

By Senator Diaz de la Portilla

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1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3180, F.S.; requiring that charter schools be a
4 permitted mitigation option for purposes of meeting
5 concurrency requirements; amending s. 163.3187, F.S.;
6 providing that an amendment to a comprehensive plan
7 that affects acreage of 10 acres or less is a small
8 scale development amendment, notwithstanding any
9 restrictive covenant; amending s. 201.15, F.S.;
10 removing the funding cap for the State Housing Trust
11 Fund and the Local Government Housing Trust Fund;
12 prohibiting residual funds deposited in the State
13 Housing Trust Fund and the Local Government Housing
14 Trust Fund from being transferred to the General
15 Revenue Fund; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:
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19 Section 1. Paragraph (e) of subsection (13) of section
20 163.3180, Florida Statutes, is amended to read:

21 163.3180 Concurrency.—

22 (13) School concurrency shall be established on a
23 districtwide basis and shall include all public schools in the
24 district and all portions of the district, whether located in a
25 municipality or an unincorporated area unless exempt from the
26 public school facilities element pursuant to s. 163.3177(12).
27 The application of school concurrency to development shall be
28 based upon the adopted comprehensive plan, as amended. All local
29 governments within a county, except as provided in paragraph

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30 (f), shall adopt and transmit to the state land planning agency
31 the necessary plan amendments, along with the interlocal
32 agreement, for a compliance review pursuant to s. 163.3184(7)
33 and (8). The minimum requirements for school concurrency are the
34 following:

35 (e) *Availability standard.*—Consistent with the public
36 welfare, a local government may not deny an application for site
37 plan, final subdivision approval, or the functional equivalent
38 for a development or phase of a development authorizing
39 residential development for failure to achieve and maintain the
40 level-of-service standard for public school capacity in a local
41 school concurrency management system where adequate school
42 facilities will be in place or under actual construction within
43 3 years after the issuance of final subdivision or site plan
44 approval, or the functional equivalent. School concurrency is
45 satisfied if the developer executes a legally binding commitment
46 to provide mitigation proportionate to the demand for public
47 school facilities to be created by actual development of the
48 property, including, but not limited to, the options described
49 in subparagraph 1. Options for proportionate-share mitigation of
50 impacts on public school facilities must be established in the
51 public school facilities element and the interlocal agreement
52 pursuant to s. 163.31777.

53 1. Appropriate mitigation options include the contribution
54 of land; the construction, expansion, or payment for land
55 acquisition or construction of a public school facility; the
56 construction of a charter school that complies with the
57 requirements of s. 1002.33(18); or the creation of mitigation
58 banking based on the construction of a public school facility in

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59 exchange for the right to sell capacity credits. Such options
60 must include execution by the applicant and the local government
61 of a development agreement that constitutes a legally binding
62 commitment to pay proportionate-share mitigation for the
63 additional residential units approved by the local government in
64 a development order and actually developed on the property,
65 taking into account residential density allowed on the property
66 prior to the plan amendment that increased the overall
67 residential density. The district school board must be a party
68 to such an agreement. As a condition of its entry into such a
69 development agreement, the local government may require the
70 landowner to agree to continuing renewal of the agreement upon
71 its expiration.

72 2. If the education facilities plan and the public
73 educational facilities element authorize a contribution of land;
74 the construction, expansion, or payment for land acquisition;
75 the construction or expansion of a public school facility, or a
76 portion thereof; or the construction of a charter school that
77 complies with the requirements of s. 1002.33(18), as
78 proportionate-share mitigation, the local government shall
79 credit such a contribution, construction, expansion, or payment
80 toward any other impact fee or exaction imposed by local
81 ordinance for the same need, on a dollar-for-dollar basis at
82 fair market value.

83 3. Any proportionate-share mitigation must be directed by
84 the school board toward a school capacity improvement identified
85 in a financially feasible 5-year district work plan that
86 satisfies the demands created by the development in accordance
87 with a binding developer's agreement.

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88 4. If a development is precluded from commencing because
89 there is inadequate classroom capacity to mitigate the impacts
90 of the development, the development may nevertheless commence if
91 there are accelerated facilities in an approved capital
92 improvement element scheduled for construction in year four or
93 later of such plan which, when built, will mitigate the proposed
94 development, or if such accelerated facilities will be in the
95 next annual update of the capital facilities element, the
96 developer enters into a binding, financially guaranteed
97 agreement with the school district to construct an accelerated
98 facility within the first 3 years of an approved capital
99 improvement plan, and the cost of the school facility is equal
100 to or greater than the development's proportionate share. When
101 the completed school facility is conveyed to the school
102 district, the developer shall receive impact fee credits usable
103 within the zone where the facility is constructed or any
104 attendance zone contiguous with or adjacent to the zone where
105 the facility is constructed.

