

1                                   A bill to be entitled  
 2           An act relating to impact fees; amending s. 163.3164,  
 3           F.S.; providing definitions; amending s. 163.31801,  
 4           F.S.; providing definitions; revising the conditions  
 5           that counties, municipalities, and special districts  
 6           must satisfy before enacting an impact fee by  
 7           ordinance or passing an impact fee by resolution;  
 8           providing timeframes for the collection of impact fees  
 9           by local governments; requiring specified entities to  
 10          file an affidavit attesting that impact fees were  
 11          appropriately collected and expended; specifying the  
 12          logistics for posting the affidavit; providing that  
 13          impact fee credits are assignable and transferrable  
 14          under certain conditions; requiring certain counties  
 15          and municipalities to establish impact fee review  
 16          committees; providing for membership; providing  
 17          procedures for holding meetings and establishing  
 18          quorums; providing committee duties; amending s.  
 19          212.055, F.S.; correcting a cross-reference; providing  
 20          an effective date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

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 24           Section 1. Subsections (32) through (52) of section  
 25   163.3164, Florida Statutes, are renumbered as subsections (34)

26 through (54), respectively, and new subsections (32) and (33)  
27 are added to that section, to read:

28 163.3164 Community Planning Act; definitions.—As used in  
29 this act:

30 (32) "Mobility fee" means a local government fee schedule  
31 established by ordinance and based on the projects included in  
32 the adopted mobility plan. The fee must be designed to pay the  
33 costs of those multimodal transportation projects identified in  
34 a mobility plan that are attributable to the per person travel  
35 demand created by new development and redevelopment. The fee  
36 must include measurable standards for per person mobility and  
37 quantifiable per person capacity for the projects included in  
38 the adopted mobility plan. The mobility fee must be a one-time  
39 payment by the development or redevelopment project and cannot  
40 use recurring multimodal transportation costs in the formula.  
41 The payment of the mobility fee from the development or  
42 redevelopment project may be used as a contribution to the  
43 operating expenses for autonomous vehicle shuttles or shared  
44 mobility programs and services identified in the mobility plan  
45 that results in an increase in per person capacity to offset the  
46 projected increase in per person travel demand from such  
47 projects.

48 (33) "Mobility plan" means an integrated land use and  
49 transportation plan adopted into a local government  
50 comprehensive plan that promotes compact, mixed-use, and

51 interconnected development served by a multimodal transportation  
52 system. The plan must include measurable standards for the  
53 movement of people and for quantifying the per person capacity  
54 of multimodal transportation projects included in the plan. The  
55 projects shall include improvements, programs, and services to  
56 encourage the safe and efficient movement of people through  
57 means such as walking, bicycling, scooting, riding transit,  
58 autonomous transit shuttles, driving, and using shared mobility  
59 and new mobility technologies. The plan shall serve as the basis  
60 for an adopted transportation mitigation improvement fee to fund  
61 projects for the movement of people through viable multimodal  
62 transportation options without sole reliance upon a motor  
63 vehicle for personal mobility.

64 Section 2. Section 163.31801, Florida Statutes, is amended  
65 to read:

66 163.31801 Impact fees; short title; intent; minimum  
67 requirements; audits; challenges.—

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

70 (2) The Legislature finds that impact fees are an  
71 important source of revenue for a local government to use in  
72 funding the infrastructure necessitated by new growth. The  
73 Legislature further finds that impact fees are an outgrowth of  
74 the home rule power of a local government to provide certain  
75 services within its jurisdiction. Due to the growth of impact

76 fee collections and local governments' reliance on impact fees,  
77 it is the intent of the Legislature to ensure that, when a  
78 county or municipality adopts, collects, and administers an  
79 impact fee by ordinance or a special district adopts, collects,  
80 and administers an impact fee by resolution, the governing  
81 authority complies with this section to ensure a consistent  
82 statewide process.

