

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: CS/HB 665	COMPANION BILL: CS/SB 482 (DiCeglie)
TITLE: Local Government Impact Fees and Development Permits and Orders	LINKED BILLS: None
SPONSOR(S): Steele	RELATED BILLS: None

Committee References

[Housing, Agriculture & Tourism](#)

16 Y, 1 N



[Intergovernmental Affairs](#)

16 Y, 0 N, As CS



[Commerce](#)

SUMMARY

Effect of the Bill:

The bill prohibits a county or municipality from requiring an applicant for a development permit or development order to install a work of art, pay a fee for a work of art, or reimburse the local government for any costs that the local government may incur related to a work of art, as a condition of processing or issuing the development permit or development order.

The bill also amends the Florida Impact Fee Act (Act) to define “extraordinary circumstances” and requires a local government seeking to increase an impact fee rate beyond the phase-in limitations established by the Act to conduct a demonstrated-need study using a plan-based methodology and requires the demonstrate-need study to show the presence of certain factors.

Fiscal or Economic Impact:

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

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

[BILL HISTORY](#)

ANALYSIS

EFFECT OF THE BILL:

Development Permits and Orders

The bill prohibits a local government¹ from requiring an applicant to install a [work of art](#), pay a fee for a work of art, or reimburse the local government for any costs that the local government may incur related to a work of art, as a condition of processing or issuing a development permit or development order. The bill provides that any ordinance or regulation in conflict with this provision is void and unenforceable. (Section [1](#) for counties; Section [4](#) for municipalities.)

Florida Impact Fee Act

For purposes of the [Florida Impact Fee Act](#) (Act), the bill defines “[extraordinary circumstances](#)” to mean the measurable effects of development which will require mitigation by the affected local government and which exceed the total of the current adopted impact fee combined with any increase allowed under the Act’s [phase-in limitations](#) in less than four years.

The bill requires any local government seeking to increase an impact fee rate beyond the phase-in limitations established by the Act to conduct a demonstrated-need study that uses a plan-based methodology. The demonstrated-need study must also show:

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

- For non-transportation impact fees, two of the following:
 - The population of the local government jurisdiction over the past five 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 five years exceeds, by at least 10 percent, the building permit estimates and projections used to justify the most recent impact fee increase.
 - The employment base within the local jurisdiction over the past five 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.
- For transportation impact fees, three of the following:
 - Any of the above factors for non-transportation impact fees.
 - Cost growth over the past five 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 five 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 five years exceed, by at least 10 percent, the Department of Transportation's average used to justify the most recent impact fee.
- For impact fees levied by independent special districts, all of the following:
 - The amount of growth experienced in the past five 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 five 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. (Section [3.](#))

The bill also prohibits a local government from increasing its impact fee rate beyond the phase-in limitations if the local government has not increased its impact fee within the past five 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 five-year period. (Section [3.](#))

The bill defines a “plan-based methodology” as the use of the most recent and localized data to project growth within a jurisdiction over a six-year period and the anticipated capacity impacts created by that projected growth, and the creation of a list of capital improvements or infrastructure as defined in the Act to be constructed in a defined time period to mitigate those impacts as part of a new or updated impact fee study. (Section [2.](#))

The bill has an effective date of July 1, 2025. (Section [4.](#))

FISCAL OR ECONOMIC IMPACT:

LOCAL GOVERNMENT:

The bill has an indeterminate impact on local governments that condition the approval of a development permit or order on an applicant installing a work of art, paying a fee for a work of art, or reimbursing the local government for any costs incurred related to a work of art. The cities and counties that have such requirements regarding works of art will no longer be able to use public funds to subsidize the construction of art in those communities.

PRIVATE SECTOR:

The bill has an indeterminate impact on developers.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Development-Funded Public Art

Under current law, local governments in Florida are not prohibited from requiring an applicant to install a work of art, pay a fee for a work of art, or reimburse the local government for any costs that the local government may incur related to a work of art, as a condition of the local government processing or issuing a development permit² or development order.³

Some counties and municipality have adopted ordinances requiring developers to fund public art. For example, the City of Naples requires all proposed projects containing new non-residential square footage, and all mixed-use projects to the extent that non-residential square footage is included, to either:

- Pay an established fee into the public art fund, which is non-refundable; or
- Obtain approval to acquire and install artwork on site for the proposed project. The artwork may be either an existing piece or a commissioned piece of art that is of equal or greater value than the established fee. The developer pays the established fee, which is then held in escrow and reimbursed to the developer as the artwork is acquired and installed.⁴

Similarly, the City of Tampa requires private developers that construct certain commercial structures to contribute one percent of the construction or reconstruction costs up to \$200,000 dollars to “the provision of fine art in conjunction with” the commercial structure to be built.⁵ Alternatively, if the private developer or owner does not want to provide fine art, then the developer or owner may make a charitable donation of one percent of the construction or reconstruction costs to the City of Tampa.⁶

