



337868

LEGISLATIVE ACTION

Senate

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House

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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.

189

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.