

1                                   A bill to be entitled  
 2           An act relating to impact fees; amending s. 163.31801,  
 3           F.S.; revising the minimum requirements for the  
 4           adoption of impact fees; providing an effective date.

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

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 8           Section 1.   Section 163.31801, Florida Statutes, is amended  
 9 to read:

10           163.31801   Impact fees; short title; intent; minimum  
 11 requirements; audits; challenges ~~definitions; ordinances levying~~  
 12 ~~impact fees.~~-

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

15           (2)   The Legislature finds that impact fees are an  
 16 important source of revenue for a local government to use in  
 17 funding the infrastructure necessitated by new growth. The  
 18 Legislature further finds that impact fees are an outgrowth of  
 19 the home rule power of a local government to provide certain  
 20 services within its jurisdiction. Due to the growth of impact  
 21 fee collections and local governments' reliance on impact fees,  
 22 it is the intent of the Legislature to ensure that, when a  
 23 county or municipality adopts an impact fee by ordinance or a  
 24 special district adopts an impact fee by resolution, the  
 25 governing authority complies with this section.

26           (3) At a minimum, an impact fee ~~An impact fee~~ adopted by  
 27 ordinance of a county or municipality or by resolution of a  
 28 special district must satisfy the following conditions, ~~at~~  
 29 ~~minimum:~~

30           (a) ~~Require that~~ The calculation of the impact fee must  
 31 ~~fee~~ be based on the most recent and localized data.

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

38           (c) ~~Limit~~ Administrative charges for the collection of  
 39 impact fees must be limited to actual costs.

40           (d) ~~Require that~~ Notice must be provided no less than 90  
 41 days before the effective date of an ordinance or resolution  
 42 imposing a new or increased impact fee. A county or municipality  
 43 is not required to wait 90 days to decrease, suspend, or  
 44 eliminate an impact fee.

45           (e) Collection of the impact fee may not be required to  
 46 occur earlier than the issuance of the building permit for the  
 47 property that is subject to the fee.

48           (f) The impact fee must be reasonably connected to, or  
 49 have a rational nexus with, the need for additional capital  
 50 facilities and the increased impact generated by the new

51 residential or commercial construction.

52 (g) The impact fee must be reasonably connected to, or  
53 have a rational nexus with, the expenditures of the funds  
54 collected and the benefits accruing to the new residential or  
55 commercial construction.

56 (h) The local government must specifically earmark funds  
57 collected by the impact fee for use in acquiring, constructing,  
58 or improving capital facilities to benefit the new users.

59 (i) The collection or expenditure of the impact fee  
60 revenues may not be used, in whole or part, to pay existing debt  
61 or be used for previously approved projects unless the  
62 expenditure is reasonably connected to, or has a rational nexus  
63 with, the increased impact generated by the new residential or  
64 commercial construction.

65 (4) Audits of financial statements of local governmental  
66 entities and district school boards which are performed by a  
67 certified public accountant pursuant to s. 218.39 and submitted  
68 to the Auditor General must include an affidavit signed by the  
69 chief financial officer of the local governmental entity or  
70 district school board stating that the local governmental entity  
71 or district school board has complied with this section.

72 (5) In any action challenging an impact fee, the  
73 government has the burden of proving by a preponderance of the  
74 evidence that the imposition or amount of the fee meets the  
75 requirements of state legal precedent or this section. The court

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76 | may not use a deferential standard.

77 |       Section 2. This act shall take effect July 1, 2018.