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LEGISLATIVE ACTION

Senate

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House

The Committee on Community Affairs (Young) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 163.31801, Florida Statutes, is amended
to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges ~~definitions; ordinances levying impact fees.~~

(1) This section may be cited as the "Florida Impact Fee



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11 Act.”

12 (2) The Legislature finds that impact fees are an important
13 source of revenue for a local government to use in funding the
14 infrastructure necessitated by new growth. The Legislature
15 further finds that impact fees are an outgrowth of the home rule
16 power of a local government to provide certain services within
17 its jurisdiction. Due to the growth of impact fee collections
18 and local governments’ reliance on impact fees, it is the intent
19 of the Legislature to ensure that, when a county or municipality
20 adopts an impact fee by ordinance or a special district adopts
21 an impact fee by resolution, the governing authority complies
22 with this section.

23 (3) At a minimum, impact fees ~~An impact fee~~ adopted by
24 ordinance of a county or municipality or by resolution of a
25 special district must, ~~at minimum~~ satisfy the following
26 conditions:

27 (a) ~~Require that~~ The calculation of the impact fees must
28 ~~fee~~ be based on the most recent and localized data.

29 (b) The local government must provide for accounting and
30 reporting of impact fee collections and expenditures. If a local
31 governmental entity imposes an impact fee to address its
32 infrastructure needs, the entity shall account for the revenues
33 and expenditures of such impact fee in a separate accounting
34 fund.

35 (c) ~~Limit~~ Administrative charges for the collection of
36 impact fees must be limited to actual costs.

37 (d) ~~Require that~~ Notice must be provided no less than 90
38 days before the effective date of an ordinance or resolution
39 imposing a new or increased impact fees ~~fee~~. A county or



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40 municipality is not required to wait 90 days to decrease,
41 suspend, or eliminate ~~an~~ impact fees ~~fee~~.

42 (e) Collection of the impact fees may not occur earlier
43 than the issuance of the building permit for the property that
44 is subject to the fee.

45 (f) The impact fee must be reasonably connected to, or have
46 a rational nexus with, the need for additional capital
47 facilities and the increased impact generated by the new
48 residential or commercial construction.

49 (g) The impact fee must be reasonably connected to, or have
50 a rational nexus with, the expenditures of the funds collected
51 and the benefits accruing to the new residential or commercial
52 construction.

53 (h) The local government must specifically earmark funds
54 collected by the impact fees for use in acquiring capital
55 facilities to benefit the new residents.

56 (i) The collection or expenditure of the impact fee
57 revenues may not be used, in whole or part, to pay existing debt
58 or be used for prior approved projects.

59 (4) Audits of financial statements of local governmental
60 entities and district school boards which are performed by a
61 certified public accountant pursuant to s. 218.39 and submitted
62 to the Auditor General must include an affidavit signed by the
63 chief financial officer of the local governmental entity or
64 district school board stating that the local governmental entity
65 or district school board has complied with this section.

66 (5) In any action challenging an impact fee, the government
67 has the burden of proving by a preponderance of the evidence
68 that the imposition or amount of the fee meets the requirements



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69 of state legal precedent or this section. The court may not use
70 a deferential standard. Attorney fees may be recovered by a
71 prevailing challenger to the implementation of an impact fee
72 that violates this section.

73 Section 2. This act shall take effect July 1, 2018.

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75 ===== T I T L E A M E N D M E N T =====

76 And the title is amended as follows:

77 Delete everything before the enacting clause
78 and insert:

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A bill to be entitled

80 An act relating to impact fees; amending s. 163.31801,
81 F.S.; revising the minimum requirements for impact
82 fees; allowing prevailing challengers to such fees to
83 recover attorney fees; providing an effective date.