Florida TaxWatch

COMMENTARY

# THE IMPACTS OF IMPACT FEES ON THE COST OF HOUSING

APRIL 2023

**TWO MAIN DRIVERS OF FLORIDA'S ECONOMY ARE TOURISM AND REAL ESTATE DEVELOPMENT.** With an estimated 1,000 people moving to Florida every day, real estate development puts a strain on public facilities (e.g., roads, water and wastewater system, etc.) and services (e.g., police, fire protection, parks, etc.). Local governments rely on impact fees to generate the money necessary to accommodate the impacts of new development on existing public facilities and services.

Impact fees are (typically) one-time payments imposed on a property developer by a unit of local government. The amount of the impact fee is determined based upon such things as the size of the development and its impacts on the surrounding community. Compared to property tax increases, impact fees are a popular alternative to fund needed infrastructure upgrades because the costs of new infrastructure and services are paid by the property developer and not by the taxpayers who already live there. The Florida legislature considers impact fees to be an "important source of revenue for a local government to use in funding the infrastructure necessitated by new growth."[1]

An impact fee imposed by a local government should meet a dual "rational nexus" (rational linkage) test in order to withstand legal challenge. First, a reasonable connection should exist between the anticipated need for additional capital facilities and the population growth generated by the new development. Second, a rational nexus should exist between the local government's expenditure of impact fee proceeds and the benefits accruing to the new development from those proceeds.[2] The amount of an impact fee should be a "fair" or "proportionate" share of the costs of improvements made necessary by a new development and cannot be imposed to address existing deficiencies (except where exacerbated by the new development).

Impact fees are frequently cited as a factor that drives up the cost of housing. This is critical in a state like Florida, where soaring rent and home prices are making it more difficult for tens of thousands of working and middle-class Florida households to put a roof over their heads. In February 2023, Realtor.com named Miami as the least affordable city in America, with average monthly rents in the metropolitan area exceeding $2,900. Miami's typical rent takes up 60 percent of a household's typical income. Miami, along with Tampa and Orlando, have had the fastest growing rents in the country over the past year.[3]

The development community often complains that impact fees drive housing prices up and construction down. Of particular concern is the complaint that impact fees are regressive in nature, placing a disproportionate burden on low-income groups and creating negative effects on housing affordability. Local governments say that impact fees are the only feasible means of financing sufficient new infrastructure in a tax-averse political environment and that they may actually have many positive effects on communities, "serving more as an efficient user fee than as a tax."[4]

Florida TaxWatch undertakes this independent research project to better understand the effect of impact fees on housing prices.

1 §163.31801(2), Fla. Stat.

2 Office of Economic and Demographic Research, "2022 Local Government Financial Information Handbook," December 2022.

3 Irina Ivanova, "Florida is the Least Affordable Place to Live in the U.S.," CBS News, retrieved from https://www.cbsnews.com/news/florida-least-affordable-state-us-miami-tampa-orlando-naples-rent/, February 17, 2023.

4 Gregory Burge," Impact Fees in Relation to Housing Prices and Affordable Housing Supply."

## IMPACT FEE REVENUES

The state's Department of Financial Services (DFS) monitors impact fee revenues collected by county and municipal governments. For the fiscal year that ended on September 30, 2021, local governments[5] collected $1.8 billion in impact fee revenues (see Table 1).[6]

**TABLE 1. IMPACT FEE REVENUES: FISCAL YEAR ENDED SEPTEMBER 30, 2021**

| | Public Safety | Physical Environment | Transportation | Economic Envrionment | Human Services | Cutlure & Recreation | Schools | Other | Total |
|---|---|---|---|---|---|---|---|---|---|
| Municipalities | $46,310,288<br>9.3% | $186,741,772<br>37.3% | $140,170,194<br>28.0% | $19,943,346<br>4.0% | $12,997<br>0.0% | $83,729,516<br>16.7% | $6,896,771<br>1.4% | $16,697,907<br>3.3% | $500,502,781<br>100.0% |
| Counties | $75,683,428<br>6.2% | $69,204,255<br>5.7% | $526,124,707<br>43.0% | $0<br>0.0% | $77,788,373<br>6.4% | $120,700,965<br>9.9% | $333,292,570<br>27.3% | $20,070,968<br>1.6% | $1,222,865,266<br>100.0% |
| Ind. Special Districts | $21,697,283<br>35.5% | $35,227,653<br>57.7% | $3,050,281<br>5.0% | $0<br>0.0% | $0<br>0.0% | $0<br>0.0% | $0<br>0.0% | $1,105,568<br>1.8% | $61,080,785<br>100.0% |
| School Districts | N/A<br>N/A | N/A<br>N/A | N/A<br>N/A | N/A<br>N/A | N/A<br>N/A | N/A<br>N/A | N/A<br>N/A | N/A<br>N/A | $581,966,482<br>100.0% |
| **Total** | **$143,690,999**<br>**8.1%** | **$291,173,680**<br>**16.3%** | **$669,345,172**<br>**37.5%** | **$19,943,346**<br>**1.1%** | **$77,801,370**<br>**4.4%** | **$204,430,481**<br>**11.5%** | **$340,189,341**<br>**19.1%** | **$37,874,443**<br>**2.1%** | **$1,784,448,832**<br>**100.0%** |

*Source: Florida Legislature's Office of Economic and Demographic Research*

To illustrate how impact fees work, Florida TaxWatch selected Orange County, which charges impact fees for fire, law enforcement, parks and recreation, and transportation, as well as capital charges for water and sewer.[7] Florida TaxWatch selected a single-family detached residential structure between 2,000 and 2,499 square feet, and a multi-family residential structure (mid-rise with 3-10 floors), to better understand how impact fees add to the costs of housing.

