By the Committees on Transportation; and Community Affairs; and Senator Bennett

596-04997-09 2009362c2

A bill to be entitled

An act relating to growth management; amending s. 163.3164, F.S.; redefining the term "existing urban service area" as "urban service area"; defining the term "dense urban land area"; requiring the Office of Economic and Demographic Research to annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas; providing for the use of certain data and certain boundaries for such determination; requiring the Office of Economic and Demographic Research to submit to the state land planning agency the list of jurisdictions that meet certain criteria by a specified date; requiring the state land planning agency to publish such list; amending s. 163.3177, F.S.; revising the criteria for future land use designations; authorizing the state land planning agency to allow for a projected 5-year capital outlay full-time equivalent student growth rate to exceed certain percent under certain circumstances; amending s. 163.3180, F.S.; revising concurrency requirements; revising legislative findings; providing for the applicability of transportation concurrency exception areas; deleting certain requirements for transportation concurrency exception areas; requiring that a local government that has certain transportation concurrency exception area adopt land use and transportation strategies within a specified timeframe; requiring the state land planning agency to

submit certain finding to the Administration Commission; providing that the designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees and does not affect any contract or agreement entered into or development order rendered before such designation; requiring that the Office of Program Policy Analysis and Government Accountability submit a report to the Legislature by a specified date; requiring that the report contain certain information relating to transportation concurrency exception areas; providing for an exemption from level-of-service standards for proposed development related to qualified job creation projects; revising provisions relating to proportionate fair-share mitigation; revising provisions relating to school concurrency requirements; requiring that charter schools be considered as a mitigation option under certain circumstances; revising the criteria for proportionate-share contributions; defining the term "backlog"; creating s. 163.31802, F.S.; prohibiting the establishment of local security standards requiring businesses to expend funds to enhance local governmental services or functions under certain circumstances; providing an exception; amending s. 163.3187, F.S.; clarifying that text amendments can be made only twice a year; amending s. 163.32465, F.S.; authorizing local governments to use the alternative

state review process to designate urban service areas; providing legislative intent with respect to the alternative state review pilot program; amending s. 171.091, F.S.; requiring that a municipality submit a copy of any revision to the charter boundary article which results from an annexation or contraction to the Office of Economic and Demographic Research; amending s. 380.06, F.S.; providing that certain exempt uses that are part of a larger project that is subject to development-of-regional-impact review are exempt from such review under certain circumstances; providing legislative findings and determinations relating to replacing the transportation concurrency system with a mobility fee system; requiring that the state land planning agency and the Department of Transportation develop a methodology for a mobility fee system; requiring that the state land planning agency and the department submit joint reports to the Legislature by a specified date; extending certain permits, orders, or applications that are due to expire on or before September 1, 2011; providing for application of the extension to certain related activities; providing exceptions; providing a declaration of important state interest; providing an effective date.

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

Section 1. Subsection (29) of section 163.3164, Florida Statutes, is amended, and subsection (34) is added to that

section, to read:

163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions.—As used in this act:

(29) "~~Existing~~ Urban service area" means built-up areas where public facilities and services, including, but not limited to, central water and sewer ~~such as sewage treatment systems~~, roads, schools, and recreation areas, are already in place. In addition, for counties that qualify as dense urban land areas under subsection (34), the nonrural area of a county, which has adopted into the county charter a rural area designation or areas identified in the comprehensive plan as urban service areas or urban growth boundaries on or before July 1, 2009, are also urban service areas under this definition.

(34) "Dense urban land area" means:

(a) A municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;

(b) A county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or

(c) A county, including the municipalities located therein, which has a population of at least 1 million.

The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest

available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall submit to the state land planning agency a list of jurisdictions that meet the total population and density criteria necessary for designation as a dense urban land area by July 1, 2009, and every year thereafter. The state land planning agency shall publish the list of jurisdictions on its Internet website within 7 days after the list is received. The designation of jurisdictions that qualify or do not qualify as a dense urban land area is effective upon publication on the state land planning agency's Internet website.

Section 2. Paragraph (a) of subsection (6) and paragraph (a) of subsection (12) of section 163.3177, Florida Statutes, are amended to read:

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

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are

encouraged to designate rural land stewardship areas, pursuant to the provisions of paragraph (11)(d), as overlays on the future land use map. Each future land use category must be defined in terms of uses included rather than numerical caps, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; those factors limiting development, critical habitat designations as well as other applicable environmental protections, and local building restrictions incorporated into the comprehensive plan or land development code; the availability of water supplies, public facilities, and services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; the compatibility of uses on lands adjacent to or closely proximate to military installations; the discouragement of urban sprawl; energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems; greenhouse gas reduction strategies; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may

designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan element shall include criteria to be used to achieve the compatibility of adjacent or closely proximate lands with military installations. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. For coastal counties, the future land use element must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to

existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. The failure by a local government to comply with these school siting requirements will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of adjacent or closely proximate lands with existing military installations in their future land use plan element shall transmit the update or amendment to the department by June 30, 2006.

