By the Committee on Community Affairs; and Senator Bennett

578-03344-09 20091306c1

A bill to be entitled

An act relating to growth management; amending s. 163.3164, F.S.; revising definitions; providing a definition for the terms "dense urban land area," "backlog" or "backlogged transportation facility," and "background trips"; amending s. 163.3177, F.S.; conforming a cross-reference; providing that a local government's comprehensive plan or plan amendments for land uses within a transportation concurrency exception area meets the level-of-service standards for transportation; amending s. 163.3180, F.S.; revising concurrency requirements; providing legislative findings relating to transportation concurrency exception areas; providing for the applicability of transportation concurrency exception areas; deleting certain requirements for transportation concurrency exception areas; providing that the designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees and does not affect any contract or agreement entered into or development order rendered before such designation; requiring that the Office of Program Policy Analysis and Government Accountability submit a report to the Legislature concerning the effects of the transportation concurrency exception areas; providing for an exemption from level-of-service standards for proposed development related to qualified job-creation projects; clarifying the calculation of the

proportionate-share contribution for local and regionally significant traffic impacts which is paid by a development of regional impact for the purpose of satisfying certain concurrency requirements; creating s. 163.31802, F.S.; prohibiting local governments from establishing standards for security devices that require businesses to enhance certain functions or services provided by local government; providing an exception; amending s. 163.3182, F.S.; revising provisions relating to transportation concurrency backlog authorities; requiring that a local government adopt one or more transportation concurrency backlog areas as part its capital improvements element update; requiring that a local government biannually submit new areas to the state land planning agency until certain conditions are met; providing an exception; providing for certain landowners or developers to request a transportation concurrency backlog area for a development area; prohibiting a local government from requiring payments for transportation concurrency which exceed the costs of mitigating traffic impacts; amending s. 380.06, F.S.; revising provisions relating to preapplication procedures for development approval; requiring that the level-of-service standards required in the transportation methodology be the same as the standards used to evaluate concurrency and proportionate share; amending s. 403.973, F.S.; providing legislative intent; providing certain criteria for regional centers for clean technology

projects to receive expedited permitting; providing regulatory incentives for projects that meet such criteria; authorizing the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor to certify and decertify such projects; authorizing the office to create regional permit action teams; providing for a transportation mobility fee; providing legislative findings and intent; requiring that the state land planning agency and the Department of Transportation coordinate their independent mobility fees studies to develop a methodology for a mobility fee system; providing guidelines for developing the methodology; requiring that the state land planning agency and the department submit joint interim reports to the Legislature by specified dates; requiring that the Department of Transportation establish a transportation methodology; requiring that such methodology be completed and in use by a specified date; providing an effective date.

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

Section 1. Subsections (29) and (32) of section 163.3164, Florida Statutes, are amended, and subsections (34), (35), and (36) are added to that section, to read:

163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions.—As used in this act:

(29) "~~Existing~~ Urban service area" means built-up areas where public facilities and services<u>, including, but not limited</u>

to, central water and sewer ~~such as sewage treatment systems~~, roads, schools, and recreation areas are already in place. In addition, for a county that qualifies as a dense urban land area under subsection (34), the nonrural area of the county, which has been adopted into the county charter as a rural area, or areas identified in the comprehensive plan as urban service areas or urban growth boundaries on or before July, 1, 2009, are also urban service areas under this definition.

(32) "Financial feasibility" means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, including ~~such as~~ ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan and necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements. A comprehensive plan or comprehensive plan amendment shall be deemed financially feasible for transportation ~~and school~~ facilities throughout the planning period addressed by the capital improvements schedule if it can be demonstrated that the level-of-service standards will be achieved and maintained by the end of the planning period even if in a particular year such improvements are not concurrent as required by s. 163.3180. A comprehensive plan shall be deemed financially feasible for school facilities throughout the planning period addressed by the capital

improvements schedule if it can be demonstrated that the level-of-service standards will be achieved and maintained by the end of the planning period, even if in a particular year such improvements are not concurrent as required in s. 163.3180.

(34) "Dense urban land area" means:

(a) A municipality that has an average of at least 1,000 people per square mile of area and a minimum total population of at least 5,000;

(b) A county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or

(c) A county, including the municipalities located therein, which has a population of at least 1 million.

The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall submit to the state land planning agency a list of jurisdictions that meet the total population and density criteria necessary for designation as a dense urban

land area by July 1, 2009, and every year thereafter. The state land planning agency shall publish the list of jurisdictions on its Internet website within 7 days after the list is received. The designation of a jurisdictions that qualifies or does not qualify as a dense urban land area is effective upon publication on the state land planning agency's Internet website.

(35) "Backlog" or "backlogged transportation facility" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing trips plus background trips.

(36) "Background trips" means trips other than existing trips from any source other than the development project under review which are forecast by established traffic modeling standards to be coincident with the particular stage or phase of the development under review.

Section 2. Paragraph (e) of subsection (3) of section 163.3177, Florida Statutes, is amended, and paragraph (f) is added to that subsection, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(3)(e) At the discretion of the local government and notwithstanding the requirements in ~~of~~ this subsection, a comprehensive plan, as revised by an amendment to the plan's future land use map, shall be deemed to be financially feasible and to have achieved and maintained level-of-service standards as required in ~~by~~ this section with respect to transportation facilities if the amendment to the future land use map is supported by a:

1. Condition in a development order for a development of

regional impact or binding agreement that addresses proportionate-share mitigation consistent with s. 163.3180(12); or

2. Binding agreement addressing proportionate fair-share mitigation consistent with s. 163.3180(16)(g) ~~s. 163.3180(16)(f)~~ and the property subject to the amendment to the future land use map is located within an area designated in a comprehensive plan for urban infill, urban redevelopment, downtown revitalization, urban infill and redevelopment, or an urban service area. The binding agreement must be based on the maximum amount of development identified by the future land use map amendment or as may be otherwise restricted through a special area plan policy or map notation in the comprehensive plan.

(f) A local government's comprehensive plan and plan amendments for land uses within all transportation concurrency exception areas that are designated and maintained in accordance with s. 163.3180(5) shall be deemed to meet the requirement in this section to achieve and maintain level-of-service standards for transportation.