106 5. This paragraph does not limit the authority of a local
107 government to deny a development permit or its functional
108 equivalent pursuant to its home rule regulatory powers, except
109 as provided in this part.

110 6. The use of a charter school as a mitigation option under
111 this paragraph shall always be permitted.

112 Section 2. Paragraph (c) of subsection (1) of section
113 163.3187, Florida Statutes, is amended to read:

114 163.3187 Amendment of adopted comprehensive plan.—

115 (1) Amendments to comprehensive plans adopted pursuant to
116 this part may be made not more than two times during any

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117 calendar year, except:

118 (c) Any local government comprehensive plan amendments
119 directly related to proposed small scale development activities
120 may be approved without regard to statutory limits on the
121 frequency of consideration of amendments to the local
122 comprehensive plan. A small scale development amendment may be
123 adopted only under the following conditions:

124 1. The proposed amendment involves a use of 10 acres or
125 less, notwithstanding any restrictive covenant that may affect
126 the land, fewer and:

127 a. The cumulative annual effect of the acreage for all
128 small scale development amendments adopted by the local
129 government shall not exceed:

130 (I) A maximum of 120 acres in a local government that
131 contains areas specifically designated in the local
132 comprehensive plan for urban infill, urban redevelopment, or
133 downtown revitalization as defined in s. 163.3164, urban infill
134 and redevelopment areas designated under s. 163.2517,
135 transportation concurrency exception areas approved pursuant to
136 s. 163.3180(5), or regional activity centers and urban central
137 business districts approved pursuant to s. 380.06(2)(e);
138 however, amendments under this paragraph may be applied to no
139 more than 60 acres annually of property outside the designated
140 areas listed in this sub-sub-subparagraph. Amendments adopted
141 pursuant to paragraph (k) shall not be counted toward the
142 acreage limitations for small scale amendments under this
143 paragraph.

144 (II) A maximum of 80 acres in a local government that does
145 not contain any of the designated areas set forth in sub-sub-

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146 subparagraph (I).

147 (III) A maximum of 120 acres in a county established
148 pursuant to s. 9, Art. VIII of the State Constitution.

149 b. The proposed amendment does not involve the same
150 property granted a change within the prior 12 months.

151 c. The proposed amendment does not involve the same owner's
152 property within 200 feet of property granted a change within the
153 prior 12 months.

154 d. The proposed amendment does not involve a text change to
155 the goals, policies, and objectives of the local government's
156 comprehensive plan, but only proposes a land use change to the
157 future land use map for a site-specific small scale development
158 activity.

159 e. The property that is the subject of the proposed
160 amendment is not located within an area of critical state
161 concern, unless the project subject to the proposed amendment
162 involves the construction of affordable housing units meeting
163 the criteria of s. 420.0004(3), and is located within an area of
164 critical state concern designated by s. 380.0552 or by the
165 Administration Commission pursuant to s. 380.05(1). Such
166 amendment is not subject to the density limitations of sub-
167 subparagraph f., and shall be reviewed by the state land
168 planning agency for consistency with the principles for guiding
169 development applicable to the area of critical state concern
170 where the amendment is located and shall not become effective
171 until a final order is issued under s. 380.05(6).

172 f. If the proposed amendment involves a residential land
173 use, the residential land use has a density of 10 units or less
174 per acre or the proposed future land use category allows a

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175 maximum residential density of the same or less than the maximum
176 residential density allowable under the existing future land use
177 category, except that this limitation does not apply to small
178 scale amendments involving the construction of affordable
179 housing units meeting the criteria of s. 420.0004(3) on property
180 which will be the subject of a land use restriction agreement,
181 or small scale amendments described in sub-sub-subparagraph
182 a.(I) that are designated in the local comprehensive plan for
183 urban infill, urban redevelopment, or downtown revitalization as
184 defined in s. 163.3164, urban infill and redevelopment areas
185 designated under s. 163.2517, transportation concurrency
186 exception areas approved pursuant to s. 163.3180(5), or regional
187 activity centers and urban central business districts approved
188 pursuant to s. 380.06(2)(e).

189 2.a. A local government that proposes to consider a plan
190 amendment pursuant to this paragraph is not required to comply
191 with the procedures and public notice requirements of s.
192 163.3184(15)(c) for such plan amendments if the local government
193 complies with the provisions in s. 125.66(4)(a) for a county or
194 in s. 166.041(3)(c) for a municipality. If a request for a plan
195 amendment under this paragraph is initiated by other than the
196 local government, public notice is required.

