

By Senator Hukill

8-01029A-13

2013972

1 A bill to be entitled
2 An act relating to transportation development;
3 amending s. 163.3180, F.S.; providing that local
4 governments that implement transportation concurrency
5 must allow an applicant for a development agreement to
6 satisfy transportation concurrency requirements if
7 certain criteria are met; providing that a local
8 government may accept contributions from multiple
9 applicants for a planned improvement if it maintains
10 such contributions in a separate account; providing
11 that a local government that repeals transportation
12 concurrency may not deny a development based on the
13 adoption of an alternative transportation system if
14 the developer agrees to enter into an agreement to pay
15 for identified impacts of the proposed development;
16 establishing certain requirements of such alternative
17 transportation system; amending s. 163.3182, F.S.;
18 expanding the types of transportation projects that a
19 transportation development authority may undertake or
20 carry out; amending s. 190.006, F.S.; modifying the
21 method for filling positions within the board of
22 supervisors; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (5) of section 163.3180, Florida
27 Statutes, is amended to read:

28 163.3180 Concurrency.—

29 (5) (a) If concurrency is applied to transportation

8-01029A-13

2013972__

30 facilities, the local government comprehensive plan must provide
31 the principles, guidelines, standards, and strategies, including
32 adopted levels of service to guide its application.

33 (b) Local governments shall use professionally accepted
34 studies to evaluate the appropriate levels of service. Local
35 governments should consider the number of facilities that will
36 be necessary to meet level-of-service demands when determining
37 the appropriate levels of service. The schedule of facilities
38 that are necessary to meet the adopted level of service shall be
39 reflected in the capital improvement element.

40 (c) Local governments shall use professionally accepted
41 techniques for measuring levels of service when evaluating
42 potential impacts of a proposed development.

43 (d) The premise of concurrency is that the public
44 facilities will be provided in order to achieve and maintain the
45 adopted level of service standard. A comprehensive plan that
46 imposes transportation concurrency must ~~shall~~ contain
47 appropriate amendments to the capital improvements element of
48 the comprehensive plan, consistent with the requirements of s.
49 163.3177(3). The capital improvements element must ~~shall~~
50 identify facilities necessary to meet adopted levels of service
51 during a 5-year period.

52 (e) If a local government applies transportation
53 concurrency in its jurisdiction, it is encouraged to develop
54 policy guidelines and techniques to address potential negative
55 impacts on future development:

- 56 1. In urban infill and redevelopment, and urban service
57 areas.
- 58 2. With special part-time demands on the transportation

8-01029A-13

2013972

59 system.

60 3. With de minimis impacts.

61 4. On community desired types of development, such as
62 redevelopment, or job creation projects.

63 (f) Local governments are encouraged to develop tools and
64 techniques to complement the application of transportation
65 concurrency such as:

66 1. Adoption of long-term strategies to facilitate
67 development patterns that support multimodal solutions,
68 including urban design, and appropriate land use mixes,
69 including intensity and density.

70 2. Adoption of an areawide level of service not dependent
71 on any single road segment function.

72 3. Exempting or discounting impacts of locally desired
73 development, such as development in urban areas, redevelopment,
74 job creation, and mixed use on the transportation system.

75 4. Assigning secondary priority to vehicle mobility and
76 primary priority to ensuring a safe, comfortable, and attractive
77 pedestrian environment, with convenient interconnection to
78 transit.

79 5. Establishing multimodal level of service standards that
80 rely primarily on nonvehicular modes of transportation where
81 existing or planned community design will provide adequate level
82 of mobility.

83 6. Reducing impact fees or local access fees to promote
84 development within urban areas, multimodal transportation
85 districts, and a balance of mixed-use development in certain
86 areas or districts, or for affordable or workforce housing.

87 (g) Local governments are encouraged to coordinate with

8-01029A-13

2013972

88 adjacent local governments for the purpose of using common
89 methodologies for measuring impacts on transportation
90 facilities.

91 (h) Local governments that implement transportation
92 concurrency must:

93 1. Consult with the Department of Transportation when
94 proposed plan amendments affect facilities on the strategic
95 intermodal system.

96 2. Exempt public transit facilities from concurrency. For
97 the purposes of this subparagraph, public transit facilities
98 include transit stations and terminals; transit station parking;
99 park-and-ride lots; intermodal public transit connection or
100 transfer facilities; fixed bus, guideway, and rail stations; and
101 airport passenger terminals and concourses, air cargo
102 facilities, and hangars for the assembly, manufacture,
103 maintenance, or storage of aircraft. As used in this
104 subparagraph, the terms "terminals" and "transit facilities" do
105 not include seaports or commercial or residential development
106 constructed in conjunction with a public transit facility.