83 (3) For purposes of this section:

84 (a) The term "infrastructure" means any fixed capital  
85 expenditure or fixed capital outlay associated with the  
86 construction, reconstruction, or improvement of a public  
87 facility, excluding the cost of repairs or maintenance, that has  
88 a life expectancy of 5 or more years; any related land  
89 acquisition, land improvement, design, engineering, and  
90 permitting costs; and all other related construction costs  
91 required to bring the public facility into service. For  
92 independent special fire control districts, the term  
93 "infrastructure" also includes "new facilities" as defined in s.  
94 191.009(4).

95 (b) The term "public facility" means any facility as  
96 defined in s. 163.3164(41), and includes public libraries,  
97 parks, emergency medical services, and any fire and law  
98 enforcement facility.

99 (4) At a minimum, each county and municipality that  
100 adopts, collects, and administers an impact fee by ordinance and

101 each special district that adopts, collects, and administers an  
102 impact fee by resolution must ~~an impact fee adopted by ordinance~~  
103 ~~of a county or municipality or by resolution of a special~~  
104 ~~district must satisfy all of the following conditions:~~

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

109 (b) Account for the revenues and expenditures of such  
110 impact fee in a separate impact fee account, if the local  
111 governmental entity imposes an impact fee to address its  
112 infrastructure needs. ~~The local government must provide for~~  
113 ~~accounting and reporting of impact fee collections and~~  
114 ~~expenditures. If a local governmental entity imposes an impact~~  
115 ~~fee to address its infrastructure needs, the entity must account~~  
116 ~~for the revenues and expenditures of such impact fee in a~~  
117 ~~separate accounting fund.~~

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

123 (d) ~~The local government must~~ Provide notice not less than  
124 90 days before the effective date of an ordinance or resolution  
125 imposing a new or increased impact fee. Unless the result is to

126 reduce the total mitigation costs or impact fees imposed on an  
127 applicant, new or increased impact fees may not apply to current  
128 or pending permit applications submitted before the effective  
129 date of an ordinance or resolution imposing a new or increased  
130 impact fee. A county or municipality is not required to wait 90  
131 days to decrease, suspend, or eliminate an impact fee.

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

135 (e)(f) Ensure that the impact fee is ~~must be~~ proportional  
136 and reasonably connected to, or has ~~have~~ a rational nexus with,  
137 the need for additional infrastructure ~~capital facilities~~ and  
138 the increased impact generated by the new residential or  
139 commercial construction.

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

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

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

151        ~~(6)(i)~~ Revenues generated by the impact fee may not be  
152 used, in whole or in part, to pay existing debt or for  
153 previously approved projects unless the expenditure is  
154 reasonably connected to, or has a rational nexus with, the  
155 increased impact generated by the new residential or  
156 nonresidential construction.

157        ~~(7)(4)~~ The local government must credit against the  
158 collection of the impact fee any contribution, whether  
159 identified in a proportionate share agreement or other form of  
160 exaction, related to public education facilities, including land  
161 dedication, site planning and design, or construction. Any  
162 contribution must be applied to reduce any education-based  
163 impact fees on a dollar-for-dollar basis at fair market value.

164        ~~(8)(5)~~ If a local government increases its impact fee  
165 rates, the holder of any impact fee credits, whether such  
166 credits are granted under s. 163.3180, s. 380.06, or otherwise,  
167 which were in existence before the increase, is entitled to the  
168 full benefit of the intensity or density prepaid by the credit  
169 balance as of the date it was first established. This subsection  
170 shall operate prospectively and not retrospectively.

171        ~~(9)(a)(6)~~ No later than 9 months from the end of the  
172 fiscal year of the local governmental entity or the district  
173 school board, the chief financial officer of the local  
174 governmental entity or the district school board must file an  
175 affidavit with the governing body for the applicable local

176 governmental entity attesting under penalty of perjury that all  
 177 impact fees were collected and expended by the local  
 178 governmental entity, or were collected and expended on behalf of  
 179 the district school board, in full compliance with this section.

