

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1188

INTRODUCER: Senator McClain

SUBJECT: Local Governing Authorities

DATE: March 14, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Fleming	CA	Pre-meeting
2.	_____	_____	TR	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1188 amends various statutes related to concurrency and charter schools. The bill:

- Provides that the construction of public facilities, to include public schools, must be exempt from concurrency;
- Provides a fee credit for education impact fees to a developer who enters into a contract with a school to provide nearby improvements or contributions;
- Prohibits counties and municipalities from imposing or enforcing a vehicular stacking ordinance or regulation at any public or private school if the effect of the ordinance or regulation would limit enrollment;
- prohibits local government from enforcing any local building requirements or site-development restrictions on charter schools that are more stringent than those found in the State Requirements for Education Facilities of the Florida Building Code; and
- prohibits a local government from requiring a charter school to obtain a special exemption or conditional use approval to be an allowable use under the local government’s land development code.

The bill takes effect July 1, 2025.

II. Present Situation:

Charter Schools

All charter schools in Florida are tuition-free public schools within the state’s public education system.¹ One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents flexibility to choose among diverse educational

¹ Section 1002.33(1), F.S.

opportunities within the state’s public school system.”² Charter schools operate under a performance contract with a sponsor.³ This performance contract is known as a “charter.”⁴

Charter school facilities, except for conversion charter schools,⁵ are not required to comply the State Requirements for Educational Facilities of the Florida Building Code (SREF).⁶ Instead, charter schools are subject to the general provisions of the Florida Building Code, including any amendments adopted by local governments.⁷ Local governments are prohibited, however, from adopting or imposing any local building requirements or site- development restrictions, such as parking and site-size criteria, student enrollment, and occupant load, that are more stringent than the SREF if those matters are addressed therein.⁸ Local governments are required to treat charter schools equitably in requirements imposed upon traditional public schools, including any requirements entered into via interlocal agreement.

Charter schools may not be subject to any land use regulation requiring a comprehensive plan amendment, development order, or development permit that would not be required for a public school in the same location.⁹ A variety of facilities may provide space within their facilities to charter schools.¹⁰ Charter schools may be housed in certain types of facilities under the existing zoning and land use designations for those facilities without the need to obtain a special exception, rezoning, or a land use change.¹¹

Concurrency

“Concurrency” is a phrase referring to a set of land use regulations requiring local governments to ensure that new development does not outstrip a local government’s ability to provide necessary services. Developments meet concurrency requirements when the local government has the infrastructure capacity to serve the new growth.

In essence, a concurrency requirement is a law stating that certain infrastructure must be in place and available to serve new development before the local government may allow new citizens to live in the new development.¹² For example, before a local government can approve a building permit to allow a new development, it must consult with its water suppliers to ensure adequate supplies to serve the new development will be available by the time citizens can move in.¹³ Certain services are subject to concurrency statewide (sanitary sewer, solid waste, drainage, and

² Section 1002.33(2)(a)1., F.S.

³ Sections 1002.33(1), (7), and (9)(a), F.S.

⁴ Sections 1002.33(7) and (9)(c), F.S.

⁵ Conversion charter schools are charter schools formed by a process that converts an existing traditional public school. Section 1002.33(3)(b), F.S.

⁶ Section 1002.33(18)(a), F.S.

⁷ See s. 553.73, F.S.

⁸ Section 1002.33(18)(a), F.S.

⁹ *Id.*

¹⁰ Section 1002.33(18)(c), F.S. Those facilities include any library, community service, museum, performing arts, theater, cinema, or church facility; any facility or land owned by a Florida College System institution or university; any similar public institutional facilities; and any facility recently used to house a school or child care facility licensed under s. 402.305, F.S.

¹¹ Section 1002.33(18)(c), F.S.

¹² Section 163.3180(2), F.S.

¹³ *Id.*

potable water) while other services, such as public transportation or schools, may optionally be subjected to concurrency by a local government.¹⁴

School Concurrency

The Legislature prescribes the methods and regulations controlling when public school concurrency is imposed by a local government.¹⁵ Local governments must include principles, guidelines, standards, strategies, and acceptable levels of service based on data in their comprehensive plans¹⁶ and school-related interlocal agreements.¹⁷ Local governments and school boards work in conjunction to determine whether adequate school capacity will be available to accommodate the development.

School concurrency requires a local government to deny an application for new residential development if adequate school capacity will not be available or under construction within three years of approving the application.¹⁸ Typically the level of service required to be maintained is expressed in terms of student capacity (the maximum number of students a facility is designed to accommodate), student stations (the area necessary for a student to engage in learning), gross square footage of facilities, and facility utilization, versus the total number of students in a district or designated area.¹⁹ Level of service can be separated into tiers of acceptability, as well as divided between different types of school- elementary, middle, high, and special purpose being the typical divisions.²⁰

Vehicular Stacking

Each local government is required to ensure safe and convenient onsite traffic flow and necessary vehicle parking as part of their land development regulations.²¹ One common type of regulation is adoption of rules concerning vehicular stacking.²² These ordinances require drive-through facilities to provide specified lanes for drive-through use and bypass lanes to allow other vehicles to enter or exit the facility without the need to turn around. The ordinances also establish a minimum length for drive-through lanes.²³ In some jurisdictions, daycare centers and schools are considered drive-through facilities subject to these requirements, with the minimum length established as a ratio of feet per student enrolled.²⁴

¹⁴ Section 163.3180(1), F.S.