Section 3. Section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(1) APPLICABILITY OF CONCURRENCY REQUIREMENT.—

(a) *Public facility types.*—Sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools, and transportation facilities, including mass transit, where applicable, are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services are ~~may~~ not ~~be made~~ subject to

concurrency on a statewide basis without appropriate study and approval by the Legislature; however, any local government may extend the concurrency requirement ~~so that it applies~~ to apply to additional public facilities within its jurisdiction.

(b) *Transportation methodologies.*—Local governments shall use professionally accepted techniques for measuring level of service for automobiles, bicycles, pedestrians, transit, and trucks. These techniques may be used to evaluate increased accessibility by multiple modes and reductions in vehicle miles of travel in an area or zone. The state land planning agency and the Department of Transportation shall develop methodologies to assist local governments in implementing this multimodal level-of-service analysis and~~. The Department of Community Affairs and the Department of Transportation~~ shall provide technical assistance to local governments in applying the ~~these~~ methodologies.

(2) PUBLIC FACILITY AVAILABILITY STANDARDS.—

(a) *Sanitary sewer, solid waste, drainage, adequate water supply, and potable water facilities.*—Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the date on which ~~issuance by~~ the local government issues ~~of~~ a certificate of occupancy or its functional equivalent. Before approving ~~Prior to approval of~~ a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available by ~~no later than~~ the anticipated date of issuance ~~by the local~~

~~government~~ of the ~~a~~ certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Health to serve new development.

(b) *Parks and recreation facilities.*—Consistent with the public welfare, and except as otherwise provided in this section, parks and recreation facilities to serve new development shall be in place or under actual construction within ~~no later than~~ 1 year after ~~issuance by~~ the local government issues ~~of~~ a certificate of occupancy or its functional equivalent. However, the acreage for such facilities must ~~shall~~ be dedicated or be acquired by the local government before it issues ~~prior to issuance by the local government of~~ the ~~a~~ certificate of occupancy or its functional equivalent, or funds in the amount of the developer's fair share shall be committed no later than the date on which the local government approves commencement of ~~government's approval to commence~~ construction.

(c) *Transportation facilities.*—Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities needed to serve new development must ~~shall~~ be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation.

(3) ESTABLISHING LEVEL-OF-SERVICE STANDARDS.—Governmental entities that are not responsible for providing, financing, operating, or regulating public facilities needed to serve development may not establish binding level-of-service standards

to apply to ~~on~~ governmental entities that do bear those responsibilities. This subsection does not limit the authority of any agency to recommend or make objections, recommendations, comments, or determinations during reviews conducted under s. 163.3184.

(4) APPLICATION OF CONCURRENCY TO PUBLIC FACILITIES.—

(a) *State and other public facilities.*—The concurrency requirement as implemented in local comprehensive plans applies to state and other public facilities and development to the same extent that it applies to all other facilities and development, as provided by law.

(b) *Public transit facilities.*—The concurrency requirement as implemented in local comprehensive plans does not apply to public transit facilities. For the purposes of this paragraph, public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangars for the maintenance or storage of aircraft. As used in this paragraph, the terms "terminals" and "transit facilities" do not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

(c) *Infill and redevelopment areas.*—The concurrency requirement, except as it relates to transportation facilities and public schools, as implemented in local government comprehensive plans, may be waived by a local government for urban infill and redevelopment areas designated pursuant to s. 163.2517 if such a waiver does not endanger public health or

safety as defined ~~by the local government~~ in the ~~its~~ local government's ~~government~~ comprehensive plan. The waiver must ~~shall~~ be adopted as a plan amendment using ~~pursuant to~~ the process set forth in s. 163.3187(3)(a). A local government may grant a concurrency exception pursuant to subsection (5) for transportation facilities located within these urban infill and redevelopment areas. Affordable housing developments that serve residents who have incomes at or below 60 percent of the area median income and are proposed to be located on arterial roadways that have public transit available are exempt from transportation concurrency requirements.

(5) COUNTERVAILING PLANNING AND PUBLIC POLICY GOALS.—

(a) The Legislature finds that under limited circumstances ~~dealing with transportation facilities,~~ countervailing planning and public policy goals may come into conflict with the requirement that adequate public transportation facilities and services be available concurrent with the impacts of such development. The Legislature further finds that ~~often~~ the unintended result of the concurrency requirement for transportation facilities is often the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. The Legislature also finds that in urban centers transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity, that the expansion of roadway capacity is not always physically or financially possible, and that a range of transportation alternatives are essential to satisfy mobility needs, reduce congestion, and

achieve healthy, vibrant centers. ~~Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.~~

(b)1. The following are transportation concurrency exception areas:

a. A municipality that qualifies as a dense urban land area under s. 163.3164(34);

b. An urban service area under s. 163.3164(29) which has been adopted into the local comprehensive plan and is located within a county that qualifies as a dense urban land area under s. 163.3164(34); and

c. A county, including the municipalities located therein, which has a population of at least 900,000 and qualifies as a dense urban land area under s. 163.3164(34), but does not have an urban service area designated in the local comprehensive plan.

2. A municipality that does not qualify as a dense urban land area pursuant to s. 163.3164(34) may designate in its local comprehensive plan the following areas as transportation concurrency exception areas:

a. Urban infill as defined in s. 163.3164(27);

b. Community redevelopment areas as defined in s. 163.340(10);

c. Downtown revitalization areas as defined in s. 163.3164(25);

d. Urban infill and redevelopment under s. 163.2517; or

e. Urban service areas as defined in s. 163.3164(29) or areas within a designated urban service boundary under s. 163.3177(14).

3. A county that does not qualify as a dense urban land area pursuant to s. 163.3164(34) may designate in its local comprehensive plan the following areas as transportation concurrency exception areas:

a. Urban infill as defined in s. 163.3164(27);

b. Urban infill and redevelopment under s. 163.2517; or

c. Urban service areas as defined in s. 163.3164(29).

4. A local government that has a transportation concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. must, within 2 years after the designated area becomes exempt, adopt into its local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. Local governments are encouraged to adopt complementary land use and transportation strategies that reflect the region's shared vision for its future. If the state land planning agency finds insufficient cause for the failure to adopt into its comprehensive plan land use and transportation strategies to support and fund mobility within the designated exception area after 2 years, it shall submit the finding to the Administration Commission, which may impose any of the sanctions set forth in s. 163.3184(11)(a) and (b) against the local government.

