

1 A bill to be entitled

2 An act relating to community transportation projects;
3 amending s. 163.3180, F.S., relating to transportation
4 concurrency; revising and providing requirements for
5 local governments that continue to implement a
6 transportation concurrency system; revising provisions
7 for applicants for rezoning or a permit for a planned
8 development to satisfy concurrency requirements;
9 providing for such provisions to apply to development
10 agreements; authorizing a local government to accept
11 contributions from multiple applicants to satisfy such
12 requirements under certain conditions; requiring local
13 governments to provide the basis upon which landowners
14 will be assessed certain costs; encouraging local
15 governments without transportation concurrency to
16 adopt an alternative mobility funding system;
17 prohibiting alternative systems from denying, timing,
18 or phasing a development application process if the
19 developer agrees to pay for identified transportation
20 impacts; requiring mobility fees to comply with the
21 dual rational nexus test; prohibiting alternative
22 systems from holding new developments responsible for
23 existing deficiencies; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (h) of subsection (5) of section
28 163.3180, Florida Statutes, is amended, and paragraph (i) is

29 added to that subsection, to read:

30 163.3180 Concurrency.—

31 (5)

32 (h)1. Local governments that continue to implement a
 33 transportation concurrency system, whether in the form adopted
 34 into the comprehensive plan before the effective date of the
 35 Community Planning Act, chapter 2011-139, Laws of Florida, or as
 36 subsequently modified, must:

37 a.1. Consult with the Department of Transportation when
 38 proposed plan amendments affect facilities on the strategic
 39 intermodal system.

40 b.2. Exempt public transit facilities from concurrency.
 41 For the purposes of this sub-subparagraph ~~subparagraph~~, public
 42 transit facilities include transit stations and terminals;
 43 transit station parking; park-and-ride lots; intermodal public
 44 transit connection or transfer facilities; fixed bus, guideway,
 45 and rail stations; and airport passenger terminals and
 46 concourses, air cargo facilities, and hangars for the assembly,
 47 manufacture, maintenance, or storage of aircraft. As used in
 48 this sub-subparagraph ~~subparagraph~~, the terms "terminals" and
 49 "transit facilities" do not include seaports or commercial or
 50 residential development constructed in conjunction with a public
 51 transit facility.

52 c.3. Allow an applicant for a development-of-regional-
 53 impact development order, development agreement, a rezoning, or
 54 other land use development permit to satisfy the transportation
 55 concurrency requirements of the local comprehensive plan, the
 56 local government's concurrency management system, and s. 380.06,

57 when applicable, if:

58 ~~(I)a.~~ The applicant in good faith offers to enter ~~enters~~
59 into a binding agreement to pay for or construct its
60 proportionate share of required improvements in a manner
61 consistent with this subsection.

62 ~~(II)b.~~ The proportionate-share contribution or
63 construction is sufficient to accomplish one or more mobility
64 improvements that will benefit a regionally significant
65 transportation facility. A local government may accept
66 contributions from multiple applicants for a planned improvement
67 if it maintains contributions in a separate account designated
68 for that purpose.

69 ~~d.e.(I)~~ Provide the basis upon ~~The local government has~~
70 ~~provided a means by~~ which the landowners ~~landowner~~ will be
71 assessed a proportionate share of the cost addressing the
72 transportation impacts resulting from a ~~of providing the~~
73 ~~transportation facilities necessary to serve the proposed~~
74 development.

75 2. An applicant shall not be held responsible for the
76 additional cost of reducing or eliminating deficiencies.

77 ~~(II)~~ When an applicant contributes or constructs its
78 proportionate share pursuant to this paragraph ~~subparagraph~~, a
79 local government may not require payment or construction of
80 transportation facilities whose costs would be greater than a
81 development's proportionate share of the improvements necessary
82 to mitigate the development's impacts.

83 ~~a.(A)~~ The proportionate-share contribution shall be
84 calculated based upon the number of trips from the proposed

85 development expected to reach roadways during the peak hour from
86 the stage or phase being approved, divided by the change in the
87 peak hour maximum service volume of roadways resulting from
88 construction of an improvement necessary to maintain or achieve
89 the adopted level of service, multiplied by the construction
90 cost, at the time of development payment, of the improvement
91 necessary to maintain or achieve the adopted level of service.

