

By the Committees on Finance and Tax; and Community Affairs; and  
Senator Gruters

593-03639-21

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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 that relates to the improvement  
7       of public facilities or infrastructure; providing  
8       conditions under which credits may not be applied;  
9       providing limitations on impact fee increases;  
10      providing for retroactive operation; requiring  
11      specified entities to submit an affidavit attesting  
12      that impact fees were appropriately collected and  
13      expended; requiring school districts to report  
14      specified information regarding impact fees; providing  
15      an effective date.

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

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

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

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

27       (a) "Infrastructure" means a fixed capital expenditure or  
28       fixed capital outlay, excluding the cost of repairs or  
29       maintenance, associated with the construction, reconstruction,

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30 or improvement of public facilities that have a life expectancy  
31 of at least 5 years; related land acquisition, land improvement,  
32 design, engineering, and permitting costs; and other related  
33 construction costs required to bring the public facility into  
34 service. The term also includes a fire department vehicle, an  
35 emergency medical service vehicle, a sheriff's office vehicle, a  
36 police department vehicle, a school bus as defined in s.  
37 1006.25, and the equipment necessary to outfit the vehicle or  
38 bus for its official use. For independent special fire control  
39 districts, the term "infrastructure" includes new facilities as  
40 defined in s. 191.009(4).

41 (b) "Public facilities" has the same meaning as in s.  
42 163.3164 and includes emergency medical, fire, and law  
43 enforcement facilities.

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

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

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

58 (c) Limit administrative charges for the collection of

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59 impact fees ~~must be limited~~ to actual costs.

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

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

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

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

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

85 (i) Ensure that revenues generated by the impact fee are  
86 ~~may not be~~ used, in whole or in part, to pay existing debt or  
87 for previously approved projects unless the expenditure is

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88 reasonably connected to, or has a rational nexus with, the  
89 increased impact generated by the new residential or  
90 nonresidential construction.

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

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

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

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

115 (b) An increase to a current impact fee rate of not more  
116 than 25 percent of the current rate must be implemented in two

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117 equal annual increments beginning with the date on which the  
118 increased fee is adopted.

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

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

125 (e) An impact fee may not be increased more than once every  
126 4 years.

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

129 (g) Notwithstanding paragraphs (b), (c), (d), or (e), a  
130 local government, school district, or special district may  
131 increase an impact fee rate by establishing the need for such  
132 increase in full compliance with the requirements of subsection  
133 (4).

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

141 (i) This subsection shall operate retroactively to January  
142 1, 2021 prospectively and not retrospectively.

143 (7)(6) A local government, school district, or special  
144 district must submit with its annual financial report under s.  
145 218.32 or its financial audit report under s. 218.39 an

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146 affidavit signed by its chief financial officer attesting that  
147 all impact fees were collected and expended by the local  
148 government, school district, or special district, or were  
149 collected and expended on its behalf, in full compliance with  
150 the spending period provision in the local ordinance or  
151 resolution, and that funds expended from each impact fee account  
152 were used only to acquire, construct, or improve specific  
153 infrastructure needs as defined in this section ~~Audits of~~  
154 ~~financial statements of local governmental entities and district~~  
155 ~~school boards which are performed by a certified public~~  
156 ~~accountant pursuant to s. 218.39 and submitted to the Auditor~~  
157 ~~General must include an affidavit signed by the chief financial~~  
158 ~~officer of the local governmental entity or district school~~  
159 ~~board stating that the local governmental entity or district~~  
160 ~~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 of  
170 calculating impact fees, such as flat fees, tiered scales based  
171 on number of bedrooms, or tiered scales based on square footage.

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

174 (d) The total amount of impact fees charged by type of

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175 dwelling.

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

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