



229240

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2020	.	
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The Committee on Finance and Tax (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

163.31801 Impact fees; short title; intent; minimum
requirements; audits; challenges.—

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



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

23 (3) For purposes of this section:

24 (a) The term "infrastructure" means any fixed capital
25 expenditure or fixed capital outlay associated with the
26 construction, reconstruction, or improvement of a public
27 facility, excluding the cost of repairs or maintenance, that
28 have a life expectancy of 5 or more years; any related land
29 acquisition, land improvement, design, engineering, and
30 permitting costs; and all other related construction costs
31 required to bring the public facility into service.

32 (b) The term "public facility" means any facility as
33 defined in s. 163.3164(39) and includes any fire and law
34 enforcement facility. For independent special fire control and
35 rescue districts, the term "infrastructure" also includes new
36 facilities as defined in s. 191.009(4).

37 (4) At a minimum, each county and municipality that adopts,
38 collects, or administers an impact fee by ordinance and each
39 special district that adopts, collects, and administers an



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40 ~~impact fee by resolution an impact fee adopted by ordinance of a~~
41 ~~county or municipality or by resolution of a special district~~
42 ~~must satisfy all of the following conditions:~~

43 (a) Require that the calculation of the impact fee ~~must~~ be
44 based on the most recent and localized data collected within the
45 last 36 months and excludes any cost that does not meet the
46 definition of infrastructure.

47 (b) Account for the revenues and expenditures of such
48 impact fee in a separate impact fee account, if the local
49 governmental entity imposes an impact fee to address its
50 infrastructure needs ~~The local government must provide for~~
51 ~~accounting and reporting of impact fee collections and~~
52 ~~expenditures. If a local governmental entity imposes an impact~~
53 ~~fee to address its infrastructure needs, the entity must account~~
54 ~~for the revenues and expenditures of such impact fee in a~~
55 ~~separate accounting fund.~~

56 (c) Limit administrative charges for the collection of
57 impact fees ~~must be limited~~ to actual costs. The cost per
58 student station established in school impact fee calculations
59 may not exceed that statutory total maximum cost per student
60 station calculated under s. 1013.64(6).

61 (d) ~~The local government must~~ Provide notice not less than
62 90 days before the effective date of an ordinance or resolution
63 imposing a new or increased impact fee. Unless the result is to
64 reduce the total mitigation costs or impact fees imposed on an
65 applicant, new or increased impact fees may not apply to current
66 or pending permit applications submitted before the effective
67 date of an ordinance or resolution imposing a new or increased
68 impact fee. A county or municipality is not required to wait 90



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69 days to decrease, suspend, or eliminate an impact fee.

70 ~~(e) Collection of the impact fee may not be required to~~
71 ~~occur earlier than the date of issuance of the building permit~~
72 ~~for the property that is subject to the fee.~~

73 ~~(f)~~ Ensure that the impact fee ~~is~~ must be proportional and
74 reasonably connected to, or has ~~have~~ a rational nexus with, the
75 need for additional infrastructure ~~capital facilities~~ and the
76 increased impact generated by the new residential or commercial
77 construction.

78 ~~(f)(g)~~ Ensure that the impact fee ~~is~~ must be proportional
79 and reasonably connected to, or has ~~have~~ a rational nexus with,
80 the expenditures of the funds collected and the benefits
81 accruing to the new residential or nonresidential construction.

82 ~~(g)(h)~~ The local government must Specifically earmark funds
83 collected under the impact fee for use in acquiring,
84 constructing, or improving infrastructure ~~capital facilities~~ to
85 benefit new users.

86 (5) Collection of the impact fee may not be required to
87 occur earlier than the date of issuance of the building permit
88 for the property that is subject to the fee.

89 ~~(6)(i)~~ Revenues generated by the impact fee may not be
90 used, in whole or in part, to pay existing debt or for
91 previously approved projects unless the expenditure is
92 reasonably connected to, or has a rational nexus with, the
93 increased impact generated by the new residential or
94 nonresidential construction.

95 ~~(7)(4)~~ The local government must credit against the
96 collection of the impact fee any contribution, whether
97 identified in a proportionate share agreement or other form of



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98 exaction, related to public education facilities, including land
99 dedication, site planning and design, or construction. Any
100 contribution must be applied to reduce any education-based
101 impact fees on a dollar-for-dollar basis at fair market value.

102 (8)~~(5)~~ If a local government increases its impact fee
103 rates, the holder of any impact fee credits, whether such
104 credits are granted under s. 163.3180, s. 380.06, or otherwise,
105 which were in existence before the increase, is entitled to the
106 full benefit of the intensity or density prepaid by the credit
107 balance as of the date it was first established. This subsection
108 shall operate prospectively and not retrospectively.

109 (9)~~(6)~~ Audits of financial statements of local governmental
110 entities and district school boards which are performed by a
111 certified public accountant pursuant to s. 218.39 and submitted
112 to the Auditor General must include an affidavit signed by the
113 chief financial officer of the local governmental entity or
114 district school board stating that the local governmental entity
115 or district school board has complied with this section and the
116 spending period provision in the local ordinance or resolution.

117 (10)~~(7)~~ In any action challenging an impact fee or the
118 government's failure to provide required dollar-for-dollar
119 credits for the payment of impact fees or for contributions made
120 as provided in this chapter s. 163.3180(6)(h)2.b., the
121 government has the burden of proving by a preponderance of the
122 evidence that the imposition or amount of the fee or credit
123 meets the requirements of state legal precedent and this
124 section. The court may not use a deferential standard for the
125 benefit of the government.

