

By Senator Bennett

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1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3164, F.S.; redefining the term "financial
4 feasibility" to provide for school facilities that do
5 not meet concurrency requirements in a particular
6 year; amending s. 163.3177, F.S.; conforming a cross-
7 reference; amending s. 163.3180, F.S.; revising
8 provisions relating to the concurrency requirements
9 for public facilities and transportation facilities;
10 providing for the designation of certain geographic
11 areas as transportation concurrency exception areas;
12 revising provisions relating to the level-of-service
13 standards for transportation; authorizing a local
14 government to adopt a lower level-of-service standard
15 under certain circumstances; revising provisions
16 relating to the calculation of the proportionate-share
17 contribution; providing definitions; providing for the
18 applicability and calculation of proportionate fair-
19 share mitigation; providing incentives for landowners
20 or developers who contribute or pay proportionate
21 fair-share mitigation; amending s. 163.3182, F.S.;
22 revising provisions relating to the creation of
23 transportation concurrency backlog authorities;
24 requiring that each local government adopt
25 transportation concurrency backlog areas as part of
26 the capital improvements element of the local
27 comprehensive plan; amending s. 380.06, F.S.; revising
28 provisions relating to the preapplication procedures
29 for developments of regional impact; requiring that

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30 the levels of service in the transportation
31 methodology be the same standards used to evaluate
32 concurrency and proportionate-share contributions;
33 providing for a transportation mobility fee; providing
34 legislative findings and intent; requiring that the
35 Department of Community Affairs and the Department of
36 Transportation coordinate their independent mobility
37 fees studies to develop a methodology for a mobility
38 fee system; providing guidelines for developing the
39 methodology; requiring that the Secretary of Community
40 Affairs and the Secretary of Transportation submit
41 joint interim reports to the Legislature by specified
42 dates; requiring that the Department of Community
43 Affairs develop proposed amendments to chapter 9J-5,
44 F.A.C., for incorporating the mobility fee
45 methodology; requiring that the department submit the
46 proposed amendments to the Legislature for review by a
47 specified date; providing for future repeal of s.
48 163.3180, F.S., relating to transportation concurrency
49 requirements; requiring that the Department of
50 Transportation establish a transportation methodology;
51 requiring that such methodology be completed and in
52 use by a specified date; providing an effective date.

53

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

55

56 Section 1. Subsection (32) of section 163.3164, Florida
57 Statutes, is amended to read:

58 163.3164 Local Government Comprehensive Planning and Land

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59 Development Regulation Act; definitions.—As used in this act:

60 (32) "Financial feasibility" means that sufficient revenues
61 are currently available or will be available from committed
62 funding sources for the first 3 years, or will be available from
63 committed or planned funding sources for years 4 and 5, of a 5-
64 year capital improvement schedule for financing capital
65 improvements, including ~~such as~~ ad valorem taxes, bonds, state
66 and federal funds, tax revenues, impact fees, and developer
67 contributions, which are adequate to fund the projected costs of
68 the capital improvements identified in the comprehensive plan
69 and necessary to ensure that adopted level-of-service standards
70 are achieved and maintained within the period covered by the 5-
71 year schedule of capital improvements. A comprehensive plan or
72 comprehensive plan amendment shall be deemed financially
73 feasible for transportation ~~and school~~ facilities throughout the
74 planning period addressed by the capital improvements schedule
75 if it can be demonstrated that the existing or adopted level-of-
76 service, whichever has the greater maximum service volume,
77 ~~standards~~ will be achieved and maintained by the end of the
78 planning period even if in a particular year such improvements
79 are not concurrent as required by s. 163.3180. A comprehensive
80 plan shall be deemed financially feasible for school facilities
81 throughout the planning period addressed by the capital
82 improvements schedule if it can be demonstrated that the level-
83 of-service standards will be achieved and maintained by the end
84 of the planning period even if in a particular year such
85 improvements are not concurrent as required in s. 163.3180.

86 Section 2. Paragraph (e) of subsection (3) of section
87 163.3177, Florida Statutes, is amended to read:

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88 163.3177 Required and optional elements of comprehensive
89 plan; studies and surveys.—

90 (3)

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

99 1. Condition in a development order for a development of
100 regional impact or binding agreement that addresses
101 proportionate-share mitigation consistent with s. 163.3180(12);
102 or

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

113 Section 3. Subsections (1) through (12) and (14) through
114 (16) of section 163.3180, Florida Statutes, are amended, and
115 subsection (18) is added to that section, to read:

116 163.3180 Concurrency.—

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117 (1) APPLICABILITY OF CONCURRENCY REQUIREMENT.—

118 (a) Public facility types.—Sanitary sewer, solid waste,
119 drainage, potable water, parks and recreation, schools, and
120 transportation facilities, including mass transit, where
121 applicable, are the only public facilities and services subject
122 to the concurrency requirement on a statewide basis. Additional
123 public facilities and services are ~~may not be made~~ subject to
124 concurrency on a statewide basis without appropriate study and
125 approval by the Legislature; however, any local government may
126 extend the concurrency requirement ~~so that it applies~~ to apply
127 to additional public facilities within its jurisdiction.

