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LEGISLATIVE ACTION

Senate

.

House

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Floor: WD/2R

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04/23/2009 11:53 AM

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Senator Gaetz moved the following:

Senate Amendment (with title amendment)

Between lines 94 and 95

insert:

Section 2. Paragraph (e) of subsection (13) of section
163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(13) School concurrency shall be established on a
districtwide basis and shall include all public schools in the
district and all portions of the district, whether located in a
municipality or an unincorporated area unless exempt from the
public school facilities element pursuant to s. 163.3177(12).



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13 The application of school concurrency to development shall be
14 based upon the adopted comprehensive plan, as amended. All local
15 governments within a county, except as provided in paragraph
16 (f), shall adopt and transmit to the state land planning agency
17 the necessary plan amendments, along with the interlocal
18 agreement, for a compliance review pursuant to s. 163.3184(7)
19 and (8). The minimum requirements for school concurrency are the
20 following:

21 (e) *Availability standard.*—Consistent with the public
22 welfare, a local government may not deny an application for site
23 plan, final subdivision approval, or the functional equivalent
24 for a development or phase of a development authorizing
25 residential development for failure to achieve and maintain the
26 level-of-service standard for public school capacity in a local
27 school concurrency management system where adequate school
28 facilities will be in place or under actual construction within
29 3 years after the issuance of final subdivision or site plan
30 approval, or the functional equivalent. School concurrency is
31 satisfied if the developer executes a legally binding commitment
32 to provide mitigation proportionate to the demand for public
33 school facilities to be created by actual development of the
34 property, including, but not limited to, the options described
35 in subparagraph 1. Options for proportionate-share mitigation of
36 impacts on public school facilities must be established in the
37 public school facilities element and the interlocal agreement
38 pursuant to s. 163.31777.

39 1. Appropriate mitigation options include the contribution
40 of land; the construction, expansion, or payment for land
41 acquisition or construction of a public school facility; the



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42 construction of a charter school that complies with the
43 requirements of s. 1002.33(18)(f); or the creation of mitigation
44 banking based on the construction of a public school facility in
45 exchange for the right to sell capacity credits. Such options
46 must include execution by the applicant and the local government
47 of a development agreement that constitutes a legally binding
48 commitment to pay proportionate-share mitigation for the
49 additional residential units approved by the local government in
50 a development order and actually developed on the property,
51 taking into account residential density allowed on the property
52 prior to the plan amendment that increased the overall
53 residential density. The district school board must be a party
54 to such an agreement. As a condition of its entry into such a
55 development agreement, the local government may require the
56 landowner to agree to continuing renewal of the agreement upon
57 its expiration.

58 2. If the education facilities plan and the public
59 educational facilities element authorize a contribution of land;
60 the construction, expansion, or payment for land acquisition; ~~or~~
61 the construction or expansion of a public school facility, or a
62 portion thereof; or the construction of a charter school that
63 complies with the requirements of s. 1002.33(18)(f), as
64 proportionate-share mitigation, the local government shall
65 credit such a contribution, construction, expansion, or payment
66 toward any other impact fee or exaction imposed by local
67 ordinance for the same need, on a dollar-for-dollar basis at
68 fair market value.

69 3. Any proportionate-share mitigation must be directed by
70 the school board toward a school capacity improvement identified



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71 in a financially feasible 5-year district work plan that
72 satisfies the demands created by the development in accordance
73 with a binding developer's agreement.

74 4. If a development is precluded from commencing because
75 there is inadequate classroom capacity to mitigate the impacts
76 of the development, the development may nevertheless commence if
77 there are accelerated facilities in an approved capital
78 improvement element scheduled for construction in year four or
79 later of such plan which, when built, will mitigate the proposed
80 development, or if such accelerated facilities will be in the
81 next annual update of the capital facilities element, the
82 developer enters into a binding, financially guaranteed
83 agreement with the school district to construct an accelerated
84 facility within the first 3 years of an approved capital
85 improvement plan, and the cost of the school facility is equal
86 to or greater than the development's proportionate share. When
87 the completed school facility is conveyed to the school
88 district, the developer shall receive impact fee credits usable
89 within the zone where the facility is constructed or any
90 attendance zone contiguous with or adjacent to the zone where
91 the facility is constructed.

92 5. This paragraph does not limit the authority of a local
93 government to deny a development permit or its functional
94 equivalent pursuant to its home rule regulatory powers, except
95 as provided in this part.

96
97 ===== T I T L E A M E N D M E N T =====

98 And the title is amended as follows:

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100 Delete line 5
101 and insert:
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103 provisions to changes made by the act; amending s.
104 163.3180, F.S.; charter schools as an appropriate mitigation;
105 amending ss.