

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

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BILL #: [CS/HB 1139](#)

TITLE: Impact Fees

SPONSOR(S): Gentry

COMPANION BILL: [CS/SB 548](#) (McClain)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Intergovernmental Affairs](#)

12 Y, 0 N, As CS

[Housing, Agriculture & Tourism](#)

[State Affairs](#)

SUMMARY

Effect of the Bill:

The bill revises the process for calculating and collecting impact fees by:

- Requiring impact fees for transportation capacity impacts be calculated using a plan-based methodology.
- Providing that certain interlocal agreements for mitigating transportation impacts entered into on or before October 1, 2024, may not be extended beyond October 1, 2031.
- Requires the use of a plan-based methodology and localized data in determining whether extraordinary circumstances exist.
- Prohibiting a local government, school board, or special district from increasing its impact fee rate beyond the phase-in limitations by establishing the existence of extraordinary circumstances in certain circumstances.
- Prohibiting a local government, school board, or special district from increasing impact fees by more than 100 percent divided equally over a four year period.
- Providing for the payment of interest and prevailing petitioner attorney fees and costs in certain actions concerning the overpayment of an impact fee.

Fiscal or Economic Impact:

The bill may have an indeterminate negative fiscal impact on local governments and an indeterminate positive economic impact on persons who pay impact fees to the extent those local governments will be prohibited from increasing impact fees beyond the limitations provided by the bill.

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ANALYSIS

EFFECT OF THE BILL:

Plan-Based Methodology and Interlocal Agreements

Current law requires local governments that charge an [impact fee](#) to mitigate transportation capacity impacts in order to enter into an [interlocal agreement concerning the calculation of such fees](#). The bill requires these agreements to use a plan-based methodology for calculating the fee. The bill defines a plan-based methodology as a study that uses the most recent localized data to project:

- Population growth within a local government jurisdiction in the 10 years immediately preceding the study.
- Anticipated capacity impacts on the relevant systems which will be created by the projected growth.
- A list of capital projects to be constructed or purchased in a defined period of time in order to mitigate the anticipated capacity impacts as part of a new or updated impact fee study. (Sections [1](#) and [3](#))

Any capital projects identified in the impact fee study and any necessary interlocal agreement must comply with the [intergovernmental coordination requirements for comprehensive plans](#), which must include a plan to provide mitigation funding for any extra-jurisdiction impacts created by development or redevelopment. (Sections [1](#) and [2](#))

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The requirement for local governments that charge an impact fee to mitigate transportation capacity impacts to enter into an interlocal agreement currently does not apply to counties and municipalities that entered into or otherwise updated an interlocal agreement that existed on or before October 1, 2024, to coordinate the mitigation of transportation impacts. The bill prohibits the extension of these agreements beyond October 1, 2031. (Section [3](#))

Impact Fee Increases

The bill implements new requirements for local governments seeking to increase impact fee rates beyond the base phase-in limitations due to extraordinary circumstances based on a demonstrated-need study. The bill requires the demonstrated-need study use a plan-based methodology and local data that reflects the differences in area costs and modality of projects between urban, emerging urban, and rural area costs, as relevant. (Section [4](#))

The bill prohibits a local government, school board, or special district from:

- Increasing its impact fee rate beyond the phase-in limitations if the entity has not increased its impact fee within the past five years.
- Using data that is more than four years old to demonstrate extraordinary circumstances.
- Including in an impact fee increase any deduction authorized by a previous or existing impact fee.
- Increasing by more than 100 percent divided equally over a four year period. (Section [4](#))

The bill defines “extraordinary circumstances” as the measurable effects of development that require mitigation by the affected local government which exceeds the current impact fee rate together with any increase in the rate in excess of the rate authorized by the phase-in limitations in less than four years. The capacity standards used to support a declaration of extraordinary circumstances must be defined in the demonstrated-need study and the projected capacity demand must be accompanied by a declaration of how and when the proposed impact fee will be used to construct or purchase the necessary capacity increase that is the basis of the fee rate and the period of time the improvements will be implemented. (Section [4](#))

The bill provides that if a court determines that a petitioner made an overpayment due to an improperly assessed impact fee, the petitioner is entitled to a refund plus an amount of interest determined by the court. The local government, school board, or special district must issue the refund within 90 days of the judgment becoming final. The bill also provides a prevailing petitioner who is a resident of or an owner of a business located within the jurisdiction is entitled reasonable attorney fees and costs in any action seeks a refund of the overpayment as well as any action necessary to collect the refund. (Section [4](#))

Effective Date

The effective date of the bill is July 1, 2026. (Section [6](#))

FISCAL OR ECONOMIC IMPACT:

LOCAL GOVERNMENT:

The bill may have an indeterminate negative fiscal impact on local government to the extent those local governments will be prohibited from increasing impact fees beyond the limitations provided by the bill.

