

By the Committee on Community Affairs; and Senator Young

578-01794-18

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1 A bill to be entitled
 2 An act relating to impact fees; amending s. 163.31801,
 3 F.S.; revising the minimum requirements for impact
 4 fees; providing an effective date.

6 Be It Enacted by the Legislature of the State of Florida:

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

10 163.31801 Impact fees; short title; intent; minimum
 11 requirements; audits; challenges ~~definitions; ordinances levying~~
 12 ~~impact fees.~~—

13 (1) This section may be cited as the "Florida Impact Fee
 14 Act."

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

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

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

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

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

40 (d) ~~Require that~~ Notice must be provided no less than 90
41 days before the effective date of an ordinance or resolution
42 imposing a new or increased impact fees ~~fee~~. A county or
43 municipality is not required to wait 90 days to decrease,
44 suspend, or eliminate ~~an~~ impact fees ~~fee~~.

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

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

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

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

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59 (i) The collection or expenditure of the impact fee
60 revenues may not be used, in whole or part, to pay existing debt
61 or be used for prior approved projects unless the expenditure is
62 reasonably connected to, or has a rational nexus with, the
63 increased impact generated by the new residential or commercial
64 construction.

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

72 (5) In any action challenging an impact fee, the government
73 has the burden of proving by a preponderance of the evidence
74 that the imposition or amount of the fee meets the requirements
75 of state legal precedent or this section. The court may not use
76 a deferential standard.

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