107 3. Allow an applicant for a development-of-regional-impact
108 development order, a rezoning, a development agreement, or other
109 land use development permit to satisfy the transportation
110 concurrency requirements of the local comprehensive plan, the
111 local government's concurrency management system, and s. 380.06,
112 when applicable, if:

113 a. The applicant offers to enter ~~enters~~ into a binding
114 agreement to pay for or construct its proportionate share of
115 required improvements.

116 b. The proportionate-share contribution or construction is

8-01029A-13

2013972

117 sufficient to accomplish one or more mobility improvements that
118 will benefit a regionally significant transportation facility.

119 4. Comply with the following:

120 a. A local government may accept contributions from
121 multiple applicants for a planned improvement if the local
122 government maintains contributions in a separate account
123 designated for that purpose.

124 ~~e. (I) The local government has provided a means by which~~
125 ~~the landowner will be assessed a proportionate share of the cost~~
126 ~~of providing the transportation facilities necessary to serve~~
127 ~~the proposed development.~~

128 b. An applicant may ~~shall~~ not be held responsible for the
129 additional cost of reducing or eliminating deficiencies.

130 ~~c. (II)~~ When an applicant contributes or constructs its
131 proportionate share pursuant to ~~this~~ subparagraph 3., a local
132 government may not require payment or construction of
133 transportation facilities whose costs would be greater than a
134 development's proportionate share of the improvements necessary
135 to mitigate the development's impacts.

136 ~~(I) (A)~~ The proportionate-share contribution shall be
137 calculated based upon the number of trips from the proposed
138 development expected to reach roadways during the peak hour from
139 the stage or phase being approved, divided by the change in the
140 peak hour maximum service volume of roadways resulting from
141 construction of an improvement necessary to maintain or achieve
142 the adopted level of service, multiplied by the construction
143 cost, at the time of development payment, of the improvement
144 necessary to maintain or achieve the adopted level of service.

145 ~~(II) (B)~~ In using the proportionate-share formula provided

8-01029A-13

2013972

146 in this subparagraph, the applicant, in its traffic analysis,
147 shall identify those roads or facilities that have a
148 transportation deficiency in accordance with the transportation
149 deficiency as defined in paragraph (j) ~~sub-subparagraph e~~. The
150 proportionate-share formula provided in this subparagraph shall
151 be applied only to those facilities that are determined to be
152 significantly impacted by the project traffic under review. If
153 any road is determined to be transportation deficient without
154 the project traffic under review, the costs of correcting that
155 deficiency shall be removed from the project's proportionate-
156 share calculation and the necessary transportation improvements
157 to correct that deficiency shall be considered to be in place
158 for purposes of the proportionate-share calculation. The
159 improvement necessary to correct the transportation deficiency
160 is the funding responsibility of the entity that has maintenance
161 responsibility for the facility. The development's proportionate
162 share shall be calculated only for the needed transportation
163 improvements that are greater than the identified deficiency.

164 (III) ~~(C)~~ When the provisions of this subparagraph have been
165 satisfied for a particular stage or phase of development, all
166 transportation impacts from that stage or phase for which
167 mitigation was required and provided shall be deemed fully
168 mitigated in any transportation analysis for a subsequent stage
169 or phase of development. Trips from a previous stage or phase
170 that did not result in impacts for which mitigation was required
171 or provided may be cumulatively analyzed with trips from a
172 subsequent stage or phase to determine whether an impact
173 requires mitigation for the subsequent stage or phase.

174 (IV) ~~(D)~~ In projecting the number of trips to be generated

8-01029A-13

2013972

175 by the development under review, any trips assigned to a toll-
176 financed facility shall be eliminated from the analysis.

177 (V)~~(E)~~ The applicant shall receive a credit on a dollar-
178 for-dollar basis for impact fees, mobility fees, and other
179 transportation concurrency mitigation requirements paid or
180 payable in the future for the project. The credit shall be
181 reduced up to 20 percent by the percentage share that the
182 project's traffic represents of the added capacity of the
183 selected improvement, or by the amount specified by local
184 ordinance, whichever yields the greater credit.

185 (i)~~(e)~~ This subsection does not require a local government
186 to approve a development that is not ~~otherwise~~ qualified for
187 approval pursuant to the applicable local comprehensive plan and
188 land development regulations for reasons other than
189 transportation impacts.

190 (j)~~(e)~~ As used in this subsection, the term "transportation
191 deficiency" means a facility or facilities on which the adopted
192 level-of-service standard is exceeded by the existing,
193 committed, and vested trips, plus additional projected
194 background trips from any source other than the development
195 project under review, and trips that are forecast by established
196 traffic standards, including traffic modeling, consistent with
197 the University of Florida's Bureau of Economic and Business
198 Research medium population projections. Additional projected
199 background trips are to be coincident with the particular stage
200 or phase of development under review.