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

140 (2) PUBLIC FACILITY AVAILABILITY STANDARDS.—

141 (a) Sanitary sewer, solid waste, drainage, adequate water
142 supply, and potable water facilities.—Consistent with public
143 health and safety, sanitary sewer, solid waste, drainage,
144 adequate water supplies, and potable water facilities shall be
145 in place and available to serve new development no later than

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146 the date on which ~~issuance by~~ the local government issues ~~of~~ a
147 certificate of occupancy or its functional equivalent. Before
148 approving ~~Prior to approval of~~ a building permit or its
149 functional equivalent, the local government shall consult with
150 the applicable water supplier to determine whether adequate
151 water supplies to serve the new development will be available by
152 ~~no later than~~ the anticipated date of issuance ~~by the local~~
153 ~~government~~ of the a certificate of occupancy or its functional
154 equivalent. A local government may meet the concurrency
155 requirement for sanitary sewer through the use of onsite sewage
156 treatment and disposal systems approved by the Department of
157 Health to serve new development.

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

172 (c) Transportation facilities.—Consistent with the public
173 welfare, and except as otherwise provided in this section,
174 transportation facilities needed to serve new development must

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175 ~~shall~~ be in place or under actual construction within 3 years
 176 after the local government approves a building permit or its
 177 functional equivalent that results in traffic generation.

178 (3) ESTABLISHING LEVEL-OF-SERVICE STANDARDS.—Governmental
 179 entities that are not responsible for providing, financing,
 180 operating, or regulating public facilities needed to serve
 181 development may not establish binding level-of-service standards
 182 to apply to ~~an~~ governmental entities that do bear those
 183 responsibilities. This subsection does not limit the authority
 184 of any agency to recommend or make objections, recommendations,
 185 comments, or determinations during reviews conducted under s.
 186 163.3184.

187 (4) APPLICATION OF CONCURRENCY TO PUBLIC FACILITIES.—

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

193 (b) Public transit facilities.—The concurrency requirement
 194 as implemented in local comprehensive plans does not apply to
 195 public transit facilities. For the purposes of this paragraph,
 196 public transit facilities include transit stations and
 197 terminals; transit station parking; park-and-ride lots;
 198 intermodal public transit connection or transfer facilities;
 199 fixed bus, guideway, and rail stations; and airport passenger
 200 terminals and concourses, air cargo facilities, and hangars for
 201 the maintenance or storage of aircraft. As used in this
 202 paragraph, the terms “terminals” and “transit facilities” do not
 203 include seaports or commercial or residential development

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204 constructed in conjunction with a public transit facility.

205 (c) Infill and redevelopment areas.—The concurrency
206 requirement, except as it relates to transportation facilities
207 and public schools, as implemented in local government
208 comprehensive plans, may be waived by a local government for
209 urban infill and redevelopment areas designated pursuant to s.
210 163.2517 if such a waiver does not endanger public health or
211 safety as defined ~~by the local government~~ in the its local
212 government's ~~government~~ comprehensive plan. The waiver must
213 ~~shall~~ be adopted as a plan amendment using ~~pursuant to~~ the
214 process ~~set forth~~ in s. 163.3187(3) (a). A local government may
215 grant a concurrency exception pursuant to subsection (5) for
216 transportation facilities located within these urban infill and
217 redevelopment areas.

218 (5) COUNTERVAILING PLANNING AND PUBLIC POLICY GOALS.—

219 (a) Legislative findings.—The Legislature finds that under
220 limited circumstances ~~dealing with transportation facilities,~~
221 countervailing planning and public policy goals may come into
222 conflict with the requirement that adequate public
223 transportation facilities and services be available concurrent
224 with the impacts of such development. The Legislature further
225 finds that ~~often~~ the unintended result of the concurrency
226 requirement for transportation facilities is often the
227 discouragement of urban ~~infill~~ development, infill, and
228 redevelopment. Such unintended results directly conflict with
229 the goals and policies of the state comprehensive plan and the
230 intent of this part. The Legislature finds that in urban areas
231 transportation cannot be effectively managed and mobility cannot
232 be improved solely through the expansion of roadway capacity,

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233 that in many urban areas the expansion of roadway capacity is
 234 not always physically or financially possible, and that a range
 235 of transportation alternatives are essential to satisfy mobility
 236 needs, reduce congestion, and achieve healthy, vibrant areas.
 237 Therefore, exceptions from the concurrency requirement for
 238 transportation facilities may be granted as provided in ~~by~~ this
 239 subsection.

240 (b) Geographic applicability of transportation concurrency
 241 exception areas.-

242 1. Transportation concurrency exception areas are
 243 established within geographic areas that are designated in a
 244 local comprehensive plan for urban infill development, urban
 245 redevelopment, downtown revitalization, or urban infill and
 246 redevelopment under s. 163.2517. Areas that are designated as
 247 such in a future local comprehensive plan shall be
 248 transportation concurrency exception areas; however, the local
 249 government shall implement long-term strategies to support and
 250 fund mobility within the designated exception area, including
 251 alternative modes of transportation.

252 2. A local government may grant an exception from the
 253 concurrency requirement for transportation facilities if the
 254 proposed development is otherwise consistent with the adopted
 255 local government comprehensive plan and:

256 a. Is a project that promotes public transportation; ~~or~~

257 b. Is located within an area designated in the

258 comprehensive plan as ~~for:~~

259 ~~1. Urban infill development;~~

260 ~~2. Urban redevelopment;~~

261 ~~3. Downtown revitalization;~~

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262 ~~4. Urban infill and redevelopment under s. 163.2517; or~~
263 ~~5.~~ an urban service area specifically designated as a
264 transportation concurrency exception area, which includes lands
265 appropriate for compact, ~~contiguous~~ urban development, ~~which~~
266 ~~does not exceed the amount of land needed to accommodate the~~
267 ~~projected population growth at densities consistent with the~~
268 ~~adopted comprehensive plan within the 10-year planning period,~~
269 and which is served or is planned to be served with public
270 facilities and services as provided by the capital improvements
271 element or;

272 c. Is an agricultural enclave, as defined in s.
273 163.3164(33), which is located within a transportation
274 concurrency backlog area.

