

PCB CMAS 11-03

ORIGINAL

YEAR 2011

1 A bill to be entitled
 2 An act relating to impact fees; reenacting s.
 3 163.31801(5), F.S., relating to the burden of proof
 4 required by the government in an action challenging an
 5 impact fee; providing a legislative finding of important
 6 state interest; providing for retroactive operation;
 7 providing for an exception under specified circumstances;
 8 providing an effective date.

9
 10 WHEREAS, in 2009, the Florida Legislature enacted Chapter
 11 2009-49, Laws of Florida, for important public purposes, and
 12 WHEREAS, litigation has called into question the
 13 constitutional validity of this important piece of legislation,
 14 and

15 WHEREAS, the Legislature wishes to protect those that
 16 relied on the changes made by Chapter 2009-49, Laws of Florida,
 17 and to preserve the Florida Statutes intact and cure any
 18 constitutional violation, NOW, THEREFORE,

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Subsection (5) of section 163.31801, Florida
 23 Statutes, is reenacted to read:

24 163.31801 Impact fees; short title; intent; definitions;
 25 ordinances levying impact fees.—

26 (5) In any action challenging an impact fee, the
 27 government has the burden of proving by a preponderance of the
 28 evidence that the imposition or amount of the fee meets the

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29 | requirements of state legal precedent or this section. The court
30 | may not use a deferential standard.

31 | Section 2. The Legislature finds that this act fulfills an
32 | important state interest.

33 | Section 3. This act shall take effect upon becoming a law,
34 | and shall operate retroactively to July 1, 2009. If such
35 | retroactive application is held by a court of last resort to be
36 | unconstitutional, this act shall apply prospectively from the
37 | date that this act becomes a law.