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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Finance and Tax)

A bill to be entitled

An act relating to impact fees; amending s. 163.31801,
F.S.; revising the minimum requirements for impact
fees; prohibiting the application of impact fee
provisions to water and sewer connection fees;
amending s. 163.3245, F.S.; prohibiting local
governments from requiring certain conditions in
development orders, except under certain conditions;
specifying the process for the local government review
and approval of detailed specific area plans or
related development orders; 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 ~~definitions; ordinances levying
impact fees.~~

(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



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28 its jurisdiction. Due to the growth of impact fee collections
29 and local governments' reliance on impact fees, it is the intent
30 of the Legislature to ensure that, when a county or municipality
31 adopts an impact fee by ordinance or a special district adopts
32 an impact fee by resolution, the governing authority complies
33 with this section.

34 (3) At a minimum, impact fees ~~An impact fee~~ adopted by
35 ordinance of a county or municipality or by resolution of a
36 special district must, ~~at minimum~~ satisfy the following
37 conditions:

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

40 (b) The local government must provide for accounting and
41 reporting of impact fee collections and expenditures. If a local
42 governmental entity imposes an impact fee to address its
43 infrastructure needs, the entity shall account for the revenues
44 and expenditures of such impact fee in a separate accounting
45 fund.

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

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

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

56 (f) The impact fee must be reasonably connected to, or have



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57 a rational nexus with, the need for additional capital
58 facilities and the increased impact generated by the new
59 residential or commercial construction.

60 (g) The impact fee must be reasonably connected to, or have
61 a rational nexus with, the expenditures of the funds collected
62 and the benefits accruing to the new residential or commercial
63 construction.

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

67 (i) The collection or expenditure of the impact fee
68 revenues may not be used, in whole or part, to pay existing debt
69 or be used for prior approved projects unless the expenditure is
70 reasonably connected to, or has a rational nexus with, the
71 increased impact generated by the new residential or commercial
72 construction.

73 (4) Audits of financial statements of local governmental
74 entities and district school boards which are performed by a
75 certified public accountant pursuant to s. 218.39 and submitted
76 to the Auditor General must include an affidavit signed by the
77 chief financial officer of the local governmental entity or
78 district school board stating that the local governmental entity
79 or district school board has complied with this section.

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

85 (6) This section does not apply to water and sewer



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86 connection fees.

87 Section 2. Paragraph (b) of subsection (3) and subsection
88 (4) of section 163.3245, Florida Statutes, are amended to read:

89 163.3245 Sector plans.—

90 (3) Sector planning encompasses two levels: adoption
91 pursuant to s. 163.3184 of a long-term master plan for the
92 entire planning area as part of the comprehensive plan, and
93 adoption by local development order of two or more detailed
94 specific area plans that implement the long-term master plan and
95 within which s. 380.06 is waived.

96 (b)1. In addition to the other requirements of this
97 chapter, except for those that are inconsistent with or
98 superseded by the planning standards of this paragraph, the
99 detailed specific area plans must ~~shall~~ be consistent with the
100 long-term master plan and ~~must~~ include conditions and
101 commitments that provide for:

102 a.1. Development or conservation of an area of at least
103 1,000 acres consistent with the long-term master plan. The local
104 government may approve detailed specific area plans of less than
105 1,000 acres based on local circumstances if it is determined
106 that the detailed specific area plan furthers the purposes of
107 this part and part I of chapter 380.

108 b.2. Detailed identification and analysis of the maximum
109 and minimum densities and intensities of use and the
110 distribution, extent, and location of future land uses.

111 c.3. Detailed identification of water resource development
112 and water supply development projects and related infrastructure
113 and water conservation measures to address water needs of
114 development in the detailed specific area plan.



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115 ~~d.4.~~ Detailed identification of the transportation
116 facilities to serve the future land uses in the detailed
117 specific area plan.

118 ~~e.5.~~ Detailed identification of other regionally
119 significant public facilities, including public facilities
120 outside the jurisdiction of the host local government, impacts
121 of future land uses on those facilities, and required
122 improvements consistent with the long-term master plan.

123 ~~f.6.~~ Public facilities necessary to serve development in
124 the detailed specific area plan, including developer
125 contributions in a 5-year capital improvement schedule of the
126 affected local government.

127 ~~g.7.~~ Detailed analysis and identification of specific
128 measures to ensure the protection and, as appropriate,
129 restoration and management of lands within the boundary of the
130 detailed specific area plan identified for permanent
131 preservation through recordation of conservation easements
132 consistent with s. 704.06, which easements shall be effective
133 before or concurrent with the effective date of the detailed
134 specific area plan and other important resources both within and
135 outside the host jurisdiction. Any such conservation easement
136 may be based on digital orthophotography prepared by a surveyor
137 and mapper licensed under chapter 472 and may include a right of
138 adjustment authorizing the grantor to modify portions of the
139 area protected by a conservation easement and substitute other
140 lands in their place if the lands to be substituted contain no
141 less gross acreage than the lands to be removed; have equivalent
142 values in the proportion and quality of wetlands, uplands, and
143 wildlife habitat; and are contiguous to other lands protected by



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144 the conservation easement. Substitution is accomplished by
145 recording an amendment to the conservation easement as accepted
146 by and with the consent of the grantee, and which consent may
147 not be unreasonably withheld.

