

By the Committees on Appropriations; Finance and Tax; and
Community Affairs; and Senator Gruters

576-04531-20

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1 A bill to be entitled
2 An act relating to impact fees; amending s. 163.31801,
3 F.S.; prohibiting new or increased impact fees from
4 applying to certain applications; providing an
5 exception; providing applicability; providing a
6 calculation on which contributions to mitigate impacts
7 not otherwise funded by impact fees must be based;
8 prohibiting such contributions from being collected
9 before the issuance of building permits; providing
10 that impact fee credits are assignable and
11 transferable under certain conditions; providing an
12 effective date.

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

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

18 163.31801 Impact fees; short title; intent; minimum
19 requirements; audits; challenges.—

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

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

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30 adopts an impact fee by ordinance or a special district adopts
31 an impact fee by resolution, the governing authority complies
32 with this section.

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

36 (a) The calculation of the impact fee must be based on the
37 most recent and localized data.

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

44 (c) Administrative charges for the collection of impact
45 fees must be limited to actual costs.

46 (d) The local government must provide notice not less than
47 90 days before the effective date of an ordinance or resolution
48 imposing a new or increased impact fee. A county or municipality
49 is not required to wait 90 days to decrease, suspend, or
50 eliminate an impact fee. Unless the result is to reduce the
51 total mitigation costs or impact fees imposed on an applicant,
52 new or increased impact fees may not apply to current or pending
53 permit applications submitted before the effective date of an
54 ordinance or resolution imposing a new or increased impact fee.

55 (e) Collection of the impact fee may not be required to
56 occur earlier than the date of issuance of the building permit
57 for the property that is subject to the fee.

58 (f) The impact fee must be proportional and reasonably

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59 connected to, or have a rational nexus with, the need for
60 additional capital facilities and the increased impact generated
61 by the new residential or commercial construction.

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

66 (h) The local government must specifically earmark funds
67 collected under the impact fee for use in acquiring,
68 constructing, or improving capital facilities to benefit new
69 users.

70 (i) Revenues generated by the impact fee may not be used,
71 in whole or in part, to pay existing debt or for previously
72 approved projects unless the expenditure is reasonably connected
73 to, or has a rational nexus with, the increased impact generated
74 by the new residential or nonresidential construction.

75 (4) Notwithstanding any charter provision, comprehensive
76 plan policy, ordinance, or resolution, the local government must
77 credit against the collection of the impact fee any
78 contribution, whether identified in a proportionate share
79 agreement or other form of exaction, related to public education
80 facilities, including land dedication, site planning and design,
81 or construction. Any contribution must be applied to reduce any
82 education-based impact fees on a dollar-for-dollar basis at fair
83 market value. This subsection does not apply to a local
84 government governed by a charter that was adopted and
85 implemented before December 31, 2006, which charter language
86 contains provisions for providing school capacity, so long as
87 the funds collected pursuant to the charter provision are used

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88 to mitigate impacts not otherwise funded by impact fees or other
89 local exactions relating to public education facilities, and the
90 funds are applied in a manner that is proportional and
91 reasonably connected to, or has a rational nexus with, the need
92 for additional capital facilities, the need for which is
93 generated by the new residential development. Contributions to
94 mitigate impacts not otherwise funded by impact fees must be
95 based on the difference between the cost per student station as
96 determined by the educational facilities impact fee study on
97 which the then-current education-based impact fee is based,
98 subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per
99 student station funded by the education-based impact fee. Such
100 contributions may not be collected before the issuance of a
101 building permit.

102 (5) If a local government increases its impact fee rates,
103 the holder of any impact fee credits, whether such credits are
104 granted under s. 163.3180, s. 380.06, or otherwise, which were
105 in existence before the increase, is entitled to the full
106 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 (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.

116 (7) In any action challenging an impact fee or the

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

124 (8) Impact fee credits are assignable and transferable at
125 any time after establishment from one development or parcel to
126 any other that is within the same impact fee zone or impact fee
127 district or that is within an adjoining impact fee zone or
128 impact fee district within the same local government
129 jurisdiction and receives benefits from the improvement or
130 contribution that generated the credits.

131 (9)~~(8)~~ A county, municipality, or special district may
132 provide an exception or waiver for an impact fee for the
133 development or construction of housing that is affordable, as
134 defined in s. 420.9071. If a county, municipality, or special
135 district provides such an exception or waiver, it is not
136 required to use any revenues to offset the impact.

137 (10)~~(9)~~ This section does not apply to water and sewer
138 connection fees.

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