(12) A public school facilities element adopted to

implement a school concurrency program shall meet the requirements of this subsection. Each county and each municipality within the county, unless exempt or subject to a waiver, must adopt a public school facilities element that is consistent with those adopted by the other local governments within the county and enter the interlocal agreement pursuant to s. 163.31777.

(a) The state land planning agency may provide a waiver to a county and to the municipalities within the county if the capacity rate for all schools within the school district is no greater than 100 percent and the projected 5-year capital outlay full-time equivalent student growth rate is less than 10 percent. The state land planning agency may allow for a projected 5-year capital outlay full-time equivalent student growth rate to exceed 10 percent when the projected 10-year capital outlay full-time equivalent student enrollment is fewer than 2,000 students and the capacity rate for all schools within the school district in the 10th year will not exceed the 100 percent limitation. The state land planning agency may allow for a single school to exceed the 100-percent limitation if it can be demonstrated that the capacity rate for that single school is not greater than 105 percent. In making this determination, the state land planning agency shall consider the following criteria:

1. Whether the exceedance is due to temporary circumstances;

2. Whether the projected 5-year capital outlay full time equivalent student growth rate for the school district is approaching the 10-percent threshold;

3. Whether one or more additional schools within the school district are at or approaching the 100-percent threshold; and

4. The adequacy of the data and analysis submitted to support the waiver request.

Section 3. Subsections (5), (10), and (12), paragraph (e) of subsection (13), and subsection (16) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.—

(5)(a) The Legislature finds that under limited circumstances ~~dealing with transportation facilities~~, countervailing planning and public policy goals may come into conflict with the requirement that adequate public transportation facilities and services be available concurrent with the impacts of such development. The Legislature further finds that ~~often~~ the unintended result of the concurrency requirement for transportation facilities is often the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. The Legislature also finds that in urban centers, transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity, that the expansion of roadway capacity is not always physically or financially possible, and that a range of transportation alternatives are essential to satisfy mobility needs, reduce congestion, and achieve healthy, vibrant centers. ~~Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.~~

(b)1. The following are transportation concurrency

exception areas:

a. A municipality that qualifies as a dense urban land area under s. 163.3164(34);

b. An urban service area under s. 163.3164(29) which has been adopted into the local comprehensive plan and is located within a county that qualifies as a dense urban land area under s. 163.3164(34), except limited urban service areas are not included as an urban service area unless the parcel is defined as 163.3164(33); and

c. A county, including the municipalities located therein, which has a population of at least 900,000 and qualifies as a dense urban land area under s. 163.3164(34), but does not have an urban service area designated in the local comprehensive plan.

2. A municipality that does not qualify as a dense urban land area pursuant to s. 163.3164(34) may designate in its local comprehensive plan the following areas as transportation concurrency exception areas:

a. Urban infill as defined in s. 163.3164(27);

b. Community redevelopment areas as defined in s. 163.340(10);

c. Downtown revitalization areas as defined in s. 163.3164(25);

d. Urban infill and redevelopment under s. 163.2517; or

e. Urban service areas as defined in s. 163.3164(29) or areas within a designated urban service boundary under s. 163.3177(14).

3. A county that does not qualify as a dense urban land area pursuant to s. 163.3164(34) may designate in its local

comprehensive plan the following areas as transportation concurrency exception areas:

a. Urban infill as defined in s. 163.3164(27);

b. Urban infill and redevelopment under s. 163.2517; or

c. Urban service areas as defined in s. 163.3164(29).

4. A local government that has a transportation concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. must, within 2 years after the designated area becomes exempt, adopt into its local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. Local governments are encouraged to adopt complementary land use and transportation strategies that reflect the region's shared vision for its future. If the state land planning agency finds insufficient cause for the local government's failure to adopt into its comprehensive plan land use and transportation strategies to support and fund mobility within the designated exception area after 2 years, the agency shall submit the finding to the Administration Commission, which may impose any of the sanctions set forth in s. 163.3184(11)(a) and (b) against the local government.