5. Transportation concurrency exception areas designated under subparagraph 1., subparagraph 2., or subparagraph 3. do not apply to designated transportation concurrency districts located within a county that has a population of at least 1.5 million, has implemented and uses a transportation-related concurrency assessment to support alternative modes of

transportation, including, but not limited to, mass transit, and does not levy transportation impact fees within the concurrency district.

6. A local government that does not have a transportation concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

a.~~1.~~ Urban infill development;

b.~~2.~~ Urban redevelopment;

c.~~3.~~ Downtown revitalization;

d.~~4.~~ Urban infill and redevelopment under s. 163.2517; or

e.~~5.~~ An urban service area specifically designated as a transportation concurrency exception area which includes lands appropriate for compact, contiguous urban development, which does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period, and which is served or is planned to be served with public facilities and services as provided by the capital improvements element.

(c) The Legislature also finds that developments located within urban infill, urban redevelopment, ~~existing~~ urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517, which pose only special part-time demands on the transportation

system, are exempt ~~should be excepted~~ from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) Except for transportation concurrency exception areas designated pursuant to subparagraph (b)1., subparagraph (b)2., or subparagraph (b)3., the following requirements apply: ~~A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.~~

1.~~(c)~~ The local government shall both adopt into the comprehensive plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment must also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided.

2. ~~In addition,~~ The strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area must be accompanied by data and analysis justifying the size of the area.

(e)~~(f)~~ Before designating ~~Prior to the designation of~~ a concurrency exception area pursuant to subparagraph (b)6., the

state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for regional transportation facilities identified pursuant to s. 186.507, including the Strategic Intermodal System ~~facilities, as defined in s. 339.64,~~ and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall provide a plan for the mitigation of~~, in consultation with the state land planning agency and the Department of Transportation, develop a plan to mitigate any~~ impacts to the Strategic Intermodal System, including, if appropriate, access management, parallel reliever roads, transportation demand management, and other measures ~~the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d)~~. ~~The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.~~

~~(g) Transportation concurrency exception areas existing prior to July 1, 2005, must, at a minimum, meet the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.~~

(f) The designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees. This subsection does not affect any contract or agreement entered into or development

order rendered before the creation of the transportation concurrency exception area except as provided in s. 380.06(29)(e).

(g) The Office of Program Policy Analysis and Government Accountability shall submit to the President of the Senate and the Speaker of the House of Representatives by February 1, 2015, a report on transportation concurrency exception areas created pursuant to this subsection. At a minimum, the report shall address the methods that local governments have used to implement and fund transportation strategies to achieve the purposes of designated transportation concurrency exception areas and the effects of the strategies on mobility, congestion, urban design, the density and intensity of land use mixes, and network connectivity plans used to promote urban infill, redevelopment, or downtown revitalization.

(6) DE MINIMIS IMPACT.—The Legislature finds that a de minimis impact is consistent with this part. A de minimis impact is an impact that does ~~would~~ not affect more than 1 percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the local government. An ~~No~~ impact is not ~~will be~~ de minimis if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility exceeds ~~would exceed~~ 110 percent of the maximum volume at the adopted level of service of the affected transportation facility; ~~provided~~ however, the ~~that an~~ impact of a single family home on an existing lot is ~~will constitute~~ a de minimis impact on all roadways regardless of the level of the deficiency of the roadway. Further, an ~~no~~ impact is not ~~will be~~ de minimis if it exceeds ~~would exceed~~ the adopted

level-of-service standard of any affected designated hurricane evacuation routes. Each local government shall maintain sufficient records to ensure that the 110-percent criterion is not exceeded. ~~Each local government shall submit annually, with its updated capital improvements element, a summary of the de minimis records. If the state land planning agency determines that the 110-percent criterion has been exceeded, the state land planning agency shall notify the local government of the exceedance and that no further de minimis exceptions for the applicable roadway may be granted until such time as the volume is reduced below the 110 percent. The local government shall provide proof of this reduction to the state land planning agency before issuing further de minimis exceptions.~~

(7) CONCURRENCY MANAGEMENT AREAS.—In order to promote urban development and infill development and redevelopment, one or more transportation concurrency management areas may be designated in a local government comprehensive plan. A transportation concurrency management area must be a compact geographic area that has ~~with~~ an existing network of roads where multiple, viable alternative travel paths or modes are available for common trips. A local government may establish an areawide level-of-service standard for such a transportation concurrency management area based upon an analysis that provides for a justification for the areawide level of service, how urban ~~infill~~ development, infill, and or redevelopment will be promoted, and how mobility will be accomplished within the transportation concurrency management area. Before ~~Prior to the designation of~~ a concurrency management area is designated, the local government shall consult with the state land planning

agency and the Department of Transportation ~~shall be consulted by the local government~~ to assess the impact that the proposed concurrency management area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities~~, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819~~. Further, the local government shall, in cooperation with the state land planning agency and the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). ~~Transportation concurrency management areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.~~ The state land planning agency shall amend chapter 9J-5, Florida Administrative Code, to be consistent with this subsection.

(8) URBAN REDEVELOPMENT.—When assessing the transportation impacts of proposed urban redevelopment within an established existing urban service area, 150 ~~110~~ percent of the actual transportation impact caused by the previously existing development must be reserved for the redevelopment, even if the previously existing development had ~~has~~ a lesser or nonexisting impact pursuant to the calculations of the local government. Redevelopment requiring less than 150 ~~110~~ percent of the previously existing capacity shall not be prohibited due to the reduction of transportation levels of service below the adopted standards. ~~This does not preclude the appropriate assessment of~~

~~fees or accounting for the impacts within the concurrency management system and capital improvements program of the affected local government.~~ This subsection ~~paragraph~~ does not affect local government requirements for appropriate development permits.

(9)(a) LONG-TERM CONCURRENCY MANAGEMENT.—Each local government may adopt, as a part of its plan, long-term transportation and school concurrency management systems that have ~~with~~ a planning period of up to 10 years for specially designated districts or areas where significant backlogs exist. The plan may include interim level-of-service standards on certain facilities and must ~~shall~~ rely on the local government's schedule of capital improvements for up to 10 years as a basis for issuing development orders authorizing the ~~that authorize~~ commencement of construction in the ~~these~~ designated districts or areas. The concurrency management system must be designed to correct existing deficiencies and set priorities for addressing backlogged facilities. The concurrency management system must be financially feasible and consistent with other portions of the adopted local plan, including the future land use map.

