

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 482

INTRODUCER: Community Affairs Committee and Senator DiCeglie

SUBJECT: Impact Fees

DATE: April 1, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Fleming	CA	Fav/CS
2.			FT	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 482 provides a definition of “extraordinary circumstance” for the purposes of raising impact fees beyond the statutorily prescribed percentage. The bill’s definition requires certain criteria to be met before a local government can raise impact fees beyond the statutory ramp up of 50 percent over 4 years. These criteria include factors such as population growth, total development increases, increase in vehicle miles, and increase in maintenance costs.

The bill also prohibits a local government from increasing impact fees under “extraordinary circumstances” if the local government has not increased impact fees over the preceding 5 years.

The bill takes effect July 1, 2025.

II. Present Situation:

Local Government Impact Fees

In Florida, impact fees are imposed pursuant to local legislation and are generally charged as a condition for the issuance of a project’s building permit. The principle behind the imposition of impact fees is to transfer to new users of a government-owned system a fair share of the costs the new use of the system involves.¹ Impact fees have become an accepted method of paying for

¹ *Contractors & Builders Ass'n of Pinellas County v. City of Dunedin*, 329 So. 2d 314, 317-318 (Fla. 1976).

public improvements that must be constructed to serve new growth.² In order for an impact fee to be a constitutional user fee and not an unconstitutional tax, the fee must meet a dual rational nexus test, in that the local government must demonstrate the impact fee is proportional and reasonably connected to, or has a rational nexus with:

- The need for additional capital facilities and the increased impact generated by the new residential or commercial construction; and
- The expenditure of the funds collected and the benefits accruing to the new residential or nonresidential construction.³

Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

Impact Fee Increases

Section 163.31801(6), F.S., provides limitations on impact fee increases imposed by a local government, school district, or special district. An impact fee may increase only pursuant to a plan for the imposition, collection, and use of the increased impact fees as follows:

- An impact fee increase of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.
- If the increase in rate is between 25 and 50 percent of the current rate, the increase must be implemented in four equal annual installments.
- No impact fee increase may exceed 50 percent of the current impact fee rate.
- An impact fee may not be increased more than once every four years.
- An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

A local government, school district, or special district may increase an impact fee rate beyond these phase-in limitations if a local government, school district, or special district:

- Completes, within the 12-month period before the adoption of the impact fee increase, a demonstrated-need study justifying the increase and expressly demonstrating the *extraordinary circumstances* necessitating the need to exceed the limitations;
- Holds at least two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the limitations; and
- Approves the impact fee increase ordinance by at least a two-thirds vote of the governing body.

III. Effect of Proposed Changes:

The bill amends s. 163.31801, F.S., to provide a definition of “extraordinary circumstance” for the purposes of raising impact fees beyond the statutorily prescribed percentage: means the measurable effects of development which will require mitigation by the affected local

² *St. Johns County v. Ne. Florida Builders Ass'n, Inc.*, 583 So. 2d 635, 638 (Fla. 1991); s. 163.31801(2), F.S.

³ See *St. Johns County* at 637. Codified at s. 163.31801(3)(f) and (g), F.S.

government and which exceed the total of the current adopted impact fee amount combined with any of certain enumerated increases in less than 4 years.

The bill provides for circumstances which would permit a local government to raise impact fees beyond the statutory ramp under the “extraordinary circumstances” exception separated by type of fee, as follows:

An increase in a nontransportation impact fee may not be adopted unless the extraordinary circumstances demonstrated in the demonstrated-need study include at least two of the following:

- The population of the local government’s jurisdiction over the past 5 years exceeds, by at least 10 percent, the population estimates and projections used to justify the most recent impact fee increase.
- The average number of building permits issued by the local government over the past 5 years exceeds, by at least 10 percent, building permit estimates and projections used to justify the most recent impact fee increase.
- The employment base within the local jurisdiction over the past 5 years exceeds the employment estimates and projections used to justify the most recent impact fee.
- The existing level of service grade will be lowered without an increase in the impact fee rate.

An increase in a transportation impact fee may not be adopted unless the extraordinary circumstances demonstrated in the demonstrated-need study include at least three of the following:

- Any condition enumerated above.
- Cost growth over the past 5 years which exceeds, by an average of at least 10 percent, the Federal Highway Administration’s National Highway Construction Cost index average used to justify the previous impact fee increase.
- The vehicle miles traveled in the past 5 years exceed, by at least 10 percent, the Department of Transportation’s vehicle miles traveled index average used to justify the most recent impact fee.
- The per-lane mile cost estimates for construction for the past 5 years exceed, by at least 10 percent, the Department of Transportation average used to justify the most recent impact fee.

An increase in an impact fee for an independent special district may not be adopted unless the extraordinary circumstances demonstrated in the demonstrated-need study include all of the following:

- The amount of growth experienced in the past 5 years and anticipated within the district requires a significant immediate infrastructure investment to serve such growth which will need to be financed by the special district with impact fees.
- The cost of infrastructure investment required to be financed by the district in the next 5 years is increasing the need for public facilities and has a direct impact on the fee amount needed to finance the additional infrastructure for the benefit of the growth.
- The existing level of service will be impacted without an increase in the impact fee rate.

The bill also provides that a local government may not increase an impact fee rate beyond the phase-in limitations under this paragraph if the local government has not increased the impact fee

within the past 5 years. Any year in which the local government is prohibited from increasing an impact fee because the jurisdiction is in a hurricane disaster area is not included in the 5-year period.

The bill also defines “plan-based methodology” to mean the use of the most recent and localized data to project growth within a jurisdiction over a 6-year period and the anticipated capacity impacts created by that projected growth, and the creation of a list of capital improvements or infrastructure to be constructed in a defined time period to mitigate those impacts as part of a new or updated impact fee study.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3164, 163.31801, and 212.055.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 31, 2025:

The committee substitute:

- Revises the calculation for “extraordinary circumstances” to be based on a variety of factors including population, building permits, employment, and levels of service. A local government is prohibited from utilizing extraordinary circumstances to raise impact fees if it has not raised impact fees in the preceding 5 years.
- Removes provisions relating to public art funding.
- Changes the title of the bill to an act relating to impact fees.

B. Amendments:

None.