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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; providing an effective date.

14  
15   Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Paragraph (h) of subsection (5) of section  
18   163.3180, Florida Statutes, is amended, and paragraph (i) is  
19   added to that subsection, to read:

20           163.3180 Concurrency.—

21           (5)

22           (h)1. Local governments that continue to implement a  
23   transportation concurrency system, whether in the form adopted  
24   into the comprehensive plan before July 1, 2011, or as  
25   subsequently modified, must:

26           a.1. Consult with the Department of Transportation when  
27   proposed plan amendments affect facilities on the strategic  
28   intermodal system.

29           b.2. Exempt public transit facilities from concurrency. For

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

41 c.3. Allow an applicant for a development-of-regional-  
42 impact development order, development agreement, a rezoning, or  
43 other land use development permit to satisfy the transportation  
44 concurrency requirements of the local comprehensive plan, the  
45 local government's concurrency management system, and s. 380.06,  
46 when applicable, if:

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

51 (II)b. The proportionate-share contribution or construction  
52 is sufficient to accomplish one or more mobility improvements  
53 that will benefit a regionally significant transportation  
54 facility. A local government may accept contributions from  
55 multiple applicants for a planned improvement if it maintains  
56 contributions in a separate account designated for that purpose.

57 d.e.(I) Provide the basis upon which ~~The local government~~  
58 ~~has provided a means by which the~~ landowners ~~landowner~~ will be

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59 assessed a proportionate share of the cost of addressing the  
60 transportation impacts resulting from a ~~providing the~~  
61 ~~transportation facilities necessary to serve the~~ proposed  
62 development.

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

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

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

80 b.~~(B)~~ In using the proportionate-share formula provided in  
81 this subparagraph, the applicant, in its traffic analysis, shall  
82 identify those roads or facilities that have a transportation  
83 deficiency in accordance with the transportation deficiency as  
84 defined in subparagraph 4 ~~sub-subparagraph e~~. The proportionate-  
85 share formula provided in this subparagraph shall be applied  
86 only to those facilities that are determined to be significantly  
87 impacted by the project traffic under review. If any road is

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88 determined to be transportation deficient without the project  
89 traffic under review, the costs of correcting that deficiency  
90 shall be removed from the project's proportionate-share  
91 calculation and the necessary transportation improvements to  
92 correct that deficiency shall be considered to be in place for  
93 purposes of the proportionate-share calculation. The improvement  
94 necessary to correct the transportation deficiency is the  
95 funding responsibility of the entity that has maintenance  
96 responsibility for the facility. The development's proportionate  
97 share shall be calculated only for the needed transportation  
98 improvements that are greater than the identified deficiency.

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

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

112 e.~~(E)~~ The applicant shall receive a credit on a dollar-for-  
113 dollar basis for impact fees, mobility fees, and other  
114 transportation concurrency mitigation requirements paid or  
115 payable in the future for the project. The credit shall be  
116 reduced up to 20 percent by the percentage share that the

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117 project's traffic represents of the added capacity of the  
118 selected improvement, or by the amount specified by local  
119 ordinance, whichever yields the greater credit.

120 ~~3.d.~~ This subsection does not require a local government to  
121 approve a development that, for reasons other than  
122 transportation impacts, is not ~~otherwise~~ qualified for approval  
123 pursuant to the applicable local comprehensive plan and land  
124 development regulations.

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

136 (i) If a local government elects to repeal transportation  
137 concurrency, it is encouraged to adopt an alternative mobility  
138 funding system that uses one or more of the tools and techniques  
139 identified in paragraph (f). An alternative mobility funding  
140 system may not be used to deny, time, or phase an application  
141 for site plan, plat approval, final subdivision approval,  
142 building permit, or the functional equivalent of such approvals  
143 if the developer agrees to pay for the development's identified  
144 transportation impacts using the funding mechanism implemented  
145 by the local government. The revenue from the funding mechanism

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146 adopted in the alternative system must be used to implement the  
147 needs of the local government's plan which serve as the basis  
148 for the fee imposed. A mobility-fee-based funding system must  
149 comply with the dual rational nexus test applicable to impact  
150 fees. An alternative system that is not mobility-fee-based may  
151 not be applied in a manner that imposes upon new development any  
152 responsibility for funding existing transportation deficiencies  
153 as that term is defined in paragraph (h).

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