

By Senator Brodeur

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1 A bill to be entitled
2 An act relating to mobility funding systems; amending
3 s. 163.3164, F.S.; defining the terms "mobility fee"
4 and "mobility plan"; amending s. 163.3180, F.S.;
5 revising requirements and best practices for local
6 governments applying concurrency to transportation
7 facilities; requiring a local government electing to
8 repeal transportation concurrency to adopt a specified
9 alternative mobility funding system; creating s.
10 163.31803, F.S.; specifying prohibited uses of, and
11 requirements and best practices for, mobility plans by
12 local governments; providing requirements for a local
13 government electing to adopt a mobility plan and
14 mobility fee; providing that mobility fee-based
15 funding systems must comply with specified
16 requirements governing impact fees; specifying
17 authorized and prohibited provisions in mobility
18 plans; prohibiting the imposition of transportation
19 impact fees in certain areas; specifying requirements
20 for, and restrictions on, mobility fees, fee updates,
21 and fee increases; specifying requirements for the
22 calculation of mobility fees and person travel demand;
23 requiring that collected mobility fees be expended or
24 committed within a specified timeframe or be returned
25 to the applicant paying the fee; specifying
26 requirements for, and restrictions on, transportation
27 impact mitigation by multiple local governments;
28 providing best practices for certain coordination by
29 local governments; providing a burden of proof;

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30 prohibiting a court from using a certain standard for
31 the benefit of a local government; providing
32 construction; amending s. 212.055, F.S.; conforming a
33 cross-reference; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Present subsections (32) through (52) of section
38 163.3164, Florida Statutes, are redesignated as subsections (34)
39 through (54), respectively, and new subsections (32) and (33)
40 are added to that section, to read:

41 163.3164 Community Planning Act; definitions.—As used in
42 this act:

43 (32) "Mobility fee" means a local governmental fee schedule
44 established by ordinance and based on the projects included in
45 the adopted mobility plan.

46 (33) "Mobility plan" means an integrated land use and
47 alternative mobility transportation plan adopted into a local
48 government's comprehensive plan which promotes compact, mixed-
49 use, and interconnected development served by a multimodal
50 transportation system.

51 Section 2. Paragraphs (b), (c), (f), and (i) of subsection
52 (5) of section 163.3180, Florida Statutes, are amended to read:

53 163.3180 Concurrency.—

54 (5)

55 (b) A local government shall apply the principles,
56 guidelines, standards, and strategies provided in its
57 comprehensive plan ~~governments shall use professionally accepted~~
58 ~~studies~~ to evaluate the appropriate levels of service. A local

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59 government ~~governments~~ should consider the number and type of
60 facilities that will be necessary to meet level-of-service
61 demands when determining the appropriate levels of service. The
62 schedule of facilities that are necessary to meet the adopted
63 level of service shall be reflected in the capital improvement
64 element.

65 (c) A local government shall apply the principles,
66 guidelines, standards, and strategies provided in its
67 comprehensive plan ~~governments shall use professionally accepted~~
68 ~~techniques~~ for measuring levels of service when evaluating
69 potential impacts of a proposed development.

70 (f) Local governments are encouraged to develop tools and
71 techniques to complement the application of transportation
72 concurrency such as:

73 1. Adoption of long-term strategies to facilitate
74 development patterns that support multimodal solutions,
75 including urban design, and appropriate land use mixes,
76 including intensity and density.

77 2. Adoption of an areawide level of service not dependent
78 on any single road segment or other facility function.

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

82 4. Assigning secondary priority to vehicle mobility and
83 primary priority to ensuring a safe, comfortable, and attractive
84 pedestrian environment, with convenient interconnection to
85 transit.

86 5. Establishing multimodal level of service standards that
87 rely primarily on nonvehicular modes of transportation where

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88 existing or planned community design will provide adequate level
89 of mobility.

90 6. Reducing impact fees or local access fees to promote
91 development within urban areas, multimodal transportation
92 districts, and a balance of mixed-use development in certain
93 areas or districts, or for affordable or workforce housing.

94 (i) ~~If A local government electing elects to repeal~~
95 ~~transportation concurrency shall, it is encouraged to adopt an~~
96 ~~alternative mobility funding system as provided in s. 163.31803~~
97 ~~that uses one or more of the tools and techniques identified in~~
98 ~~paragraph (f). Any alternative mobility funding system adopted~~
99 ~~may not be used to deny, time, or phase an application for site~~
100 ~~plan approval, plat approval, final subdivision approval,~~
101 ~~building permits, or the functional equivalent of such approvals~~
102 ~~provided that the developer agrees to pay for the development's~~
103 ~~identified transportation impacts via the funding mechanism~~
104 ~~implemented by the local government. The revenue from the~~
105 ~~funding mechanism used in the alternative system must be used to~~
106 ~~implement the needs of the local government's plan which serves~~
107 ~~as the basis for the fee imposed. A mobility fee-based funding~~
108 ~~system must comply with s. 163.31801 governing impact fees. An~~
109 ~~alternative system that is not mobility fee-based shall not be~~
110 ~~applied in a manner that imposes upon new development any~~
111 ~~responsibility for funding an existing transportation deficiency~~
112 ~~as defined in paragraph (h).~~

113 Section 3. Section 163.31803, Florida Statutes, is created
114 to read:

115 163.31803 Mobility plans.—

116 (1) This section establishes the uniform framework for the

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117 adoption and implementation of a mobility plan as an alternative
118 to transportation concurrency, as provided in s. 163.3180.

