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CS/CS/CS/HB 319

2013 Legislature

1  
2 An act relating to community transportation projects;  
3 amending s. 163.3180, F.S., relating to transportation  
4 concurrency; revising and providing requirements for  
5 local governments that continue to implement a  
6 transportation concurrency system; revising provisions  
7 for applicants for rezoning or a permit for a planned  
8 development to satisfy concurrency requirements;  
9 providing for such provisions to apply to development  
10 agreements; authorizing a local government to accept  
11 contributions from multiple applicants to satisfy such  
12 requirements under certain conditions; requiring local  
13 governments to provide the basis upon which landowners  
14 will be assessed certain costs; encouraging local  
15 governments without transportation concurrency to  
16 adopt an alternative mobility funding system;  
17 prohibiting alternative systems from denying, timing,  
18 or phasing a development application process if the  
19 developer agrees to pay for identified transportation  
20 impacts; requiring mobility fees to comply with the  
21 dual rational nexus test; prohibiting alternative  
22 systems from holding new developments responsible for  
23 existing deficiencies; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Paragraph (h) of subsection (5) of section  
28 163.3180, Florida Statutes, is amended, and paragraph (i) is

ENROLLED  
CS/CS/CS/HB 319

2013 Legislature

29 | added to that subsection, to read:

30 |       163.3180 Concurrency.—

31 |       (5)

32 |       (h)1. Local governments that continue to implement a  
33 | transportation concurrency system, whether in the form adopted  
34 | into the comprehensive plan before the effective date of the  
35 | Community Planning Act, chapter 2011-139, Laws of Florida, or as  
36 | subsequently modified, must:

37 |       a.1. Consult with the Department of Transportation when  
38 | proposed plan amendments affect facilities on the strategic  
39 | intermodal system.

40 |       b.2. Exempt public transit facilities from concurrency.  
41 | For the purposes of this sub-subparagraph ~~subparagraph~~, public  
42 | transit facilities include transit stations and terminals;  
43 | transit station parking; park-and-ride lots; intermodal public  
44 | transit connection or transfer facilities; fixed bus, guideway,  
45 | and rail stations; and airport passenger terminals and  
46 | concourses, air cargo facilities, and hangars for the assembly,  
47 | manufacture, maintenance, or storage of aircraft. As used in  
48 | this sub-subparagraph ~~subparagraph~~, the terms "terminals" and  
49 | "transit facilities" do not include seaports or commercial or  
50 | residential development constructed in conjunction with a public  
51 | transit facility.

52 |       c.3. Allow an applicant for a development-of-regional-  
53 | impact development order, development agreement, a rezoning, or  
54 | other land use development permit to satisfy the transportation  
55 | concurrency requirements of the local comprehensive plan, the  
56 | local government's concurrency management system, and s. 380.06,

57 when applicable, if:

58 ~~(I)a.~~ The applicant in good faith offers to enter ~~enters~~  
59 into a binding agreement to pay for or construct its  
60 proportionate share of required improvements in a manner  
61 consistent with this subsection.

62 ~~(II)b.~~ The proportionate-share contribution or  
63 construction is sufficient to accomplish one or more mobility  
64 improvements that will benefit a regionally significant  
65 transportation facility. A local government may accept  
66 contributions from multiple applicants for a planned improvement  
67 if it maintains contributions in a separate account designated  
68 for that purpose.

69 ~~d.e.(I)~~ Provide the basis upon ~~The local government has~~  
70 ~~provided a means by~~ which the landowners ~~landowner~~ will be  
71 assessed a proportionate share of the cost addressing the  
72 transportation impacts resulting from a ~~of providing the~~  
73 ~~transportation facilities necessary to serve the proposed~~  
74 development.

75 2. An applicant shall not be held responsible for the  
76 additional cost of reducing or eliminating deficiencies.

77 ~~(II)~~ When an applicant contributes or constructs its  
78 proportionate share pursuant to this paragraph ~~subparagraph~~, a  
79 local government may not require payment or construction of  
80 transportation facilities whose costs would be greater than a  
81 development's proportionate share of the improvements necessary  
82 to mitigate the development's impacts.

83 ~~a.(A)~~ The proportionate-share contribution shall be  
84 calculated based upon the number of trips from the proposed

ENROLLED  
CS/CS/CS/HB 319

2013 Legislature

85 | development expected to reach roadways during the peak hour from  
86 | the stage or phase being approved, divided by the change in the  
87 | peak hour maximum service volume of roadways resulting from  
88 | construction of an improvement necessary to maintain or achieve  
89 | the adopted level of service, multiplied by the construction  
90 | cost, at the time of development payment, of the improvement  
91 | necessary to maintain or achieve the adopted level of service.

