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School impact fees on the rise

Strapped counties add the cost to new homes only. Some question if that's fair.

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TALLAHASSEE - Faced with too many students in too few classrooms and not enough cash for construction, counties across Florida are adding school impact fees on new houses to pay for growth.

The trend is driving up the cost of new homes and intensifying a debate over how much of the education cost should be paid by buyers of new homes. School impact fees are added only to new homes, not existing ones.

Counties have long charged impact fees for roads, parks, libraries, drainage lines and fire protection. But school impact fees are usually higher and are emerging as a source of school construction money in conservative counties such as Baker, Clay, Polk and St. Johns, as well as in the expanding exurbs of Pasco, Hernando and Citrus counties.

Local property taxes have proven insufficient to keep pace with the ever-rising costs of suburban sprawl, including the need for new schools. Rising prices for land, steel and concrete are providing momentum for higher school impact fees, as is a new growth law that requires adequate classrooms for new students within three years of the completion of subdivisions.

Supporters of school impact fees, including many Republicans, say the state Legislature has not provided sufficient money for school construction and renovation.

"They are an important revenue stream for us," said Cyndi Stevenson, a Republican commissioner in St. Johns who voted to raise her county's school impact fee in the ninth fastest-growing county in the United States last year. "It is beyond the pale how fast the need for infrastructure has grown. ... Revenue sources haven't kept up."

Pasco, which added 3,500 students last year and 2,400 more this year, raised its school impact fees in June by 155 percent, to \$4,314 for a new single-family house. The fee was increased a year after voters raised the sales tax from 6 to 7 percent on the dollar, with nearly half of the new money earmarked for schools.

Hernando and Citrus have raised their school impact fees in recent months.

"A lot of districts are looking for additional sources of revenue to meet growth demands for school buildings," said Ray Gadd, Pasco's assistant school superintendent, who made the case for the impact fee increase. "It's a source of revenue that makes sense."

The trend is sweeping the state.

"The problem of school capacity is becoming a crisis in many jurisdictions in Florida, and this is the response," said Jim Nicholas, an urban planning professor at the University of Florida who is paid to advise local governments on impact fees.

Nicholas testified recently before a statewide Impact Fee Review Task Force, created as part of an overhaul of Florida's growth laws to advise the governor and the Legislature.

School impact fees have grown in proportion to the state's failure to keep up with the need for money to build schools, he said. And the Legislature has increased the amount of local property taxes needed to operate schools.

Gov. Jeb Bush, who has taken credit for "historic" increases in state aid to public schools while pushing for limits on the rate of spending growth, questioned why local government spending is increasing. He suggested the Legislature ought to consider imposing school impact fee limits.

School impact fees range from a low of \$196 in Hillsborough County to a high of \$8,596 in Polk. Every county in the region but Pinellas charges the fees.

Some Hillsborough School Board members have recently asked county commissioners to get their fees more in line with other high-growth counties, citing a study by Nicholas that recommended Hillsborough should raise fees to \$3,800 per home.

Rather than raise fees, commissioners put off a decision by forming a task force that will discuss alternatives, such as the sales tax, for at least two more months.

Twenty-three of Florida's 67 counties levy school impact fees, which are typically charged to builders as a one-time payment during construction and added to a home's price at closing. Impact fees are charged only on new homes, even though critics say buyers of existing homes contribute to the need for more schools.

"We have shifted from everybody paying for the cost of new development to a select group of people," said lawyer Barry Richard, who has advised the Florida Home Builders Association on impact fee issues. "When we are going to tax a select group for amenities and services that will be used by the community at large, it raises an alarm."

The law needs to be fine-tuned to require a higher legal threshold for local governments to meet before imposing impact fees, Richard said.

The Florida Supreme Court allowed impact fees in a 1976 case involving the city of Dunedin, but fees must

be limited to a development's share of the cost of growth, and the money must be spent as the county promises.

Impact fees have been in and out of Florida courts ever since.

In the latest case, builders successfully challenged a formula used by Osceola County. A judge last month ordered the county to give builders credit for other revenues they produce and reduced the school impact fees by more than \$2,000 to \$7,608 for a single-family home.

Builders have tried to persuade the Legislature to replace county-by-county impact fees with a real estate transfer tax that would apply to sales of existing as well as new homes, but those in real estate oppose that. Counties zealously guard home rule power to charge fees that vary widely, based on local needs and numbers of new students.

Builders say flat-rate school impact fees disproportionately hit families who buy less-expensive homes. They argue that a \$9,000 school impact fee is a much bigger factor on a \$200,000 home than on a \$600,000 house and cite figures showing that in some counties, most new school students come from existing homes, not new homes.

Like builders, counties and cities have lots of influence in Tallahassee and are wary of the Legislature imposing a one-size-fits-all fee to address school construction needs where the pace of growth, and need for schools, varies widely by county.

Opponents say the growing use of impact fees will make it harder for some families to buy new homes. A study conducted for the National Association of Realtors concluded that in the Tampa-St. Petersburg housing market, a \$3,000 increase in impact fees would prevent 8,600 families from buying a new single-family home.

For legislators, opposing local government home rule, especially on an issue involving education and growth, can be politically dangerous. For that reason, some local-government experts expect little interest in the issue in the next legislative session in 2006, a year when many lawmakers will be running for re-election or a higher office.

"In an election year, that's not something I think there's much of an appetite for in the Legislature," said John Wayne Smith of the Florida League of Cities. "It's bad politics."

--Times researcher Carolyn Edds contributed to this report.

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