119 (a) A mobility plan may not be used to deny, time, or phase
120 an application for site plan approval, plat approval, final
121 subdivision approval, building permits, or the functional
122 equivalent of such approvals, provided that the developer agrees
123 to pay for the development's identified transportation impacts
124 via the mobility fees implemented by the local government in the
125 mobility plan.

126 (b) A mobility plan must comply with the requirements of s.
127 163.3180(5)(h), and a local government adopting a mobility plan
128 is encouraged to apply the criteria in s. 163.3180(5)(f).

129 (c) A local government electing to adopt a mobility plan
130 must adopt the mobility plan and mobility fee into its
131 comprehensive plan.

132 (d) A local government must adopt a mobility plan and
133 mobility fee system by ordinance after conducting at least two
134 public workshops before adoption.

135 (e) The adoption of the mobility fee ordinance must be
136 approved by a two-thirds vote of the governing body of the local
137 government unless the total amount of the new mobility fee is
138 less than the total of all fees available to be imposed by the
139 local government on a single development to mitigate the
140 transportation impact of the new development or redevelopment.

141 (2) A mobility fee-based funding system must comply with
142 this section and s. 163.31801, governing impact fees.

143 (3) A mobility plan may include existing and emerging
144 transportation technologies that reduce dependence on motor
145 vehicle travel capacity. The mobility plan may not be based

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146 solely on the addition of motor vehicle capacity; must reflect
147 modes of travel and emerging transportation technologies
148 reducing reliance on motor vehicle capacity which are
149 established in the local government's comprehensive plan; and
150 must identify multimodal projects consisting of improvements,
151 services, and programs which increase capacity needed to meet
152 future travel demands.

153 (4) A transportation impact fee may not be imposed within
154 the area designated for the imposition of a mobility fee by a
155 local government mobility plan.

156 (5) A mobility fee, fee update, or fee increase must be
157 based on the mobility plan, may not rely solely on motor vehicle
158 capacity, and must be used exclusively to implement the mobility
159 plan and for no other purpose.

160 (6) Notwithstanding s. 163.31801(6), if a local government
161 elects to update an existing mobility fee or adopt a new
162 mobility fee that replaces one or more existing transportation
163 mitigation fees after July 1, 2022, it may not increase the fee
164 by more than a total of 50 percent, which increase must be
165 implemented over 5 years in equal increments.

166 (7) A mobility fee must be updated at least once within 5
167 years after the date of the immediately preceding adoption or
168 update. A mobility fee not updated within 5 years as provided in
169 this subsection is expired, void, and of no further force or
170 effect. A local government considering a mobility fee update may
171 not consider annual inflation adjustments or any phased-in fees
172 as the fulfillment of the required update.

173 (8) A local government adopting a mobility plan and
174 mobility fee system for transportation mitigation shall comply

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175 with all of the following:

176 (a) Beginning September 1, 2022, a new mobility fee, fee
177 update, or fee increase must be based on a mobility plan.

178 (b) The calculation of mobility fees must be based on all
179 of the following in addition to the requirements of s.

180 163.31801:

181 1. Projected increases in population, employment, and
182 vehicle and person miles of travel.

183 2. Areawide road levels of service or quality of service
184 standards and multimodal quality of service standards for modes
185 of travel included in the mobility plan.

186 3. Multimodal projects identified in the mobility plan
187 which are attributable to, and meet the travel demands of, new
188 development and redevelopment and which include person
189 capacities based on service standards and projected costs.

190 4. An evaluation of current and future travel conditions to
191 ensure that new development and redevelopment are not charged
192 for backlog and associated capacity deficiencies.

193 5. An evaluation of the projected increases in person miles
194 of travel and person miles of capacity to calculate the fair
195 share of multimodal capacity and the costs of multimodal
196 projects which are assignable and attributable to new
197 development and redevelopment.

198 6. Person travel demand corresponding to the transportation
199 impact assigned to uses included in the mobility fee schedule,
200 based on trip generation, new trips, person trips, person trip
201 lengths, excluded travel on limited access facilities, and
202 adjustments for origin and destination.

203 7. The mobility fee may not be based on recurring

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204 transportation costs.

