FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

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BILL #: CS/HB 579	**COMPANION BILL:** SB 1080 (McClain)
TITLE: Local Government Land Regulation	**LINKED BILLS:** None
SPONSOR(S): Overdorf	**RELATED BILLS:** None

Committee References

Housing, Agriculture & Tourism	➤	Intergovernmental Affairs	➤	Commerce
17 Y, 0 N		16 Y, 0 N, As CS		

SUMMARY

Effect of the Bill:

The bill revises the process for local governments to process applications for development permits and order by requiring local governments to:

- Specify the minimum information required for certain zoning applications;
- Confirm receipt of an application within five business days; and
- Issue a refund to an applicant if the if the local government fails to meet certain timeframes when processing an application, with exceptions for extensions in time agreed to by both parties or when the delay is caused by the applicant or attributable to a force majeure.

The bill provides that applicable timeframes for processing an application reset if the applicant makes a substantive change to the application.

The bill prohibits a school district from collecting, charging, or imposing any alternative fee in lieu of an impact fee to mitigate the effects of development on educational facilities unless the fee would meet the dual rational nexus test. If an alternative fee is challenged, the school district must prove by preponderance of the evidence that the fee meets the requirements of the test under state legal precedent.

Fiscal or Economic Impact:

The bill has an indeterminate impact on local governments and the private sector.

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ANALYSIS

EFFECT OF THE BILL:

Minimum Information for Certain Zoning Applications

The bill requires that a local government[1] must specify in writing the minimum information that must be submitted in an application for a zoning approval, rezoning approval, subdivision approval, certification, special exception, or variance. Under the bill, the local government must:

- Make the minimum information available for inspection and copying at the location where the local government receives applications for development permits and orders;
- Provide the minimum information to the applicant at a pre-application meeting; or
- Post the minimum information on the local government's website. (Section 1 for counties; Section 2 for municipalities.)

[1] Local government means any county or municipality. *See* s. 163.3164(29), F.S.

Timeframes for Processing an Application

Within 5 business days after receiving an application for approval of a development permit or development order, the bill requires that a local government must confirm receipt of the application using the contact information provided by the applicant. (Section 1 for counties; Section 2 for municipalities.)

The bill clarifies that, within 30 days after receiving an application for approval of a development permit or order, a local government must review the application for completeness and either:

- Issue a written notification to the applicant indicating that all required information is submitted; or
- Specify, with particularity and in writing, any areas that are deficient. (Section 1 for counties; Section 2 for municipalities.)

Additionally, the bill clarifies that any agreement between a local government and an applicant for an extension of time for processing an application must be in writing. (Section 1 for counties; Section 2 for municipalities.)

The bill provides that the timeframes for processing an application restart if an applicant makes a substantive change to the application. The bill defines a substantive change as an applicant-initiated change of 15 percent or more in the proposed density, intensity, or square footage of a parcel. (Section 1 for counties; Section 2 for municipalities.)

Requirement to Issue a Refund

The bill requires a local government to issue a refund to an applicant equal to:

- Ten percent of the application fee if the local government fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the application.
- Ten percent of the application fee if the local government fails to issue a written notification of completeness or written specification of areas of deficiency within 30 days after receiving the additional information pursuant to an initial request by the local government to furnish such additional information.
- Twenty percent of the application fee if the local government fails to issue a written notification of completeness or written specification of areas of deficiency within 10 days after receiving the additional information pursuant to a second request by the local government to furnish such additional information.
- Fifty percent of the application fee if the local government fails to approve, approve with conditions, or deny the application within 30 days after conclusion of the 120-day or 180-day timeframe for processing applications.
- One hundred percent of the application fee if the local government fails to approve, approve with conditions, or deny an application 31 days or more after conclusion of the 120-day or 180-day timeframe for processing applications. (Section 1 for counties; Section 2 for municipalities.)

Under the bill, however, a local government is not required to issue a refund in any of the foregoing scenarios if:

- The applicant and the local government agree to an extension of time;
- The delay is caused by the applicant; or
- The delay is attributable to a force majeure or other extraordinary circumstance. (Section 1 for counties; Section 2 for municipalities.)

Alternative Fees for Educational Concurrency

The bill prohibits a school district from collecting, charging, or imposing any alternative fee in lieu of an impact fee to mitigate the effects of development on educational facilities unless the fee would meet the dual rational nexus test. If an alternative fee is challenged, the school district must prove by preponderance of the evidence that the fee meets the requirements of the test under state legal precedent. (Section 3)

FISCAL OR ECONOMIC IMPACT:

LOCAL GOVERNMENT:

The bill may have an indeterminate negative fiscal impact on counties and municipalities to the extent those governments must issue refunds for failing to meet statutory deadlines relating to development permits and orders and on school districts to the extent any district charges an alternative fee that does not meet the requirement of the dual rational nexus test.

PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact to the extent applicants receive refunds from counties and municipalities that fail to meet statutory deadlines relating to development permits and orders and are no longer subject to alternative fees that do not meet the dual rational nexus test.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Comprehensive Planning

The Community Planning Act[2] provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.[3] Each county and municipality must maintain a comprehensive plan to guide future development and growth.[4]

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.[5] A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.[6]

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.[7] A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.[8] Local governments may also include optional elements in their comprehensive plan.[9] The 10 required elements are:

- Capital improvements.
- Future land use plan.
- Transportation.
- General sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge.
- Conservation.
- Recreation and open space.
- Housing.
- Coastal management.
- Intergovernmental coordination.
- Property rights.[10]

Development Permits and Orders

Under the Community Planning Act, a development permit is any official action of a local government permitting the development of land.[11] Development plans include, but are not limited to, building permits, zoning permits,

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[2] Ch. 163, part II, F.S.
[3] S. 163.3167(1), F.S.
[4] S. 163.3167(2), F.S.
[5] S. 163.3194(1)(a), F.S.
[6] *See, e.g.,* Comprehensive Plan of Sarasota County, Fla. Codified through Ordinance No. 2024-028 (May 2024). Future Land Use Policy 1.1.1. https://library.municode.com/fl/sarasota_county/codes/comprehensive_plan?nodeId=ELEMENT_3LAUS (last visited Mar. 8, 2025).
[7] S. 163.3177(1), F.S.
[8] S. 163.3177(6), F.S.
[9] S. 163.3177(1)(b), F.S.
[10] *Id*.
[11] S. 163.3164(16), F.S.

subdivision approval, rezoning, certifications, special exceptions, and variances.[12] A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.[13]

Within 30 days after receiving an application for approval of a development permit or development order, a county or municipality must review the application for completeness and issue a letter indicating that all required information is submitted or specify any areas that are deficient.[14] If the application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information.

Within 120 days after the county or municipality has deemed the application complete, or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing, the county or municipality must approve, approve with conditions, or deny the application for a development permit or development order.[15] Both the applicant and the local government may agree to an extension of time, particularly in the event of a force majeure or other extraordinary circumstance. An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the county's decision. These timeframes do not apply in an area of critical state concern.

When reviewing an application for a development permit or development order, not including building permit applications, a county or municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.[16]

If a county or municipality makes a request for additional information from the applicant and the applicant provides the information within 30 days of receiving the request, the county or the municipality must:

- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within 30 days of receiving the information, if the request is the county's or municipality's first request.[17]
- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within 10 days of receiving the additional information, if the request is the county's or municipality's second request.[18]
- Deem the application complete within 10 days of receiving the additional information or proceed to process the application for approval or denial unless the applicant waived the county's or municipality's time limitations in writing, if the request is the county's or municipality's third request.[19]

Before a third request for information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the applicant can request that the county or municipality proceed to process the application for approval or denial.[20]

If a development permit or order is denied, the county or municipality must give written notice to the applicant and must reference the applicable legal authority for the denial of the permit.[21]

Concurrency

In the context of comprehensive planning, "concurrency" refers to the concept of providing additional public facilities necessary to achieve and maintain standards of service in the community in a timely manner in response to increased demand caused by development.[22] All local government comprehensive plans must provide for

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[12] *Id.*
[13] *See* ss. 125.022, F.S., 163.3164(15), F.S., and 166.033, F.S.
[14] Ss. 125.022(1), F.S. and 166.033(1), F.S.
[15] Ss. 125.022(1), F.S. and 166.033(1), F.S.
[16] Ss. 125.022(2)(a) and 166.033(2)(a), F.S.
[17] Ss. 125.022(2)(b) and 166.033(2)(b), F.S.
[18] Ss. 125.022(2)(c) and 166.033(2)(c), F.S.
[19] Ss. 125.022(2)(d) and 166.033(2)(d), F.S.
[20] Ss. 125.022(2)(e) and 166.033(2)(e), F.S.
[21] Ss. 125.022(3) and 166.033(3), F.S.
[22] See s. 163.3180(5)(d), F.S. See also David M. Layman, *Concurrency and Moratoria*, 71 Fla. B.J. 49 (January 1997).

concurrency in providing public facilities and services for sanitary sewer, solid waste, drainage, and potable water, but local governments may extend concurrency requirements to other public facilities such as transportation and schools.[23] When concurrency is applied to other public facilities and services, the local comprehensive plan must provide sufficient principles, standards, and adopted levels of service to guide its implementation.[24] Concurrency requirements apply to state facilities and other public facilities to the same extent as all other facilities and development.[25]