PRIVATE SECTOR:

The bill may have an indeterminate positive economic impact on persons who pay impact fees to the extent local governments will be prohibited from increasing impact fees beyond the limitations provided by the bill.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Comprehensive Planning

The Community Planning Act¹ provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.² Each county and municipality must maintain a comprehensive plan to guide future development and growth.³

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.⁴ 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.⁵

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.⁶ A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.⁷ Local governments may also include optional elements in their comprehensive plan.⁸ 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.⁹

Comprehensive plans must include at least two planning periods, one covering the first 10-year period occurring after the plan's adoption and one covering a period of at least 20 years.¹⁰ Additional planning periods are permissible and accepted as part of the planning process.

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.¹¹ All local government comprehensive plans must provide for 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.¹² 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.¹³ Concurrency requirements apply to state facilities and other public facilities to the same extent as all other facilities and development.¹⁴

¹ [Ch. 163, Part II, F.S.](#)

² [S. 163.3167\(1\), F.S.](#)

³ [S. 163.3167\(2\), F.S.](#)

⁴ [S. 163.3194\(1\)\(a\), F.S.](#)

⁵ See, e.g., [Sarasota County, Fla. Comprehensive Plan, Future Land Use Element, FLU Policy 1.1.1](#) (last visited Jan. 24, 2026).

⁶ [S. 163.3177\(1\), F.S.](#)

⁷ [S. 163.3177\(6\), F.S.](#)

⁸ [S. 163.3177\(1\)\(a\), F.S.](#)

⁹ [S. 163.3177\(3\), \(6\)\(a\)-\(i\), F.S.](#)

¹⁰ [S. 163.3177\(5\)\(a\), F.S.](#)

¹¹ See [s. 163.3180\(5\)\(d\), F.S.](#) See also, David M. Layman, [Concurrency and Moratoria](#), 71 Fla. B.J. 49 (January 1997).

¹² [S. 163.3180\(1\), \(5\), and \(6\), F.S.](#)

¹³ [S. 163.3180\(1\)\(a\), F.S.](#)

¹⁴ [S. 163.3180\(4\), F.S.](#)

If a local government applies concurrency to transportation facilities, the comprehensive plan must provide the principles, guidelines, standards, and strategies to guide its application, including adopted levels of service.¹⁵ Local governments use professionally accepted studies and techniques to evaluate the appropriate level of service and the potential impacts of proposed development.¹⁶ Concurrency for transportation facilities is premised on the idea that public facilities will be provided to achieve and maintain the local government's adopted level of service standard.¹⁷

Each county or municipality that charges the developer of a new development or redevelopment a fee for transportation capacity impacts must [create and execute an interlocal agreement to coordinate the mitigation of its respective transportation capacity impacts](#).¹⁸ The interlocal agreement must:

- Ensure that any new development or redevelopment is not charged twice for the same transportation capacity impacts.
- Establish a plan-based methodology for determining the legally permissible fee to be charged to a new development or redevelopment.
- Require the county or municipality issuing the building permit to collect the fee, unless agreed to otherwise.
- Provide a method for the proportionate distribution of the revenue collected by the county or municipality to address the transportation capacity impacts of a new development or redevelopment, or provide a method of assigning responsibility for the mitigation of the transportation capacity impacts belonging to the county and the municipality.¹⁹

If there is no interlocal agreement between the counties and municipalities charging for such impacts:

- The fee charged to a new development or redevelopment is based on the transportation capacity impacts apportioned to the county and municipality as identified in the developer's traffic impact study or the mobility plan adopted by the county or municipality.
- The developer must receive a 10 percent reduction in the total fee calculated.
- The county or municipality issuing the building permit must collect the fee calculated and distribute the proceeds to the county and municipality within 60 days after the developer's payment.²⁰

The requirement to enter into an interlocal agreement does not apply to a county as defined in [s. 125.011\(1\), F.S.](#) or to a county or municipality that has entered into, or otherwise updated, an existing interlocal agreement as of October 1, 2024, to coordinate the mitigation of transportation impacts.²¹ If the existing interlocal agreement is terminated, the affected county and municipality must enter into a conforming interlocal agreement, unless the prior agreement is extended by mutual agreement of the parties before the expiration of the agreement.

