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CS/HB 207

2019 Legislature

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 2 An act relating to impact fees; amending s. 163.31801,
 3 F.S.; revising the minimum requirements for the
 4 adoption of impact fees by specified local
 5 governments; exempting water and sewer connection fees
 6 from the Florida Impact Fee Act; providing an
 7 effective date.

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

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11 Section 1. Section 163.31801, Florida Statutes, is amended
 12 to read:

13 163.31801 Impact fees; short title; intent; minimum
 14 requirements; audits; challenges ~~definitions; ordinances levying~~
 15 ~~impact fees.~~-

16 (1) This section may be cited as the "Florida Impact Fee
 17 Act."

18 (2) The Legislature finds that impact fees are an
 19 important source of revenue for a local government to use in
 20 funding the infrastructure necessitated by new growth. The
 21 Legislature further finds that impact fees are an outgrowth of
 22 the home rule power of a local government to provide certain
 23 services within its jurisdiction. Due to the growth of impact
 24 fee collections and local governments' reliance on impact fees,
 25 it is the intent of the Legislature to ensure that, when a

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26 | county or municipality adopts an impact fee by ordinance or a
 27 | special district adopts an impact fee by resolution, the
 28 | governing authority complies with this section.

29 | (3) At a minimum, an impact fee adopted by ordinance of a
 30 | county or municipality or by resolution of a special district
 31 | must satisfy all of the following conditions, ~~at minimum:~~

32 | (a) The local government must calculate ~~Require that the~~
 33 | ~~ealculation of~~ the impact fee ~~be~~ based on the most recent and
 34 | localized data.

35 | (b) The local government must provide for accounting and
 36 | reporting of impact fee collections and expenditures. If a local
 37 | governmental entity imposes an impact fee to address its
 38 | infrastructure needs, the entity must ~~shall~~ account for the
 39 | revenues and expenditures of such impact fee in a separate
 40 | accounting fund.

41 | (c) The local government must limit administrative charges
 42 | for the collection of impact fees to actual costs.

43 | (d) The local government must provide ~~Require that~~ notice
 44 | ~~be provided~~ no less than 90 days before the effective date of an
 45 | ordinance or resolution imposing a new or increased impact fee.
 46 | A county or municipality is not required to wait 90 days to
 47 | decrease, suspend, or eliminate an impact fee.

48 | (e) The local government may not require payment of the
 49 | impact fee before the date of issuance of the building permit
 50 | for the property that is subject to the fee.

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

55 (g) The impact fee must be reasonably connected to, or
56 have a rational nexus with, the expenditures of the revenues
57 generated and the benefits accruing to the new residential or
58 commercial construction.

59 (h) The local government must specifically earmark
60 revenues generated by the impact fee to acquire, construct, or
61 improve capital facilities to benefit new users.

62 (i) The local government may not use revenues generated by
63 the impact fee to pay existing debt or for previously approved
64 projects unless the expenditure is reasonably connected to, or
65 has a rational nexus with, the increased impact generated by the
66 new residential or commercial construction.

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

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

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76 | evidence that the imposition or amount of the fee meets the
77 | requirements of state legal precedent or this section. The court
78 | may not use a deferential standard.

79 | (6) This section does not apply to water and sewer
80 | connection fees.

81 | Section 2. This act shall take effect July 1, 2019.