180 1. The affidavit shall also attest that the local  
 181 governmental entity or district school board has complied with  
 182 this section and the spending period provision in the local  
 183 ordinance or resolution, and that funds expended from each  
 184 separate impact fee account were used only to acquire,  
 185 construct, or improve public facilities to meet the specific  
 186 infrastructure need for which the impact fee account was  
 187 created.

188 2. The affidavit shall be posted on the website for the  
 189 local governmental entity or the district school board, as  
 190 applicable, for at least 12 months from the date of its filing  
 191 with the governing body.

192 (b) Audits of financial statements of local governmental  
 193 entities and district school boards which are performed by a  
 194 certified public accountant pursuant to s. 218.39 and submitted  
 195 to the Auditor General must include the ~~an~~ affidavit signed by  
 196 the chief financial officer required in paragraph (a) ~~of the~~  
 197 local governmental entity or district school board stating that  
 198 the local governmental entity or district school board has  
 199 complied with this section.

200 (10)-(7)- In any action challenging an impact fee or the



201 government's failure to provide required dollar-for-dollar  
202 credits for the payment of impact fees or for contributions made  
203 as provided in this chapter s. 163.3180(6)(h)2.b., the  
204 government has the burden of proving by a preponderance of the  
205 evidence that the imposition or amount of the fee or credit  
206 meets the requirements of state legal precedent and this  
207 section. The court may not use a deferential standard for the  
208 benefit of the government.

209 (11) Impact fee credits are assignable and transferable at  
210 any time after establishment from one development or parcel to  
211 any other development or parcel within the jurisdiction of the  
212 local governmental entity that imposes the impact fee for the  
213 same type of public facility for which the impact fee applies.

214 (12)~~(8)~~ A county, municipality, or special district may  
215 provide an exception or waiver for an impact fee for the  
216 development or construction of housing that is affordable, as  
217 defined in s. 420.9071. If a county, municipality, or special  
218 district provides such an exception or waiver, it is not  
219 required to use any revenues to offset the impact.

220 (13) To ensure impact fees or equivalent contributions are  
221 not imposed more than once for the same impacts, a local  
222 government must provide impact fee credits or other forms of  
223 compensation if a contribution is greater in value than the  
224 applicable impact fee. Contributions related to the  
225 transportation system are creditable against the combined total

226 of all impact fees, mobility fees, or other forms of exactions  
227 charged to mitigate transportation impacts. This subsection  
228 applies at the time any contribution is accepted, regardless of  
229 when the agreement or commitment of the contribution was made.

230 (14) (a) Each local governmental entity that assesses  
231 impact fees must establish an impact fee review committee.

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

235 a. Two members who represent the business community who  
236 are neither elected officials nor employees of the local  
237 governmental entity.

238 b. Two members who are local licensed general or  
239 residential contractors who are neither elected officials nor  
240 employees of the local governmental entity.

241 c. One at-large member who is neither an elected official  
242 nor an employee of the local governmental entity.

243 2. The county commission or the governing body of the  
244 municipality, as applicable, shall appoint three alternate  
245 members, consisting of one representative from each of the  
246 categories described in subparagraph 1. who shall serve in the  
247 absence of the respective member.

248 3. Members and alternate members must be qualified  
249 electors of the county or municipality, as applicable, for at  
250 least 2 years before their appointment.

251 4. Committee members shall serve at the pleasure of the  
252 local governmental entity and shall serve until they are  
253 replaced.

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

256 2. A meeting may not be held unless a quorum is present. A  
257 quorum consists of a majority of members of the committee, but  
258 an alternate member shall count toward the quorum when a regular  
259 member is absent.

260 3. A member who fails to attend three consecutive meetings  
261 or fails to attend two-thirds of the meetings within a calendar  
262 year automatically forfeits the appointment, and the county  
263 commissioners or members of the governing body of the  
264 municipality, as applicable, shall promptly fill the vacancy.

