



229240

LEGISLATIVE ACTION

Senate

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House

The Committee on Finance and Tax (Gruters) 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.—

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



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

(3) For purposes of this section:

(a) The term "infrastructure" means any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of a public facility, excluding the cost of repairs or maintenance, that have a life expectancy of 5 or more years; any related land acquisition, land improvement, design, engineering, and permitting costs; and all other related construction costs required to bring the public facility into service.

(b) The term "public facility" means any facility as defined in s. 163.3164(39) and includes any fire and law enforcement facility. For independent special fire control and rescue districts, the term "infrastructure" also includes new facilities as defined in s. 191.009(4).

(4) At a minimum, each county and municipality that adopts, collects, or administers an impact fee by ordinance and each special district that adopts, collects, and administers an



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~~impact fee by resolution an impact fee adopted by ordinance of a county or municipality or by resolution of a special district must satisfy all of the following conditions:~~

(a) Require that the calculation of the impact fee ~~must~~ be based on the most recent and localized data collected within the last 36 months and excludes any cost that does not meet the definition of infrastructure.

(b) Account for the revenues and expenditures of such impact fee in a separate impact fee account, if the local governmental entity imposes an impact fee to address its infrastructure needs ~~The local government must provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund.~~

(c) Limit administrative charges for the collection of impact fees ~~must be limited~~ to actual costs. The cost per student station established in school impact fee calculations may not exceed that statutory total maximum cost per student station calculated under s. 1013.64(6).

(d) ~~The local government must~~ Provide notice not less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. Unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90



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days to decrease, suspend, or eliminate an impact fee.

~~(e) Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.~~

~~(f)~~ Ensure that the impact fee ~~is~~ must be proportional and reasonably connected to, or has ~~have~~ a rational nexus with, the need for additional infrastructure ~~capital facilities~~ and the increased impact generated by the new residential or commercial construction.

~~(f)(g)~~ Ensure that the impact fee ~~is~~ must be proportional and reasonably connected to, or has ~~have~~ a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.

~~(g)(h)~~ The local government must Specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving infrastructure ~~capital facilities~~ to benefit new users.

(5) Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.

~~(6)(i)~~ (6) Revenues generated by the impact fee may not be used, in whole or in part, 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 nonresidential construction.

~~(7)(4)~~ (7) The local government must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of



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exaction, related to public education facilities, including land dedication, site planning and design, or construction. Any contribution must be applied to reduce any education-based impact fees on a dollar-for-dollar basis at fair market value.

(8)~~(5)~~ If a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under s. 163.3180, s. 380.06, or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. This subsection shall operate prospectively and not retrospectively.

(9)~~(6)~~ Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section and the spending period provision in the local ordinance or resolution.

(10)~~(7)~~ In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees or for contributions made as provided in this chapter ~~s. 163.3180(6)(h)2.b.~~, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.

(11) Impact fee credits are assignable and transferable at



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any time after establishment for the same type of public facility for which the impact fee applies to any development or parcel located within the geographic boundary of the local government jurisdiction where the impact fee is imposed and situated geographically within an impact fee zone or district that receives a benefit from the improvement, dedication, or payment which generated the credit to be transferred. If a local government elects to use an alternative mobility funding system as provided for in s. 163.3180(5)(i) in lieu of impact fees, transportation credits are assignable and transferable at any time after establishment to any development or parcel within the geographic boundary of the local government jurisdiction where the credit was established so long as the credit is applied to a zone or district which is receiving a benefit from the contribution to the alternative mobility funding system which generated the credit. Under either system described in this subsection, a benefit shall be recognized within any zone or district located within 5 miles of the zone or district where the credits were generated.

(12)(8) A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

(13) To ensure impact fees or equivalent contributions are not imposed more than once for the same impacts, a local government shall provide impact fee credits or other forms of compensation if a contribution is greater in value than the



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applicable impact fee. Contributions related to the transportation system are creditable against the combined total of all impact fees, mobility fees, or other forms of exactions charged to mitigate transportation impacts. This subsection applies at the time any contribution is accepted, regardless of when the contributions were agreed upon or committed to.

(14) (a) Before enacting an impact fee, each county and municipality must establish an impact fee review and advisory committee.

(b)1. The committee shall be composed of the following members appointed by the county commission or the governing body of the municipality, as applicable:

a. Two members who are employed by the county or municipality. If a school impact fee is assessed or under consideration, one of the two members shall be employed by the school district.

b. Two members who represent the business community who are not elected officials or employees of the local government jurisdiction.

c. Two members who are local licensed general or residential contractors, who are not elected officials or employees of the local government jurisdiction.

d. One at-large member who is not an elected official or employee of the local government jurisdiction.

2. The county commission or the governing body of the municipality, as applicable, may appoint three alternate members, consisting of one representative from each of the categories described in sub-subparagraphs 1.a., b., and c., who shall serve in the absence of their respective member.



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185 3. Members and alternate members must be qualified electors
186 of the county or municipality, as applicable.

187 4. Members and alternate members shall serve at the
188 pleasure of the local government and shall serve until they are
189 replaced.

190 (c)1. Each committee meeting must be duly noticed and open
191 to the public as required by s. 286.011.

192 2. A meeting may not be held unless a quorum is present. A
193 quorum consists of a majority of members of the committee, but
194 an alternate member shall count toward the quorum when a regular
195 member is absent.

196 3. A member who fails to attend three consecutive meetings
197 or fails to attend two-thirds of the meetings within a calendar
198 year automatically forfeits the appointment, and the county
199 commissioners or members of the governing body of the
200 municipality, as applicable, shall promptly fill the vacancy.

201 4. Members of the committee shall serve without
202 compensation.

203 5. A small county as defined in s. 110.1228(1)(c) or a
204 small municipality as defined in s. 110.1228(1)(b) which
205 assesses an impact fee may utilize an existing committee that
206 contains representation from the building or development
207 community and reviews building or development in lieu of the
208 impact fee review committee provided herein.

209 (d) The committee shall meet as needed to examine impact
210 fee policies and provide recommendations on impact fee
211 decisions, including, but not limited to, reviewing all of the
212 following:

213 1. The selection of an impact fee consultant.



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2. Impact fee studies and study recommendations.

3. Policies and methodologies for determining impact fees
on new developments and new construction.

4. Changes to impact fee calculations.

5. After each impact fee is adopted by the local government
and at least before a county or municipality adopts its budget,
the proposed budget for expending impact fees to ensure the fee
is used in accordance with this section and other pertinent
sections of state law.

~~(15)(9)~~ This section does not apply to water and sewer
connection fees.

Section 2. This act shall take effect July 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to impact fees; amending s. 163.31801,
F.S.; revising legislative findings; defining terms;
revising requirements for counties and municipalities
that adopt, collect, or administer an impact fee by
ordinance and for special districts that adopt,
collect, and administer an impact fee by resolution;
providing minimum requirements for such counties,
municipalities, and special districts; prohibiting new
or increased impact fees from applying to certain
applications; providing an exception; providing
timeframes for the collection of impact fees by local



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governments; providing that impact fee credits are
assignable and transferable under certain conditions;
providing that transportation credits, used in lieu of
impact fees, are assignable and transferable under
certain conditions; requiring local governments to
provide impact fee credits or other forms of
compensation under certain conditions; providing
applicability; requiring certain counties and
municipalities to establish impact fee review and
advisory committees; providing for membership;
providing procedures for holding meetings and
establishing quorums; providing committee duties;
providing an effective date.