As shown in Table 2, each new single-family detached residential structure between 2,000 and 2,499 square feet permitted in Orange County will include almost $27,000 in impact fees to cover the impacts of that structure on fire, law enforcement, parks and recreation, and transportation facilities. Each new multi-family residential structure (mid-rise with 3-10 floors) permitted in Orange County will include almost $15,000 in impact fees for each dwelling unit.

**TABLE 2. ORANGE COUNTY IMPACT FEES**

| Single-Family Detached Housing | | | Multi-Family Housing | | |
|---|---|---|---|---|---|
| **Service** | **Unit** | **Rate** | **Service** | **Unit** | **Rate** |
| Fire | Per Dwelling Unit | $346 | Fire | Per Dwelling Unit | $237 |
| Law Enforcement | Per Dwelling Unit | $510 | Law Enforcement | Per Dwelling Unit | $197 |
| Parks & Recereation | Per Dwelling Unit | $1,785 | Parks & Recreation | Per Dwelling Unit | $1,208 |
| Transportation | Per Dwelling Unit | $14,780 | Transportation | Per Dwelling Unit | $6,409 |
| Schools | | $9,513 | Schools | | $6,751 |
| **Total** | | **$26,934** | **Total** | | **$14,802** |

*Source: Orange County Government Website*

House Bill (HB) 337, passed by the 2021 Florida legislature and signed into law by the governor, limits the ability of local governments to increase impact fees. HB 337 provides that, if a local government, independent special district, or school district increases impact fees by 25 percent or less, the increase must be implemented in two equal annual increments. If an impact fee is increased between 25 and 50 percent, the increase must be phased in in four equal installments. Impact fee increases in excess of 50 percent are prohibited and impact fees may not be increased more than once every four years.

5 Includes counties, municipalities, independent special districts, and school districts.

6 Office of Economic and Demographic Research, "Impact Fees," retrieved from http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm, January 25, 2023.

7 Orange County Government, "Impact Fees at a Glance," retrieved from https://www.orangecountyfl.net/PermitsLicenses/Permits/ImpactFeesAtAGlance.aspx#.Y9E9jXbMJD8, January 25, 2023.

HB 337 provides exceptions to these requirements, provided:

- The need for the increased impact fee passes the "rational nexus" test;
- A study has been completed within the past 12 months that demonstrates the circumstances justifying the proposed increase;
- At least two publicly-noticed workshops are conducted; and
- The increase is adopted by at least a two-thirds vote.

## CONCLUSIONS

That impact fees increase the cost of Florida housing is not in dispute. The Department of Financial Services reported that local governments collected more than $1.8 billion in impact fee revenues during the fiscal year that ended on September 30, 2021. Using Orange County to illustrate, impact fees paid by developers approach $27,000 for a new modest single-family detached residential structure, and $15,000 for each dwelling unit in a mid-rise multi-family residential structure. These costs are then passed along to new home buyers and renters.

What is in dispute is the extent to which impact fees promote or discourage growth and development. Depending on one's perspective, impact fees either encourage development by permitting development to go ahead even though the local government may not have the amount of money necessary to completely fund needed infrastructure improvements, or impact fees stifle growth by driving development into jurisdictions that do not impose impact fees.

Some see impact fees as a way to raise revenue to support continued growth and development without having to raise property taxes, something local elected officials are generally loathe to do. Impact fees provide local governments that already have high property tax levels another important revenue source, one that is imposed on those who pay the fees and who derive benefits from the improvements funded by the fees and takes the burden of funding infrastructure improvements off of current residents.

Some see impact fees as an investment in the community. Impact fees promote economic growth (e.g., more local jobs) by providing much-needed infrastructure improvements. More importantly, by requiring developers to pay their "fair share" or "proportionate cost," impact fees permit development to go ahead even though the local government may not have the amount of money necessary to completely fund the improvement. Impact fees afford greater certainty and predictability to developers, who will know when and where infrastructure improvements will be built. The new development will add new properties to local tax rolls, which will increase the local government's tax base and provide additional property tax moneys that could be used to fund improvements to public facilities and services.

Some view impact fees as constraints to local growth and economic development, viewed as de facto taxes on capital that stifle investment and drive job growth to other "fee-free" jurisdictions.[8] In those instances where impact fees do not pay the full cost of the needed improvement, taxpayers are more likely to experience diminished levels of service or to pay for increased levels of service. Either way, increased demands for growth coupled with taxpayer resistance to higher property taxes make impact fees a valuable and efficient way for local governments to finance needed infrastructure improvements. Without impact fees, many growing Florida communities will be hard-pressed to sustain that growth.

With the passage of HB 337, which limits the ability of local governments to increase impact fees, the 2021 Florida legislature has sent a clear message that Florida's continued growth is not expected to pay for itself. In addition to paying the costs to operate and maintain existing public facilities and services, current residents (and not those benefitting from needed improvements) will now be expected to pay a greater share of the costs of needed improvements. Absent additional financial support from state or federal sources, one of two things is likely to happen --- current residents can expect to pay higher property taxes or accept diminished levels of service.

8 Arthur C. Nelson and Mitch Moody, "Paying for Prosperity: Impact Fees and Job Growth," June 2003.

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