



243214

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Community Affairs (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete lines 26 - 211
and insert:

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

163.3180 Concurrency.-

(5)

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



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13 subsequently modified, must:

14 a.1. Consult with the Department of Transportation when
15 proposed plan amendments affect facilities on the strategic
16 intermodal system.

17 b.2. Exempt public transit facilities from concurrency. For
18 the purposes of this sub-subparagraph ~~subparagraph~~, public
19 transit facilities include transit stations and terminals;
20 transit station parking; park-and-ride lots; intermodal public
21 transit connection or transfer facilities; fixed bus, guideway,
22 and rail stations; and airport passenger terminals and
23 concourses, air cargo facilities, and hangars for the assembly,
24 manufacture, maintenance, or storage of aircraft. As used in
25 this sub-subparagraph ~~subparagraph~~, the terms "terminals" and
26 "transit facilities" do not include seaports or commercial or
27 residential development constructed in conjunction with a public
28 transit facility.

29 c.3. Allow an applicant for a development-of-regional-
30 impact development order, development agreement, a rezoning, or
31 other land use development permit to satisfy the transportation
32 concurrency requirements of the local comprehensive plan, the
33 local government's concurrency management system, and s. 380.06,
34 when applicable, if:

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

39 (II)b. The proportionate-share contribution or construction
40 is sufficient to accomplish one or more mobility improvements
41 that will benefit a regionally significant transportation



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

45 d.e.(I) Provide the basis upon which ~~The local government~~
46 ~~has provided a means by which the~~ landowners ~~landowner~~ will be
47 assessed a proportionate share of the cost of addressing the
48 transportation impacts resulting from a ~~providing the~~
49 ~~transportation facilities necessary to serve the proposed~~
50 development.

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

53 ~~(II)~~ When an applicant contributes or constructs its
54 proportionate share pursuant to this paragraph ~~subparagraph~~, a
55 local government may not require payment or construction of
56 transportation facilities whose costs would be greater than a
57 development's proportionate share of the improvements necessary
58 to mitigate the development's impacts.

59 a.(A) The proportionate-share contribution shall be
60 calculated based upon the number of trips from the proposed
61 development expected to reach roadways during the peak hour from
62 the stage or phase being approved, divided by the change in the
63 peak hour maximum service volume of roadways resulting from
64 construction of an improvement necessary to maintain or achieve
65 the adopted level of service, multiplied by the construction
66 cost, at the time of development payment, of the improvement
67 necessary to maintain or achieve the adopted level of service.

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



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71 deficiency in accordance with the transportation deficiency as
72 defined in subparagraph 4 ~~sub-subparagraph e~~. The proportionate-
73 share formula provided in this subparagraph shall be applied
74 only to those facilities that are determined to be significantly
75 impacted by the project traffic under review. If any road is
76 determined to be transportation deficient without the project
77 traffic under review, the costs of correcting that deficiency
78 shall be removed from the project's proportionate-share
79 calculation and the necessary transportation improvements to
80 correct that deficiency shall be considered to be in place for
81 purposes of the proportionate-share calculation. The improvement
82 necessary to correct the transportation deficiency is the
83 funding responsibility of the entity that has maintenance
84 responsibility for the facility. The development's proportionate
85 share shall be calculated only for the needed transportation
86 improvements that are greater than the identified deficiency.

87 c.(C) When the provisions of subparagraph 1. and this
88 subparagraph have been satisfied for a particular stage or phase
89 of development, all transportation impacts from that stage or
90 phase for which mitigation was required and provided shall be
91 deemed fully mitigated in any transportation analysis for a
92 subsequent stage or phase of development. Trips from a previous
93 stage or phase that did not result in impacts for which
94 mitigation was required or provided may be cumulatively analyzed
95 with trips from a subsequent stage or phase to determine whether
96 an impact requires mitigation for the subsequent stage or phase.

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



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100 ~~e.(E)~~ The applicant shall receive a credit on a dollar-for-
101 dollar basis for impact fees, mobility fees, and other
102 transportation concurrency mitigation requirements paid or
103 payable in the future for the project. The credit shall be
104 reduced up to 20 percent by the percentage share that the
105 project's traffic represents of the added capacity of the
106 selected improvement, or by the amount specified by local
107 ordinance, whichever yields the greater credit.

108 ~~3.d.~~ This subsection does not require a local government to
109 approve a development that is not ~~otherwise~~ qualified for
110 approval pursuant to the applicable local comprehensive plan and
111 land development regulations for reasons other than
112 transportation impacts.

113 ~~4.e.~~ As used in this subsection, the term "transportation
114 deficiency" means a facility or facilities on which the adopted
115 level-of-service standard is exceeded by the existing,
116 committed, and vested trips, plus additional projected
117 background trips from any source other than the development
118 project under review, and trips that are forecast by established
119 traffic standards, including traffic modeling, consistent with
120 the University of Florida's Bureau of Economic and Business
121 Research medium population projections. Additional projected
122 background trips are to be coincident with the particular stage
123 or phase of development under review.

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



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129 for site plan, plat approval, final subdivision approval,
130 building permit, or the functional equivalent of such approvals
131 if the developer agrees to pay for the development's identified
132 transportation impacts using the funding mechanism implemented
133 by the local government. The revenue from the funding mechanism
134 adopted in the alternative system must be used to implement the
135 needs of the local government's plan which serve as the basis
136 for the fee imposed. A mobility-fee-based funding system must
137 comply with the dual rational nexus test applicable to impact
138 fees. An alternative system that is not mobility-fee-based may
139 not be applied in a manner that imposes upon new development any
140 responsibility for funding existing transportation deficiencies
141 as that term is defined in paragraph (h).

142
143 ===== T I T L E A M E N D M E N T =====

144 And the title is amended as follows:

145 Delete lines 7 - 17

146 and insert:

147 certain criteria are met, and must provide the basis
148 upon which landowners will be assessed a proportionate
149 share of the cost of addressing certain transportation
150 impacts; encouraging a local government that repeals
151 transportation concurrency to adopt an alternative
152 mobility funding system that is subject to certain
153 requirements; amending s. 163.3182, F.S.;