92 |     ~~b. (B)~~ In using the proportionate-share formula provided in  
93 | this subparagraph, the applicant, in its traffic analysis, shall  
94 | identify those roads or facilities that have a transportation  
95 | deficiency in accordance with the transportation deficiency as  
96 | defined in subparagraph 4 ~~sub-subparagraph e~~. The proportionate-  
97 | share formula provided in this subparagraph shall be applied  
98 | only to those facilities that are determined to be significantly  
99 | impacted by the project traffic under review. If any road is  
100 | determined to be transportation deficient without the project  
101 | traffic under review, the costs of correcting that deficiency  
102 | shall be removed from the project's proportionate-share  
103 | calculation and the necessary transportation improvements to  
104 | correct that deficiency shall be considered to be in place for  
105 | purposes of the proportionate-share calculation. The improvement  
106 | necessary to correct the transportation deficiency is the  
107 | funding responsibility of the entity that has maintenance  
108 | responsibility for the facility. The development's proportionate  
109 | share shall be calculated only for the needed transportation  
110 | improvements that are greater than the identified deficiency.

111 |     ~~c. (C)~~ When the provisions of subparagraph 1. and this  
112 | subparagraph have been satisfied for a particular stage or phase

ENROLLED  
CS/CS/CS/HB 319

2013 Legislature

113 of development, all transportation impacts from that stage or  
114 phase for which mitigation was required and provided shall be  
115 deemed fully mitigated in any transportation analysis for a  
116 subsequent stage or phase of development. Trips from a previous  
117 stage or phase that did not result in impacts for which  
118 mitigation was required or provided may be cumulatively analyzed  
119 with trips from a subsequent stage or phase to determine whether  
120 an impact requires mitigation for the subsequent stage or phase.

121 ~~d.(D)~~ In projecting the number of trips to be generated by  
122 the development under review, any trips assigned to a toll-  
123 financed facility shall be eliminated from the analysis.

124 ~~e.(E)~~ The applicant shall receive a credit on a dollar-  
125 for-dollar basis for impact fees, mobility fees, and other  
126 transportation concurrency mitigation requirements paid or  
127 payable in the future for the project. The credit shall be  
128 reduced up to 20 percent by the percentage share that the  
129 project's traffic represents of the added capacity of the  
130 selected improvement, or by the amount specified by local  
131 ordinance, whichever yields the greater credit.

132 ~~3.d.~~ This subsection does not require a local government  
133 to approve a development that, for reasons other than  
134 transportation impacts, is not ~~otherwise~~ qualified for approval  
135 pursuant to the applicable local comprehensive plan and land  
136 development regulations.

137 ~~4.e.~~ As used in this subsection, the term "transportation  
138 deficiency" means a facility or facilities on which the adopted  
139 level-of-service standard is exceeded by the existing,  
140 committed, and vested trips, plus additional projected

ENROLLED  
CS/CS/CS/HB 319

2013 Legislature

141 background trips from any source other than the development  
142 project under review, and trips that are forecast by established  
143 traffic standards, including traffic modeling, consistent with  
144 the University of Florida's Bureau of Economic and Business  
145 Research medium population projections. Additional projected  
146 background trips are to be coincident with the particular stage  
147 or phase of development under review.

148 (i) If a local government elects to repeal transportation  
149 concurrency, it is encouraged to adopt an alternative mobility  
150 funding system that uses one or more of the tools and techniques  
151 identified in paragraph (f). Any alternative mobility funding  
152 system adopted may not be used to deny, time, or phase an  
153 application for site plan approval, plat approval, final  
154 subdivision approval, building permits, or the functional  
155 equivalent of such approvals provided that the developer agrees  
156 to pay for the development's identified transportation impacts  
157 via the funding mechanism implemented by the local government.  
158 The revenue from the funding mechanism used in the alternative  
159 system must be used to implement the needs of the local  
160 government's plan which serves as the basis for the fee imposed.  
161 A mobility fee-based funding system must comply with the dual  
162 rational nexus test applicable to impact fees. An alternative  
163 system that is not mobility fee-based shall not be applied in a  
164 manner that imposes upon new development any responsibility for  
165 funding an existing transportation deficiency as defined in  
166 paragraph (h).

167 Section 2. This act shall take effect upon becoming a law.