275 (c) Projects that have special part-time demands.—The
276 Legislature also finds that developments located within urban
277 infill, urban redevelopment, ~~existing~~ urban service areas, or
278 downtown revitalization areas or areas designated as urban
279 infill and redevelopment areas under s. 163.2517, which pose
280 only special part-time demands on the transportation system, are
281 exempt ~~should be excepted~~ from the concurrency requirement for
282 transportation facilities. A special part-time demand is one
283 that does not have more than 200 scheduled events during any
284 calendar year and does not affect the 100 highest traffic volume
285 hours.

286 (d) Establishment of transportation concurrency exception
287 areas.—A local government that adopts transportation concurrency
288 exception areas under subparagraph (b)2. shall:

289 1. A local government shall Establish guidelines in the
290 comprehensive plan for granting transportation concurrency

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291 exceptions, the exceptions authorized in paragraphs (b) and (c)
292 and subsections (7) and (15) which must be consistent with and
293 support a comprehensive strategy adopted in the plan to promote
294 and facilitate development consistent with the planning and
295 public policy goals upon which the establishment of the
296 concurrency exception areas was predicated ~~the purpose of the~~
297 ~~exceptions.~~

298 ~~2.(e) The local government shall Adopt into the plan and~~
299 ~~Implement long-term strategies to support and fund mobility~~
300 ~~within the designated exception area, including alternative~~
301 ~~modes of transportation. The plan amendment must also~~
302 ~~demonstrate how strategies will support the purpose of the~~
303 ~~exception and how mobility within the designated exception area~~
304 ~~will be provided. In addition, the strategies must address urban~~
305 ~~design; appropriate land use mixes, including intensity and~~
306 ~~density; and network connectivity plans needed to promote urban~~
307 ~~infill, redevelopment, or downtown revitalization. The~~
308 ~~comprehensive plan amendment designating the concurrency~~
309 ~~exception area must be accompanied by data and analysis~~
310 ~~justifying the size of the area.~~

311 ~~3.(f) Before designating~~ Prior to the designation of a
312 transportation concurrency exception area pursuant to
313 subparagraph (b)2., consult with ~~the state land planning agency~~
314 ~~and the Department of Transportation shall be consulted by the~~
315 ~~local government to assess the impact that the proposed~~
316 ~~exception area is expected to have on the adopted level-of-~~
317 ~~service standards established for Strategic Intermodal System~~
318 ~~facilities, as defined in s. 339.64, and roadway facilities~~
319 ~~funded in accordance with s. 339.2819~~ and. ~~Further, the local~~

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320 government shall, in consultation with ~~the state land planning~~
321 ~~agency and~~ the Department of Transportation, develop a plan to
322 mitigate any impacts to the Strategic Intermodal System.

323 4. Meet with adjacent jurisdictions that may be impacted by
324 the designation and discuss strategies for minimizing the
325 impacts., including, if appropriate, the development of a long-
326 term concurrency management system pursuant to subsection (9)
327 and s. 163.3177(3) (d). The exceptions may be available only
328 within the specific geographic area of the jurisdiction
329 designated in the plan. Pursuant to s. 163.3184, any affected
330 person may challenge a plan amendment establishing these
331 guidelines and the areas within which an exception could be
332 granted.

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

338 (6) DE MINIMIS IMPACT.—The Legislature finds that a de
339 minimis impact is consistent with this part. A de minimis impact
340 is an impact that does ~~would~~ not affect more than 1 percent of
341 the maximum volume at the adopted level of service of the
342 affected transportation facility as determined by the local
343 government. An ~~No~~ impact is not ~~will be~~ de minimis if the sum of
344 existing roadway volumes and the projected volumes from approved
345 projects on a transportation facility exceeds ~~would exceed~~ 110
346 percent of the maximum volume at the adopted level of service of
347 the affected transportation facility; ~~provided~~ however, the ~~that~~
348 ~~an~~ impact of a single family home on an existing lot is ~~will~~

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349 ~~constitute~~ a de minimis impact on all roadways regardless of the
350 level of the deficiency of the roadway. Further, an ~~no~~ impact is
351 not will be de minimis if it exceeds ~~would exceed~~ the adopted
352 level-of-service standard of any affected designated hurricane
353 evacuation routes. Each local government shall maintain
354 sufficient records to ensure that the 110-percent criterion is
355 not exceeded. ~~Each local government shall submit annually, with~~
356 ~~its updated capital improvements element, a summary of the de~~
357 ~~minimis records. If the state land planning agency determines~~
358 ~~that the 110-percent criterion has been exceeded, the state land~~
359 ~~planning agency shall notify the local government of the~~
360 ~~exceedance and that no further de minimis exceptions for the~~
361 ~~applicable roadway may be granted until such time as the volume~~
362 ~~is reduced below the 110 percent. The local government shall~~
363 ~~provide proof of this reduction to the state land planning~~
364 ~~agency before issuing further de minimis exceptions.~~