201 (k) Notwithstanding any other provision of law, a local
202 government that repeals transportation concurrency may not use
203 the adoption of an alternative transportation system as a basis

8-01029A-13

2013972

204 for denial of a development if the developer offers to enter
205 into an agreement to pay for existing or projected impacts of
206 the proposed development. In accordance with subparagraph (h)4.,
207 the local government's alternative transportation system must
208 provide for a mechanism to assess potential impacts of the
209 proposed development and to avoid imposing on new development
210 the responsibility of funding existing transportation
211 deficiencies.

212 Section 2. Paragraph (b) of subsection (3) of section
213 163.3182, Florida Statutes, is amended to read:

214 163.3182 Transportation deficiencies.—

215 (3) POWERS OF A TRANSPORTATION DEVELOPMENT AUTHORITY.—Each
216 transportation development authority created pursuant to this
217 section has the powers necessary or convenient to carry out the
218 purposes of this section, including the following powers in
219 addition to others granted in this section:

220 (b) To undertake and carry out transportation projects for
221 transportation facilities designed to relieve transportation
222 deficiencies within the authority's jurisdiction. Transportation
223 projects may include transportation facilities that provide for
224 alternative modes of travel including sidewalks, bikeways, and
225 mass transit which are related to a deficient transportation
226 facility. Transportation projects may also include projects
227 within and outside the designated deficiency area to relieve
228 deficiencies identified by the transportation deficiency plan.
229 Mass transit improvements and service may extend outside a
230 deficiency area to an existing or planned logical terminus of a
231 selected improvement.

232 Section 3. Paragraph (a) of subsection (3) of section

8-01029A-13

2013972

233 190.006, Florida Statutes, is amended to read:

234 190.006 Board of supervisors; members and meetings.—

235 (3) (a) 1. If the board proposes to exercise the ad valorem
236 taxing power authorized by s. 190.021, the district board shall
237 call an election at which the members of the board of
238 supervisors will be elected. Such election shall be held in
239 conjunction with a primary or general election unless the
240 district bears the cost of a special election. Each member shall
241 be elected by the qualified electors of the district for a term
242 of 4 years, except that, at the first such election, three
243 members shall be elected for a period of 4 years and two members
244 shall be elected for a period of 2 years. All elected board
245 members must be qualified electors of the district.

246 2.a. Regardless of whether a district has proposed to levy
247 ad valorem taxes, commencing 6 years after the initial
248 appointment of members or, for a district exceeding 5,000 acres
249 in area, ~~or~~ for a compact, urban, mixed-use district, or for a
250 transit-oriented development, as defined in s. 163.3164,
251 exceeding 25 acres in area, 10 years after the initial
252 appointment of members, the position of each member whose term
253 has expired shall be filled by a qualified elector of the
254 district, elected by the qualified electors of the district.
255 However, for those districts established after June 21, 1991,
256 and for those existing districts established after December 31,
257 1983, which have less than 50 qualified electors on June 21,
258 1991, sub-subparagraphs b. and d. ~~shall~~ apply. If, in the 6th
259 year after the initial appointment of members, or 10 years after
260 such initial appointment for a district ~~districts~~ exceeding
261 5,000 acres in area, ~~or~~ for a compact, urban, mixed-use

8-01029A-13

2013972

262 district, or for a transit-oriented development, as defined in
263 s. 163.3164, exceeding 25 acres in area, there are not at least
264 250 qualified electors in the district, or for a district
265 exceeding 5,000 acres, ~~or~~ for a compact, urban, mixed-use
266 district, or for a transit-oriented development, as defined in
267 s. 163.3164, exceeding 25 acres in area, there are not at least
268 500 qualified electors, members of the board shall continue to
269 be elected by landowners.

270 b. After the 6th or 10th year, once a district reaches 250
271 or 500 qualified electors, respectively, ~~then~~ the positions of
272 two board members whose terms are expiring shall be filled by
273 qualified electors of the district, elected by the qualified
274 electors of the district for 4-year terms. The remaining board
275 member whose term is expiring shall be elected for a 4-year term
276 by the landowners and is not required to be a qualified elector.
277 Thereafter, as terms expire, board members shall be qualified
278 electors elected by qualified electors of the district for a
279 term of 4 years.

280 c. Once a district qualifies to have any of its board
281 members elected by the qualified electors of the district, the
282 initial and all subsequent elections by the qualified electors
283 of the district shall be held at the general election in
284 November. The board shall adopt a resolution if necessary to
285 implement this requirement when the board determines the number
286 of qualified electors as required by sub-subparagraph d., to
287 extend or reduce the terms of current board members.

288 d. On or before June 1 of each year, the board shall
289 determine the number of qualified electors in the district as of
290 the immediately preceding April 15. The board shall use and rely

8-01029A-13

2013972__

291 upon the official records maintained by the supervisor of
292 elections and property appraiser or tax collector in each county
293 in making this determination. Such determination shall be made
294 at a properly noticed meeting of the board and shall become a
295 part of the official minutes of the district.

296 Section 4. This act shall take effect July 1, 2013.