

By the Committee on Community Affairs; and Senator DiCeglie

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A bill to be entitled  
An act relating to impact fees; amending s. 163.3164,  
F.S.; defining the term "plan-based methodology";  
amending s. 163.31801, F.S.; defining the term  
"extraordinary circumstances"; requiring the  
completion of a demonstrated-need study using plan-  
based methodology before the adoption of an impact fee  
increase which expressly demonstrates certain  
extraordinary circumstances; prohibiting increases in  
certain impact fees unless specified extraordinary  
circumstances are demonstrated; prohibiting a local  
government from increasing an impact fee rate under  
certain circumstances; amending s. 212.055, F.S.;  
conforming a cross-reference; providing an effective  
date.

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

Section 1. Present subsections (39) through (54) of section  
163.3164, Florida Statutes, are redesignated as subsections (40)  
through (55), respectively, and a new subsection (39) is added  
to that section, to read:

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

(39) "Plan-based methodology" means the use of the most  
recent and localized data to project growth within a  
jurisdiction over a 6-year period and the anticipated capacity  
impacts created by that projected growth, and the creation of a  
list of capital improvements or infrastructure as defined in s.

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163.31801(3) to be constructed in a defined time period to mitigate those impacts as part of a new or updated impact fee study.

Section 2. Present paragraphs (a) and (b) of subsection (3) of section 163.31801, Florida Statutes, are redesignated as paragraphs (b) and (c), respectively, a new paragraph (a) is added to that subsection, and paragraph (g) of subsection (6) of that section is amended, to read:

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

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

(a) “Extraordinary circumstances” means the measurable effects of development which will require mitigation by the affected local government and which exceed the total of the current adopted impact fee amount combined with any increase as provided in paragraphs (6)(c), (d), and (e) in less than 4 years.

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

(g) A local government, school district, or special district may increase an impact fee rate beyond the phase-in limitations established under paragraph (b), paragraph (c), paragraph (d), or paragraph (e) by establishing the need for such increase in full compliance with the requirements of subsection (4), provided the following criteria are met:

1. A demonstrated-need study using plan-based methodology justifying any increase in excess of those authorized in paragraph (b), paragraph (c), paragraph (d), or paragraph (e)

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has been completed within the 12 months before the adoption of the impact fee increase and expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations.

a. An increase in a nontransportation impact fee may not be adopted unless the extraordinary circumstances demonstrated in the demonstrated-need study include at least two of the following:

(I) The population of the local government's jurisdiction over the past 5 years exceeds, by at least 10 percent, the population estimates and projections used to justify the most recent impact fee increase.

(II) The average number of building permits issued by the local government over the past 5 years exceeds, by at least 10 percent, building permit estimates and projections used to justify the most recent impact fee increase.

(III) The employment base within the local jurisdiction over the past 5 years exceeds the employment estimates and projections used to justify the most recent impact fee.

(IV) The existing level of service grade will be lowered without an increase in the impact fee rate.

b. An increase in a transportation impact fee may not be adopted unless the extraordinary circumstances demonstrated in the demonstrated-need study include at least three of the following:

(I) Any condition provided in sub-subparagraph a.

(II) Cost growth over the past 5 years which exceeds, by an average of at least 10 percent, the Federal Highway Administration's National Highway Construction Cost index

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average used to justify the previous impact fee increase.

(III) The vehicle miles traveled in the past 5 years exceed, by at least 10 percent, the Department of Transportation's vehicle miles traveled index average used to justify the most recent impact fee.

(IV) The per-lane mile cost estimates for construction for the past 5 years exceed, by at least 10 percent, the Department of Transportation average used to justify the most recent impact fee.

c. An increase in an impact fee for an independent special district may not be adopted unless the extraordinary circumstances demonstrated in the demonstrated-need study include all of the following:

(I) The amount of growth experienced in the past 5 years and anticipated within the district requires a significant immediate infrastructure investment to serve such growth which will need to be financed by the special district with impact fees.

(II) The cost of infrastructure investment required to be financed by the district in the next 5 years is increasing the need for public facilities and has a direct impact on the fee amount needed to finance the additional infrastructure for the benefit of the growth.

(III) The existing level of service will be impacted without an increase in the impact fee rate.

2. The local government jurisdiction has held not fewer ~~less~~ than two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in paragraph (b), paragraph (c),

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paragraph (d), or paragraph (e).

3. The impact fee increase ordinance is approved by at least a two-thirds vote of the governing body.

A local government may not increase an impact fee rate beyond the phase-in limitations under this paragraph if the local government has not increased the impact fee within the past 5 years. Any year in which the local government is prohibited from increasing an impact fee because the jurisdiction is in a hurricane disaster area is not included in the 5-year period.

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

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the

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county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

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

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175       a. Any fixed capital expenditure or fixed capital outlay  
176 associated with the construction, reconstruction, or improvement  
177 of public facilities that have a life expectancy of 5 or more  
178 years, any related land acquisition, land improvement, design,  
179 and engineering costs, and all other professional and related  
180 costs required to bring the public facilities into service. For  
181 purposes of this sub-subparagraph, the term "public facilities"  
182 means facilities as defined in s. 163.3164 ~~s. 163.3164(41)~~, s.  
183 163.3221(13), or s. 189.012(5), and includes facilities that are  
184 necessary to carry out governmental purposes, including, but not  
185 limited to, fire stations, general governmental office  
186 buildings, and animal shelters, regardless of whether the  
187 facilities are owned by the local taxing authority or another  
188 governmental entity.

189       b. A fire department vehicle, an emergency medical service  
190 vehicle, a sheriff's office vehicle, a police department  
191 vehicle, or any other vehicle, and the equipment necessary to  
192 outfit the vehicle for its official use or equipment that has a  
193 life expectancy of at least 5 years.

194       c. Any expenditure for the construction, lease, or  
195 maintenance of, or provision of utilities or security for,  
196 facilities, as defined in s. 29.008.

197       d. Any fixed capital expenditure or fixed capital outlay  
198 associated with the improvement of private facilities that have  
199 a life expectancy of 5 or more years and that the owner agrees  
200 to make available for use on a temporary basis as needed by a  
201 local government as a public emergency shelter or a staging area  
202 for emergency response equipment during an emergency officially  
203 declared by the state or by the local government under s.

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252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

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



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233       2. For the purposes of this paragraph, the term "energy  
234 efficiency improvement" means any energy conservation and  
235 efficiency improvement that reduces consumption through  
236 conservation or a more efficient use of electricity, natural  
237 gas, propane, or other forms of energy on the property,  
238 including, but not limited to, air sealing; installation of  
239 insulation; installation of energy-efficient heating, cooling,  
240 or ventilation systems; installation of solar panels; building  
241 modifications to increase the use of daylight or shade;  
242 replacement of windows; installation of energy controls or  
243 energy recovery systems; installation of electric vehicle  
244 charging equipment; installation of systems for natural gas fuel  
245 as defined in s. 206.9951; and installation of efficient  
246 lighting equipment.

247       3. Notwithstanding any other provision of this subsection,  
248 a local government infrastructure surtax imposed or extended  
249 after July 1, 1998, may allocate up to 15 percent of the surtax  
250 proceeds for deposit into a trust fund within the county's  
251 accounts created for the purpose of funding economic development  
252 projects having a general public purpose of improving local  
253 economies, including the funding of operational costs and  
254 incentives related to economic development. The ballot statement  
255 must indicate the intention to make an allocation under the  
256 authority of this subparagraph.

257       Section 4. This act shall take effect July 1, 2025.