

By the Committee on Community Affairs; and Senator Gruters

578-03315-21

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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 providing limitations on impact fee increases;
8 providing for retroactive operation; requiring
9 specified entities to submit an affidavit attesting
10 that impact fees were appropriately collected and
11 expended; requiring school districts to report
12 specified information regarding impact fees; providing
13 an effective date.

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

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

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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

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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, comprehensive
86 plan policy, ordinance, development order, development permit,
87 or resolution, the local government or special district must

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88 credit against the collection of the impact fee any
89 contribution, whether identified in a proportionate share
90 agreement or other form of exaction, related to public ~~education~~
91 facilities, including land dedication, site planning and design,
92 or construction. Any contribution must be applied to reduce any
93 ~~education-based~~ impact fees on a dollar-for-dollar basis at fair
94 market value.

95 (6) ~~(5)~~ A local government, school district, or special
96 district may increase an impact fee only as provided in this
97 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 fees which complies with this section.

101 (b) An 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 which exceeds
106 25 percent but is not more than 50 percent of the current rate
107 must be implemented in four equal installments beginning with
108 the date the increased fee is adopted.

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

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

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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 a local government an impact fee is increased
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 retroactively to January
128 1, 2021 prospectively and not retrospectively.

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 the spending period provision in the local ordinance or
137 resolution, and that funds expended from each impact fee account
138 were used only to acquire, construct, or improve specific
139 infrastructure needs as defined in this section ~~Audits of~~
140 ~~financial statements of local governmental entities and district~~
141 ~~school boards which are performed by a certified public~~
142 ~~accountant pursuant to s. 218.39 and submitted to the Auditor~~
143 ~~General must include an affidavit signed by the chief financial~~
144 ~~officer of the local governmental entity or district school~~
145 ~~board stating that the local governmental entity or district~~

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146 ~~school board has complied with this section.~~

147 (12)~~(11)~~ In addition to the items that must be reported in
148 the annual financial reports under s. 218.32, a local
149 government, school district ~~county, municipality,~~ or special
150 district must report all of the following information ~~data~~ on
151 all impact fees charged:

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

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

158 (c) The amount assessed for each purpose and for each type
159 of dwelling.

160 (d) The total amount of impact fees charged by type of
161 dwelling.

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

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