

A bill to be entitled

An act relating to transportation concurrency management; amending s. 163.3180, F.S.; providing an exception to certain in-place or under-actual-construction requirements for transportation facilities serving new developments for certain stricter concurrency requirements by local governments; restricting a requirement that local governments adopt into a plan and implement certain strategies relating to exception areas to circumstances in which an exception is granted; limiting application of certain proportionate fair-share mitigation provisions to circumstances in which a local government elects to use such provisions instead of a concurrency management system; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2), paragraph (e) of subsection (5), and subsection (16) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.--

(2)

(c) Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities needed to serve new development 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. Nothing in this section prohibits

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29 a local government from adopting stricter concurrency
30 requirements, including real-time concurrency, under which a
31 local government need not issue a building permit or its
32 functional equivalent for a new development under any
33 circumstances that result in traffic generation until adequate
34 transportation facilities are in place.

35 (5)

36 (e) If a local government grants an exception from the
37 concurrency requirement for transportation facilities pursuant
38 to paragraph (b) after July 1, 2006, the local government shall
39 adopt into the plan and implement strategies to support and fund
40 mobility within the designated exception area, including
41 alternative modes of transportation. The plan amendment shall
42 also demonstrate how strategies will support the purpose of the
43 exception and how mobility within the designated exception area
44 will be provided. In addition, the strategies must address urban
45 design; appropriate land use mixes, including intensity and
46 density; and network connectivity plans needed to promote urban
47 infill, redevelopment, or downtown revitalization. The
48 comprehensive plan amendment designating the concurrency
49 exception area shall be accompanied by data and analysis
50 justifying the size of the area.

51 (16) It is the intent of the Legislature to provide
52 alternatives ~~a method~~ by which the impacts of development on
53 transportation facilities can be mitigated by the cooperative
54 efforts of the public and private sectors. If a local government
55 elects to use proportionate fair-share mitigation in lieu of its
56 existing concurrency management system as adopted in its

57 | comprehensive plan, the methodology used to calculate
58 | proportionate fair-share mitigation under this section shall be
59 | as provided for in subsection (12) and the following provisions
60 | shall apply:-

61 | (a) By December 1, 2006, each local government shall adopt
62 | by ordinance a methodology for assessing proportionate fair-
63 | share mitigation options. By December 1, 2005, the Department of
64 | Transportation shall develop a model transportation concurrency
65 | management ordinance with methodologies for assessing
66 | proportionate fair-share mitigation options.

67 | (b)1. In its transportation concurrency management system,
68 | a local government shall, by December 1, 2006, include
69 | methodologies that will be applied to calculate proportionate
70 | fair-share mitigation. A developer may choose to satisfy all
71 | transportation concurrency requirements by contributing or
72 | paying proportionate fair-share mitigation if transportation
73 | facilities or facility segments identified as mitigation for
74 | traffic impacts are specifically identified for funding in the
75 | 5-year schedule of capital improvements in the capital
76 | improvements element of the local plan or the long-term
77 | concurrency management system or if such contributions or
78 | payments to such facilities or segments are reflected in the 5-
79 | year schedule of capital improvements in the next regularly
80 | scheduled update of the capital improvements element. Updates to
81 | the 5-year capital improvements element which reflect
82 | proportionate fair-share contributions may not be found not in
83 | compliance based on ss. 163.164(32) and 163.3177(3) if
84 | additional contributions, payments or funding sources are

85 reasonably anticipated during a period not to exceed 10 years to
86 fully mitigate impacts on the transportation facilities.

87 2. Proportionate fair-share mitigation shall be applied as
88 a credit against impact fees to the extent that all or a portion
89 of the proportionate fair-share mitigation is used to address
90 the same capital infrastructure improvements contemplated by the
91 local government's impact fee ordinance.

92 (c) Proportionate fair-share mitigation includes, without
93 limitation, separately or collectively, private funds,
94 contributions of land, and construction and contribution of
95 facilities and may include public funds as determined by the
96 local government. The fair market value of the proportionate
97 fair-share mitigation shall not differ based on the form of
98 mitigation. A local government may not require a development to
99 pay more than its proportionate fair-share contribution
100 regardless of the method of mitigation.

101 (d) Nothing in this subsection shall require a local
102 government to approve a development that is not otherwise
103 qualified for approval pursuant to the applicable local
104 comprehensive plan and land development regulations.

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

108 (f) In the event the funds in an adopted 5-year capital
109 improvements element are insufficient to fully fund construction
110 of a transportation improvement required by the local
111 government's concurrency management system, a local government
112 and a developer may still enter into a binding proportionate-

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113 share agreement authorizing the developer to construct that
114 amount of development on which the proportionate share is
115 calculated if the proportionate-share amount in such agreement
116 is sufficient to pay for one or more improvements which will, in
117 the opinion of the governmental entity or entities maintaining
118 the transportation facilities, significantly benefit the
119 impacted transportation system. The improvement or improvements
120 funded by the proportionate-share component must be adopted into
121 the 5-year capital improvements schedule of the comprehensive
122 plan at the next annual capital improvements element update.

123 (g) Except as provided in subparagraph (b)1., nothing in
124 this section shall prohibit the Department of Community Affairs
125 from finding other portions of the capital improvements element
126 amendments not in compliance as provided in this chapter.

127 (h) The provisions of this subsection do not apply to a
128 multiuse development of regional impact satisfying the
129 requirements of subsection (12).

130 Section 2. This act shall take effect July 1, 2006.