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LEGISLATIVE ACTION

Senate

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House

Senator Young moved the following:

1 **Senate Amendment to Amendment (333236) (with title**
2 **amendment)**

3
4 Between lines 4 and 5

5 insert:

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

8 163.31801 Impact fees; short title; intent; minimum
9 requirements; audits; challenges ~~definitions; ordinances levying~~
10 ~~impact fees.~~-

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



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12 Act.”

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

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

27 (a) ~~Require that~~ The calculation of the impact fee must be
28 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 fee. A county or municipality
40 is not required to wait 90 days to decrease, suspend, or



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41 eliminate an impact fee.

42 (e) Collection of the impact fee may not be required to
43 occur earlier than the issuance of the building permit for the
44 property that 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 fee for use in acquiring, constructing,
55 or improving capital facilities to benefit the new users.

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 previously approved projects unless the
59 expenditure is reasonably connected to, or has a rational nexus
60 with, the increased impact generated by the new residential or
61 commercial construction.

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

69 (5) In any action challenging an impact fee, the government



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70 has the burden of proving by a preponderance of the evidence
71 that the imposition or amount of the fee meets the requirements
72 of state legal precedent or this section. The court may not use
73 a deferential standard.

74 (6) This section does not apply to water and sewer
75 connection fees.

76 Section 2. Paragraph (b) of subsection (3) of section
77 163.3245, Florida Statutes, is amended to read:

78 163.3245 Sector plans.—

79 (3) Sector planning encompasses two levels: adoption
80 pursuant to s. 163.3184 of a long-term master plan for the
81 entire planning area as part of the comprehensive plan, and
82 adoption by local development order of two or more detailed
83 specific area plans that implement the long-term master plan and
84 within which s. 380.06 is waived.

85 (b) In addition to the other requirements of this chapter,
86 except for those that are inconsistent with or superseded by the
87 planning standards of this paragraph, the detailed specific area
88 plans shall be consistent with the long-term master plan and
89 must include conditions and commitments that provide for:

90 1. Development or conservation of an area of at least 1,000
91 acres consistent with the long-term master plan. The local
92 government may approve detailed specific area plans of less than
93 1,000 acres based on local circumstances if it is determined
94 that the detailed specific area plan furthers the purposes of
95 this part and part I of chapter 380.

96 2. Detailed identification and analysis of the maximum and
97 minimum densities and intensities of use and the distribution,
98 extent, and location of future land uses.



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99 3. Detailed identification of water resource development
100 and water supply development projects and related infrastructure
101 and water conservation measures to address water needs of
102 development in the detailed specific area plan.

103 4. Detailed identification of the transportation facilities
104 to serve the future land uses in the detailed specific area
105 plan.

106 5. Detailed identification of other regionally significant
107 public facilities, including public facilities outside the
108 jurisdiction of the host local government, impacts of future
109 land uses on those facilities, and required improvements
110 consistent with the long-term master plan.

111 6. Public facilities necessary to serve development in the
112 detailed specific area plan, including developer contributions
113 in a 5-year capital improvement schedule of the affected local
114 government.

115 7. Detailed analysis and identification of specific
116 measures to ensure the protection and, as appropriate,
117 restoration and management of lands within the boundary of the
118 detailed specific area plan identified for permanent
119 preservation through recordation of conservation easements
120 consistent with s. 704.06, which easements shall be effective
121 before or concurrent with the effective date of the detailed
122 specific area plan and other important resources both within and
123 outside the host jurisdiction. Any such conservation easement
124 may be based on digital orthophotography prepared by a surveyor
125 and mapper licensed under chapter 472 and may include a right of
126 adjustment authorizing the grantor to modify portions of the
127 area protected by a conservation easement and substitute other



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128 lands in their place if the lands to be substituted contain no
129 less gross acreage than the lands to be removed; have equivalent
130 values in the proportion and quality of wetlands, uplands, and
131 wildlife habitat; and are contiguous to other lands protected by
132 the conservation easement. Substitution is accomplished by
133 recording an amendment to the conservation easement as accepted
134 by and with the consent of the grantee, and which consent may
135 not be unreasonably withheld.

136 8. Detailed principles and guidelines addressing the urban
137 form and the interrelationships of future land uses; achieving a
138 more clean, healthy environment; limiting urban sprawl;
139 providing a range of housing types; protecting wildlife and
140 natural areas; advancing the efficient use of land and other
141 resources; creating quality communities of a design that
142 promotes travel by multiple transportation modes; and enhancing
143 the prospects for the creation of jobs.

144 9. Identification of specific procedures to facilitate
145 intergovernmental coordination to address extrajurisdictional
146 impacts from the detailed specific area plan.

147 10. Within 30 days after receiving an application for
148 approval of a detailed specific area plan or related development
149 order, a local government must review the application for
150 completeness and issue a letter indicating that all required
151 information is submitted or specifying with particularity any
152 areas that are deficient. If deficient, the applicant has 30
153 days to address the deficiencies by submitting the required
154 additional information. Within 90 days after the initial
155 submission, if complete, or the supplemental submission,
156 whichever is later, the local government shall approve, approve



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157 with conditions, or deny the application for the detailed
158 specific area plan. This time period may be waived in writing by
159 the applicant. An approval or denial of the application for a
160 detailed specific area plan or related development order
161 approval must include written findings supporting the local
162 government decision.

163
164 A detailed specific area plan adopted by local development order
165 pursuant to this section may be based upon a planning period
166 longer than the generally applicable planning period of the
167 local comprehensive plan and shall specify the projected
168 population within the specific planning area during the chosen
169 planning period. A detailed specific area plan adopted pursuant
170 to this section is not required to demonstrate need based upon
171 projected population growth or on any other basis. All lands
172 identified in the long-term master plan for permanent
173 preservation shall be subject to a recorded conservation
174 easement consistent with s. 704.06 before or concurrent with the
175 effective date of the final detailed specific area plan to be
176 approved within the planning area. Any such conservation
177 easement may be based on digital orthophotography prepared by a
178 surveyor and mapper licensed under chapter 472 and may include a
179 right of adjustment authorizing the grantor to modify portions
180 of the area protected by a conservation easement and substitute
181 other lands in their place if the lands to be substituted
182 contain no less gross acreage than the lands to be removed; have
183 equivalent values in the proportion and quality of wetlands,
184 uplands, and wildlife habitat; and are contiguous to other lands
185 protected by the conservation easement. Substitution is



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186 accomplished by recording an amendment to the conservation
187 easement as accepted by and with the consent of the grantee, and
188 which consent may not be unreasonably withheld.

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

191 And the title is amended as follows:

192 Delete line 123

193 and insert:

194 An act relating to local government; amending s.
195 163.31801, F.S.; revising the minimum requirements for
196 the adoption of impact fees; providing an exception;
197 amending s. 163.3245, F.S.; specifying the process for
198 the local government review and approval of detailed
199 specific area plans or related development orders;
200 amending s.