¹⁵ Section 163.3180(6), F.S.

¹⁶ Local government comprehensive plans provide the policy foundation for local planning and land use decisions on capital improvements, conservation, intergovernmental coordination, recreation, open space, future land use, housing, transportation, coastal management (where applicable) and public facilities.

¹⁷ Section 613.3180(6)(a), F.S.

¹⁸ Section 613.3180(h), F.S.

¹⁹ See, e.g., Florida Planning and Development Lab at Florida State University, *Recommendations for Implementing School Concurrency*, Dec. 2007, available at

<https://fpdl.coss.fsu.edu/sites/g/files/imported/storage/original/application/90a0cefe399a0d8424ca33f8e03d1bf5.pdf> (last visited Mar. 13, 2025).

²⁰ Section 163.3180(6)(c), F.S.

²¹ Section 163.3202(2)(h), F.S.

²² See e.g. City of Dania Beach, Code of Ordinances, s. 265-30, City of Dunedin, Land Development Code, S. 105-24.6, City of Pinellas Park, Land Development Code, S. 18-1532.7.

²³ See e.g. City of Dunedin, Land Development Code, S. 105-24.6.

²⁴ City of Dunedin, Land Development Code, S. 105-24.6.

Local Government Impact Fees

In Florida, impact fees are imposed pursuant to local legislation and are generally charged as a condition for the issuance of a project's building permit. The principle behind the imposition of impact fees is to transfer to new users of a government-owned system a fair share of the costs the new use of the system involves.²⁵ Impact fees have become an accepted method of paying for public improvements that must be constructed to serve new growth.²⁶ In order for an impact fee to be a constitutional user fee and not an unconstitutional tax, the fee must meet a dual rational nexus test, in that the local government must demonstrate the impact fee is proportional and reasonably connected to, or has a rational nexus with:

- The need for additional capital facilities and the increased impact generated by the new residential or commercial construction; and
- The expenditure of the funds collected and the benefits accruing to the new residential or nonresidential construction.²⁷

Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

Local governments must credit against impact fee collections any contribution related to public facilities or infrastructure on a dollar-for-dollar basis at fair market value for the general category or class of public facilities or infrastructure for which the contribution was made. If no impact fee is collected for that category of public facility or infrastructure for which the contribution is made, no credit may be applied.²⁸ Credits for impact fees may be assigned or transferred at any time once established, from one development or parcel to another within the same impact fee zone or district or within an adjoining impact fee zone or district within the same local government jurisdiction.²⁹

III. Effect of Proposed Changes:

Section 1 amends s. 163.3180, F.S., to provide that the construction of public facilities, to include public schools, must be exempt from concurrency. A local government may grant a construction project at a charter school an exemption from concurrency.

Section 2 amends s. 163.31801, F.S., to provide a fee credit for education impact fees to a developer who enters into a contract with a school district or charter school to provide an improvement or contribution within a three-mile radius of the development. The developer's contribution may include monetary contributions, land dedications, site planning and design, or construction and must be credited dollar-for-dollar at fair amount value. The bill requires the

²⁵ *Contractors & Builders Ass'n of Pinellas County v. City of Dunedin*, 329 So. 2d 314, 317-318 (Fla. 1976).

²⁶ *St. Johns County v. Ne. Florida Builders Ass'n, Inc.*, 583 So. 2d 635, 638 (Fla. 1991); s. 163.31801(2), F.S.

²⁷ See *St. Johns County* at 637. Codified at s. 163.31801(3)(f) and (g), F.S.

²⁸ Section 163.31801(5), F.S.

²⁹ Section 163.31801(10), F.S.

local government or special district charging and collecting the education impact fee to approve the credit.

Section 3 amends s. 316.008, F.S., to prohibit counties and municipalities from imposing or enforcing a vehicular stacking ordinance or regulation at any public or private school during adopted school hours, including student pick-up and drop-off times, if the effect of the ordinance or regulation would limit enrollment.

Section 4 amends s. 1002.33, F.S., to prohibit local government from enforcing any local building requirements or site-development restrictions on charter schools that are more stringent than those found in the State Requirements for Education Facilities of the Florida Building Code.

The section also prohibits a local government from requiring a charter school to obtain a special exemption or conditional use approval to be an allowable use under the local government's land development code.

Section 5 provides that the bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3180, 163.31801, 316.008, and 1002.33.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.