365 (7) CONCURRENCY MANAGEMENT AREAS.—In order to promote urban
366 development and infill development and redevelopment, one or
367 more transportation concurrency management areas may be
368 designated in a local government comprehensive plan. A
369 transportation concurrency management area must be a compact
370 geographic area that has ~~with~~ an existing network of roads where
371 multiple, viable alternative travel paths or modes are available
372 for common trips. A local government may establish an areawide
373 level-of-service standard for such a transportation concurrency
374 management area based upon an analysis that provides for a
375 justification for the areawide level of service, how urban
376 infill development, infill, and ~~or~~ redevelopment will be
377 promoted, and how mobility will be accomplished within the

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378 transportation concurrency management area. ~~Before~~ Prior to the
379 ~~designation of~~ a concurrency management area is designated, the
380 local government shall consult with the state land planning
381 agency and the Department of Transportation shall be consulted
382 ~~by the local government~~ to assess the impact that the proposed
383 concurrency management area is expected to have on the adopted
384 level-of-service standards established for Strategic Intermodal
385 System facilities, ~~as defined in s. 339.64, and roadway~~
386 ~~facilities funded in accordance with s. 339.2819.~~ Further, the
387 local government shall, in cooperation with the state land
388 planning agency and the Department of Transportation, develop a
389 plan to mitigate any impacts to the Strategic Intermodal System,
390 including, if appropriate, the development of a long-term
391 concurrency management system pursuant to subsection (9) and s.
392 163.3177(3)(d). ~~Transportation concurrency management areas~~
393 ~~existing prior to July 1, 2005, shall meet, at a minimum, the~~
394 ~~provisions of this section by July 1, 2006, or at the time of~~
395 ~~the comprehensive plan update pursuant to the evaluation and~~
396 ~~appraisal report, whichever occurs last.~~ The state land planning
397 agency shall amend chapter 9J-5, Florida Administrative Code, to
398 be consistent with this subsection.

399 (8) URBAN REDEVELOPMENT.—When assessing the transportation
400 impacts of proposed urban redevelopment within an established
401 existing urban service area, 150 ~~110~~ percent of the actual
402 transportation impact caused by the previously existing
403 development must be reserved for the redevelopment, even if the
404 previously existing development had ~~has~~ a lesser or nonexistent
405 impact pursuant to the calculations of the local government.
406 Redevelopment requiring less than 150 ~~110~~ percent of the

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407 previously existing capacity shall not be prohibited due to the
408 reduction of transportation levels of service below the adopted
409 standards. ~~This does not preclude the appropriate assessment of~~
410 ~~fees or accounting for the impacts within the concurrency~~
411 ~~management system and capital improvements program of the~~
412 ~~affected local government.~~ This subsection ~~paragraph~~ does not
413 affect local government requirements for appropriate development
414 permits.

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

430 (b) If a local government has a transportation or school
431 facility backlog for existing development which cannot be
432 adequately addressed in a 10-year plan, the state land planning
433 agency may allow the local government ~~it~~ to develop a plan and
434 long-term schedule of capital improvements covering up to 15
435 years for good and sufficient cause. The state land planning

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436 agency's determination must be, based on a general comparison
437 between the ~~that~~ local government and all other similarly
438 situated local jurisdictions, using the following factors:

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

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

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

456 (10) TRANSPORTATION LEVEL-OF-SERVICE STANDARDS.—With regard
457 to roadway facilities on the Strategic Intermodal System which
458 are designated in accordance with s. 339.63 ~~ss. 339.61, 339.62,~~
459 ~~339.63, and 339.64,~~ the Florida Intrastate Highway System as
460 defined in ~~s. 338.001,~~ and roadway facilities funded in
461 accordance with ~~s. 339.2819,~~ local governments shall adopt the
462 level-of-service standard established by the Department of
463 Transportation by rule; however, if a project involves qualified
464 jobs created and certified by the Office of Tourism, Trade, and

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465 Economic Development or if the project is a nonresidential
 466 project located within an area designated by the Governor as a
 467 rural area of critical economic concern under s. 288.0656(7),
 468 the affected local government, after consulting with the
 469 Department of Transportation, may adopt into its comprehensive
 470 plan a lower level-of-service standard than the standard adopted
 471 by the Department of Transportation. The lower level-of-service
 472 standard shall apply only to a project conducted under the
 473 Office of Tourism, Trade, and Economic Development. For all
 474 other roads on the State Highway System, local governments shall
 475 establish an adequate level-of-service standard that need not be
 476 consistent with any level-of-service standard established by the
 477 Department of Transportation. In establishing adequate level-of-
 478 service standards for any arterial roads, or collector roads as
 479 appropriate, which traverse multiple jurisdictions, local
 480 governments shall consider compatibility with the roadway
 481 facility's adopted level-of-service standards in adjacent
 482 jurisdictions. Each local government within a county shall use a
 483 professionally accepted methodology for measuring impacts on
 484 transportation facilities for the purposes of implementing its
 485 concurrency management system. Counties are encouraged to
 486 coordinate with adjacent counties, and local governments within
 487 a county are encouraged to coordinate, for the purpose of using
 488 common methodologies for measuring impacts on transportation
 489 facilities and for the purpose of implementing their concurrency
 490 management systems.

