



2017 Legislative Issue Briefs



Impact Fees

Priority Statement:

The Florida League of Cities OPPOSES legislation that restricts a municipalities' Home Rule authority to set impact fees or transportation concurrency.

Talking Points:

- Impact fees and transportation concurrency are mechanisms used by local governments to ensure that new developments pay for the infrastructure needs they generate.
- An impact fee is based on the proportionate share of the cost of the public facilities needed to serve new development.
- Transportation concurrency is a state law that requires each local government in Florida to adopt a comprehensive plan and implement regulations that require adequate basic services and facilities be provided at the same time as, or *concurrent* with, any new development.
- In Florida, average impact fees have been declining since 2008. In 2008, the average impact fee in Florida for an average single-family detached unit was \$9,832, while in 2015, it was \$7,660.
- In recent years, bills have been filed to limit or restrict a local government's ability to impose impact fees and transportation concurrency, or to make it easier for a developer to prevail in a legal challenge to an impact fee.
- Current law authorizes local governments to impose or waive impact fees and transportation concurrency by local ordinance, which is a legislative decision of the local government's governing body. This must remain a local decision determined by the needs and character of the community.

Background:

Impact fees and transportation concurrency are mechanisms used by local governments to ensure that new developments pay for the infrastructure needs they create.

An impact fee is based on the proportionate share of the cost of the public facilities needed to serve new development. Florida law requires that calculation of an impact fee be based on the most recent and localized data. In addition, a city imposing an impact fee must provide a full accounting of reports detailing impact fee collections and expenditures.

Transportation concurrency is a state law that requires each local government in Florida to adopt a comprehensive plan and implement regulations that require adequate basic services and facilities be

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provided at the same time as, or *concurrent* with, any new development. For example, one of these required types of services is transportation facilities. The law states that a local government cannot approve a new development unless it finds that there will be adequate transportation facilities to serve the traffic from that new development at the time of occupancy.

Impact fees and transportation concurrency are adopted by ordinance, which is a legislative decision of the city's governing body. Current law authorizes municipalities to waive the collection of impact fees. As a result, some cities have made the local decision to waive them, hoping this will be a catalyst for economic development and foster growth. Other cities have examined their current infrastructure needs and concluded imposing impact fees or transportation concurrency is necessary to adequately fund the development or growth.

Developers have long argued that impact fees in Florida are excessive and unfair. Additionally, because the courts accord a high level of deference to the local governments' decision-making process, some developers feel that legal challenges to decisions regarding impact fees are almost impossible to win. In recent years, bills have been filed to limit or restrict a local government's ability to impose impact fees and transportation concurrency, or to make it easier for a developer to prevail in a legal challenge to an impact fee.

In 2016, the governor proposed language prohibiting local governments from imposing impact fees and transportation concurrency on small businesses of 12 or fewer employees for commercial buildings less than 6,000 square feet. The governor's proposed legislation included a provision allowing local governments to "opt out" of this prohibition by a super majority vote of the local governing body. Ultimately, this provision was adopted by the House in CS/HB 1325 (Boyd) but failed to pass when it was not considered by the Senate.

Status:

At this time, no legislation has been filed regarding Impact Fees. We will continue to monitor amendments to other bills and Committee bills that may be introduced throughout the session.

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