(b) If a local government has a transportation or school facility backlog for existing development which cannot be adequately addressed in a 10-year plan, the state land planning agency may allow the local government ~~it~~ to develop a plan and long-term schedule of capital improvements covering up to 15 years for good and sufficient cause. The state land planning agency's determination must be~~,~~ based on a general comparison between the ~~that~~ local government and all other similarly situated local jurisdictions, using the following factors: 1.

The extent of the backlog. 2. For roads, whether the backlog is on local or state roads. 3. The cost of eliminating the backlog. 4. The local government's tax and other revenue-raising efforts.

(c) The local government may issue approvals to commence construction notwithstanding this section, consistent with and in areas that are subject to a long-term concurrency management system.

(d) If the local government adopts a long-term concurrency management system, it must evaluate the system periodically. At a minimum, the local government must assess its progress toward improving levels of service within the long-term concurrency management district or area in the evaluation and appraisal report and determine any changes that are necessary to accelerate progress in meeting acceptable levels of service.

(10) TRANSPORTATION LEVEL-OF-SERVICE STANDARDS.—With regard to roadway facilities on the Strategic Intermodal System which are designated in accordance with s. 339.63 ~~ss. 339.61, 339.62, 339.63, and 339.64, the Florida Intrastate Highway System as defined in s. 338.001, and roadway facilities funded in accordance with s. 339.2819~~, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule; however, if a project involves qualified jobs created and certified by the Office of Tourism, Trade, and Economic Development or if the project is a nonresidential project located within an area designated by the Governor as a rural area of critical economic concern under s. 288.0656(7), the affected local government, after consulting with the Department of Transportation, may adopt into its comprehensive plan a lower level-of-service standard than the standard adopted

by the Department of Transportation. The lower level-of-service standard shall apply only to a project conducted under the Office of Tourism, Trade, and Economic Development. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities and for the purpose of implementing their concurrency management systems.

(11) LIMITATION OF LIABILITY.—In order to limit a local government's ~~the~~ liability ~~of local governments~~, the ~~a~~ local government shall ~~may~~ allow a landowner to proceed with the development of a specific parcel of land notwithstanding a failure of the development to satisfy transportation concurrency, if ~~when all~~ the following factors ~~are shown to~~ exist:

(a) The local government having ~~with~~ jurisdiction over the property has adopted a local comprehensive plan that is in

compliance.

(b) The proposed development is ~~would be~~ consistent with the future land use designation for the specific property and with pertinent portions of the adopted local plan, as determined by the local government.

(c) The local plan includes a financially feasible capital improvements element that provides for transportation facilities adequate to serve the proposed development, and the local government has not implemented that element.

(d) The local government has provided a means for assessing ~~by which~~ the landowner for ~~will be assessed~~ a fair share of the cost of providing the transportation facilities necessary to serve the proposed development.

(e) The landowner has made a binding commitment to the local government to pay the fair share of the cost of providing the transportation facilities to serve the proposed development.

(12) REGIONAL IMPACT PROPORTIONATE-SHARE CONTRIBUTION.—

(a) A development of regional impact satisfies ~~may satisfy~~ the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by paying ~~payment of~~ a proportionate-share contribution for local and regionally significant traffic impacts, if:

1.~~(a)~~ The development of regional impact which, based on its location or mix of land uses, is designed to encourage pedestrian or other nonautomotive modes of transportation;

2.~~(b)~~ The proportionate-share contribution for local and regionally significant traffic impacts is sufficient to pay for one or more ~~required~~ mobility improvements that will benefit the

network of ~~a~~ regionally significant transportation facilities ~~facility~~;

3.~~(c)~~ The owner and developer of the development of regional impact pays or assures payment of the proportionate-share contribution to the local government having jurisdiction over the development of regional impact; and

4.~~(d)~~ ~~If~~ The regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. 334.03(12), ~~other than~~ The local government having ~~with~~ jurisdiction over the development of regional impact must~~, the developer is required to~~ enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having maintenance authority or to otherwise assure construction or improvement of a ~~the~~ facility reasonably related to the mobility demands created by the development.

(b) The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan.~~, but, for the purposes of this subsection,~~ The ~~amount of the~~ proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed new stage or phase of development expected to reach roadways during the peak hour at ~~from~~ the complete buildout of a stage or phase being approved, divided by two to reflect that each off-site trip represents a trip generated by another development, multiplied by the construction cost at the time of the developer payment, the product of which is divided by the change in the peak hour maximum service volume of the roadways resulting from the

construction of an improvement necessary to maintain the adopted level of service~~, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service~~. For purposes of this subparagraph ~~subsection~~, the term "construction cost" includes all associated costs of the improvement. Proportionate-share mitigation shall be limited to ensure that a development of regional impact meeting the requirements of this subsection mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs.

1. A developer may not be required to fund or construct proportionate-share mitigation that is more extensive than mitigation necessary to offset the impact of the development project under review.

2. Proportionate-share mitigation shall be applied as a credit against any transportation impact fees or exactions assessed for the traffic impacts of a development.

3. Proportionate-share mitigation may be directed toward one or more specific transportation improvements reasonably related to the mobility demands created by the development and such improvements may address one or more modes of transportation.

4. The payment for such improvements that significantly benefit the impacted transportation system satisfies concurrency requirements as a mitigation of the development's stage or phase impacts upon the overall transportation system even if there remains a failure of concurrency on other impacted facilities.

5. This subsection also applies to Florida Quality

Developments pursuant to s. 380.061 and to detailed specific area plans implementing optional sector plans pursuant to s. 163.3245.

(13) SCHOOL CONCURRENCY.—School concurrency shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). The minimum requirements for school concurrency are the following:

(a) *Public school facilities element.*—A local government shall adopt and transmit to the state land planning agency a plan or plan amendment which includes a public school facilities element which is consistent with the requirements of s. 163.3177(12) and which is determined to be in compliance as defined in s. 163.3184(1)(b). All local government public school facilities plan elements within a county must be consistent with each other as well as the requirements of this part.

(b) *Level-of-service standards.*—The Legislature recognizes that an essential requirement for a concurrency management system is the level of service at which a public facility is expected to operate.

1. Local governments and school boards imposing school

concurrency shall exercise authority in conjunction with each other to establish jointly adequate level-of-service standards, as defined in chapter 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan, based on data and analysis.

2. Public school level-of-service standards shall be included and adopted into the capital improvements element of the local comprehensive plan and shall apply districtwide to all schools of the same type. Types of schools may include elementary, middle, and high schools as well as special purpose facilities such as magnet schools.

