

By Senator Gruters

23-01020-21

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1 A bill to be entitled
2 An act relating to impact fees; amending s. 163.31801,
3 F.S.; defining the terms "infrastructure" and "public
4 facilities"; specifying instances when a local
5 government or special district may collect an impact
6 fee; requiring local governments and special districts
7 to credit against the collection of impact fees any
8 contribution related to public facilities; providing
9 annual limitations on impact fee rate increases;
10 requiring school districts to report specified items
11 regarding impact fees; requiring specified entities to
12 file an affidavit attesting that impact fees were
13 appropriately collected and expended; providing an
14 effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Present subsections (3) through (11) of section
19 163.31801, Florida Statutes, are redesignated as subsections (4)
20 through (12), respectively, a new subsection (3) and subsection
21 (13) are added to that section, and present subsections (3),
22 (4), (5), and (11) are amended, to read:

23 163.31801 Impact fees; short title; intent; minimum
24 requirements; audits; challenges.—

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

26 (a) "Infrastructure" means a fixed capital expenditure or
27 fixed capital outlay, excluding the cost of repairs or
28 maintenance, associated with the construction, reconstruction,
29 or improvement of public facilities that have a life expectancy

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30 of at least 5 years; related land acquisition, land improvement,
31 design, engineering, and permitting costs; and other related
32 construction costs required to bring the public facility into
33 service. For independent special fire control and rescue
34 districts, the term "infrastructure" includes new facilities as
35 defined in s. 191.009(4).

36 (b) "Public facilities" has the same meaning as in s.
37 163.3164 and includes emergency medical, fire, and law
38 enforcement facilities.

39 (4)(3) At a minimum, each local government that adopts and
40 collects an impact fee by ordinance and each special district
41 that adopts, collects, and administers an impact fee by
42 resolution must an impact fee adopted by ordinance of a county
43 or municipality or by resolution of a special district must
44 satisfy all of the following conditions:

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

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

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

55 (d) The local government must Provide notice at least ~~not~~
56 ~~less than~~ 90 days before the effective date of an ordinance or
57 resolution imposing a new or increased impact fee. A local
58 government ~~county or municipality~~ is not required to wait 90

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59 days to decrease, suspend, or eliminate an impact fee. Unless
60 the result is to reduce the total mitigation costs or impact
61 fees imposed on an applicant, new or increased impact fees may
62 not apply to current or pending permit applications submitted
63 before the effective date of ~~an ordinance or resolution imposing~~
64 a new or increased impact fee.

65 (e) Ensure that collection of the impact fee may not be
66 required to occur earlier than the date of issuance of the
67 building permit for the property that is subject to the fee. A
68 local government may collect the impact fee only if it has
69 planned or funded capital improvements within the applicable
70 impact fee assessment district at the time that the fee must be
71 paid.

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

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

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

84 (i) Ensure that revenues generated by the impact fee are
85 ~~may not be~~ used, in whole or in part, to pay existing debt or
86 for previously approved projects unless the expenditure is
87 reasonably connected to, or has a rational nexus with, the

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88 increased impact generated by the new residential or
89 nonresidential construction.

90 (5)~~(4)~~ Notwithstanding any charter provision, comprehensive
91 plan policy, ordinance, development order, development permit,
92 or resolution, the local government or special district must
93 credit against the collection of the impact fee any
94 contribution, whether identified in a proportionate share
95 agreement or other form of exaction, related to public ~~education~~
96 facilities, including land dedication, site planning and design,
97 or construction. Any contribution must be applied to reduce any
98 ~~education-based~~ impact fees on a dollar-for-dollar basis at fair
99 market value.

100 (6)~~(5)~~ Each local government, school district, and special
101 district must limit all increases to current impact fee rates to
102 no more than 3 percent annually. A local government may not
103 retroactively increase impact fees for a previous or current
104 fiscal or calendar year. If a local government or special
105 district increases its impact fee rates, the holder of any
106 impact fee credits, whether such credits are granted under s.
107 163.3180, s. 380.06, or otherwise, which were in existence
108 before the increase, is entitled to the full benefit of the
109 intensity or density prepaid by the credit balance as of the
110 date it was first established. This subsection shall operate
111 prospectively and not retrospectively.

112 (12)~~(11)~~ In addition to the items that must be reported in
113 the annual financial reports under s. 218.32, a local
114 government, school district ~~county, municipality,~~ or special
115 district must report all of the following information ~~data~~ on
116 all impact fees charged:

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

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

123 (c) The amount assessed for each purpose and for each type
124 of dwelling.

125 (d) The total amount of impact fees charged by type of
126 dwelling.

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

129 (13) A local government, school district, or special
130 district must submit an affidavit to the department signed by
131 the chief financial officer of the local government, school
132 district, or special district attesting that all impact fees
133 were collected and expended by the local government, school
134 district, or special district, or were collected and expended on
135 behalf of the local government, school district, or special
136 district in full compliance with this section. The affidavit
137 shall also attest that the local government, school district, or
138 special district complied with this section and the spending
139 period provision in the local ordinance or resolution, and that
140 funds expended from each impact fee account were used only to
141 acquire, construct, or improve the specific infrastructure needs
142 as defined in this section.

143 Section 2. This act shall take effect July 1, 2021.