197 b. The local government shall send copies of the notice and
198 amendment to the state land planning agency, the regional
199 planning council, and any other person or entity requesting a
200 copy. This information shall also include a statement
201 identifying any property subject to the amendment that is
202 located within a coastal high-hazard area as identified in the
203 local comprehensive plan.

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204 3. Small scale development amendments adopted pursuant to
205 this paragraph require only one public hearing before the
206 governing board, which shall be an adoption hearing as described
207 in s. 163.3184(7), and are not subject to the requirements of s.
208 163.3184(3)-(6) unless the local government elects to have them
209 subject to those requirements.

210 4. If the small scale development amendment involves a site
211 within an area that is designated by the Governor as a rural
212 area of critical economic concern under s. 288.0656(7) for the
213 duration of such designation, the 10-acre limit listed in
214 subparagraph 1. shall be increased by 100 percent to 20 acres.
215 The local government approving the small scale plan amendment
216 shall certify to the Office of Tourism, Trade, and Economic
217 Development that the plan amendment furthers the economic
218 objectives set forth in the executive order issued under s.
219 288.0656(7), and the property subject to the plan amendment
220 shall undergo public review to ensure that all concurrency
221 requirements and federal, state, and local environmental permit
222 requirements are met.

223 Section 3. Subsections (9), (10), (13), and (17) of section
224 201.15, Florida Statutes, are amended to read:

225 201.15 Distribution of taxes collected.—All taxes collected
226 under this chapter are subject to the service charge imposed in
227 s. 215.20(1). Prior to distribution under this section, the
228 Department of Revenue shall deduct amounts necessary to pay the
229 costs of the collection and enforcement of the tax levied by
230 this chapter. Such costs and the service charge may not be
231 levied against any portion of taxes pledged to debt service on
232 bonds to the extent that the costs and service charge are

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233 required to pay any amounts relating to the bonds. After
234 distributions are made pursuant to subsection (1), all of the
235 costs of the collection and enforcement of the tax levied by
236 this chapter and the service charge shall be available and
237 transferred to the extent necessary to pay debt service and any
238 other amounts payable with respect to bonds authorized before
239 January 1, 2010, secured by revenues distributed pursuant to
240 subsection (1). All taxes remaining after deduction of costs and
241 the service charge shall be distributed as follows:

242 (9) Seven and fifty-three one-hundredths ~~The lesser of 7.53~~
243 percent of the remaining taxes ~~or \$107 million in each fiscal~~
244 ~~year~~ shall be paid into the State Treasury to the credit of the
245 State Housing Trust Fund and used as follows:

246 (a) Half of that amount shall be used for the purposes for
247 which the State Housing Trust Fund was created and exists by
248 law.

249 (b) Half of that amount shall be paid into the State
250 Treasury to the credit of the Local Government Housing Trust
251 Fund and used for the purposes for which the Local Government
252 Housing Trust Fund was created and exists by law.

253 (10) Eight and two-thirds ~~The lesser of 8.66~~ percent of the
254 remaining taxes ~~or \$136 million in each fiscal year~~ shall be
255 paid into the State Treasury to the credit of the State Housing
256 Trust Fund and used as follows:

257 (a) Twelve and one-half percent of that amount shall be
258 deposited into the State Housing Trust Fund and be expended by
259 the Department of Community Affairs and by the Florida Housing
260 Finance Corporation for the purposes for which the State Housing
261 Trust Fund was created and exists by law.

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262 (b) Eighty-seven and one-half percent of that amount shall
263 be distributed to the Local Government Housing Trust Fund and
264 used for the purposes for which the Local Government Housing
265 Trust Fund was created and exists by law. Funds from this
266 category may also be used to provide for state and local
267 services to assist the homeless.

268 (13) In each fiscal year that the remaining taxes exceed
269 collections in the prior fiscal year, the stated maximum dollar
270 amounts provided in subsections (2), (4), (6), and (7), ~~(9)~~, and
271 ~~(10)~~ shall each be increased by an amount equal to 10 percent of
272 the increase in the remaining taxes collected under this chapter
273 multiplied by the applicable percentage provided in those
274 subsections.

275 (17) After the distributions provided in the preceding
276 subsections, with the exception of subsections (9) and (10) any
277 remaining taxes shall be paid into the State Treasury to the
278 credit of the General Revenue Fund.

279 Section 4. This act shall take effect July 1, 2011.

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