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Collier concerned with proposed impact fee law

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Collier County officials aren't happy about proposed legislation that would limit the ability of Florida's cities and counties to collect impact fees.

They believe this legislation would hurt their efforts to build schools, roads, parks and provide other improvements needed to help deal with growth.

A pair of identical bills in the Florida House and Senate would create guidelines on how impact fees could be used and how they would be assessed. The legislation is being pushed by the Florida Association of Builders, which believes impact fees are becoming excessive in parts of the state.

The measure would create consistency across the state, said Sen. Michael Bennett, R-Bradenton, one of the bill's main sponsors.

"We talked to the construction industry and to local governments, and there was no consistency at all when it came to impact fees," Bennett said. "The impact fees in Collier, Manatee and Charlotte County are completely different."

Impact fees are one-time assessments on new construction that are intended to make growth pay for growth. They are assessed for each new home and business built in the county and paid by developers, who typically pass them on to consumers in the form of higher prices.

Doug Buck, a lobbyist for the Florida Home Builders Association, said his group worked with Bennett to draft the bill. If the legislation passes in its current form, local governments will be able to set their own impact fee rates as long as they are calculated using the most up-to-date data, he said.

The bill also would create a six-month grace period between the creation of a new impact fee and when it goes into effect. Further, if the government fails to use the impact fee money within six

years, it would have to be refunded with interest to the person who paid it.

And instead of charging impact fees when the developer pulls a building permit, the government only would be able to collect when there is a real estate closing or a certificate of occupancy is issued. Since those actions are tough to track, government officials predict headaches will follow.

Impact fees pump millions into local government coffers each year. In the fiscal year ending Sept. 30, 2002, 40 of Florida's 67 counties charged impact fees, collecting more than \$466 million; the 19 counties that imposed school impact fees raked in nearly \$125 million, by state estimates.

Collier County collected \$101 million in impact fees during fiscal 2004, county impact fee coordinator Amy Patterson said.

The bills likely would reduce how much money Collier County collects because of a provision that gives developers a discount on impact fees. Homes and businesses would be credited for the amount of property taxes they generate over 30 years that goes toward the same things that impact fees traditionally pay for, such as roads and parks.

To supporters, the provision will prevent local governments from burdening people with what critics call duplicate charges.

But Collier officials aren't impressed. Collier commissioners are expected to come out against the legislation at their meeting Tuesday. "This is probably one of the worst bills that I've ever read," Collier Commissioner Donna Fiala said. "It will have a horrible impact on a lot of counties."

Collier County now has 11 impact fees that are assessed on new construction and the building industry routinely complains that there are too many impact fees. County officials say the 11 impact fees are needed because of the hyperactive growth.

They also contend the county's impact fee program would grind to a halt if these bills become law.

"This is bad legislation and all the counties in Southwest Florida think this is a bad idea," County Manager Jim Mudd said. "I would urge all the people in Collier County to call their elected officials and let them know they don't want this."

The House Growth Management Committee in Tallahassee ran out of time last week while discussing the bill; further discussion could be scheduled as early as this week. The Senate has yet to take up the bill.

Patterson said the legislation erodes the ability of local governments to manage growth and creates statewide standards that are vague.

"It would do away with a lot of the current impact fees without giving us a clear way to get them back," Patterson said.

Collier County now modifies its impact fees every year. That would become impossible under the six-month waiting period requirement in the bill, Patterson said.

A key element of the county's concurrency management system is the collection of 50 percent of transportation impact fees at the time of the final development order and the remaining 50 percent within three years. The legislation would nullify being able to do this and restrict the counties' ability to pay for road improvements, Patterson said.

The bills also are confusing when it comes to which impact fees would have to be paid immediately and which impact fees can be deferred, she said.

Bennett said the current system is unfair to a builder doing business in multiple counties. It's also unfair to someone looking to buy a home in a county where prices are higher because of excessive impact fees.

"Collier County has no affordable housing," Bennett said. "They need to look into getting some and maybe this legislation can help."

Mudd disagreed with Bennett. He said the lack of affordable housing is because the value of land keeps skyrocketing in Collier County.

Bennett also said too many counties are relying on impact fees to solve all of their problems. He believes that is unfair because it puts all of the burden of paying for growth and various improvements on the backs of new homeowners.

The Florida Association of Counties has come out against the legislation.

"We are opposed to any bill that dilutes the authority of local governments," association Communication Coordinator Kriss Vallese said. "We believe these bills do that."

Pushing for consistency throughout the state is difficult because land value is so different, Vallese said.

Growth management reform has become a hot topic in Tallahassee, but every bill that is supposed to reform growth management ends up taking power away from the local governments and giving more power to the states, Vallese said.

State Rep. Mike Davis, R-Naples, said he is siding with local officials on the issue.

"I like local government to have as much flexibility as possible." Davis said, adding that fees should be fair but don't have to be imposed the same way in each county. "One county may choose to have a law-enforcement impact fee while another doesn't. . . I don't have any problem with that."

Fiala said Florida is too diverse to have uniform impact fees.

"You can't compare Collier to someplace like Gadsen County," she said. "It's like comparing apples to elephants."



Staff writer Jeremy Cox contributed to this story.

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