

By the Committee on Community Affairs; and Senator Hukill

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1 A bill to be entitled

2 An act relating to transportation development;
3 amending s. 163.3180, F.S.; providing that local
4 governments that implement transportation concurrency
5 must allow an applicant for a development agreement to
6 satisfy transportation concurrency requirements if
7 certain criteria are met, and must provide the basis
8 upon which landowners will be assessed a proportionate
9 share of the cost of addressing certain transportation
10 impacts; encouraging a local government that repeals
11 transportation concurrency to adopt an alternative
12 mobility funding system that is subject to certain
13 requirements; amending s. 163.3182, F.S.; expanding
14 the types of transportation projects that a
15 transportation development authority may undertake or
16 carry out; amending s. 190.006, F.S.; modifying the
17 method for filling positions within the board of
18 supervisors; providing an effective date.

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

21
22 Section 1. Paragraph (h) of subsection (5) of section
23 163.3180, Florida Statutes, is amended, and paragraph (i) is
24 added to that subsection, to read:

25 163.3180 Concurrency.—

26 (5)

27 (h) 1. Local governments that continue to implement a
28 transportation concurrency system, whether in the form adopted
29 into the comprehensive plan before July 1, 2011, or as

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30 subsequently modified, must:

31 ~~a.1.~~ Consult with the Department of Transportation when
32 proposed plan amendments affect facilities on the strategic
33 intermodal system.

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

46 ~~c.3.~~ Allow an applicant for a development-of-regional-
47 impact development order, development agreement, a rezoning, or
48 other land use development permit to satisfy the transportation
49 concurrency requirements of the local comprehensive plan, the
50 local government's concurrency management system, and s. 380.06,
51 when applicable, if:

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

56 (II) ~~b.~~ The proportionate-share contribution or construction
57 is sufficient to accomplish one or more mobility improvements
58 that will benefit a regionally significant transportation

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59 facility. A local government may accept contributions from
60 multiple applicants for a planned improvement if it maintains
61 contributions in a separate account designated for that purpose.

62 d.e. (I) Provide the basis upon which ~~The local government~~
63 ~~has provided a means by which the~~ landowners ~~landowner~~ will be
64 assessed a proportionate share of the cost of addressing the
65 transportation impacts resulting from a ~~providing the~~
66 ~~transportation facilities necessary to serve the proposed~~
67 development.

68 2. An applicant may ~~shall~~ not be held responsible for the
69 additional cost of reducing or eliminating deficiencies.

70 ~~(II)~~ When an applicant contributes or constructs its
71 proportionate share pursuant to this paragraph ~~subparagraph~~, a
72 local government may not require payment or construction of
73 transportation facilities whose costs would be greater than a
74 development's proportionate share of the improvements necessary
75 to mitigate the development's impacts.

76 a. (A) The proportionate-share contribution shall be
77 calculated based upon the number of trips from the proposed
78 development expected to reach roadways during the peak hour from
79 the stage or phase being approved, divided by the change in the
80 peak hour maximum service volume of roadways resulting from
81 construction of an improvement necessary to maintain or achieve
82 the adopted level of service, multiplied by the construction
83 cost, at the time of development payment, of the improvement
84 necessary to maintain or achieve the adopted level of service.

85 b. (B) In using the proportionate-share formula provided in
86 this subparagraph, the applicant, in its traffic analysis, shall
87 identify those roads or facilities that have a transportation

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88 deficiency in accordance with the transportation deficiency as
89 defined in subparagraph 4 ~~sub-subparagraph e~~. The proportionate-
90 share formula provided in this subparagraph shall be applied
91 only to those facilities that are determined to be significantly
92 impacted by the project traffic under review. If any road is
93 determined to be transportation deficient without the project
94 traffic under review, the costs of correcting that deficiency
95 shall be removed from the project's proportionate-share
96 calculation and the necessary transportation improvements to
97 correct that deficiency shall be considered to be in place for
98 purposes of the proportionate-share calculation. The improvement
99 necessary to correct the transportation deficiency is the
100 funding responsibility of the entity that has maintenance
101 responsibility for the facility. The development's proportionate
102 share shall be calculated only for the needed transportation
103 improvements that are greater than the identified deficiency.

104 c.(C) When the provisions of subparagraph 1. and this
105 subparagraph have been satisfied for a particular stage or phase
106 of development, all transportation impacts from that stage or
107 phase for which mitigation was required and provided shall be
108 deemed fully mitigated in any transportation analysis for a
109 subsequent stage or phase of development. Trips from a previous
110 stage or phase that did not result in impacts for which
111 mitigation was required or provided may be cumulatively analyzed
112 with trips from a subsequent stage or phase to determine whether
113 an impact requires mitigation for the subsequent stage or phase.

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

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

125 ~~3.d.~~ This subsection does not require a local government to
126 approve a development that is not ~~otherwise~~ qualified for
127 approval pursuant to the applicable local comprehensive plan and
128 land development regulations for reasons other than
129 transportation impacts.

130 ~~4.e.~~ As used in this subsection, the term "transportation
131 deficiency" means a facility or facilities on which the adopted
132 level-of-service standard is exceeded by the existing,
133 committed, and vested trips, plus additional projected
134 background trips from any source other than the development
135 project under review, and trips that are forecast by established
136 traffic standards, including traffic modeling, consistent with
137 the University of Florida's Bureau of Economic and Business
138 Research medium population projections. Additional projected
139 background trips are to be coincident with the particular stage
140 or phase of development under review.