5. Transportation concurrency exception areas designated under subparagraph 1., subparagraph 2., or subparagraph 3. do not apply to designated transportation concurrency districts located within a county that has a population of at least 1.5 million, has implemented and uses a transportation-related concurrency assessment to support alternative modes of transportation, including, but not limited to, mass transit, and

does not levy transportation impact fees within the concurrency district. This paragraph does not apply to any county that has exempted more than 40 percent of the area inside the urban service area from transportation concurrency for the purpose of encouraging urban infill and redevelopment.

6. A local government that does not have a transportation concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

a.~~1.~~ Urban infill development;

b.~~2.~~ Urban redevelopment;

c.~~3.~~ Downtown revitalization;

d.~~4.~~ Urban infill and redevelopment under s. 163.2517; or

e.~~5.~~ An urban service area specifically designated as a transportation concurrency exception area which includes lands appropriate for compact, contiguous urban development, which does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period, and which is served or is planned to be served with public facilities and services as provided by the capital improvements element.

(c) The Legislature also finds that developments located within urban infill, urban redevelopment, ~~existing~~ urban service, or downtown revitalization areas or areas designated as

urban infill and redevelopment areas under s. 163.2517, which pose only special part-time demands on the transportation system, are exempt ~~should be excepted~~ from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) Except for transportation concurrency exception areas designated pursuant to subparagraph (b)1., subparagraph (b)2., or subparagraph (b)3., the following requirements apply: ~~A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.~~

1.~~(c)~~ The local government shall both adopt into the comprehensive plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment must also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided.

2. ~~In addition,~~ The strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area must be accompanied by data and analysis justifying the size of the area.

(e) ~~(f)~~ Before designating ~~Prior to the designation of~~ a concurrency exception area pursuant to subparagraph (b)6., the state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for regional transportation facilities identified pursuant to s. 186.507, including the Strategic Intermodal System ~~facilities, as defined in s. 339.64,~~ and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall provide a plan for the mitigation of~~, in consultation with the state land planning agency and the Department of Transportation, develop a plan to mitigate any~~ impacts to the Strategic Intermodal System, including, if appropriate, access management, parallel reliever roads, transportation demand management, and other measures ~~the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d)~~. ~~The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.~~

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

(f) The designation of a transportation concurrency exception area does not limit a local government's home rule

power to adopt ordinances or impose fees. This subsection does not affect any contract or agreement entered into or development order rendered before the creation of the transportation concurrency exception area.

(g) The Office of Program Policy Analysis and Government Accountability shall submit to the President of the Senate and the Speaker of the House of Representatives by February 1, 2015, a report on transportation concurrency exception areas created pursuant to this subsection. At a minimum, the report must address the methods that local governments have used to implement and fund transportation strategies to achieve the purposes of designated transportation concurrency exception area; the effects of the strategies on mobility, congestion, urban design; the density and intensity of land use mixes; and the network connectivity plans used to promote urban infill, redevelopment, or downtown revitalization.

(10) Except in transportation concurrency exception areas, with regard to roadway facilities on the Strategic Intermodal System designated in accordance with s. 339.63 ~~ss. 339.61, 339.62, 339.63, and 339.64, the Florida Intrastate Highway System as defined in s. 338.001, and roadway facilities funded in accordance with s. 339.2819~~, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. However, if the Office of Tourism, Trade, and Economic Development concurs in writing with the local government that the proposed development is for a qualified job creation project under s. 288.0656 or s. 403.973, the affected local government, after consulting with the Department of Transportation, may allow for a waiver of

transportation concurrency for the project. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

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

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

2.~~(b)~~ The proportionate-share contribution for local and regionally significant traffic impacts is sufficient to pay for

one or more required mobility improvements that will benefit a regionally significant transportation facility;

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

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

(b) The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan.~~, but, for the purposes of this subsection,~~ The ~~amount of the~~ proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour at ~~from~~ the complete buildout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of the roadways resulting from the construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this paragraph, the term ~~subsection,~~ "construction cost" includes all

associated costs of the improvement. Proportionate-share mitigation shall be limited to ensure that a development of regional impact meeting the requirements of this subsection mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs. For purposes of this paragraph, the term "backlog" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing trips, plus additional projected background trips from any source other than the development project under review which are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips shall to be coincident with the particular stage or phase of development under review.

1. A developer shall not be required to fund or construct proportionate-share mitigation that is more extensive than mitigation necessary to offset the impact of the development project under review.

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

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

4. The payment for such improvements that significantly benefit the impacted transportation system satisfies concurrency

requirements as a mitigation of the development's stage or phase impacts upon the overall transportation system even if there remains a failure of concurrency on other impacted facilities.

