

HB 207

2019

A bill to be entitled  
An act relating to impact fees; amending s. 163.31801,  
F.S.; revising the minimum requirements for the  
adoption of impact fees by specified local  
governments; authorizes the prevailing party in an  
action challenging an impact fee to recover attorney  
fees; exempting water and sewer connection fees from  
the Florida Impact Fee Act; 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 its jurisdiction. Due to the growth of impact

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

31 (3) At a minimum, an impact fee adopted by ordinance of a  
32 county or municipality or by resolution of a special district  
33 must satisfy all of the following conditions, ~~at minimum:~~

34 (a) The local government must calculate ~~Require that the~~  
35 ~~calculation of~~ the impact fee ~~be~~ based on the most recent and  
36 localized data.

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

43 (c) The local government must limit administrative charges  
44 for the collection of impact fees to actual costs.

45 (d) The local government must provide ~~Require that~~ notice  
46 ~~be provided~~ no less than 90 days before the effective date of an  
47 ordinance or resolution imposing a new or increased impact fee.  
48 A county or municipality is not required to wait 90 days to  
49 decrease, suspend, or eliminate an impact fee.

50 (e) The local government may not require payment of the

51 impact fee before the date of issuance of the building permit  
52 for the property that is subject to the fee.

53 (f) The impact fee must be reasonably connected to, or  
54 have a rational nexus with, the need for additional capital  
55 facilities and the increased impact generated by the new  
56 residential or commercial construction.

57 (g) The impact fee must be reasonably connected to, or  
58 have a rational nexus with, the expenditures of the revenues  
59 generated and the benefits accruing to the new residential or  
60 commercial construction.

61 (h) The local government must specifically earmark  
62 revenues generated by the impact fee to acquire, construct, or  
63 improve capital facilities to benefit new users.

64 (i) The local government may not use revenues generated by  
65 the impact fee to pay existing debt or for previously approved  
66 projects unless the expenditure is reasonably connected to, or  
67 has a rational nexus with, the increased impact generated by the  
68 new residential or commercial construction.

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

HB 207

2019

76           (5) In any action challenging an impact fee, the  
77 government has the burden of proving by a preponderance of the  
78 evidence that the imposition or amount of the fee meets the  
79 requirements of state legal precedent or this section. The court  
80 may not use a deferential standard. A challenger who prevails in  
81 an action challenging an impact fee under this section may  
82 recover attorney fees.

83           (6) This section does not apply to water and sewer  
84 connection fees.

85           Section 2. This act shall take effect July 1, 2019.