

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: SB 482

INTRODUCER: Senator DiCeglie

SUBJECT: Local Government

DATE: March 24, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Fleming	CA	Pre-meeting
2.	_____	_____	FT	_____
3.	_____	_____	RC	_____

I. Summary:

SB 482 provides that a county or municipality may not require an applicant to install, pay a fee for, or reimburse the costs of a work of art as a condition of processing or issuing a development permit or order.

The bill provides a definition of “extraordinary circumstance” for the purposes of raising impact fees beyond the statutorily prescribed percentage. The bill’s definition is based on a twenty five percent increase in local permanent population estimates.

The bill takes effect July 1, 2025.

II. Present Situation:

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.¹

Each county and municipality must adopt and enforce land development regulations which are consistent with and implement their adopted comprehensive plan.² Local governments are encouraged to use innovative land development regulations³ and may adopt measures for the purpose of increasing affordable housing using land-use mechanisms.⁴ Land development

¹ Section 163.3164, F.S.

² Section 163.3202, F.S.

³ Section 163.3202(3), F.S.

⁴ Sections 125.01055 and 166.04151, F.S.

regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.⁵

Local Government Preemption

The Florida Constitution grants local governments home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.⁶ Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors.⁷ Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.⁸ A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.⁹

Public Art Requirements

Some local governments require that developments of a certain size invest in, either through installation or funding, public art. Currently this practice is not regulated by state law. As an example, the city of West Palm Beach requires that private development exceeding \$500,000 in total value either install artwork on the development site valued in an amount not less than one percent of the total construction costs, or make a contribution equaling 0.75 percent of construction costs to the local government's public art account.¹⁰

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.¹¹ Impact fees have become an accepted method of paying for public improvements that must be constructed to serve new growth.¹² 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

⁵ See ss. 163.3161(6) and 163.3194(1)(a), F.S.

⁶ FLA. CONST. art. VIII, s. 1(f).

⁷ FLA. CONST. art. VIII, s. 1(g).

⁸ FLA. CONST. art. VIII, s. 2(b). See also s. 166.021(1), F.S.

⁹ See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemption and Conflict Analysis*, Fla. B.J. 92 (June 2009) available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Mar. 24, 2025).

¹⁰ West Palm Beach, Florida, Code of Ordinances Section 78-129 – Public art assessment for private development.

¹¹ *Contractors & Builders Ass'n of Pinellas County v. City of Dunedin*, 329 So. 2d 314, 317-318 (Fla. 1976).

¹² *St. Johns County v. Ne. Florida Builders Ass'n, Inc.*, 583 So. 2d 635, 638 (Fla. 1991); s. 163.31801(2), F.S.

- The expenditure of the funds collected and the benefits accruing to the new residential or nonresidential construction.¹³

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:

Sections 1 and 3 amend ss. 125.022 and 166.033, F.S., to provide that a county or municipality, respectively, may not require an applicant to install, pay a fee for, or reimburse the costs of a work of art as a condition of processing or issuing a development permit or order.

Section 2 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.

- For a county, an extraordinary circumstance is when the permanent population estimate determined for the county by the University of Florida Bureau of Economic and Business Research is at least 1.25 times the 5-year high-series population projection for the county as published immediately before the year of the population estimate.

¹³ See *St. Johns County* at 637. Codified at s. 163.31801(3)(f) and (g), F.S.

- For a municipality, an extraordinary circumstance is when the municipality is located within a county experiencing extraordinary circumstances as above, and the municipality demonstrates that it has maintained a proportionate share of population growth over the preceding 5 years.

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: 125.022, 163.31801, and 166.033.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
