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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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03/09/2018 01:06 PM

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Senator Young moved the following:

**Senate Amendment (with title amendment)**

Delete lines 68 - 87

and insert:

Section 2. 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."



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

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

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

28 (b) The local government must provide for accounting and  
29 reporting of impact fee collections and expenditures. If a local  
30 governmental entity imposes an impact fee to address its  
31 infrastructure needs, the entity shall account for the revenues  
32 and expenditures of such impact fee in a separate accounting  
33 fund.

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

36 (d) ~~Require that~~ Notice must be provided no less than 90  
37 days before the effective date of an ordinance or resolution  
38 imposing a new or increased impact fee. A county or municipality  
39 is not required to wait 90 days to decrease, suspend, or  
40 eliminate an impact fee.



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

44       (f) The impact fee must be reasonably connected to, or have  
45 a rational nexus with, the need for additional capital  
46 facilities and the increased impact generated by the new  
47 residential or commercial construction.

48       (g) The impact fee must be reasonably connected to, or have  
49 a rational nexus with, the expenditures of the funds collected  
50 and the benefits accruing to the new residential or commercial  
51 construction.

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

55       (i) The collection or expenditure of the impact fee  
56 revenues may not be used, in whole or part, to pay existing debt  
57 or be used for previously approved projects unless the  
58 expenditure is reasonably connected to, or has a rational nexus  
59 with, the increased impact generated by the new residential or  
60 commercial construction.

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

68       (5) In any action challenging an impact fee, the government  
69 has the burden of proving by a preponderance of the evidence



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70 that the imposition or amount of the fee meets the requirements  
71 of state legal precedent or this section. The court may not use  
72 a deferential standard.

73 (6) In addition to the items that must be reported in the  
74 annual financial reports under s. 218.32, counties,  
75 municipalities, and special districts must report the following  
76 data on all impact fees charged:

77 (a) The specific purpose of the impact fee, including the  
78 specific infrastructure need to be met, such as transportation,  
79 parks, water, sewer, and schools.

80 (b) The impact fee schedule policy, describing the method  
81 of calculating impact fees, such as flat fee, tiered scale based  
82 on number of bedrooms, and tiered scale based on square footage.

83 (c) The amount assessed for each purpose and type of  
84 dwelling.

85 (d) The total amount of impact fees charged by type of  
86 dwelling.

87 (e) Each exception and waiver provided for affordable  
88 housing developments.

89 (7) This section does not apply to water and sewer  
90 connection fees.

91 Section 3. Paragraph (b) of subsection (3) of section  
92 163.3245, Florida Statutes, is amended to read:

93 163.3245 Sector plans.—

94 (3) Sector planning encompasses two levels: adoption  
95 pursuant to s. 163.3184 of a long-term master plan for the  
96 entire planning area as part of the comprehensive plan, and  
97 adoption by local development order of two or more detailed  
98 specific area plans that implement the long-term master plan and



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99 within which s. 380.06 is waived.

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

105 1. Development or conservation of an area of at least 1,000  
106 acres consistent with the long-term master plan. The local  
107 government may approve detailed specific area plans of less than  
108 1,000 acres based on local circumstances if it is determined  
109 that the detailed specific area plan furthers the purposes of  
110 this part and part I of chapter 380.

111 2. Detailed identification and analysis of the maximum and  
112 minimum densities and intensities of use and the distribution,  
113 extent, and location of future land uses.

114 3. Detailed identification of water resource development  
115 and water supply development projects and related infrastructure  
116 and water conservation measures to address water needs of  
117 development in the detailed specific area plan.

118 4. Detailed identification of the transportation facilities  
119 to serve the future land uses in the detailed specific area  
120 plan.

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

126 6. Public facilities necessary to serve development in the  
127 detailed specific area plan, including developer contributions



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128 in a 5-year capital improvement schedule of the affected local  
129 government.