141 (i) If a local government elects to repeal transportation
142 concurrency, it is encouraged to adopt an alternative mobility
143 funding system that uses one or more of the tools and techniques
144 identified in paragraph (f). An alternative mobility funding
145 system may not be used to deny, time, or phase an application

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146 for site plan, plat approval, final subdivision approval,
147 building permit, or the functional equivalent of such approvals
148 if the developer agrees to pay for the development's identified
149 transportation impacts using the funding mechanism implemented
150 by the local government. The revenue from the funding mechanism
151 adopted in the alternative system must be used to implement the
152 needs of the local government's plan which serve as the basis
153 for the fee imposed. A mobility-fee-based funding system must
154 comply with the dual rational nexus test applicable to impact
155 fees. An alternative system that is not mobility-fee-based may
156 not be applied in a manner that imposes upon new development any
157 responsibility for funding existing transportation deficiencies
158 as that term is defined in paragraph (h).

159 Section 2. Paragraph (b) of subsection (3) of section
160 163.3182, Florida Statutes, is amended to read:

161 163.3182 Transportation deficiencies.—

162 (3) POWERS OF A TRANSPORTATION DEVELOPMENT AUTHORITY.—Each
163 transportation development authority created pursuant to this
164 section has the powers necessary or convenient to carry out the
165 purposes of this section, including the following powers in
166 addition to others granted in this section:

167 (b) To undertake and carry out transportation projects for
168 transportation facilities designed to relieve transportation
169 deficiencies within the authority's jurisdiction. Transportation
170 projects may include transportation facilities that provide for
171 alternative modes of travel including sidewalks, bikeways, and
172 mass transit which are related to a deficient transportation
173 facility. Transportation projects may also include projects
174 within and outside the designated deficiency area to relieve

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175 deficiencies identified by the transportation deficiency plan.
176 Mass transit improvements and service may extend outside a
177 deficiency area to an existing or planned logical terminus of a
178 selected improvement.

179 Section 3. Paragraph (a) of subsection (3) of section
180 190.006, Florida Statutes, is amended to read:

181 190.006 Board of supervisors; members and meetings.—

182 (3) (a) 1. If the board proposes to exercise the ad valorem
183 taxing power authorized by s. 190.021, the district board shall
184 call an election at which the members of the board of
185 supervisors will be elected. Such election shall be held in
186 conjunction with a primary or general election unless the
187 district bears the cost of a special election. Each member shall
188 be elected by the qualified electors of the district for a term
189 of 4 years, except that, at the first such election, three
190 members shall be elected for a period of 4 years and two members
191 shall be elected for a period of 2 years. All elected board
192 members must be qualified electors of the district.

193 2.a. Regardless of whether a district has proposed to levy
194 ad valorem taxes, commencing 6 years after the initial
195 appointment of members or, for a district exceeding 5,000 acres
196 in area, ~~or~~ for a compact, urban, mixed-use district, or for a
197 transit-oriented development, as defined in s. 163.3164,
198 exceeding 25 acres in area, 10 years after the initial
199 appointment of members, the position of each member whose term
200 has expired shall be filled by a qualified elector of the
201 district, elected by the qualified electors of the district.
202 However, for those districts established after June 21, 1991,
203 and for those existing districts established after December 31,

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204 1983, which have less than 50 qualified electors on June 21,
205 1991, sub-subparagraphs b. and d. ~~shall~~ apply. If, in the 6th
206 year after the initial appointment of members, or 10 years after
207 such initial appointment for a district ~~districts~~ exceeding
208 5,000 acres in area, ~~or~~ for a compact, urban, mixed-use
209 district, or for a transit-oriented development, as defined in
210 s. 163.3164, exceeding 25 acres in area, there are not at least
211 250 qualified electors in the district, or for a district
212 exceeding 5,000 acres, ~~or~~ for a compact, urban, mixed-use
213 district, or for a transit-oriented development, as defined in
214 s. 163.3164, exceeding 25 acres in area, there are not at least
215 500 qualified electors, members of the board shall continue to
216 be elected by landowners.

217 b. After the 6th or 10th year, once a district reaches 250
218 or 500 qualified electors, respectively, ~~then~~ the positions of
219 two board members whose terms are expiring shall be filled by
220 qualified electors of the district, elected by the qualified
221 electors of the district for 4-year terms. The remaining board
222 member whose term is expiring shall be elected for a 4-year term
223 by the landowners and is not required to be a qualified elector.
224 Thereafter, as terms expire, board members shall be qualified
225 electors elected by qualified electors of the district for a
226 term of 4 years.

227 c. Once a district qualifies to have any of its board
228 members elected by the qualified electors of the district, the
229 initial and all subsequent elections by the qualified electors
230 of the district shall be held at the general election in
231 November. The board shall adopt a resolution if necessary to
232 implement this requirement when the board determines the number

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233 of qualified electors as required by sub-subparagraph d., to
234 extend or reduce the terms of current board members.

235 d. On or before June 1 of each year, the board shall
236 determine the number of qualified electors in the district as of
237 the immediately preceding April 15. The board shall use and rely
238 upon the official records maintained by the supervisor of
239 elections and property appraiser or tax collector in each county
240 in making this determination. Such determination shall be made
241 at a properly noticed meeting of the board and shall become a
242 part of the official minutes of the district.

243 Section 4. This act shall take effect July 1, 2013.