3. Local governments and school boards shall have the option to utilize tiered level-of-service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

(c) *Service areas.*—The Legislature recognizes that an essential requirement for a concurrency system is a designation of the area within which the level of service will be measured when an application for a residential development permit is reviewed for school concurrency purposes. This delineation is also important for purposes of determining whether the local government has a financially feasible public school capital facilities program that will provide schools which will achieve and maintain the adopted level-of-service standards.

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to initially apply school concurrency to development only on a districtwide basis so that a

concurrency determination for a specific development will be based upon the availability of school capacity districtwide. To ensure that development is coordinated with schools having available capacity, within 5 years after adoption of school concurrency, local governments shall apply school concurrency on a less than districtwide basis, such as using school attendance zones or concurrency service areas, as provided in subparagraph 2.

2. For local governments applying school concurrency on a less than districtwide basis, such as utilizing school attendance zones or larger school concurrency service areas, local governments and school boards shall have the burden to demonstrate that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified and included as supporting data and analysis for the comprehensive plan.

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level-of-service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, then the local

government may not deny an application for site plan or final subdivision approval or the functional equivalent for a development or phase of a development on the basis of school concurrency, and if issued, development impacts shall be shifted to contiguous service areas with schools having available capacity.

(d) *Financial feasibility.*—The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level-of-service standard. This part and chapter 9J-5, Florida Administrative Code, contain specific standards to determine the financial feasibility of capital programs. These standards were adopted to make concurrency more predictable and local governments more accountable.

1. A comprehensive plan amendment seeking to impose school concurrency shall contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with the requirements of s. 163.3177(3) and rule 9J-5.016, Florida Administrative Code. The capital improvements element shall set forth a financially feasible public school capital facilities program, established in conjunction with the school board, that demonstrates that the adopted level-of-service standards will be achieved and maintained.

2. Such amendments shall demonstrate that the public school capital facilities program meets all of the financial feasibility standards of this part and chapter 9J-5, Florida Administrative Code, that apply to capital programs which provide the basis for mandatory concurrency on other public

facilities and services.

3. When the financial feasibility of a public school capital facilities program is evaluated by the state land planning agency for purposes of a compliance determination, the evaluation shall be based upon the service areas selected by the local governments and school board.

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

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell

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

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

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

4. If a development is precluded from commencing because there is inadequate classroom capacity to mitigate the impacts of the development, the development may nevertheless commence if

there are accelerated facilities in an approved capital improvement element scheduled for construction in year four or later of such plan which, when built, will mitigate the proposed development, or if such accelerated facilities will be in the next annual update of the capital facilities element, the developer enters into a binding, financially guaranteed agreement with the school district to construct an accelerated facility within the first 3 years of an approved capital improvement plan, and the cost of the school facility is equal to or greater than the development's proportionate share. When the completed school facility is conveyed to the school district, the developer shall receive impact fee credits usable within the zone where the facility is constructed or any attendance zone contiguous with or adjacent to the zone where the facility is constructed.

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

(f) *Intergovernmental coordination.*—

1. When establishing concurrency requirements for public schools, a local government shall satisfy the requirements for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2., except that a municipality is not required to be a signatory to the interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777(6), as a prerequisite for imposition of school concurrency, and as a nonsignatory, shall not participate in the adopted local school concurrency system, if the municipality meets all of the following criteria for

having no significant impact on school attendance:

a. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

b. The municipality has not annexed new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates.

c. The municipality has no public schools located within its boundaries.

d. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

2. A municipality which qualifies as having no significant impact on school attendance pursuant to the criteria of subparagraph 1. must review and determine at the time of its evaluation and appraisal report pursuant to s. 163.3191 whether it continues to meet the criteria pursuant to s. 163.31777(6). If the municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments based on the evaluation and appraisal report, and enter into the existing interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777, in order to fully participate in the school concurrency system. If such a municipality fails to do so, it will be subject to the enforcement provisions of s. 163.3191.

(g) *Interlocal agreement for school concurrency.*—When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement that satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and

163.31777 and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of ss. 163.3177(6)(h) and 163.31777, the interlocal agreement shall meet the following requirements:

1. Establish the mechanisms for coordinating the development, adoption, and amendment of each local government's public school facilities element with each other and the plans of the school board to ensure a uniform districtwide school concurrency system.

2. Establish a process for the development of siting criteria which encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

3. Specify uniform, districtwide level-of-service standards for public schools of the same type and the process for modifying the adopted level-of-service standards.

4. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially

feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

5. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

6. Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and

rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

7. Include provisions relating to amendment of the agreement.

8. A process and uniform methodology for determining proportionate-share mitigation pursuant to subparagraph (e)1.

(h) *Local government authority.*—This subsection does not limit the authority of a local government to grant or deny a development permit or its functional equivalent prior to the implementation of school concurrency.

(14) RULEMAKING AUTHORITY.—The state land planning agency shall~~, by October 1, 1998,~~ adopt by rule minimum criteria for the review and determination of compliance of a public school facilities element adopted by a local government for purposes of the imposition of school concurrency.

(15)(a) MULTIMODAL DISTRICTS.—Multimodal transportation districts may be established under a local government comprehensive plan in areas delineated on the future land use map for which the local comprehensive plan assigns secondary priority to vehicle mobility and primary priority to assuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit. Such districts must incorporate community design features that will reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system. Before ~~Prior to~~ the designation of multimodal transportation districts, the Department of Transportation shall, in consultation with ~~be consulted by~~ the local government, ~~to~~ assess the impact that the

proposed multimodal district area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as provided in s. 339.63 ~~defined in s. 339.64~~, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). ~~Multimodal transportation districts existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.~~

(b) Community design elements of ~~such~~ a multimodal transportation district include:

1. A complementary mix and range of land uses, including educational, recreational, and cultural uses;

2. Interconnected networks of streets designed to encourage walking and bicycling, with traffic-calming where desirable;

3. Appropriate densities and intensities of use within walking distance of transit stops;

4. Daily activities within walking distance of residences, allowing independence to persons who do not drive; and

5. Public uses, streets, and squares that are safe, comfortable, and attractive for the pedestrian, with adjoining buildings open to the street and with parking not interfering with pedestrian, transit, automobile, and truck travel modes.

