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Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Finance and Tax)

A bill to be entitled

An act relating to impact fees; amending s. 163.31801,  
F.S.; revising the minimum requirements for impact  
fees; prohibiting the application of impact fee  
provisions to water and sewer connection fees;  
amending s. 163.3245, F.S.; prohibiting local  
governments from requiring certain conditions in  
development orders, except under certain conditions;  
specifying the process for the local government review  
and approval of detailed specific area plans or  
related development orders; providing an effective  
date.

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

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

163.31801 Impact fees; short title; intent; minimum  
requirements; audits; challenges definitions; ordinances levying  
impact fees.—

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

(2) The Legislature finds that impact fees are an important  
source of revenue for a local government to use in funding the  
infrastructure necessitated by new growth. The Legislature  
further finds that impact fees are an outgrowth of the home rule  
power of a local government to provide certain services within



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its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.

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

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

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

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

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

(e) Collection of the impact fees may not occur earlier than the issuance of the building permit for the property that is subject to the fee.

(f) The impact fee must be reasonably connected to, or have



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57 a rational nexus with, the need for additional capital  
58 facilities and the increased impact generated by the new  
59 residential or commercial construction.

60 (g) The impact fee must be reasonably connected to, or have  
61 a rational nexus with, the expenditures of the funds collected  
62 and the benefits accruing to the new residential or commercial  
63 construction.

64 (h) The local government must specifically earmark funds  
65 collected by the impact fees for use in acquiring capital  
66 facilities to benefit the new residents.

67 (i) The collection or expenditure of the impact fee  
68 revenues may not be used, in whole or part, to pay existing debt  
69 or be used for prior 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 commercial  
72 construction.

73 (4) Audits of financial statements of local governmental  
74 entities and district school boards which are performed by a  
75 certified public accountant pursuant to s. 218.39 and submitted  
76 to the Auditor General must include an affidavit signed by the  
77 chief financial officer of the local governmental entity or  
78 district school board stating that the local governmental entity  
79 or district school board has complied with this section.

80 (5) In any action challenging an impact fee, the government  
81 has the burden of proving by a preponderance of the evidence  
82 that the imposition or amount of the fee meets the requirements  
83 of state legal precedent or this section. The court may not use  
84 a deferential standard.

85 (6) This section does not apply to water and sewer



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86 connection fees.

87 Section 2. Paragraph (b) of subsection (3) and subsection  
88 (4) of section 163.3245, Florida Statutes, are amended to read:  
89 163.3245 Sector plans.—

90 (3) Sector planning encompasses two levels: adoption  
91 pursuant to s. 163.3184 of a long-term master plan for the  
92 entire planning area as part of the comprehensive plan, and  
93 adoption by local development order of two or more detailed  
94 specific area plans that implement the long-term master plan and  
95 within which s. 380.06 is waived.

96 (b)1. In addition to the other requirements of this  
97 chapter, except for those that are inconsistent with or  
98 superseded by the planning standards of this paragraph, the  
99 detailed specific area plans must ~~shall~~ be consistent with the  
100 long-term master plan and ~~must~~ include conditions and  
101 commitments that provide for:

102 a.1. Development or conservation of an area of at least  
103 1,000 acres consistent with the long-term master plan. The local  
104 government may approve detailed specific area plans of less than  
105 1,000 acres based on local circumstances if it is determined  
106 that the detailed specific area plan furthers the purposes of  
107 this part and part I of chapter 380.

108 b.2. Detailed identification and analysis of the maximum  
109 and minimum densities and intensities of use and the  
110 distribution, extent, and location of future land uses.

111 c.3. Detailed identification of water resource development  
112 and water supply development projects and related infrastructure  
113 and water conservation measures to address water needs of  
114 development in the detailed specific area plan.



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115        d.4. Detailed identification of the transportation  
116 facilities to serve the future land uses in the detailed  
117 specific area plan.

118        e.5. Detailed identification of other regionally  
119 significant public facilities, including public facilities  
120 outside the jurisdiction of the host local government, impacts  
121 of future land uses on those facilities, and required  
122 improvements consistent with the long-term master plan.

123        f.6. Public facilities necessary to serve development in  
124 the detailed specific area plan, including developer  
125 contributions in a 5-year capital improvement schedule of the  
126 affected local government.

127        g.7. Detailed analysis and identification of specific  
128 measures to ensure the protection and, as appropriate,  
129 restoration and management of lands within the boundary of the  
130 detailed specific area plan identified for permanent  
131 preservation through recordation of conservation easements  
132 consistent with s. 704.06, which easements shall be effective  
133 before or concurrent with the effective date of the detailed  
134 specific area plan and other important resources both within and  
135 outside the host jurisdiction. Any such conservation easement  
136 may be based on digital orthophotography prepared by a surveyor  
137 and mapper licensed under chapter 472 and may include a right of  
138 adjustment authorizing the grantor to modify portions of the  
139 area protected by a conservation easement and substitute other  
140 lands in their place if the lands to be substituted contain no  
141 less gross acreage than the lands to be removed; have equivalent  
142 values in the proportion and quality of wetlands, uplands, and  
143 wildlife habitat; and are contiguous to other lands protected by



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144 the conservation easement. Substitution is accomplished by  
145 recording an amendment to the conservation easement as accepted  
146 by and with the consent of the grantee, and which consent may  
147 not be unreasonably withheld.

