

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 548

INTRODUCER: Senator McClain

SUBJECT: Growth Management

DATE: January 16, 2026

REVISED: \_\_\_\_\_

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

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## I. Summary:

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 reflect at least four of seven specified conditions based on population growth, building permits issued, failure to meet service standards, and other criteria.

The bill also amends the vote requirement for an extraordinary impact fee increase ordinance from unanimous to two-thirds of the governing body, and prohibits a local government 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 reasonable attorney fees and costs to a petitioner in an action challenging an impact fee imposed in violation of the statute.

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.<sup>1</sup> Impact fees have become an accepted method of paying for public improvements that must be constructed to serve new growth.<sup>2</sup> In order for an impact fee to

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

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

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.<sup>3</sup>

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 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

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<sup>3</sup> See St. Johns County at 637. Codified at s. 163.31801(3)(f) and (g), F.S.

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 5-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 reflect at least four of the following seven conditions:

- Population growth within the jurisdiction exceeding the high population projections provided by the University of Florida’s Bureau of Economic and Business Research;
- Average number of building permits issued in the previous 3 years less than 10 percent of the average issued in the preceding 10 years;
- Documented failure to meet transportation level-of-service or quality-of-service standards in the previous 5 years;
- Local capital construction costs exceeding previous 5 year average costs specified in the National Highway Construction Cost Index;<sup>4</sup>
- The jurisdiction’s employment base exceeding the average labor market employment gains<sup>5</sup> in the previous 5 year-period;
- Average daily vehicle miles traveled in the past 5 years exceeding the Florida Vehicle Miles Traveled index average; and
- Cost per mile estimates for construction projects running at least 10 percent greater than the average cost per mile provided by the Department of Transportation as a model for similar construction projects in the previous 5 years.

The bill also amends the vote requirement for an extraordinary impact fee increase ordinance from unanimous to two-thirds of the governing body.

The bill further prohibits local governments 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.

Finally, 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 reasonable attorney fees and costs.

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

The bill takes effect July 1, 2026.

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<sup>4</sup> As provided by the United States Department of Transportation’s Federal Highway Administration.

<sup>5</sup> As reported by the Department of Commerce.

**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 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.)

None.

**B. Amendments:**

None.

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

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