(c) Local governments may establish multimodal level-of-

service standards that rely primarily on nonvehicular modes of transportation within the district, if ~~when~~ justified by an analysis demonstrating that the existing and planned community design will provide an adequate level of mobility within the district based upon professionally accepted multimodal level-of-service methodologies. The analysis must also demonstrate that the capital improvements required to promote community design are financially feasible over the development or redevelopment timeframe for the district and that community design features within the district provide convenient interconnection for a multimodal transportation system. Local governments may issue development permits in reliance upon all planned community design capital improvements that are financially feasible over the development or redevelopment timeframe for the district, regardless of ~~without regard to~~ the period ~~of time~~ between development or redevelopment and the scheduled construction of the capital improvements. A determination of financial feasibility shall be based upon currently available funding or funding sources that could reasonably be expected to become available over the planning period.

(d) Local governments may reduce impact fees or local access fees for development within multimodal transportation districts based on the reduction of vehicle trips per household or vehicle miles of travel expected from the development pattern planned for the district.

(e) ~~By December 1, 2007,~~ The Department of Transportation, in consultation with the state land planning agency and interested local governments, may designate a study area for conducting a pilot project to determine the benefits of and

barriers to establishing a regional multimodal transportation concurrency district that extends over more than one local government jurisdiction. If designated:

1. The study area must be in a county that has a population of at least 1,000 persons per square mile, be within an urban service area, and have the consent of the local governments within the study area. The Department of Transportation and the state land planning agency shall provide technical assistance.

2. The local governments within the study area and the Department of Transportation, in consultation with the state land planning agency, shall cooperatively create a multimodal transportation plan that meets the requirements in ~~of~~ this section. The multimodal transportation plan must include viable local funding options and incorporate community design features, including a range of mixed land uses and densities and intensities, which will reduce the number of automobile trips or vehicle miles of travel while supporting an integrated, multimodal transportation system.

3. In order to effectuate the multimodal transportation concurrency district, participating local governments may adopt appropriate comprehensive plan amendments.

4. The Department of Transportation, in consultation with the state land planning agency, shall submit a report by March 1, 2009, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the pilot project. The report must identify any factors that support or limit the creation and success of a regional multimodal transportation district including intergovernmental coordination.

(16) PROPORTIONATE FAIR-SHARE MITIGATION.—It is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors. The ~~methodology used to calculate~~ proportionate fair-share mitigation shall be calculated as follows: ~~mitigation under this section shall be as provided for in subsection (12).~~

(a) The proportionate fair-share contribution shall be calculated based upon the cumulative number of trips from the proposed new stage or phase of development expected to reach roadways during the peak hour at the complete buildout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of the roadways resulting from the construction of an improvement necessary to maintain the adopted level of service. The calculated proportionate fair-share contribution shall be multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service in order to determine the proportionate fair-share contribution. For purposes of this subparagraph, the term "construction cost" includes all associated costs of the improvement.

(b) ~~(a) By December 1, 2006,~~ Each local government shall adopt by ordinance a methodology for assessing proportionate fair-share mitigation options consistent with this section. ~~By December 1, 2005, the Department of Transportation shall develop a model transportation concurrency management ordinance with methodologies for assessing proportionate fair-share mitigation options.~~

(c) ~~(b)~~1. In its transportation concurrency management

system, a local government shall~~, by December 1, 2006,~~ include methodologies that will be applied to calculate proportionate fair-share mitigation. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on ss. 163.3164(32) and 163.3177(3) if additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

2. Proportionate fair-share mitigation shall be applied as a credit against all transportation impact fees or any exactions assessed for the traffic impacts of a development ~~to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the local government's impact fee ordinance~~.

(d) ~~(c)~~ Proportionate fair-share mitigation includes, without limitation, separately or collectively, private funds, contributions of land, or ~~and~~ construction and contribution of facilities and may include public funds as determined by the

local government. Proportionate fair-share mitigation may be directed toward one or more specific transportation improvements reasonably related to the mobility demands created by the development and such improvements may address one or more modes of travel. The fair market value of the proportionate fair-share mitigation may ~~shall~~ not differ based on the form of mitigation. A local government may not require a development to pay more than its proportionate fair-share contribution regardless of the method of mitigation. Proportionate fair-share mitigation shall be limited to ensure that a development meeting the requirements of this section mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs.

(e) ~~(d)~~ This subsection does not require a local government to approve a development that is not otherwise qualified for approval pursuant to the applicable local comprehensive plan and land development regulations; however, a development that satisfies the requirements of this section shall not be denied on the basis of a failure to mitigate its transportation impacts under the local comprehensive plan or land development regulations. This paragraph does not limit a local government from imposing lawfully adopted transportation impact fees.

(f) ~~(e)~~ Mitigation for development impacts to facilities on the Strategic Intermodal System made pursuant to this subsection requires the concurrence of the Department of Transportation.

(g) ~~(f)~~ If the funds in an adopted 5-year capital improvements element are insufficient to fully fund construction of a transportation improvement required by the local government's concurrency management system, a local government

and a developer may still enter into a binding proportionate-share agreement authorizing the developer to construct that amount of development on which the proportionate share is calculated if the proportionate-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvements funded by the proportionate-share component must be adopted into the 5-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update. The funding of any improvements that significantly benefit the impacted transportation system satisfies concurrency requirements as a mitigation of the development's impact upon the overall transportation system even if there remains a failure of concurrency on other impacted facilities.

(h) ~~(g)~~ Except as provided in subparagraph (c)1. ~~(b)1.~~, this section does ~~may~~ not prohibit the state land planning agency ~~Department of Community Affairs~~ from finding other portions of the capital improvements element amendments not in compliance as provided in this chapter.

(i) ~~(h) The provisions of~~ This subsection does ~~do~~ not apply to a development of regional impact satisfying the requirements in ~~of~~ subsection (12).

(17) AFFORDABLE WORKFORCE HOUSING.—A local government and the developer of affordable workforce housing units developed in accordance with s. 380.06(19) or s. 380.0651(3) may identify an employment center or centers in close proximity to the affordable workforce housing units. If at least 50 percent of

the units are occupied by an employee or employees of an identified employment center or centers, all of the affordable workforce housing units are exempt from transportation concurrency requirements, and the local government may not reduce any transportation trip-generation entitlements of an approved development-of-regional-impact development order. As used in this subsection, the term "close proximity" means 5 miles from the nearest point of the development of regional impact to the nearest point of the employment center, and the term "employment center" means a place of employment that employs at least 25 or more full-time employees.

