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LEGISLATIVE ACTION

Senate

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House

The Committee on Community Affairs (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (3) through (11) of section 163.31801, Florida Statutes, are redesignated as subsections (4) through (12), respectively, a new subsection (3) is added to that section, and present subsections (3) through (6) and (11) of that section are amended, to read:

163.31801 Impact fees; short title; intent; minimum



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11 requirements; audits; challenges.-

12 (3) For purposes of this section, the term:

13 (a) "Infrastructure" means a fixed capital expenditure or
14 fixed capital outlay, excluding the cost of repairs or
15 maintenance, associated with the construction, reconstruction,
16 or improvement of public facilities that have a life expectancy
17 of at least 5 years; related land acquisition, land improvement,
18 design, engineering, and permitting costs; and other related
19 construction costs required to bring the public facility into
20 service. For independent special fire control and rescue
21 districts, the term "infrastructure" includes new facilities as
22 defined in s. 191.009(4).

23 (b) "Public facilities" has the same meaning as in s.
24 163.3164 and includes emergency medical, fire, and law
25 enforcement facilities.

26 (4)~~(3)~~ At a minimum, each local government that adopts and
27 collects an impact fee by ordinance and each special district
28 that adopts, collects, and administers an impact fee by
29 resolution must ~~an impact fee adopted by ordinance of a county~~
30 ~~or municipality or by resolution of a special district must~~
31 satisfy all of the following conditions:

32 (a) ~~Ensure that~~ the calculation of the impact fee ~~is~~ must
33 ~~be~~ based on the most recent and localized data.

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



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40 (c) Limit administrative charges for the collection of
41 impact fees ~~must be limited~~ to actual costs.

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

52 (e) Ensure that collection of the impact fee may not be
53 required to occur earlier than the date of issuance of the
54 building permit for the property that is subject to the fee.

55 (f) Ensure that the impact fee is ~~must be~~ proportional and
56 reasonably connected to, or has ~~have~~ a rational nexus with, the
57 need for additional capital facilities and the increased impact
58 generated by the new residential or commercial construction.

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

63 (h) ~~The local government must~~ Specifically earmark funds
64 collected under the impact fee for use in acquiring,
65 constructing, or improving capital facilities to benefit new
66 users.

67 (i) Ensure that revenues generated by the impact fee are
68 ~~may not be~~ used, in whole or in part, to pay existing debt or



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69 for previously approved projects unless the expenditure is
70 reasonably connected to, or has a rational nexus with, the
71 increased impact generated by the new residential or
72 nonresidential construction.

73 (5)(4) Notwithstanding any charter provision, comprehensive
74 plan policy, ordinance, development order, development permit,
75 or resolution, the local government or special district must
76 credit against the collection of the impact fee any
77 contribution, whether identified in a proportionate share
78 agreement or other form of exaction, related to public education
79 facilities, including land dedication, site planning and design,
80 or construction. Any contribution must be applied to reduce any
81 education-based impact fees on a dollar-for-dollar basis at fair
82 market value.

83 (6)(5) A local government, school district, or special
84 district may increase an impact fee only as provided in this
85 subsection.

86 (a) An impact fee may be increased only pursuant to a plan
87 for the imposition, collection, and use of the increased impact
88 fees which complies with this section.

89 (b) An increase to a current impact fee rate of not more
90 than 25 percent of the current rate must be implemented in two
91 equal annual increments beginning with the date on which the
92 increased fee is adopted.

93 (c) An increase to a current impact fee rate which exceeds
94 25 percent but is not more than 50 percent of the current rate
95 must be implemented in four equal installments beginning with
96 the date the increased fee is adopted.

97 (d) An impact fee increase may not exceed 50 percent of the



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98 current impact fee rate.

99 (e) An impact fee may not be increased more than once every
100 4 years.

101 (f) An impact fee may not be increased retroactively for a
102 previous or current fiscal or calendar year.

103 (g) Notwithstanding paragraphs (b), (c), (d), or (e), a
104 local government, school district, or special district may
105 increase an impact fee rate by establishing the need for such
106 increase in full compliance with the requirements of subsection
107 (4).

108 (h) If a ~~local government~~ an impact fee is increased
109 ~~increases its impact fee rates,~~ the holder of any impact fee
110 credits, whether such credits are granted under s. 163.3180, s.
111 380.06, or otherwise, which were in existence before the
112 increase, is entitled to the full benefit of the intensity or
113 density prepaid by the credit balance as of the date it was
114 first established.

115 (i) This subsection shall operate retroactively to January
116 1, 2021 ~~prospectively and not retrospectively.~~

117 (7)~~(6)~~ A local government, school district, or special
118 district must submit with its annual financial report under s.
119 218.32 or its financial audit report under s. 218.39 an
120 affidavit signed by its chief financial officer attesting that
121 all impact fees were collected and expended by the local
122 government, school district, or special district, or were
123 collected and expended on its behalf, in full compliance with
124 this section. The affidavit must also attest that the local
125 government, school district, or special district complied with
126 the spending period provision in the local ordinance or



127 resolution, and that funds expended from each impact fee account
128 were used only to acquire, construct, or improve specific
129 infrastructure needs as defined in this section ~~Audits of~~
130 ~~financial statements of local governmental entities and district~~
131 ~~school boards which are performed by a certified public~~
132 ~~accountant pursuant to s. 218.39 and submitted to the Auditor~~
133 ~~General must include an affidavit signed by the chief financial~~
134 ~~officer of the local governmental entity or district school~~
135 ~~board stating that the local governmental entity or district~~
136 ~~school board has complied with this section.~~

137 (12) ~~(11)~~ In addition to the items that must be reported in
138 the annual financial reports under s. 218.32, a local
139 government, school district ~~county, municipality, or special~~
140 ~~district~~ must report all of the following information ~~data~~ on
141 all impact fees charged:

142 (a) The specific purpose of the impact fee, including the
143 specific infrastructure needs to be met, including, but not
144 limited to, transportation, parks, water, sewer, and schools.

145 (b) The impact fee schedule policy describing the method of
146 calculating impact fees, such as flat fees, tiered scales based
147 on number of bedrooms, or tiered scales based on square footage.

148 (c) The amount assessed for each purpose and for each type
149 of dwelling.

150 (d) The total amount of impact fees charged by type of
151 dwelling.

152 (e) Each exception and waiver provided for construction or
153 development of housing that is affordable.

154 Section 2. This act shall take effect upon becoming a law.

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156 ===== T I T L E A M E N D M E N T =====

157 And the title is amended as follows:

158 Delete everything before the enacting clause

159 and insert:

160 A bill to be entitled

161 An act relating to impact fees; amending s. 163.31801,
162 F.S.; defining the terms "infrastructure" and "public
163 facilities"; requiring local governments and special
164 districts to credit against the collection of impact
165 fees any contribution related to public facilities;
166 providing limitations on impact fee increases;
167 providing for retroactive operation; requiring
168 specified entities to submit an affidavit attesting
169 that impact fees were appropriately collected and
170 expended; requiring school districts to report
171 specified information regarding impact fees; providing
172 an effective date.