265 4. Members of the committee shall serve without  
266 compensation.

267 (d) The committee shall meet as needed to:

268 1. Establish a policy and methodology for determining  
269 impact fees on new developments.

270 2. Review the proposed impact fee on each new development  
271 before the fee becomes final.

272 3. Submit recommendations made by the impact fee committee  
273 to the county commission or governing body of the municipality,  
274 as applicable. The recommendations must be presented at the  
275 meeting when the impact fee on the new development will be

276 discussed and voted upon.

277 4. After each impact fee is adopted by the local  
278 government, review all proposed expenditures of that impact fee  
279 to ensure the fee is used for capital projects within the  
280 jurisdiction.

281 (e) In lieu of establishing an impact fee review committee  
282 as required in paragraph (a), a local governmental entity that  
283 assesses an impact fee may use an existing committee which  
284 contains representation from the building or development  
285 community and reviews building or development projects.

286 (15)-(9) This section does not apply to water and sewer  
287 connection fees.

288 Section 3. Paragraph (d) of subsection (2) of section  
289 212.055, Florida Statutes, is amended to read:

290 212.055 Discretionary sales surtaxes; legislative intent;  
291 authorization and use of proceeds.—It is the legislative intent  
292 that any authorization for imposition of a discretionary sales  
293 surtax shall be published in the Florida Statutes as a  
294 subsection of this section, irrespective of the duration of the  
295 levy. Each enactment shall specify the types of counties  
296 authorized to levy; the rate or rates which may be imposed; the  
297 maximum length of time the surtax may be imposed, if any; the  
298 procedure which must be followed to secure voter approval, if  
299 required; the purpose for which the proceeds may be expended;  
300 and such other requirements as the Legislature may provide.

301 Taxable transactions and administrative procedures shall be as  
 302 provided in s. 212.054.

303 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

304 (d) The proceeds of the surtax authorized by this  
 305 subsection and any accrued interest shall be expended by the  
 306 school district, within the county and municipalities within the  
 307 county, or, in the case of a negotiated joint county agreement,  
 308 within another county, to finance, plan, and construct  
 309 infrastructure; to acquire any interest in land for public  
 310 recreation, conservation, or protection of natural resources or  
 311 to prevent or satisfy private property rights claims resulting  
 312 from limitations imposed by the designation of an area of  
 313 critical state concern; to provide loans, grants, or rebates to  
 314 residential or commercial property owners who make energy  
 315 efficiency improvements to their residential or commercial  
 316 property, if a local government ordinance authorizing such use  
 317 is approved by referendum; or to finance the closure of county-  
 318 owned or municipally owned solid waste landfills that have been  
 319 closed or are required to be closed by order of the Department  
 320 of Environmental Protection. Any use of the proceeds or interest  
 321 for purposes of landfill closure before July 1, 1993, is  
 322 ratified. The proceeds and any interest may not be used for the  
 323 operational expenses of infrastructure, except that a county  
 324 that has a population of fewer than 75,000 and that is required  
 325 to close a landfill may use the proceeds or interest for long-

326 term maintenance costs associated with landfill closure.  
327 Counties, as defined in s. 125.011, and charter counties may, in  
328 addition, use the proceeds or interest to retire or service  
329 indebtedness incurred for bonds issued before July 1, 1987, for  
330 infrastructure purposes, and for bonds subsequently issued to  
331 refund such bonds. Any use of the proceeds or interest for  
332 purposes of retiring or servicing indebtedness incurred for  
333 refunding bonds before July 1, 1999, is ratified.

