



965088

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2009	.	
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The Committee on Transportation (Baker) recommended the following:

Senate Amendment (with title amendment)

Between lines 457 and 458
insert:

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



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12 (a) The proportionate fair-share contribution shall be
13 calculated based upon the cumulative number of trips from the
14 proposed development expected to reach roadways during the peak
15 hour at the complete buildout of a stage or phase being
16 approved, divided by the change in the peak hour maximum service
17 volume of the roadways resulting from the construction of an
18 improvement necessary to maintain the adopted level of service.
19 The calculated proportionate fair-share contribution shall be
20 multiplied by the construction cost, at the time of developer
21 payment, of the improvement necessary to maintain the adopted
22 level of service, in order to determine the proportionate fair-
23 share contribution. For purposes of this subparagraph, the term
24 "construction cost" includes all associated costs of the
25 improvement.

26 ~~(a)(b) By December 1, 2006, each local government shall~~
27 ~~adopt by ordinance a methodology for assessing proportionate~~
28 ~~fair-share mitigation options consistent with this section. By~~
29 ~~December 1, 2005, the Department of Transportation shall develop~~
30 ~~a model transportation concurrency management ordinance with~~
31 ~~methodologies for assessing proportionate fair-share mitigation~~
32 ~~options.~~

33 ~~(b)(c)~~1. In its transportation concurrency management
34 system, a local government shall, ~~by December 1, 2006,~~ include
35 methodologies that will be applied to calculate proportionate
36 fair-share mitigation. A developer may choose to satisfy all
37 transportation concurrency requirements by contributing or
38 paying proportionate fair-share mitigation if transportation
39 facilities or facility segments identified as mitigation for
40 traffic impacts are specifically identified for funding in the



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41 5-year schedule of capital improvements in the capital
42 improvements element of the local plan or the long-term
43 concurrency management system or if such contributions or
44 payments to such facilities or segments are reflected in the 5-
45 year schedule of capital improvements in the next regularly
46 scheduled update of the capital improvements element. Updates to
47 the 5-year capital improvements element which reflect
48 proportionate fair-share contributions may not be found not in
49 compliance based on ss. 163.3164(32) and 163.3177(3) if
50 additional contributions, payments or funding sources are
51 reasonably anticipated during a period not to exceed 10 years to
52 fully mitigate impacts on the transportation facilities.

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

59 ~~(e)~~ (d) Proportionate fair-share mitigation includes,
60 without limitation, separately or collectively, private funds,
61 contributions of land, ~~and~~ or construction and contribution of
62 facilities and may include public funds as determined by the
63 local government. Proportionate fair-share mitigation may be
64 directed toward one or more specific transportation improvements
65 reasonably related to the mobility demands created by the
66 development and such improvements may address one or more modes
67 of travel. The fair market value of the proportionate fair-share
68 mitigation may ~~shall~~ not differ based on the form of mitigation.
69 A local government may not require a development to pay more



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70 than its proportionate fair-share contribution regardless of the
71 method of mitigation. Proportionate fair-share mitigation shall
72 be limited to ensure that a development meeting the requirements
73 of this section mitigates its impact on the transportation
74 system but is not responsible for the additional cost of
75 reducing or eliminating backlogs. For purposes of this
76 subparagraph, the term "backlog" means a facility or facilities
77 on which the adopted level-of-service standard is exceeded by
78 the existing trips, plus additional projected background trips
79 from any source other than the development project under review
80 that are forecast by established traffic standards, including
81 traffic modeling, consistent with the University of Florida
82 Bureau of Economic and Business Research medium population
83 projections. Additional projected background trips are to be
84 coincident with the particular stage or phase of development
85 under review.

86 ~~(d)~~(e) This subsection does not require a local government
87 to approve a development that is not otherwise qualified for
88 approval pursuant to the applicable local comprehensive plan and
89 land development regulations; however, a development that
90 satisfies the requirements of s. 163.3180 shall not be denied on
91 the basis of a failure to mitigate other transportation impacts
92 under the local comprehensive plan or land development
93 regulations. This paragraph does not limit a local government
94 from imposing lawfully adopted transportation impact fees.

95 ~~(e)~~(f) Mitigation for development impacts to facilities on
96 the Strategic Intermodal System made pursuant to this subsection
97 requires the concurrence of the Department of Transportation.

98 ~~(f)~~(g) If the funds in an adopted 5-year capital



99 improvements element are insufficient to fully fund construction
100 of a transportation improvement required by the local
101 government's concurrency management system, a local government
102 and a developer may still enter into a binding proportionate-
103 share agreement authorizing the developer to construct that
104 amount of development on which the proportionate share is
105 calculated if the proportionate-share amount in such agreement
106 is sufficient to pay for one or more improvements which will, in
107 the opinion of the governmental entity or entities maintaining
108 the transportation facilities, significantly benefit the
109 impacted transportation system. The improvements funded by the
110 proportionate-share component must be adopted into the 5-year
111 capital improvements schedule of the comprehensive plan at the
112 next annual capital improvements element update. The funding of
113 any improvements that significantly benefit the impacted
114 transportation system satisfies concurrency requirements as a
115 mitigation of the development's impact upon the overall
116 transportation system even if there remains a failure of
117 concurrency on other impacted facilities.

118 ~~(g)~~(h) Except as provided in subparagraph ~~(b)~~(c)1., this
119 section does ~~may~~ not prohibit the ~~Department of Community~~
120 ~~Affairs~~ state land planning agency from finding other portions
121 of the capital improvements element amendments not in compliance
122 as provided in this chapter.

123 ~~(h)~~(i) ~~The provisions of~~ This subsection does not apply to
124 a development of regional impact satisfying the requirements ~~of~~
125 in subsection (12).

126
127 ===== T I T L E A M E N D M E N T =====



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128 And the title is amended as follows:
129 Delete line 43
130 and insert:
131 projects; revising provisions relating to proportionate fair-
132 share mitigation; revising provisions relating to school