On the other hand, the City of Fort Meyers encourages, rather than requires, private developers to fund public art.⁷

Impact Fees

Impact fees are a type of regulatory fee “imposed by local governments against new development to provide for capital facilities’ costs made necessary by population growth. Rather than imposing the costs of these additional capital facilities upon the general public, the purpose of impact fees is to shift the expense burden to newcomers.”⁸ Examples of capital facilities include the provision of additional water and sewer systems, schools, libraries, parks and recreation facilities.⁹ Impact fees are typically assessed using a fee schedule that sets forth the charge per type

² A development permit includes 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. [S. 163.3164\(16\), F.S.](#)

³ A development order means any order that grants, denies, or grants with conditions an application for a development order. [S. 163.3164\(15\), F.S.](#)

⁴ See Ord. No. 06-11447, codified as sections 46-42 of the Code of Ordinances, City of Naples, Fla. (Nov. 22, 2024), https://library.municode.com/fl/naples/codes/code_of_ordinances?nodeId=PTIICORR_CH46ADPREN_ARTIADPR_S46-42PUAR (last visited Mar. 12, 2025). The amount of the fee is determined by resolution of the Naples City Council and is currently set at \$1.00 per square foot. The fee must be paid when the permit is issued.

⁵ See Ord. No. 2000-227, codified as sections 27-436 and 27-441 of the Code of Ordinances, City of Tampa, Fla. (Aug. 31, 2000), https://www.tampa.gov/art-programs/Info/ordinance?utm_source=direct&utm_medium=alias&utm_campaign=tampagovnet (last visited Mar. 12, 2025).

⁶ *Id.*

⁷ See Ordinance Ord. No. 3890, codified as section 118.7.6 of the Code of Ordinances, City of Fort Meyers, Fla. (Jan. 1, 2020), https://library.municode.com/fl/fort_meyers/codes/code_of_ordinances?nodeId=SPBLADECO_CH118LAUSRE_ART7COAP_11_8.7.6PUAR (last visited Mar. 12, 2025).

⁸ Florida’s Office of Economic and Demographic Research, *Local Government Financial Information Handbook* (Nov. 2016), p. 13, <https://edr.state.fl.us/Content/local-government/reports/lghih16.pdf> (last visited Mar. 12, 2025).

⁹ Florida Housing Finance Corporation, *Overview of Impact Fees and Affordable Housing* (Oct. 2017), p. 1, https://www.floridahousing.org/docs/default-source/aboutflorida/august2017/october2017/TAB_3.pdf (last visited Mar. 12, 2025).

of dwelling unit or per square footage of floor space.¹⁰ The charges are usually paid at the time the building permit is approved.¹¹

The [Florida Impact Fee Act](#) (Act) provides requirements and procedures to be followed by a county, municipality, or special district when it adopts an impact fee.¹² 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.¹³

Under the Act, a county, municipality, school district, or special district may increase in impact fee subject to the following [phase-in limitations](#):

- Increases of up to 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.
- Increases between 25 and 50 percent of the current rate must be implemented in four equal annual increments beginning with the date on which the increased fee is adopted.
- An impact fee increase may not exceed 50 percent of the current impact fee rate.
- An impact fee may not be increased more than once every four years.¹⁴

A county, municipality, school district, or special district may also increase an impact fee rate beyond these phase-in limitations by establishing the need for the increase, provided the following criteria are met:

- A demonstrated-need study justifying any increase in excess of those authorized by the Act has been completed within the 12 months before the adoption of the impact fee increase and expressly demonstrates the [extraordinary circumstances](#) necessitating the need to exceed the phase-in limitations.
- The local government jurisdiction has held not less than two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in the Act.
- The impact fee increase ordinance is approved by at least a two-thirds vote of the governing body.¹⁵

¹⁰ *Id.*

¹¹ *Id.*

¹² [S. 163.31801, F.S.](#)

¹³ [S. 163.31801\(4\), F.S.](#)

¹⁴ [S. 163.31801\(6\)\(b\)-\(e\), F.S.](#)

¹⁵ [S. 163.31801\(6\)\(g\), F.S.](#)

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	CS/HB 479	Robinson, W.	Martin	Passed both chambers and approved by the Governor.
2023	CS/CS/HB 235	Robinson, W.	Brodeur	Died in the House.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Housing, Agriculture & Tourism Subcommittee	16 Y, 1 N	3/18/2025	Curtin	Fletcher
Intergovernmental Affairs Subcommittee	16 Y, 0 N, As CS	4/9/2025	Darden	Darden
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> Provides that county or municipal ordinances and regulations requiring a work of art as part of issuing a development permit or order are void and unenforceable. Defines “plan-based methodology” and requires demonstrated-need studies to use a plan-based methodology. Revises definition of “extraordinary circumstances.” Establishes criteria for determining when extraordinary circumstances are present. Prohibits a local government from increasing impact fees beyond phase-in limitations if the local government has not increased impact fees in the past five years. 			
Commerce Committee				

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