(18) INCENTIVES FOR CONTRIBUTIONS.—Landowners or developers, including landowners or developers of developments of regional impact, who propose a large-scale development of 500 cumulative acres or more may satisfy all of the transportation concurrency requirements by contributing or paying proportionate share or proportionate fair-share mitigation. If such contribution is made, a local government shall:

(a) Designate the traffic impacts for transportation facilities or facility segments as mitigated for funding in the 5-year schedule of capital improvements in the capital improvements element of the local comprehensive plan or the long-term concurrency management system; or

(b) Reflect that the traffic impacts for transportation facilities or facility segments are mitigated in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate share or proportionate fair-share contributions are deemed

compliant with s. 163.3164(32) or s. 163.3177(3) if additional contributions, payments, or funding sources are reasonably anticipated during a period not to exceed 10 years and would fully mitigate impacts on the transportation facilities and facility segments.

(19) COSTS OF MITIGATION.—The costs of mitigation for concurrency impacts shall be distributed to all affected jurisdictions by the local government having jurisdiction over project or development approval. Distribution shall be proportionate to the percentage of the total concurrency mitigation costs incurred by an affected jurisdiction.

Section 4. Section 163.31802, Florida Statutes, is created to read:

163.31802 Prohibited standards for security.—A county, municipality, or other local government entity may not adopt or maintain in effect an ordinance or rule that establishes standards for security devices which require a lawful business to expend funds to enhance the services or functions provided by local government unless provided by general law.

Section 5. Subsection (2) of section 163.3182, Florida Statutes, is amended to read:

163.3182 Transportation concurrency backlogs.—

(2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG AUTHORITIES.—

(a) A county or municipality may create a transportation concurrency backlog authority if it has an identified transportation concurrency backlog.

(b) No later than 2012, a local government that has an identified transportation concurrency backlog shall adopt one or

more transportation concurrency backlog areas as part of the local government's capital improvements element update to its submission of financial feasibility to the state land planning agency. Any additional areas that a local government creates shall be submitted biannually to the state land planning agency until the local government has demonstrated, no later than 2027, that the backlog existing in 2012 has been mitigated through construction or planned construction of the necessary transportation mobility improvements. If a local government is unable to meet the biannual requirements of the capital improvements element update for new areas as a result of economic conditions, the local government may request from the state land planning agency a one-time waiver of the requirement to file the biannual creation of new transportation concurrency backlog authority areas.

(c) Landowners or developers within a large-scale development area of 500 cumulative acres or more may request the local government to create a transportation concurrency backlog area for the development area for roadways significantly affected by traffic from the development if those roadways are or will be backlogged as defined by s. 163.3164(35). If a development permit is issued or a comprehensive plan amendment is approved within the development area, the local government shall designate the transportation concurrency backlog area unless the funding is insufficient to address one or more transportation capacity improvements necessary to satisfy the additional deficiencies coexisting or anticipated with the new development. The transportation concurrency backlog area shall be created by ordinance and shall be used to satisfy all

proportionate share or proportionate fair-share transportation concurrency contributions of the development not otherwise satisfied by impact fees. The local government shall manage the area acting as a transportation concurrency backlog authority and all applicable provisions of this section apply, except that the tax increment shall be used to satisfy transportation concurrency requirements not otherwise satisfied by impact fees.

(d) ~~(b)~~ Acting as the transportation concurrency backlog authority within the authority's jurisdictional boundary, the governing body of a county or municipality shall adopt and implement a plan to eliminate all identified transportation concurrency backlogs within the authority's jurisdiction using funds provided pursuant to subsection (5) and as otherwise provided pursuant to this section.

(e) Notwithstanding any general law, special act, or ordinance to the contrary, a local government may not require any payments for transportation concurrency exceeding a development's traffic impacts as identified pursuant to impact fees or s. 163.3180(12) or (16) and may not require such payments as a condition of a development order or permit. If such payments required to satisfy a development's share of transportation concurrency costs do not mitigate all traffic impacts of the planned development area because of existing or future backlog conditions, the owner or developer may petition the local government for designation of a transportation concurrency backlog area pursuant to this section, which shall satisfy any remaining concurrency backlog requirements in the impacted area.

Section 6. Paragraph (a) of subsection (7) of section

380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(7) PREAPPLICATION PROCEDURES.—

(a) Before filing an application for development approval, the developer shall contact the regional planning agency having ~~with~~ jurisdiction over the proposed development to arrange a preapplication conference. Upon the request of the developer or the regional planning agency, other affected state and regional agencies shall participate in the ~~this~~ conference and shall identify the types of permits issued by the agencies, the level of information required, and the permit issuance procedures as applied to the proposed development. The levels of service required in the transportation methodology must be the same levels of service used to evaluate concurrency and proportionate share pursuant to s. 163.3180. The regional planning agency shall provide ~~the developer~~ information to the developer regarding ~~about~~ the development-of-regional-impact process and the use of preapplication conferences to identify issues, coordinate appropriate state and local agency requirements, and otherwise promote a proper and efficient review of the proposed development. If an agreement is reached regarding assumptions and methodology to be used in the application for development approval, the reviewing agencies may not subsequently object to those assumptions and methodologies unless subsequent changes to the project or information obtained during the review make those assumptions and methodologies inappropriate.

Section 7. Present subsection (19) of section 403.973, Florida Statutes, is redesignated as subsection (20), and a new subsection (19) is added to that section, to read:

403.973 Expedited permitting; comprehensive plan amendments.—

(19) It is the intent of the Legislature to encourage and facilitate the location of businesses in the state which will create jobs and high wages, diversify the state's economy, and promote the development of energy saving technologies and other clean technologies to be used in Florida communities. It is also the intent of the Legislature to provide incentives in regulatory process for mixed use projects that are regional centers for clean technology (RCCT) to accomplish the goals of this section and meet additional performance criteria for conservation, reduced energy and water consumption, and other practices for creating a sustainable community.

(a) In order to qualify for the incentives in this subsection, a proposed RCCT project must:

1. Create new jobs in development, manufacturing, and distribution in the clean technology industry, including, but not limited to, energy and fuel saving, alternative energy production, or carbon-reduction technologies. Overall job creation must be at a minimum ratio of one job for every household in the project and produce no fewer than 10,000 jobs upon completion of the project.