Impact Fees

One method of funding local government concurrency requirements is through the adoption and imposition of impact fees on new development. Local governments impose impact fees to fund infrastructure[26] needed to expand local services to meet the demands of population growth caused by new development.[27] Impact fees must meet the following minimum criteria when adopted:

- The fee must be calculated based on a study using the most recent and localized data available within four years of the update.
- The local government adopting the impact fee must account for and report impact fee collections and expenditures. If the fee is imposed for a specific infrastructure need, the local government must account for those revenues and expenditures in a separate accounting fund.
- Charges imposed for the collection of impact fees must be limited to the actual administrative costs.
- All local governments must give notice of a new or increased impact fee at least 90 days before the new or increased fee takes effect, but need not wait 90 days before decreasing, suspending, or eliminating an impact fee. Unless the result reduces total mitigation costs or impact fees on an applicant, new or increased impact fees may not apply to current or pending applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.
- A local government may not require payment of the impact fee before the date of issuing a building permit for the property that is subject to the fee.
- The impact fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.
- The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the revenues generated and the benefits accruing to the new residential or commercial construction.
- The local government must specifically earmark revenues generated by the impact fee to acquire, construct, or improve capital facilities to benefit new users.
- The local government may not use revenues generated by the impact fee to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.[28]

The types of impact fees charged and the timing of their collection after issuing a building permit are within the discretion of the local government or special district authorities choosing to impose the fees.[29] In general, a building permit must be obtained before the construction, erection, modification, repair, or demolition of any building.[30] A development permit pertains to any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.[31] Local governments providing an exception or waiver of impact fees for the

[23] S. 163.3180(1), (5), and (6), F.S.
[24] S. 163.3180(1)(a), F.S.
[25] S. 163.3180(4), F.S.
[26] "Infrastructure" means the fixed capital expenditure or outlay for the construction, reconstruction, or improvement of public facilities with a life expectancy of five or more years, together with specific other costs required to bring the public facility into service but excluding the costs of repairs or maintenance. The term also includes specific equipment. S. 163.31801(3), F.S.
[27] s. 163.31801(2), F.S. Water and sewer connection fees are not impact fees. S. 163.31801(12), F.S.
[28] S. 163.31801(4), F.S.
[29] *See* s. 163.31801(2), F.S.
[30] S. 553.79, F.S.
[31] S. 163.3164(16), F.S.

development or construction of affordable housing are not required to use any revenues to offset the impact of such development.[32]

Dual Rational Nexus Test

Both federal and Florida courts have found the imposition of impact fees appropriate where the local government meets two fundamental requirements known as the dual rational nexus test, which requires impact fees to have a reasonable connection or rational between the:

- Need for additional capital facilities and the population growth generated by the project, and
- Expenditures of the funds collected from the impact fees and the benefits accruing to the subdivision or project.[33]

Meeting the second criterion requires the local government ordinance imposing the impact fee to earmark the funds collected to acquire the new capital facilities necessary to benefit the new residents.

These requirements were codified in 2019.[34]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Housing, Agriculture & Tourism Subcommittee	17 Y, 0 N	3/11/2025	Curtin	Fletcher
Intergovernmental Affairs Subcommittee	16 Y, 0 N, As CS	4/1/2025	Darden	Darden
THE CHANGES ADOPTED BY THE COMMITTEE:	• Prohibits a school district from collecting, charging, or imposing any alternative fee in lieu of an impact fee to mitigate the effects of development on educational facilities unless the fee would meet the dual rational nexus test. • Removes provision that would prohibit local governments from limiting the number of quasi-judicial hearings or public hearings if the limitation would cause delay in the consideration of an application for a development order or permit.			
Commerce Committee				

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

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[32] S. 163.31801(11), F.S.

[33] *Hollywood, Inc. v. Broward County*, 431 So. 2d 606, 611-12 (Fla. 4th DCA 1983). *See generally Nolan v. California Coastal Commission*, 483 U.S. 825 (1987) (exactions must have nexus to impact), *Dolan v. City of Tigard*, 512 U.S. 374 (1994) (exactions must be roughly proportional to impact), *Koontz v. St. John's Water Management District*, 570 U.S. 595 (2013) (*Nolan* and *Dolan* requirements apply to money and land), and *St. Johns County v. Northeast Florida Builders Ass'n, Inc.*, 583 So. 2d 635 (Fla. 1991).

[34] *See* ch. 2019-106, Laws of Fla., codified at s. 163.31801(4)(f) and (g), F.S.