

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 548

INTRODUCER: Community Affairs Committee and Senator McClain

SUBJECT: Growth Management

DATE: January 22, 2026

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 548 implements new requirements for local governments seeking to increase impact fee rates beyond the ordinary phase-in limitations due to extraordinary circumstances. Under the bill, the demonstrated-need study required to show extraordinary circumstances justifying an impact fee rate increase must specify the standards used to support the existence of such extraordinary circumstances, and be accompanied by a declaration of the method and timeframe by which the impact fee increase will increase capacity.

The bill also prohibits a local government, including a school or special district, from increasing an impact fee rate utilizing the extraordinary circumstances provisions by more than 100 percent in a 4-year period.

The bill provides for refund and reasonable attorney fees and costs to a petitioner in an action challenging an impact fee imposed in violation of the statute.

The bill also provides for the expiry of certain interlocal agreements, and amends the requirements of the interlocal cooperation element of a comprehensive plan.

The bill takes effect July 1, 2026.

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 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

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

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.

necessitating the need to exceed the limitations; and

- Approves the impact fee increase ordinance by unanimous vote of the governing body.

A local government may not increase impact fee rates beyond the basic phase-in limitations if they have not increased the impact fee within the preceding 5 years, excluding years in which they were prohibited from increases due to hurricane disaster regulations.

III. Effect of Proposed Changes:

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 demonstrated-need study must utilize “plan-based methodology,” defined by the bill as methodology using the most recent and localized data to project growth over a 10-year period, anticipate capacity impacts, and establish a working list of capital projects to be constructed in a defined time period to mitigate effects of projected growth on capacity.

In order to demonstrate “extraordinary circumstances” under the bill, the demonstrated-need study must specify the capacity standards used to support the existence of such extraordinary circumstances, and be accompanied by a declaration of the method and timeframe by which the impact fee increase will increase capacity. This analysis must use localized data reflecting difference in costs and modality of projects within the study area to project the anticipated growth or capacity impacts necessitating the impact fee increase.

The bill further prohibits local governments, including school districts and special districts, from:

- Utilizing data that is older than 4 years to demonstrate extraordinary circumstances, except as otherwise specifically provided;
- Including in the impact fee increase any deduction authorized by a previous or existing impact fee; or
- Increasing an impact fee rate utilizing the extraordinary circumstances provisions by more than 100 percent in a 4-year period.

The bill provides that in an action challenging a local government or special district impact fee imposed in violation of the statute, a prevailing petitioner who is a resident of or an owner of a business located within the jurisdiction is entitled to a refund in the amount of the overpayment with interest, as well as reasonable attorney fees and costs.

The bill also provides that an interlocal agreement between a county and municipality regarding the coordination of development and redevelopment fees for transportation capacity impacts which was entered into before October 1, 2024, may not extend beyond October 1, 2031.

The bill amends s. 163.3177(6), F.S., to require that a local government comprehensive plan’s intergovernmental coordination element and associated agreements must include plans to provide mitigation funding to address extra-jurisdictional impacts of development.

The bill also amends s. 212.055, F.S., which conforms a statutory reference.

The bill takes effect July 1, 2026.

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:

The bill provides that an interlocal agreement between a county and municipality regarding the coordination of development and redevelopment fees for transportation capacity impacts, which was entered into before October 1, 2024, may not extend beyond October 1, 2031. Interlocal agreements are contracts between local governments. To the extent this bill affects previously recorded declarations, the bill may unconstitutionally impair contract, under s. 10, Art. I, Fla. Const., which provides in relevant part, “No... law impairing the obligation of contracts shall be passed.” This provision empowers the courts to strike laws that retroactively burden or alter contractual relations. Article I, s. 10 of the United States Constitution provides in relevant part that “No state shall . . . pass any . . . law impairing the obligation of contracts.”

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 sections 163.3164, 163.3180, 163.31801, and 212.055 of the Florida Statutes.

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

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

CS by Community Affairs on January 20, 2026:

The committee substitute:

- Requires 10, rather than 5, years of growth projections;
- Requires the expiration of interlocal agreements on transportation concurrency;
- Removes the 7-factor analysis of extraordinary circumstances;
- Requires a local government express the standards used to support a determination of extraordinary circumstances;
- Requires a declaration of needed infrastructure and timeline following impact fee increase;
- Reinstates the unanimous vote requirement for increasing fees; and
- Revises section related to attorney fees and costs following impact fee litigation.

B. Amendments:

None.

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