2. Provide at least 25 percent of site-wide demand for electricity by new renewable energy sources.

3. Use building design and construction techniques and materials to reduce project-wide energy demand by at least 25 percent compared to 2009 average per capita consumption for the state.

4. Use conservation and construction techniques and

materials to reduce potable water consumption by at least 25 percent compared to 2009 average per capita consumption for the state.

5. Have a projected per capita carbon emissions at least 25 percent below the 2009 average per capita carbon emissions for the state.

6. Contain at least 25,000 acres, at least 50 percent of which will be dedicated to conservation or open space. The project site must be directly accessible to a crossroad of two Strategic Intermodal System facilities and may not be located in a coastal high-hazard area.

7. Be planned to contain a mix of land uses, including, at minimum, 5 million square feet of combined research and development, industrial uses, and commercial land uses, and a balanced mix of housing to meet the demands for jobs and wages created within the project.

8. Be designed to greatly reduce the need for automobile usage through an intramodal mass transit system, site design, and other strategies to reduce vehicle miles travelled.

(b) The office shall certify a RCCT project as eligible for the incentives in this subsection within 30 days after receiving an application that meets the criteria paragraph (a). The application must be received within 180 days after July 1, 2009, in order to qualify for this incentive. The recommendation from the governing body of the county or municipality in which the project may be located is required in order for the office to certify that any project is eligible for the expedited review and incentives under this subsection. The office may decertify a project that has failed to meet the criteria in this subsection

and the commitments set forth in the application.

(c)1. The office shall direct the creation of regional permit action teams through a memorandum of agreement as set forth in subsections (4)-(6). The RCCT project shall be eligible for the expedited permitting and other incentives provided in this section.

2. Notwithstanding any other provisions of law, applications for comprehensive plan amendments received before June 1, 2009, which are associated with RCCT projects certified under this subsection, including text amendments that set forth parameters for establishing a RCCT project map amendment, shall be processed pursuant to the provisions of s. 163.3187(1)(c) and (3). The Legislature finds that a project meeting the criteria for certification under this subsection meets the requirements for land use allocation need based on population projections, discouragement of urban sprawl, the provisions of s. 163.3177(6)(a) and (11), and implementing rules.

3. Any development projects within the certified project which are subject to development-of-regional-impact review pursuant to the applicable provisions of chapter 380 shall be reviewed pursuant to that chapter and applicable rules. If a RCCT project qualifies as a development of regional impact, the application must be submitted within 180 days after the adoption of the related comprehensive plan amendment. Notwithstanding any other provisions of law, the state land planning agency may not appeal a local government development order issued under chapter 380 unless the agency having regulatory authority over the subject area of the appeal has recommended an appeal.

Section 8. Transportation mobility fee.—

(1)(a) The Legislature finds that the existing transportation concurrency system has not adequately addressed the transportation needs of this state in an effective, predictable, and equitable manner and is not producing a sustainable transportation system for the state. The Legislature finds that the current system is complex, lacks uniformity among jurisdictions, is too focused on roadways to the detriment of desired land use patterns and transportation alternatives, and frequently prevents the attainment of important growth management goals.

(b) The Legislature determines that the state shall evaluate and, as deemed feasible, implement a different adequate public facility requirement for transportation which uses a mobility fee. The mobility fee shall be designed to provide for mobility needs, ensure that development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts, fairly distribute financial burdens, and promote compact, mixed-use, and energy efficient development.

(2) The Legislature directs the state land planning agency and the Department of Transportation, both of which are currently performing independent mobility fee studies, to coordinate and use those studies in developing a methodology for a mobility fee system as follows:

(a) The uniform mobility fee methodology for statewide application is intended to replace existing transportation concurrency management systems adopted and implemented by local governments. The studies shall focus upon developing a methodology that includes:

1. A determination of the amount, distribution, and timing of vehicular and people-miles traveled by applying professionally accepted standards and practices in the disciplines of land use and transportation planning, including requirements of constitutional and statutory law.

2. The development of an equitable mobility fee that provides funding for future mobility needs whereby new development mitigates in approximate proportionality its impacts on the transportation system, yet is not delayed or held accountable for system backlogs or failures that are not directly attributable to the proposed development.

3. The replacement of transportation-related financial feasibility obligations, proportionate-share contributions for developments of regional impacts, proportionate fair-share contributions, and locally adopted transportation impact fees with the mobility fee, such that a single transportation fee may be applied uniformly on a statewide basis by application of the mobility fee formula developed by these studies.

4. Applicability of the mobility fee on a statewide or more limited geographic basis, accounting for special requirements arising from implementation for urban, suburban, and rural areas, including recommendations for an equitable implementation in these areas.

5. The feasibility of developer contributions of land for right-of-way or developer-funded improvements to the transportation network to be recognized as credits against the mobility fee by entering into mutually acceptable agreements reached with the impacted jurisdiction.

6. An equitable methodology for distribution of the

mobility fee proceeds among those jurisdictions responsible for construction and maintenance of the impacted roadways, such that the collected mobility fees are used for improvements to the overall transportation network of the impacted jurisdiction.

(b) The state land planning agency and the Department of Transportation shall develop and submit to the President of the Senate and the Speaker of the House of Representatives, no later than July 15, 2009, an initial interim joint report on the status of the mobility fee methodology study, no later than October 1, 2009, a second interim joint report on the status of the mobility fee methodology study, and no later than December 1, 2009, a final joint report on the mobility fee methodology study, complete with recommended legislation and a plan to implement the mobility fee as a replacement for the existing transportation concurrency management systems adopted and implemented by local governments. The final joint report shall also contain, but is not limited to, an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector.

Section 9. The Legislature directs the Department of Transportation to establish an approved transportation methodology which recognizes that a planned, sustainable, or self-sufficient development area will likely achieve a community internal capture rate in excess of 30 percent when fully developed. A sustainable or self-sufficient development area consists of 500 acres or more of large-scale developments individually or collectively designed to achieve self containment by providing a balance of land uses to fulfill a

majority of the community's needs. The adopted transportation methodology shall use a regional transportation model that incorporates professionally accepted modeling techniques applicable to well-planned, sustainable communities of the size, location, mix of uses, and design features consistent with such communities. The adopted transportation methodology shall serve as the basis for sustainable or self-sufficient development's traffic impact assessments by the department. The methodology review must be completed and in use no later than July 1, 2009.

Section 10. This act shall take effect July 1, 2009.