126 (11) Impact fee credits are assignable and transferable at



127 any time after establishment for the same type of public
128 facility for which the impact fee applies to any development or
129 parcel located within the geographic boundary of the local
130 government jurisdiction where the impact fee is imposed and
131 situated geographically within an impact fee zone or district
132 that receives a benefit from the improvement, dedication, or
133 payment which generated the credit to be transferred. If a local
134 government elects to use an alternative mobility funding system
135 as provided for in s. 163.3180(5)(i) in lieu of impact fees,
136 transportation credits are assignable and transferable at any
137 time after establishment to any development or parcel within the
138 geographic boundary of the local government jurisdiction where
139 the credit was established so long as the credit is applied to a
140 zone or district which is receiving a benefit from the
141 contribution to the alternative mobility funding system which
142 generated the credit. Under either system described in this
143 subsection, a benefit shall be recognized within any zone or
144 district located within 5 miles of the zone or district where
145 the credits were generated.

146 (12)~~(8)~~ A county, municipality, or special district may
147 provide an exception or waiver for an impact fee for the
148 development or construction of housing that is affordable, as
149 defined in s. 420.9071. If a county, municipality, or special
150 district provides such an exception or waiver, it is not
151 required to use any revenues to offset the impact.

152 (13) To ensure impact fees or equivalent contributions are
153 not imposed more than once for the same impacts, a local
154 government shall provide impact fee credits or other forms of
155 compensation if a contribution is greater in value than the



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156 applicable impact fee. Contributions related to the
157 transportation system are creditable against the combined total
158 of all impact fees, mobility fees, or other forms of exactions
159 charged to mitigate transportation impacts. This subsection
160 applies at the time any contribution is accepted, regardless of
161 when the contributions were agreed upon or committed to.

162 (14) (a) Before enacting an impact fee, each county and
163 municipality must establish an impact fee review and advisory
164 committee.

165 (b)1. The committee shall be composed of the following
166 members appointed by the county commission or the governing body
167 of the municipality, as applicable:

168 a. Two members who are employed by the county or
169 municipality. If a school impact fee is assessed or under
170 consideration, one of the two members shall be employed by the
171 school district.

172 b. Two members who represent the business community who are
173 not elected officials or employees of the local government
174 jurisdiction.

175 c. Two members who are local licensed general or
176 residential contractors, who are not elected officials or
177 employees of the local government jurisdiction.

178 d. One at-large member who is not an elected official or
179 employee of the local government jurisdiction.

180 2. The county commission or the governing body of the
181 municipality, as applicable, may appoint three alternate
182 members, consisting of one representative from each of the
183 categories described in sub-subparagraphs 1.a., b., and c., who
184 shall serve in the absence of their respective member.



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185 3. Members and alternate members must be qualified electors
186 of the county or municipality, as applicable.

187 4. Members and alternate members shall serve at the
188 pleasure of the local government and shall serve until they are
189 replaced.

190 (c)1. Each committee meeting must be duly noticed and open
191 to the public as required by s. 286.011.

192 2. A meeting may not be held unless a quorum is present. A
193 quorum consists of a majority of members of the committee, but
194 an alternate member shall count toward the quorum when a regular
195 member is absent.

196 3. A member who fails to attend three consecutive meetings
197 or fails to attend two-thirds of the meetings within a calendar
198 year automatically forfeits the appointment, and the county
199 commissioners or members of the governing body of the
200 municipality, as applicable, shall promptly fill the vacancy.

201 4. Members of the committee shall serve without
202 compensation.

203 5. A small county as defined in s. 110.1228(1)(c) or a
204 small municipality as defined in s. 110.1228(1)(b) which
205 assesses an impact fee may utilize an existing committee that
206 contains representation from the building or development
207 community and reviews building or development in lieu of the
208 impact fee review committee provided herein.

209 (d) The committee shall meet as needed to examine impact
210 fee policies and provide recommendations on impact fee
211 decisions, including, but not limited to, reviewing all of the
212 following:

213 1. The selection of an impact fee consultant.



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214 2. Impact fee studies and study recommendations.

215 3. Policies and methodologies for determining impact fees
216 on new developments and new construction.

217 4. Changes to impact fee calculations.

218 5. After each impact fee is adopted by the local government
219 and at least before a county or municipality adopts its budget,
220 the proposed budget for expending impact fees to ensure the fee
221 is used in accordance with this section and other pertinent
222 sections of state law.

223 ~~(15)-(9)~~ This section does not apply to water and sewer
224 connection fees.

225 Section 2. This act shall take effect July 1, 2020.

226
227 ===== T I T L E A M E N D M E N T =====

228 And the title is amended as follows:

229 Delete everything before the enacting clause
230 and insert:

231 A bill to be entitled
232 An act relating to impact fees; amending s. 163.31801,
233 F.S.; revising legislative findings; defining terms;
234 revising requirements for counties and municipalities
235 that adopt, collect, or administer an impact fee by
236 ordinance and for special districts that adopt,
237 collect, and administer an impact fee by resolution;
238 providing minimum requirements for such counties,
239 municipalities, and special districts; prohibiting new
240 or increased impact fees from applying to certain
241 applications; providing an exception; providing
242 timeframes for the collection of impact fees by local



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243 governments; providing that impact fee credits are
244 assignable and transferable under certain conditions;
245 providing that transportation credits, used in lieu of
246 impact fees, are assignable and transferable under
247 certain conditions; requiring local governments to
248 provide impact fee credits or other forms of
249 compensation under certain conditions; providing
250 applicability; requiring certain counties and
251 municipalities to establish impact fee review and
252 advisory committees; providing for membership;
253 providing procedures for holding meetings and
254 establishing quorums; providing committee duties;
255 providing an effective date.