491 (11) LIMITATION OF LIABILITY.—In order to limit a local
 492 government's ~~the~~ liability ~~of local governments,~~ the a local
 493 government shall ~~may~~ allow a landowner to proceed with the

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494 development of a specific parcel of land notwithstanding a
 495 failure of the development to satisfy transportation
 496 concurrency, if ~~when all~~ the following factors ~~are shown to~~
 497 exist:

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

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

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

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

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

516 (12) REGIONAL IMPACT PROPORTIONATE-SHARE CONTRIBUTION.—

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

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

526 ~~2.(b)~~ The proportionate-share contribution for local and
 527 regionally significant traffic impacts is sufficient to pay for
 528 one or more ~~required~~ mobility improvements that will benefit the
 529 network of a regionally significant transportation facilities
 530 facility;

531 ~~3.(c)~~ The owner and developer of the development of
 532 regional impact pays or assures payment of the proportionate-
 533 share contribution; and

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

543 (b) The proportionate-share contribution may be applied to
 544 any transportation facility to satisfy the provisions of this
 545 subsection and the local comprehensive plan, ~~but, for the~~
 546 ~~purposes of this subsection,~~

547 1. The ~~amount of the~~ proportionate-share contribution shall
 548 be calculated as follows:

549 a. The determination of significantly affected roadways
 550 shall be based upon the cumulative number of trips from the
 551 previously approved stage or phase of development and the

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552 proposed new stage or phase of development expected to reach
553 roadways during the peak hour at ~~from~~ the complete buildout of a
554 stage or phase being approved.

555 b. For significantly affected roadways, the developer's
556 proportionate share shall be based solely upon the number of
557 trips from the proposed new stage or phase being approved which
558 would exceed the peak hour maximum service volume of the roadway
559 at the adopted or existing level of service, whichever has the
560 greater maximum service volume, divided by the change in the
561 peak hour maximum service volume of the roadways resulting from
562 the construction of an improvement necessary to maintain the
563 adopted or existing level of service, whichever has the greater
564 maximum service volume.

565 2. The calculated proportionate-share contribution shall be
566 multiplied by the construction cost, at the time of developer
567 payment, of the improvement necessary to maintain the adopted or
568 existing level of service, whichever has the greater maximum
569 service volume, in order to determine the proportionate-share
570 contribution. For purposes of this subparagraph ~~subsection~~, the
571 term "construction cost" includes all associated costs of the
572 improvement.

573 3. Proportionate-share mitigation shall be limited to
574 ensure that a development of regional impact meeting the
575 requirements of this subsection mitigates its impact on the
576 transportation system but is not responsible for the additional
577 cost of reducing or eliminating backlogs.

578 4. A developer shall not be required to fund or construct
579 proportionate-share mitigation that is more extensive than
580 mitigation necessary to offset the impact of the development

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581 project under review.

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

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

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

595 (c) As used in this subsection, the term:

596 1. "Backlogged" or "backlogged transportation facility"
597 means a facility on which the adopted level-of-service standard
598 is exceeded by the existing trips plus background trips,
599 including transportation facilities that have exceeded their
600 useful life.

601 2. "Background trips" means forecasted trips from sources
602 other than the development project under review. The forecasted
603 trips shall be based on established traffic modeling standards.

604
605 This subsection also applies to Florida Quality Developments
606 pursuant to s. 380.061 and to detailed specific area plans
607 implementing optional sector plans pursuant to s. 163.3245.

608 (14) RULEMAKING AUTHORITY.—The state land planning agency
609 shall, ~~by October 1, 1998,~~ adopt by rule minimum criteria for

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610 the review and determination of compliance of a public school
611 facilities element adopted by a local government for purposes of
612 the imposition of school concurrency.

613 (15) (a) MULTIMODAL DISTRICTS.—Multimodal transportation
614 districts may be established under a local government
615 comprehensive plan in areas delineated on the future land use
616 map for which the local comprehensive plan assigns secondary
617 priority to vehicle mobility and primary priority to assuring a
618 safe, comfortable, and attractive pedestrian environment, with
619 convenient interconnection to transit. Such districts must
620 incorporate community design features that will reduce the
621 number of automobile trips or vehicle miles of travel and will
622 support an integrated, multimodal transportation system. Before
623 ~~Prior to~~ the designation of multimodal transportation districts,
624 the Department of Transportation shall, in consultation with ~~be~~
625 ~~consulted by~~ the local government, ~~to~~ assess the impact that the
626 proposed multimodal district area is expected to have on the
627 adopted level-of-service standards established for Strategic
628 Intermodal System facilities, as provided in s. 339.63 ~~defined~~
629 ~~in s. 339.64~~, and roadway facilities funded in accordance with
630 s. 339.2819. Further, the local government shall, in cooperation
631 with the Department of Transportation, develop a plan to
632 mitigate any impacts to the Strategic Intermodal System,
633 including the development of a long-term concurrency management
634 system pursuant to subsection (9) and s. 163.3177(3)(d).
635 ~~Multimodal transportation districts existing prior to July 1,~~
636 ~~2005, shall meet, at a minimum, the provisions of this section~~
637 ~~by July 1, 2006, or at the time of the comprehensive plan update~~
638 ~~pursuant to the evaluation and appraisal report, whichever~~

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639 ~~occurs last.~~

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

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

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

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

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

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

654 (c) Local governments may establish multimodal level-of-
655 service standards that rely primarily on nonvehicular modes of
656 transportation within the district, if ~~when~~ justified by an
657 analysis demonstrating that the existing and planned community
658 design will provide an adequate level of mobility within the
659 district based upon professionally accepted multimodal level-of-
660 service methodologies. The analysis must also demonstrate that
661 the capital improvements required to promote community design
662 are financially feasible over the development or redevelopment
663 timeframe for the district and that community design features
664 within the district provide convenient interconnection for a
665 multimodal transportation system. Local governments may issue
666 development permits in reliance upon all planned community
667 design capital improvements that are financially feasible over

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668 the development or redevelopment timeframe for the district,
669 regardless of ~~without regard to~~ the period ~~of time~~ between
670 development or redevelopment and the scheduled construction of
671 the capital improvements. A determination of financial
672 feasibility shall be based upon currently available funding or
673 funding sources that could reasonably be expected to become
674 available over the planning period.