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

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

(e) *Availability standard.*—Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan

approval, or the functional equivalent. School concurrency is satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on public school facilities must be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

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

2. If the education facilities plan and the public

educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; ~~or~~ the construction or expansion of a public school facility, or a portion thereof; or the construction of a charter school that complies with the requirements of s. 1002.33(18)(f), as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan that satisfies the demands created by the development in accordance with a binding developer's agreement.

4. If a development is precluded from commencing because there is inadequate classroom capacity to mitigate the impacts of the development, the development may nevertheless commence if there are accelerated facilities in an approved capital improvement element scheduled for construction in year four or later of such plan which, when built, will mitigate the proposed development, or if such accelerated facilities will be in the next annual update of the capital facilities element, the developer enters into a binding, financially guaranteed agreement with the school district to construct an accelerated facility within the first 3 years of an approved capital improvement plan, and the cost of the school facility is equal to or greater than the development's proportionate share. When the completed school facility is conveyed to the school

district, the developer shall receive impact fee credits usable within the zone where the facility is constructed or any attendance zone contiguous with or adjacent to the zone where the facility is constructed.

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

(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).~~

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

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

(c)~~(b)~~1. In its transportation concurrency management system, a local government shall~~, by December 1, 2006,~~ include methodologies that will be applied to calculate proportionate fair-share mitigation. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on ss. 163.3164(32) and 163.3177(3) if additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

2. Proportionate fair-share mitigation shall be applied as a credit against all transportation impact fees or any exactions

assessed for the traffic impacts of a development ~~to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the local government's impact fee ordinance~~.

(d) ~~(c)~~ Proportionate fair-share mitigation includes, without limitation, separately or collectively, private funds, contributions of land, or ~~and~~ construction and contribution of facilities and may include public funds as determined by the local government. Proportionate fair-share mitigation may be directed toward one or more specific transportation improvements reasonably related to the mobility demands created by the development and such improvements may address one or more modes of travel. The fair market value of the proportionate fair-share mitigation may ~~shall~~ not differ based on the form of mitigation. A local government may not require a development to pay more than its proportionate fair-share contribution regardless of the method of mitigation. Proportionate fair-share mitigation shall be limited to ensure that a development meeting the requirements of this section mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs. For purposes of this subparagraph, the term "backlog" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing trips, plus additional projected background trips from any source other than the development project under review which are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips shall be

coincident with the particular stage or phase of development under review.

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

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

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

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

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

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

Section 4. Section 163.31802, Florida Statutes, is created to read:

163.31802 Prohibited standards for security.—A county, municipality, or other local government entity may not adopt or maintain in effect an ordinance or rule that establish standards for security cameras which require a lawful business to expend funds to enhance the services or functions provided by local government unless specifically provided by general law. This section does not apply to municipalities that have a total population of 50,000 or fewer which adopted an ordinance or rule establishing standards for security devices before February 1, 2009.

Section 5. Subsection (7) is added to section 163.3187, Florida Statutes, to read:

163.3187 Amendment of adopted comprehensive plan.—

(7) Other than the exceptions listed in subsection (1),

text amendments to the goals, objectives, or policies of the local government's comprehensive plan may be adopted only twice a year, unless the text amendment is directly related to, and applies only to, a future land use map amendment.

Section 6. Paragraph (f) is added to subsection (3) of section 163.32465, Florida Statutes, to read:

163.32465 State review of local comprehensive plans in urban areas.—

(3) PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS UNDER THE PILOT PROGRAM.—

(f) In addition to the pilot program jurisdictions, any local government may use the alternative state review process to designate an urban service area as defined in s. 163.3164(29) in its comprehensive plan.

Section 7. It is the intent of the Legislature that any amendments to s. 163.32465, Florida Statutes, relating to the alternative state review pilot program, which are enacted during the 2009 legislative session, by any law other than by this act are of no effect and the provisions of this act shall prevail.

Section 8. Section 171.091, Florida Statutes, is amended to read:

171.091 Recording.—Any change in the municipal boundaries through annexation or contraction shall revise the charter boundary article and shall be filed as a revision of the charter with the Department of State within 30 days. A copy of such revision must be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.

Section 9. Subsection (24) of section 380.06, Florida

Statutes, is amended to read:

380.06 Developments of regional impact.—

(24) STATUTORY EXEMPTIONS.—

(a) Any proposed hospital is exempt from the provisions of this section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.