334 1. For the purposes of this paragraph, the term  
335 "infrastructure" means:

336 a. Any fixed capital expenditure or fixed capital outlay  
337 associated with the construction, reconstruction, or improvement  
338 of public facilities that have a life expectancy of 5 or more  
339 years, any related land acquisition, land improvement, design,  
340 and engineering costs, and all other professional and related  
341 costs required to bring the public facilities into service. For  
342 purposes of this sub-subparagraph, the term "public facilities"  
343 means facilities as defined in s. 163.3164(41) ~~s. 163.3164(39)~~,  
344 s. 163.3221(13), or s. 189.012(5), and includes facilities that  
345 are necessary to carry out governmental purposes, including, but  
346 not limited to, fire stations, general governmental office  
347 buildings, and animal shelters, regardless of whether the  
348 facilities are owned by the local taxing authority or another  
349 governmental entity.

350 b. A fire department vehicle, an emergency medical service

351 vehicle, a sheriff's office vehicle, a police department  
352 vehicle, or any other vehicle, and the equipment necessary to  
353 outfit the vehicle for its official use or equipment that has a  
354 life expectancy of at least 5 years.

355 c. Any expenditure for the construction, lease, or  
356 maintenance of, or provision of utilities or security for,  
357 facilities, as defined in s. 29.008.

358 d. Any fixed capital expenditure or fixed capital outlay  
359 associated with the improvement of private facilities that have  
360 a life expectancy of 5 or more years and that the owner agrees  
361 to make available for use on a temporary basis as needed by a  
362 local government as a public emergency shelter or a staging area  
363 for emergency response equipment during an emergency officially  
364 declared by the state or by the local government under s.  
365 252.38. Such improvements are limited to those necessary to  
366 comply with current standards for public emergency evacuation  
367 shelters. The owner must enter into a written contract with the  
368 local government providing the improvement funding to make the  
369 private facility available to the public for purposes of  
370 emergency shelter at no cost to the local government for a  
371 minimum of 10 years after completion of the improvement, with  
372 the provision that the obligation will transfer to any  
373 subsequent owner until the end of the minimum period.

374 e. Any land acquisition expenditure for a residential  
375 housing project in which at least 30 percent of the units are

376 affordable to individuals or families whose total annual  
377 household income does not exceed 120 percent of the area median  
378 income adjusted for household size, if the land is owned by a  
379 local government or by a special district that enters into a  
380 written agreement with the local government to provide such  
381 housing. The local government or special district may enter into  
382 a ground lease with a public or private person or entity for  
383 nominal or other consideration for the construction of the  
384 residential housing project on land acquired pursuant to this  
385 sub-subparagraph.

386 f. Instructional technology used solely in a school  
387 district's classrooms. As used in this sub-subparagraph, the  
388 term "instructional technology" means an interactive device that  
389 assists a teacher in instructing a class or a group of students  
390 and includes the necessary hardware and software to operate the  
391 interactive device. The term also includes support systems in  
392 which an interactive device may mount and is not required to be  
393 affixed to the facilities.

394 2. For the purposes of this paragraph, the term "energy  
395 efficiency improvement" means any energy conservation and  
396 efficiency improvement that reduces consumption through  
397 conservation or a more efficient use of electricity, natural  
398 gas, propane, or other forms of energy on the property,  
399 including, but not limited to, air sealing; installation of  
400 insulation; installation of energy-efficient heating, cooling,



401 or ventilation systems; installation of solar panels; building  
402 modifications to increase the use of daylight or shade;  
403 replacement of windows; installation of energy controls or  
404 energy recovery systems; installation of electric vehicle  
405 charging equipment; installation of systems for natural gas fuel  
406 as defined in s. 206.9951; and installation of efficient  
407 lighting equipment.

408         3. Notwithstanding any other provision of this subsection,  
409 a local government infrastructure surtax imposed or extended  
410 after July 1, 1998, may allocate up to 15 percent of the surtax  
411 proceeds for deposit into a trust fund within the county's  
412 accounts created for the purpose of funding economic development  
413 projects having a general public purpose of improving local  
414 economies, including the funding of operational costs and  
415 incentives related to economic development. The ballot statement  
416 must indicate the intention to make an allocation under the  
417 authority of this subparagraph.

418         Section 4. This act shall take effect July 1, 2020.