credit against the collection of the impact fee any  
77 contribution, whether identified in a proportionate share  
78 agreement or other form of exaction, related to public education  
79 facilities, including land dedication, site planning and design,  
80 or construction. Any contribution must be applied to reduce any  
81 education-based impact fees on a dollar-for-dollar basis at fair  
82 market value.

83 (6)(5) A local government, school district, or special  
84 district may increase an impact fee only as provided in this  
85 subsection.

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

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

93 (c) An increase to a current impact fee rate which exceeds  
94 25 percent but is not more than 50 percent of the current rate  
95 must be implemented in four equal installments beginning with  
96 the date the increased fee is adopted.

97 (d) An impact fee increase may not exceed 50 percent of the



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98 current impact fee rate.

99 (e) An impact fee may not be increased more than once every  
100 4 years.

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

103 (g) Notwithstanding paragraphs (b), (c), (d), or (e), a  
104 local government, school district, or special district may  
105 increase an impact fee rate by establishing the need for such  
106 increase in full compliance with the requirements of subsection  
107 (4).

108 (h) If a ~~local government~~ an impact fee is increased  
109 ~~increases its impact fee rates,~~ the holder of any impact fee  
110 credits, whether such credits are granted under s. 163.3180, s.  
111 380.06, or otherwise, which were in existence before the  
112 increase, is entitled to the full benefit of the intensity or  
113 density prepaid by the credit balance as of the date it was  
114 first established.

115 (i) This subsection shall operate retroactively to January  
116 1, 2021 ~~prospectively and not retrospectively.~~

117 (7)~~(6)~~ A local government, school district, or special  
118 district must submit with its annual financial report under s.  
119 218.32 or its financial audit report under s. 218.39 an  
120 affidavit signed by its chief financial officer attesting that  
121 all impact fees were collected and expended by the local  
122 government, school district, or special district, or were  
123 collected and expended on its behalf, in full compliance with  
124 this section. The affidavit must also attest that the local  
125 government, school district, or special district complied with  
126 the spending period provision in the local ordinance or



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127 resolution, and that funds expended from each impact fee account  
128 were used only to acquire, construct, or improve specific  
129 infrastructure needs as defined in this section ~~Audits of~~  
130 ~~financial statements of local governmental entities and district~~  
131 ~~school boards which are performed by a certified public~~  
132 ~~accountant pursuant to s. 218.39 and submitted to the Auditor~~  
133 ~~General must include an affidavit signed by the chief financial~~  
134 ~~officer of the local governmental entity or district school~~  
135 ~~board stating that the local governmental entity or district~~  
136 ~~school board has complied with this section.~~

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  
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 of  
146 calculating impact fees, such as flat fees, tiered scales based  
147 on number of bedrooms, or tiered scales based on square footage.

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

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

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

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

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156 ===== T I T L E A M E N D M E N T =====

157 And the title is amended as follows:

158 Delete everything before the enacting clause

159 and insert:

160 A bill to be entitled

161 An act relating to impact fees; amending s. 163.31801,  
162 F.S.; defining the terms "infrastructure" and "public  
163 facilities"; requiring local governments and special  
164 districts to credit against the collection of impact  
165 fees any contribution related to public facilities;  
166 providing limitations on impact fee increases;  
167 providing for retroactive operation; requiring  
168 specified entities to submit an affidavit attesting  
169 that impact fees were appropriately collected and  
170 expended; requiring school districts to report  
171 specified information regarding impact fees; providing  
172 an effective date.