

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           facility"; specifying instances when a local  
 5           government or special district may collect the 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. Subsections (3) through (11) of section  
 19           163.31801, Florida Statutes, are renumbered as subsections (4)  
 20           through (12), respectively, present subsections (3), (4), and  
 21           (5) are amended, and a new subsection (3) and subsection (13)  
 22           are added to that section, 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  
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  
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  
 88 increased impact generated by the new residential or  
 89 nonresidential construction.

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

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  
121 of calculating impact fees, such as flat fees, tiered scales  
122 based on number of bedrooms, or tiered scales based on square  
123 footage.

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

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

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

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

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