A bill to be entitled
An act relating to impact fees; amending s. 163.31801, F.S.; revising the conditions that counties, municipalities, and special districts must satisfy before enacting an impact fee by ordinance or passing an impact fee by resolution; providing timeframes for the collection of impact fees by local governments; providing that impact fee credits are assignable and transferrable under certain conditions; requiring certain counties and municipalities to establish impact fee review committees; providing for membership; providing procedures for meetings and establishing quorums; providing committee duties; providing an effective date.

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

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."

(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 an impact fee by ordinance or a
special district adopts an impact fee by resolution, the
governing authority complies with this section.

(3) At a minimum, each county and municipality that adopts
an impact fee by ordinance and each special district that adopts
an 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 be
based on the most recent and localized data and exclude any cost
that does not meet the definition of a capital asset under
generally accepted accounting principles for local governments.
The cost per student station established in school impact fee
calculations may not exceed the statutory total maximum cost per
student station established in s. 1013.64(6). The calculation of
the impact fee must be based on the most recent and localized
data.

(b) Segregate the revenues and expenditures of any impact
fee that addresses the local governmental entity's
infrastructure needs in a separate impact fee trust fund. 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) On an annual basis, prepare a financial report for each impact fee trust fund. The annual financial report must include the following:

1. An auditable schedule of impact fee collections.
2. The balance of the trust fund at the beginning and end of the fiscal year.
3. The amount of interest or other earnings on the monies in the trust fund for the fiscal year.
4. An auditable schedule of impact fee expenditures.

(d) Within 90 days following the end of each fiscal year, post the financial report for each impact fee trust fund on the entity's website. Copies shall be made available to the public on request.

(e) Limit administrative charges for the collection of impact fees must be limited to actual costs.

(f) 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. A county or municipality is not required to wait 90 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.

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

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

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

(4) The local government may not require the collection of the impact fee to occur earlier than the date the building permit for the property that is subject to the fee is issued.

(5) 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.
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 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.

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.

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.

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 as provided in 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.

(10) Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to another within the same impact fee jurisdiction for the same type of public facility for which the impact fee is applicable.

(11) 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.

(12)(a) Each county or municipality that assesses impact fees must establish an impact fee review committee.

(b)1. The committee shall be composed of the following members appointed by the county or city commission:

a. Two members who are employed by the local government.
b. Two members who represent the business community.
c. Two members who are local residential contractors.
d. One at-large member.

2. The county or city commission shall appoint three
alternate members, consisting of one representative from each of the categories described in sub-subparagraphs 1.a.–c. who shall serve in the absence of their respective member.

3. Members and alternate members must be qualified electors of the county for at least 2 years before their appointment.

4. Committee members shall serve at the pleasure of the local government and shall serve until they are replaced.

(c) 1. Each committee meeting shall be duly noticed.

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

3. A member who fails to attend three consecutive meetings or fails to attend two-thirds of the meetings within a calendar year, automatically forfeits the appointment and the county or city commissioners, as applicable, shall promptly fill the vacancy.

4. Members of the committee shall serve without compensation.

(d) The committee shall meet as needed to:

1. Establish a policy and methodology for determining impact fees on new developments.

2. Review the proposed impact fee on each new development before the fee becomes final.
3. Submit recommendations made by the impact fee consultant to the county commission or city commission, as applicable. The recommendations must be presented at the meeting when the impact fee on the new development will be discussed and voted upon.

4. After each impact fee is adopted by the local government, review all proposed expenditures of that impact fee to ensure the fee is used for capital projects within the jurisdiction.

(e) The committee shall select an impact fee consultant to develop the impact fee recommendations.

(13) This section does not apply to water and sewer connection fees.

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