92 b.~~(B)~~ In using the proportionate-share formula provided in
93 this subparagraph, the applicant, in its traffic analysis, shall
94 identify those roads or facilities that have a transportation
95 deficiency in accordance with the transportation deficiency as
96 defined in subparagraph 4 ~~sub-subparagraph e.~~ The proportionate-
97 share formula provided in this subparagraph shall be applied
98 only to those facilities that are determined to be significantly
99 impacted by the project traffic under review. If any road is
100 determined to be transportation deficient without the project
101 traffic under review, the costs of correcting that deficiency
102 shall be removed from the project's proportionate-share
103 calculation and the necessary transportation improvements to
104 correct that deficiency shall be considered to be in place for
105 purposes of the proportionate-share calculation. The improvement
106 necessary to correct the transportation deficiency is the
107 funding responsibility of the entity that has maintenance
108 responsibility for the facility. The development's proportionate
109 share shall be calculated only for the needed transportation
110 improvements that are greater than the identified deficiency.

111 c.~~(C)~~ When the provisions of subparagraph 1. and this
112 subparagraph have been satisfied for a particular stage or phase

113 of development, all transportation impacts from that stage or
114 phase for which mitigation was required and provided shall be
115 deemed fully mitigated in any transportation analysis for a
116 subsequent stage or phase of development. Trips from a previous
117 stage or phase that did not result in impacts for which
118 mitigation was required or provided may be cumulatively analyzed
119 with trips from a subsequent stage or phase to determine whether
120 an impact requires mitigation for the subsequent stage or phase.

121 ~~d.(D)~~ In projecting the number of trips to be generated by
122 the development under review, any trips assigned to a toll-
123 financed facility shall be eliminated from the analysis.

124 ~~e.(E)~~ The applicant shall receive a credit on a dollar-
125 for-dollar basis for impact fees, mobility fees, and other
126 transportation concurrency mitigation requirements paid or
127 payable in the future for the project. The credit shall be
128 reduced up to 20 percent by the percentage share that the
129 project's traffic represents of the added capacity of the
130 selected improvement, or by the amount specified by local
131 ordinance, whichever yields the greater credit.

132 ~~3.d.~~ This subsection does not require a local government
133 to approve a development that, for reasons other than
134 transportation impacts, is not ~~otherwise~~ qualified for approval
135 pursuant to the applicable local comprehensive plan and land
136 development regulations.

137 ~~4.e.~~ As used in this subsection, the term "transportation
138 deficiency" means a facility or facilities on which the adopted
139 level-of-service standard is exceeded by the existing,
140 committed, and vested trips, plus additional projected

141 background trips from any source other than the development
142 project under review, and trips that are forecast by established
143 traffic standards, including traffic modeling, consistent with
144 the University of Florida's Bureau of Economic and Business
145 Research medium population projections. Additional projected
146 background trips are to be coincident with the particular stage
147 or phase of development under review.

148 (i) If a local government elects to repeal transportation
149 concurrency, it is encouraged to adopt an alternative mobility
150 funding system that uses one or more of the tools and techniques
151 identified in paragraph (f). Any alternative mobility funding
152 system adopted may not be used to deny, time, or phase an
153 application for site plan approval, plat approval, final
154 subdivision approval, building permits, or the functional
155 equivalent of such approvals provided that the developer agrees
156 to pay for the development's identified transportation impacts
157 via the funding mechanism implemented by the local government.
158 The revenue from the funding mechanism used in the alternative
159 system must be used to implement the needs of the local
160 government's plan which serves as the basis for the fee imposed.
161 A mobility fee-based funding system must comply with the dual
162 rational nexus test applicable to impact fees. An alternative
163 system that is not mobility fee-based shall not be applied in a
164 manner that imposes upon new development any responsibility for
165 funding an existing transportation deficiency as defined in
166 paragraph (h).

167 Section 2. This act shall take effect upon becoming a law.