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1 A bill to be entitled
2 An act relating to transportation development;
3 amending s. 163.3180, F.S.; providing that local
4 governments that implement transportation concurrency
5 must allow an applicant for a development agreement to
6 satisfy transportation concurrency requirements if
7 certain criteria are met, and must provide the basis
8 upon which landowners will be assessed a proportionate
9 share of the cost of addressing certain transportation
10 impacts; encouraging a local government that repeals
11 transportation concurrency to adopt an alternative
12 mobility funding system that is subject to certain
13 requirements; providing an effective date.

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

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

20 163.3180 Concurrency.—

21 (5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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