130 7. Detailed analysis and identification of specific  
131 measures to ensure the protection and, as appropriate,  
132 restoration and management of lands within the boundary of the  
133 detailed specific area plan identified for permanent  
134 preservation through recordation of conservation easements  
135 consistent with s. 704.06, which easements shall be effective  
136 before or concurrent with the effective date of the detailed  
137 specific area plan and other important resources both within and  
138 outside the host jurisdiction. Any such conservation easement  
139 may be based on digital orthophotography prepared by a surveyor  
140 and mapper licensed under chapter 472 and may include a right of  
141 adjustment authorizing the grantor to modify portions of the  
142 area protected by a conservation easement and substitute other  
143 lands in their place if the lands to be substituted contain no  
144 less gross acreage than the lands to be removed; have equivalent  
145 values in the proportion and quality of wetlands, uplands, and  
146 wildlife habitat; and are contiguous to other lands protected by  
147 the conservation easement. Substitution is accomplished by  
148 recording an amendment to the conservation easement as accepted  
149 by and with the consent of the grantee, and which consent may  
150 not be unreasonably withheld.

151 8. Detailed principles and guidelines addressing the urban  
152 form and the interrelationships of future land uses; achieving a  
153 more clean, healthy environment; limiting urban sprawl;  
154 providing a range of housing types; protecting wildlife and  
155 natural areas; advancing the efficient use of land and other  
156 resources; creating quality communities of a design that



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157 promotes travel by multiple transportation modes; and enhancing  
158 the prospects for the creation of jobs.

159 9. Identification of specific procedures to facilitate  
160 intergovernmental coordination to address extrajurisdictional  
161 impacts from the detailed specific area plan.

162 10. Within 30 days after receiving an application for  
163 approval of a detailed specific area plan or related development  
164 order, a local government must review the application for  
165 completeness and issue a letter indicating that all required  
166 information is submitted or specifying with particularity any  
167 areas that are deficient. If deficient, the applicant has 30  
168 days to address the deficiencies by submitting the required  
169 additional information. Within 90 days after the initial  
170 submission, if complete, or the supplemental submission,  
171 whichever is later, the local government shall approve, approve  
172 with conditions, or deny the application for the detailed  
173 specific area plan. This time period may be waived in writing by  
174 the applicant. An approval or denial of the application for a  
175 detailed specific area plan or related development order  
176 approval must include written findings supporting the local  
177 government decision.

178  
179 A detailed specific area plan adopted by local development order  
180 pursuant to this section may be based upon a planning period  
181 longer than the generally applicable planning period of the  
182 local comprehensive plan and shall specify the projected  
183 population within the specific planning area during the chosen  
184 planning period. A detailed specific area plan adopted pursuant  
185 to this section is not required to demonstrate need based upon



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186 projected population growth or on any other basis. All lands  
187 identified in the long-term master plan for permanent  
188 preservation shall be subject to a recorded conservation  
189 easement consistent with s. 704.06 before or concurrent with the  
190 effective date of the final detailed specific area plan to be  
191 approved within the planning area. Any such conservation  
192 easement may be based on digital orthophotography prepared by a  
193 surveyor and mapper licensed under chapter 472 and may include a  
194 right of adjustment authorizing the grantor to modify portions  
195 of the area protected by a conservation easement and substitute  
196 other lands in their place if the lands to be substituted  
197 contain no less gross acreage than the lands to be removed; have  
198 equivalent values in the proportion and quality of wetlands,  
199 uplands, and wildlife habitat; and are contiguous to other lands  
200 protected by the conservation easement. Substitution is  
201 accomplished by recording an amendment to the conservation  
202 easement as accepted by and with the consent of the grantee, and  
203 which consent may not be unreasonably withheld.

204  
205 ===== T I T L E A M E N D M E N T =====

206 And the title is amended as follows:

207 Delete lines 2 - 8

208 and insert:

209 An act relating to local government; amending ss.  
210 125.379 and 166.0451, F.S.; revising the criteria that  
211 counties and municipalities must use when evaluating  
212 real property as part of their inventory for disposal  
213 of lands; amending s. 163.31801, F.S.; revising the  
214 minimum requirements for the adoption of impact fees;



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215 requiring that additional information be submitted by  
216 specified entities when submitting their annual  
217 financial reports; providing an exception; amending s.  
218 163.3245, F.S.; specifying the process for the local  
219 government review and approval of detailed specific  
220 area plans or related development orders;