148 ~~h.8.~~ Detailed principles and guidelines addressing the
149 urban form and the interrelationships of future land uses;
150 achieving a more clean, healthy environment; limiting urban
151 sprawl; providing a range of housing types; protecting wildlife
152 and natural areas; advancing the efficient use of land and other
153 resources; creating quality communities of a design that
154 promotes travel by multiple transportation modes; and enhancing
155 the prospects for the creation of jobs.

156 ~~i.9.~~ Identification of specific procedures to facilitate
157 intergovernmental coordination to address extrajurisdictional
158 impacts from the detailed specific area plan.

159 2. A detailed specific area plan adopted by local
160 development order pursuant to this section may be based upon a
161 planning period longer than the generally applicable planning
162 period of the local comprehensive plan and shall specify the
163 projected population within the specific planning area during
164 the chosen planning period. A detailed specific area plan
165 adopted pursuant to this section is not required to demonstrate
166 need based upon projected population growth or on any other
167 basis. All lands identified in the long-term master plan for
168 permanent preservation shall be subject to a recorded
169 conservation easement consistent with s. 704.06 before or
170 concurrent with the effective date of the final detailed
171 specific area plan to be approved within the planning area. Any
172 such conservation easement may be based on digital



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173 orthophotography prepared by a surveyor and mapper licensed
174 under chapter 472 and may include a right of adjustment
175 authorizing the grantor to modify portions of the area protected
176 by a conservation easement and substitute other lands in their
177 place if the lands to be substituted contain no less gross
178 acreage than the lands to be removed; have equivalent values in
179 the proportion and quality of wetlands, uplands, and wildlife
180 habitat; and are contiguous to other lands protected by the
181 conservation easement. Substitution is accomplished by recording
182 an amendment to the conservation easement as accepted by and
183 with the consent of the grantee, and which consent may not be
184 unreasonably withheld.

185 3. In adopting a detailed specific area plan or related
186 development order, a local government may not include or impose
187 as a development order condition a requirement that a developer
188 contribute or pay for land acquisition or construction or
189 expansion of public facilities, or portions thereof, unless the
190 local government has enacted a local ordinance that requires
191 developers of other developments not within a sector planning
192 area to contribute a proportionate share of the funds, land, or
193 public facilities necessary to accommodate any impacts having a
194 rational nexus to the proposed development. When allowed under
195 this section, the obligation to fund or construct new facilities
196 or add to the present system of public facilities must have an
197 essential nexus and be roughly proportionate to the proposed
198 development.

199 4. Within 30 days of receipt of an application for approval
200 of a detailed specific area plan or related development order, a
201 local government must review the application for completeness



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202 and issue a letter either indicating that all required
203 information has been submitted or specifying, with
204 particularity, any areas that are deficient. If the application
205 is found to be deficient, the applicant must address the
206 deficiencies within 30 days after receiving notice of the
207 deficiencies by submitting the required additional information.
208 The local government must approve, approve with conditions, or
209 deny the application for the detailed specific area plan within
210 90 days after receipt of the initial or supplemental submission,
211 whichever is later, unless the deadline is waived in writing by
212 the applicant. An approval or denial of the application for
213 approval of a detailed specific area plan or related development
214 order must include written findings supporting the local
215 government decision.

216 (4) Upon the long-term master plan becoming legally
217 effective:

218 (a) Any long-range transportation plan developed by a
219 metropolitan planning organization pursuant to s. 339.175(7)
220 must be consistent, to the maximum extent feasible, with the
221 long-term master plan, including, but not limited to, the
222 projected population and the approved uses and densities and
223 intensities of use and their distribution within the planning
224 area. The transportation facilities identified in adopted plans
225 pursuant to subparagraph (3) (a)3. and sub-subparagraph
226 (3) (b)1.d. subparagraphs (3) (a)3. and (b)4. must be developed in
227 coordination with the adopted M.P.O. long-range transportation
228 plan.

229 (b) The water needs, sources and water resource
230 development, and water supply development projects identified in



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231 adopted plans pursuant to subparagraph (3) (a)2. and sub-
232 subparagraph (3) (b)1.d. must ~~subparagraphs (3) (a)2. and (b)3.~~
233 ~~shall~~ be incorporated into the applicable district and regional
234 water supply plans adopted in accordance with ss. 373.036 and
235 373.709. Accordingly, and notwithstanding the permit durations
236 stated in s. 373.236, an applicant may request and the
237 applicable district may issue consumptive use permits for
238 durations commensurate with the long-term master plan or
239 detailed specific area plan, considering the ability of the
240 master plan area to contribute to regional water supply
241 availability and the need to maximize reasonable-beneficial use
242 of the water resource. The permitting criteria in s. 373.223
243 shall be applied based upon the projected population and the
244 approved densities and intensities of use and their distribution
245 in the long-term master plan; however, the allocation of the
246 water may be phased over the permit duration to correspond to
247 actual projected needs. This paragraph does not supersede the
248 public interest test set forth in s. 373.223.

249 Section 3. This act shall take effect July 1, 2018.