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

680 (e) ~~By December 1, 2007,~~ The Department of Transportation,
681 in consultation with the state land planning agency and
682 interested local governments, may designate a study area for
683 conducting a pilot project to determine the benefits of and
684 barriers to establishing a regional multimodal transportation
685 concurrency district that extends over more than one local
686 government jurisdiction. If designated:

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

692 2. The local governments within the study area and the
693 Department of Transportation, in consultation with the state
694 land planning agency, shall cooperatively create a multimodal
695 transportation plan that meets the requirements in ~~of~~ this
696 section. The multimodal transportation plan must include viable

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697 local funding options and incorporate community design features,
698 including a range of mixed land uses and densities and
699 intensities, which will reduce the number of automobile trips or
700 vehicle miles of travel while supporting an integrated,
701 multimodal transportation system.

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

705 4. The Department of Transportation, in consultation with
706 the state land planning agency, shall submit a report by March
707 1, 2009, to the Governor, the President of the Senate, and the
708 Speaker of the House of Representatives on the status of the
709 pilot project. The report must identify any factors that support
710 or limit the creation and success of a regional multimodal
711 transportation district including intergovernmental
712 coordination.

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

720 (a) The determination of significantly affected roadways
721 shall be based upon the cumulative number of trips from the
722 previously approved stage or phase of development and the
723 proposed new stage or phase of development expected to reach
724 roadways during the peak hour at the complete buildout of a
725 stage or phase being approved.

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726 (b) For significantly affected roadways, the developer's
727 proportionate fair-share mitigation shall be based solely upon
728 the number of trips from the proposed new stage or phase being
729 approved which would exceed the peak hour maximum service volume
730 of the roadway at the adopted or existing level of service,
731 whichever has the greater maximum service volume, divided by the
732 change in the peak hour maximum service volume of the roadways
733 resulting from the construction of an improvement necessary to
734 maintain the adopted or existing level of service, whichever has
735 the greater maximum service volume.

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

743 (d) (b) 1. In its transportation concurrency management
744 system, a local government shall, ~~by December 1, 2006,~~ include
745 methodologies that will be applied to calculate proportionate
746 fair-share mitigation. A developer may choose to satisfy all
747 transportation concurrency requirements by contributing or
748 paying proportionate fair-share mitigation if transportation
749 facilities or facility segments identified as mitigation for
750 traffic impacts are specifically identified for funding in the
751 5-year schedule of capital improvements in the capital
752 improvements element of the local plan or the long-term
753 concurrency management system or if such contributions or
754 payments to such facilities or segments are reflected in the 5-

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755 year schedule of capital improvements in the next regularly
756 scheduled update of the capital improvements element. Updates to
757 the 5-year capital improvements element which reflect
758 proportionate fair-share contributions may not be found not in
759 compliance based on ss. 163.3164(32) and 163.3177(3) if
760 additional contributions, payments or funding sources are
761 reasonably anticipated during a period not to exceed 10 years to
762 fully mitigate impacts on the transportation facilities.

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

769 (e) ~~(e)~~ Proportionate fair-share mitigation includes,
770 without limitation, separately or collectively, private funds,
771 contributions of land, or ~~and~~ construction and contribution of
772 facilities and may include public funds as determined by the
773 local government. Proportionate fair-share mitigation may be
774 directed toward one or more specific transportation improvements
775 reasonably related to the mobility demands created by the
776 development and such improvements may address one or more modes
777 of travel. The fair market value of the proportionate fair-share
778 mitigation may ~~shall~~ not differ based on the form of mitigation.
779 A local government may not require a development to pay more
780 than its proportionate fair-share contribution regardless of the
781 method of mitigation. Proportionate fair-share mitigation shall
782 be limited to ensure that a development meeting the requirements
783 of this section mitigates its impact on the transportation

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784 system but is not responsible for the additional cost of
785 reducing or eliminating backlogs.

786 (f)~~(d)~~ This subsection does not require a local government
787 to approve a development that is not otherwise qualified for
788 approval pursuant to the applicable local comprehensive plan and
789 land development regulations; however, a development that
790 satisfies the requirements of s. 163.3180 shall not be denied on
791 the basis of a failure to mitigate its transportation impacts
792 under the local comprehensive plan or land development
793 regulations. This paragraph does not limit a local government
794 from imposing lawfully adopted transportation impact fees.

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

798 (h)~~(f)~~ If the funds in an adopted 5-year capital
799 improvements element are insufficient to fully fund construction
800 of a transportation improvement required by the local
801 government's concurrency management system, a local government
802 and a developer may still enter into a binding proportionate-
803 share agreement authorizing the developer to construct that
804 amount of development on which the proportionate share is
805 calculated if the proportionate-share amount in such agreement
806 is sufficient to pay for one or more improvements which will, in
807 the opinion of the governmental entity or entities maintaining
808 the transportation facilities, significantly benefit the
809 impacted transportation system. The improvements funded by the
810 proportionate-share component must be adopted into the 5-year
811 capital improvements schedule of the comprehensive plan at the
812 next annual capital improvements element update. The funding of

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813 any improvements that significantly benefit the impacted
814 transportation system satisfies concurrency requirements as a
815 mitigation of the development's impact upon the overall
816 transportation system even if there remains a failure of
817 concurrency on other impacted facilities.