Intergovernmental Coordination

Each local government's comprehensive plan must contain an intergovernmental coordination element stating the principles and guidelines to be used when considering the particular effect of the plan on the development of state and other local governments, including school boards and other governmental entities that do not have regulatory authority over land.²² Within one year of adopting their intergovernmental coordination elements, each county, as well as all municipalities within the county, the school board, and any other unit of local government must establish joint processes by an interlocal or other formal agreement to implement this element.²³ The agreement must ensure each local government addresses the impacts of development proposed in the local comprehensive

¹⁵ [S. 163.3180\(5\)\(a\), F.S.](#)

¹⁶ [S. 163.3180\(5\)\(b\)-\(c\), F.S.](#)

¹⁷ [S. 163.3180\(5\)\(d\), F.S.](#)

¹⁸ [S. 163.3180\(5\)\(j\)1, F.S.](#)

¹⁹ [S. 163.3180\(5\)\(j\)2, F.S.](#)

²⁰ [S. 163.3180\(5\)\(j\)3, F.S.](#)

²¹ [S. 163.3180\(5\)\(j\)3, F.S.](#)

²² [S. 163.3177\(6\)\(h\)1-2, F.S.](#)

²³ [S. 163.3177\(6\)\(h\)3, F.S.](#)

plan on neighboring counties and municipalities and ensure coordination in establishing level-of-service standards for public facilities with any state, regional, or local entity having operational and maintenance responsibility for such facilities.

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.”²⁴ Examples of capital facilities include the provision of additional water and sewer systems, schools, libraries, parks and recreation facilities.²⁵ Impact fees are typically assessed using a fee schedule that sets forth the charge per type of dwelling unit or per square footage of floor space.²⁶ The charges are usually paid at the time the building permit is approved.²⁷

The Florida Impact Fee Act (Act) provides requirements and procedures to be followed by a county, municipality, school district, or special district when it adopts an impact fee.²⁸ 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.
- 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).
- 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 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.²⁹

Phase-In Limitations

Under the Act, a county, municipality, school district, or special district may increase an 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.

²⁴ Florida Housing Finance Corporation, *Overview of Impact Fees and Affordable Housing (Oct. 2017)*, p. 1 (last visited Jan. 24, 2026).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ **S. 163.31801, F.S.**

²⁹ **S. 163.31801(4), F.S.**

- An impact fee may not be increased more than once every four years or increased retroactively for a previous or current fiscal or calendar year.³⁰

However, a county, municipality, school district, or special district may increase an impact fee rate beyond these phase-in limitations by:

- Establishing the need for the increase in conformity with the above minimum criteria for impact fees.
- Completing a demonstrated-need study justifying any increase in excess of those authorized by the Act within the 12 months before the adoption of the impact fee increase that expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations.
- Holding at least two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in the Act.
- Approving the impact fee increase ordinance by a unanimous vote of its governing body.³¹

An impact fee increase beyond the phase-in limitations must be implemented in at least two, but no more than four, equal annual increments beginning with the date the impact fee increase ordinance is adopted.³² A local government may not increase its impact fee beyond the phase-in limitations if it has not increased its fee within the past five years.³³

RECENT LEGISLATION:

YEAR	BILL #/SUBJECT	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2025	CS/SB 1080 - Local Government Land Regulation	Overdorf/ <i>McClain</i>	The bill became a law on October 1, 2025.
2024	CS/HB 479 - Alternative Mobility Funding Systems and Impact Fees	Robinson, W. / <i>Martin</i>	The bill became a law on October 1, 2024.

³⁰ [S. 163.31801\(6\)\(b\)-\(f\), F.S.](#)

³¹ [S. 163.31801\(6\)\(g\)1., F.S.](#)

³² [S. 163.31801\(6\)\(g\)2., F.S.](#)

³³ [S. 163.31801\(6\)\(g\)3., F.S.](#) 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.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<u>Intergovernmental Affairs Subcommittee</u>	12 Y, 0 N, As CS	1/28/2026	Darden	Darden
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> • Revised definitions to improve clarify. • Provided that a petitioner in any action for overpayment is entitled to a refund of the overpayment plus interest. • Provided that a provision concerning the payment of attorney fees and costs only applies to actions by a local resident or business owner challenging overpayment of an impact fee. 			
<u>Housing, Agriculture & Tourism Subcommittee</u>				
<u>State Affairs Committee</u>				

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