Committee/Subcommittee hearing bill: Judiciary Committee

Representative Fischer offered the following:

Amendment

Between lines 231 and 232, insert:

Section 5. 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 its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.

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

(a) The local government must calculate require that the calculation of the impact fee be based on the most recent and localized data.

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

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

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

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

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

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

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

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

(4) The local government must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of exaction, related to public education facilities, including land
dedication, site planning and design, or construction. Any
contribution must be applied to reduce impact fees on a dollar-
for-dollar basis at fair market value. If the local government
adjusts the amount of the impact fees, outstanding and unused
credits must be adjusted accordingly.

(5) If a local government increases its impact fee or
mobility fee rates, then the holder of any impact or mobility
fee credits, whether such credits are granted under s. 163.3180,
s. 380.06, or otherwise, which were in existence prior to the
increase, is entitled to a proportionate increase in the credit
balance.

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

(7) Notwithstanding any provision to the contrary in this
chapter, if a local government does not provide the credits
required in paragraph (4) for a project, the local government
may not impose concurrency mitigation conditions on the project.