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

823 (j)~~(h)~~ ~~The provisions of~~ This subsection does ~~de~~ not apply
824 to a development of regional impact satisfying the requirements
825 in ~~of~~ subsection (12).

826 (k) A developer shall not be required to fund or construct
827 proportionate share mitigation that is more extensive than
828 mitigation necessary to offset the impact of the development
829 project under review.

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

835 (m) As used in this subsection, the term:

836 1. "Backlogged" or "backlogged transportation facility"
837 means a facility on which the adopted level-of-service standard
838 is exceeded by the existing trips, plus background trips,
839 including transportation facilities that have exceeded their
840 useful life.

841 2. "Background trips" means forecasted trips from sources

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842 other than the development project under review. Forecasted
843 trips shall be based on established traffic modeling standards.

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

851 (a) Designate the traffic impacts for transportation
852 facilities or facility segments as mitigated for funding in the
853 5-year schedule of capital improvements in the capital
854 improvements element of the local comprehensive plan or the
855 long-term concurrency management system; or

856 (b) Reflect that the traffic impacts for transportation
857 facilities or facility segments are mitigated in the 5-year
858 schedule of capital improvements in the next regularly scheduled
859 update of the capital improvements element.

860
861 Updates to the 5-year capital improvements element which reflect
862 proportionate share or proportionate fair-share contributions
863 are deemed compliant with s. 163.3164(32) or s. 163.3177(3) if
864 additional contributions, payments, or funding sources are
865 reasonably anticipated during a period not to exceed 10 years
866 and would fully mitigate impacts on the transportation
867 facilities and facility segments.

868 Section 4. Subsection (2) of section 163.3182, Florida
869 Statutes, is amended to read:

870 163.3182 Transportation concurrency backlogs.—

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871 (2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG
872 AUTHORITIES.—

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

876 (b) No later than 2012, each local government that has an
877 identified transportation concurrency backlog shall adopt one or
878 more transportation concurrency backlog areas as part of its
879 capital improvements element update to its financially feasible
880 submission to the state land planning agency. On a biannual
881 basis, the creation of additional areas shall be submitted to
882 the state land planning agency until the local government has
883 demonstrated by no later than 2027 that the backlog existing in
884 2012 has been mitigated through construction or planned
885 construction of the necessary transportation mobility
886 improvements. If, because of economic conditions, the local
887 government cannot meet the biannual requirements of the capital
888 improvements update for new areas, it may request from the state
889 land planning agency a one-time waiver of the requirement to
890 file the biannual creation of new transportation concurrency
891 backlog authority areas.

892 (c) Landowners or developers within a large-scale
893 development area of 500 cumulative acres or more may request the
894 local government to create a transportation concurrency backlog
895 area coterminous with the boundaries of the development area. If
896 a development permit is issued or a comprehensive plan amendment
897 is approved within the development area, the local government
898 shall designate the transportation concurrency backlog area if
899 the funding is sufficient to address one or more transportation

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900 capacity improvements necessary to satisfy the additional
901 deficiencies coexisting or anticipated with the new development.
902 The transportation concurrency backlog area shall be created by
903 ordinance and shall be used to satisfy all fair share or
904 proportionate fair-share transportation concurrency
905 contributions of the development which are not otherwise
906 satisfied by impact fees. The local government shall manage the
907 area acting as a transportation concurrency backlog authority
908 and all applicable provisions of this section apply, except that
909 the tax increment shall be used to satisfy transportation
910 concurrency requirements not otherwise satisfied by impact fees.

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

918 (e) Notwithstanding any general law, special act, or
919 ordinance to the contrary, a local government shall not require
920 any payments for transportation concurrency beyond a subject
921 development's traffic impacts as identified pursuant to impact
922 fees or s. 163.3180(12) or (16) nor shall a condition of a
923 development order or permit require such payments. If payments
924 required to satisfy a development's share of transportation
925 concurrency costs do not mitigate all traffic impacts of the
926 planned development area because of existing or future backlog
927 conditions, the landowner or developer shall be entitled to
928 petition the local government for designation of a

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929 transportation concurrency backlog area pursuant to this
930 section, which shall satisfy any remaining concurrency backlog
931 requirements in the impacted area.

932 Section 5. Paragraph (a) of subsection (7) of section
933 380.06, Florida Statutes, is amended to read:

934 380.06 Developments of regional impact.—

935 (7) PREAPPLICATION PROCEDURES.—

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

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958 those assumptions and methodologies inappropriate.