(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body prior to July 1, 1973, is exempt from the provisions of this section if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year’s capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from the provisions of this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports facility notifies the appropriate local government within which the facility is located of the increase at least 6 months prior to the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility is exempt from the provisions of this section, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction of the sports facility includes in the development order or development permit

approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days of receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development-of-regional-impact review, all previous expansions which were exempt under this paragraph shall be included in the development-of-regional-impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from

the provisions of this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with the provisions of s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section.

(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.

(k) Waterport and marina development, including dry storage facilities, are exempt from the provisions of this section.

(l) Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary, has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(m) Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(n) Any proposed development or redevelopment within an area designated as an urban infill and redevelopment area under s. 163.2517 is exempt from this section if the local government has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(o) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.

(p) Any self-storage warehousing that does not allow retail or other services is exempt from this section.

(q) Any proposed nursing home or assisted living facility is exempt from this section.

(r) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(k) is exempt from this section.

(s) Any development identified in a campus master plan and adopted pursuant to s. 1013.30 is exempt from this section.

(t) Any development in a specific area plan which is prepared pursuant to s. 163.3245 and adopted into the comprehensive plan is exempt from this section.

(u) Any development within a county with a research and education authority created by special act and that is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159 is exempt from this section.

If a use is exempt from review as a development of regional impact under paragraphs (a)-(t), but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development of regional impact for which the landowner, tenant, or user has entered into a funding agreement with the Office of Tourism, Trade, and Economic Development under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.

Section 10. (1)(a) The Legislature finds that the existing transportation concurrency system has not adequately addressed the transportation needs of this state in an effective, predictable, and equitable manner and is not producing a sustainable transportation system for the state. The Legislature finds that the current system is complex, inequitable, lacks uniformity among jurisdictions, is too focused on roadways to the detriment of desired land use patterns and transportation alternatives, and frequently prevents the attainment of important growth management goals.

(b) The Legislature determines that the state shall evaluate and consider the implementation of a mobility fee to replace the existing transportation concurrency system set forth in s. 163.3180, Florida Statutes. The mobility fee should be designed to provide for mobility needs, ensure that all development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts, fairly distribute the fee among the governmental entities responsible for maintaining the impacted roadways, and

promote compact, mixed-use, and energy-efficient development.

(2) The state land planning agency and the Department of Transportation shall continue their current mobility fee studies and submit to the President of the Senate and the Speaker of the House of Representatives joint reports no later than December 1, 2009, for the purpose of initiating legislative revisions necessary to implement the mobility fee in lieu of the existing transportation concurrency system.

Section 11. (1) Except as provided in subsection (4), and in recognition of the 2009 real estate market conditions, any permit issued by the Department of Environmental Protection or any permit issued by a water management district under part IV of chapter 373, Florida Statutes, any development order issued by the Department of Community Affairs pursuant to s. 380.06, Florida Statutes, and any development order, building permit, or other land use approval issued by a local government which expired or will expire on or after September 1, 2008, but before September 1, 2011, is extended and renewed for a period of 2 years after its date of expiration. For development orders and land use approvals, including, but not limited to, certificates of concurrency and development agreements, this extension also includes phase, commencement, and buildout dates, including any buildout date extension previously granted under s. 380.06(19)(c), Florida Statutes. This subsection does not prohibit conversion from the construction phase to the operation phase upon completion of construction for combined construction and operation permits.

(2) The completion date for any required mitigation associated with a phased construction project shall be extended

and renewed so that mitigation takes place in the same timeframe relative to the phase as originally permitted.

(3) The holder of an agency or district permit, or a development order, building permit, or other land use approval issued by a local government which is eligible for the 2-year extension shall notify the authorizing agency in writing no later than September 30, 2010, identifying the specific authorization for which the holder intends to use the extended or renewed permit, order, or approval.

(4) The extensions and renewals provided for in subsection (1) do not apply to:

(a) A permit or other authorization under any programmatic or regional general permit issued by the United States Army Corps of Engineers.

(b) An agency or district permit or a development order, building permit, or other land use approval issued by a local government and held by an owner or operator determined to be in significant noncompliance with the conditions of the permit, order, or approval as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.

(5) Permits, development orders, and other land use approvals that are extended and renewed under this section shall continue to be governed by rules in effect at the time the permit, order, or approval was issued. This subsection applies to any modification of the plans, terms, and conditions of such permit, development order, or other land use approval which lessens the environmental impact, except that any such

modification does not extend the permit, order, or other land use approval beyond the 2 years authorized under subsection (1).

Section 12. The Legislature finds that this act fulfills an important state interest.

Section 13. This act shall take effect upon becoming a law.