148 h.8- Detailed principles and guidelines addressing the  
149 urban form and the interrelationships of future land uses;  
150 achieving a more clean, healthy environment; limiting urban  
151 sprawl; providing a range of housing types; protecting wildlife  
152 and natural areas; advancing the efficient use of land and other  
153 resources; creating quality communities of a design that  
154 promotes travel by multiple transportation modes; and enhancing  
155 the prospects for the creation of jobs.

156 i.9- Identification of specific procedures to facilitate  
157 intergovernmental coordination to address extrajurisdictional  
158 impacts from the detailed specific area plan.

159 2. A detailed specific area plan adopted by local  
160 development order pursuant to this section may be based upon a  
161 planning period longer than the generally applicable planning  
162 period of the local comprehensive plan and shall specify the  
163 projected population within the specific planning area during  
164 the chosen planning period. A detailed specific area plan  
165 adopted pursuant to this section is not required to demonstrate  
166 need based upon projected population growth or on any other  
167 basis. All lands identified in the long-term master plan for  
168 permanent preservation shall be subject to a recorded  
169 conservation easement consistent with s. 704.06 before or  
170 concurrent with the effective date of the final detailed  
171 specific area plan to be approved within the planning area. Any  
172 such conservation easement may be based on digital



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173 orthophotography prepared by a surveyor and mapper licensed  
174 under chapter 472 and may include a right of adjustment  
175 authorizing the grantor to modify portions of the area protected  
176 by a conservation easement and substitute other lands in their  
177 place if the lands to be substituted contain no less gross  
178 acreage than the lands to be removed; have equivalent values in  
179 the proportion and quality of wetlands, uplands, and wildlife  
180 habitat; and are contiguous to other lands protected by the  
181 conservation easement. Substitution is accomplished by recording  
182 an amendment to the conservation easement as accepted by and  
183 with the consent of the grantee, and which consent may not be  
184 unreasonably withheld.

185 3. In adopting a detailed specific area plan or related  
186 development order, a local government may not include or impose  
187 as a development order condition a requirement that a developer  
188 contribute or pay for land acquisition or construction or  
189 expansion of public facilities, or portions thereof, unless the  
190 local government has enacted a local ordinance that requires  
191 developers of other developments not within a sector planning  
192 area to contribute a proportionate share of the funds, land, or  
193 public facilities necessary to accommodate any impacts having a  
194 rational nexus to the proposed development. When allowed under  
195 this section, the obligation to fund or construct new facilities  
196 or add to the present system of public facilities must have an  
197 essential nexus and be roughly proportionate to the proposed  
198 development.

199 4. Within 30 days of receipt of an application for approval  
200 of a detailed specific area plan or related development order, a  
201 local government must review the application for completeness



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202 and issue a letter either indicating that all required  
203 information has been submitted or specifying, with  
204 particularity, any areas that are deficient. If the application  
205 is found to be deficient, the applicant must address the  
206 deficiencies within 30 days after receiving notice of the  
207 deficiencies by submitting the required additional information.  
208 The local government must approve, approve with conditions, or  
209 deny the application for the detailed specific area plan within  
210 90 days after receipt of the initial or supplemental submission,  
211 whichever is later, unless the deadline is waived in writing by  
212 the applicant. An approval or denial of the application for  
213 approval of a detailed specific area plan or related development  
214 order must include written findings supporting the local  
215 government decision.

216 (4) Upon the long-term master plan becoming legally  
217 effective:

218 (a) Any long-range transportation plan developed by a  
219 metropolitan planning organization pursuant to s. 339.175(7)  
220 must be consistent, to the maximum extent feasible, with the  
221 long-term master plan, including, but not limited to, the  
222 projected population and the approved uses and densities and  
223 intensities of use and their distribution within the planning  
224 area. The transportation facilities identified in adopted plans  
225 pursuant to subparagraph (3) (a) 3. and sub-subparagraph  
226 (3) (b) 1.d. subparagraphs (3) (a) 3. and (b) 4. must be developed in  
227 coordination with the adopted M.P.O. long-range transportation  
228 plan.

229 (b) The water needs, sources and water resource  
230 development, and water supply development projects identified in





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231 adopted plans pursuant to subparagraph (3)(a)2. and sub-  
232 subparagraph (3)(b)1.d. must ~~subparagraphs (3)(a)2. and (b)3.~~  
233 ~~shall~~ be incorporated into the applicable district and regional  
234 water supply plans adopted in accordance with ss. 373.036 and  
235 373.709. Accordingly, and notwithstanding the permit durations  
236 stated in s. 373.236, an applicant may request and the  
237 applicable district may issue consumptive use permits for  
238 durations commensurate with the long-term master plan or  
239 detailed specific area plan, considering the ability of the  
240 master plan area to contribute to regional water supply  
241 availability and the need to maximize reasonable-beneficial use  
242 of the water resource. The permitting criteria in s. 373.223  
243 shall be applied based upon the projected population and the  
244 approved densities and intensities of use and their distribution  
245 in the long-term master plan; however, the allocation of the  
246 water may be phased over the permit duration to correspond to  
247 actual projected needs. This paragraph does not supersede the  
248 public interest test set forth in s. 373.223.

249 Section 3. This act shall take effect July 1, 2018.