959 Section 6. Transportation mobility fee.—

960 (1) The Legislature finds that the existing transportation
961 concurrency system has not adequately addressed Florida's
962 transportation needs in an effective, predictable, and equitable
963 manner and is not producing a sustainable transportation system
964 for the state. The current system is complex, lacks uniformity
965 among jurisdictions, is too focused on roadways to the detriment
966 of desired land use patterns and transportation alternatives,
967 results in unjustified financial inequities between comparable
968 applicants, and frequently prevents the attainment of important
969 growth management goals. Therefore, the Legislature has
970 determined that the state shall evaluate and, as deemed
971 feasible, implement a different adequate public facility
972 requirement for transportation which would utilize a mobility
973 fee based either on net external trip volume generated or
974 vehicle and people miles traveled. The mobility fee shall be
975 designed to provide for mobility needs, ensure that development
976 provides mitigation for its impacts on the transportation system
977 in approximate proportionality to those impacts, fairly
978 distribute financial burdens among all applicants for
979 development permits, and promote compact, mixed-use, and energy
980 efficient development. Therefore, the Legislature directs the
981 Department of Community Affairs and the Department of
982 Transportation, both of whom are currently performing
983 independent mobility fee studies, to coordinate and use those
984 studies in developing a methodology for a mobility fee system as
985 follows:

986 (a) The uniform mobility fee methodology for statewide

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987 application shall replace the existing transportation
988 concurrency management systems adopted and implemented by local
989 governments. The independent, yet coordinated, studies shall
990 focus upon developing a methodology as follows:

991 1. The amount, distribution, and timing of vehicular and
992 people miles traveled shall be determined by applying
993 professionally accepted standards and practices in the
994 disciplines of land use and transportation planning, including
995 requirements of constitutional and statutory law;

996 2. The development of an equitable mobility fee which
997 provides funding for future mobility needs whereby new
998 development mitigates in approximate proportionality for its
999 impacts on the transportation system, yet is not delayed or held
1000 accountable for system backlogs or failures that are not
1001 directly attributable to the proposed development;

1002 3. The replacement of transportation financial feasibility
1003 obligations, proportionate share contributions for developments
1004 of regional impacts, proportionate fair-share contributions, and
1005 locally adopted transportation impact fees, with the mobility
1006 fee such that a single transportation fee, whether based on
1007 number of trips or vehicle miles traveled, may be applied
1008 uniformly on a statewide basis by application of the mobility
1009 fee formula developed by these studies;

1010 4. Applicability of the mobility fee on a statewide or more
1011 limited geographic basis and, if the latter, the preferred
1012 methodology in lieu of the existing concurrency or impact fee
1013 system for equitably mitigating transportation impacts from new
1014 development in those geographic areas where the mobility fee is
1015 not recommended;

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1016 5. The ability for developer contributions of land for
1017 right-of-way or developer-funded improvements to the
1018 transportation network, to be recognized as credits against the
1019 mobility fee via mutually acceptable agreements reached with the
1020 impacted jurisdiction; and

1021 6. An equitable methodology for distribution of the
1022 mobility fee proceeds among those jurisdictions responsible for
1023 construction and maintenance of the impacted roadways, such that
1024 100 percent of the collected mobility fees are utilized for
1025 improvements to the overall transportation network of the
1026 impacted jurisdiction.

1027 (b) No later than February 15, 2010, the Secretary of
1028 Community Affairs and the Secretary of Transportation shall
1029 provide an interim joint report to the President of the Senate
1030 and the Speaker of the House of Representatives which contains
1031 the status of the mobility fee methodology study. A second
1032 interim joint report shall be provided on or before February 15,
1033 2011. On or before December 1, 2010, the Department of Community
1034 Affairs, with input from the Department of Transportation, shall
1035 develop and submit to the Legislature proposed amendments to
1036 chapter 9J-5, Florida Administrative Code, incorporating the
1037 mobility fee methodology developed from the studies. The 2011
1038 Legislature shall consider the amendments and approve as
1039 submitted, approve with revisions, or reject. If approved as
1040 submitted, the amendments shall go into effect on July 1, 2011.
1041 If approved with revisions, the Department of Community Affairs
1042 shall adopt the amendments as revised such that they will become
1043 effective not later than July 1, 2011. The Legislature declares
1044 that changes made to chapter 9J-5, Florida Administrative Code,

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1045 pursuant to this paragraph shall not be subject to rule
1046 challenges under s. 120.56(2), Florida Statutes, or to drawout
1047 proceedings under s. 120.54(3)(c)2., Florida Statutes.

1048 (2) In order to facilitate the replacement of the current
1049 dysfunctional transportation concurrency system, the Legislature
1050 directs that s. 163.3180, Florida Statutes, relating to
1051 transportation, be repealed effective October 1, 2012, unless
1052 the amendments to chapter 9J-5, Florida Administrative Code, are
1053 rejected and s. 163.3180, Florida Statutes, is reenacted by the
1054 Legislature.

1055 Section 7. The Legislature directs the Department of
1056 Transportation to establish an approved transportation
1057 methodology which recognizes that a planned, sustainable, or
1058 self-sufficient development area will likely achieve a community
1059 internal capture rate in excess of 30 percent when fully
1060 developed. A sustainable or self-sufficient development area
1061 consists of 500 acres or more of large-scale developments
1062 individually or collectively designed to achieve self
1063 containment by providing a balance of land uses to fulfill a
1064 majority of the community's needs. The adopted transportation
1065 methodology shall use a regional transportation model that
1066 incorporates professionally accepted modeling techniques
1067 applicable to well-planned, sustainable communities of the size,
1068 location, mix of uses, and design features consistent with such
1069 communities. The adopted transportation methodology shall serve
1070 as the basis for sustainable or self-sufficient development's
1071 traffic impact assessments by the department. The methodology
1072 review must be completed and in use no later than July 1, 2009.

1073 Section 8. This act shall take effect July 1, 2009.