205 (c) Person travel demand must be localized, reflecting
206 differences in the need for multimodal projects and travel
207 within urban areas based on reduced trip lengths and the
208 availability of existing transportation infrastructure.

209 (d) A local government may recognize reductions in person
210 travel demand for affordable housing and economic development.

211 (e) Any calculation of person travel demand must ensure
212 that new development and redevelopment are not assessed twice
213 for the same transportation impact.

214 (9) A mobility fee collected for an identified
215 transportation mitigation improvement must be expended or
216 committed for an identified project within 6 years after the
217 date of collection or must be returned to the applicant who paid
218 the fee. For purposes of this subsection, an expenditure or
219 improvement is deemed committed if the preliminary design,
220 right-of-way, or detailed design for the project is completed
221 and construction will commence within 2 years.

222 (10) A local government issuing a building permit for
223 development within its jurisdiction shall develop a mobility
224 fee, based on the adopted mobility plan, to ensure that the
225 transportation impacts of the new development or redevelopment
226 project are fully mitigated. Where multiple local governments
227 are seeking to implement a mobility fee, an impact fee, or
228 another transportation mitigation exaction within the boundaries
229 of a local government, the person travel demand roughly
230 proportional to the transportation impact of new development and
231 redevelopment must initially be based on that assessed by the
232 governmental entity issuing the subject development's building

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233 permit. Another local government may not charge new development
234 or redevelopment for the same travel demand, capacity, and
235 improvements assessed by the governmental entity issuing the
236 development's building permits.

237 (11) Local governments are encouraged to coordinate the
238 identification of multimodal projects, along with capacity
239 improvements, full costs, and timing of improvements, included
240 in mobility plans with other affected local governments to
241 address intrajurisdictional and extrajurisdictional impacts. The
242 coordination is encouraged to identify measurable factors
243 addressing the share of person travel demand which each local
244 government should assess; the proportion of costs of multimodal
245 projects to be included in the mobility fee calculations; which
246 entity will construct the multimodal projects; and, if
247 necessary, whether the projected future ownership of the
248 multimodal project and underlying facility should be transferred
249 from the affected local government to the local government
250 adopting the mobility fee. Any mobility fee, impact fee, or
251 other transportation mitigation exaction other than the one
252 assessed by the local government issuing the building permits
253 must include the same benefit reductions in person travel demand
254 for affordable housing, economic development, urban areas, and
255 mixed-use development.

256 (12) A local government adopting a mobility fee, and any
257 other local government assessing a transportation exaction for
258 intrajurisdictional or extrajurisdictional impacts, has the
259 burden of proving by a preponderance of the evidence that the
260 imposition or amount of the fee or exaction meets the
261 requirements of this section. A court may not use a deferential

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262 standard for the benefit of the local government.

263 Section 4. Paragraph (d) of subsection (2) of section
264 212.055, Florida Statutes, is amended to read:

265 212.055 Discretionary sales surtaxes; legislative intent;
266 authorization and use of proceeds.—It is the legislative intent
267 that any authorization for imposition of a discretionary sales
268 surtax shall be published in the Florida Statutes as a
269 subsection of this section, irrespective of the duration of the
270 levy. Each enactment shall specify the types of counties
271 authorized to levy; the rate or rates which may be imposed; the
272 maximum length of time the surtax may be imposed, if any; the
273 procedure which must be followed to secure voter approval, if
274 required; the purpose for which the proceeds may be expended;
275 and such other requirements as the Legislature may provide.
276 Taxable transactions and administrative procedures shall be as
277 provided in s. 212.054.

278 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

279 (d) The proceeds of the surtax authorized by this
280 subsection and any accrued interest shall be expended by the
281 school district, within the county and municipalities within the
282 county, or, in the case of a negotiated joint county agreement,
283 within another county, to finance, plan, and construct
284 infrastructure; to acquire any interest in land for public
285 recreation, conservation, or protection of natural resources or
286 to prevent or satisfy private property rights claims resulting
287 from limitations imposed by the designation of an area of
288 critical state concern; to provide loans, grants, or rebates to
289 residential or commercial property owners who make energy
290 efficiency improvements to their residential or commercial

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291 property, if a local government ordinance authorizing such use
292 is approved by referendum; or to finance the closure of county-
293 owned or municipally owned solid waste landfills that have been
294 closed or are required to be closed by order of the Department
295 of Environmental Protection. Any use of the proceeds or interest
296 for purposes of landfill closure before July 1, 1993, is
297 ratified. The proceeds and any interest may not be used for the
298 operational expenses of infrastructure, except that a county
299 that has a population of fewer than 75,000 and that is required
300 to close a landfill may use the proceeds or interest for long-
301 term maintenance costs associated with landfill closure.
302 Counties, as defined in s. 125.011, and charter counties may, in
303 addition, use the proceeds or interest to retire or service
304 indebtedness incurred for bonds issued before July 1, 1987, for
305 infrastructure purposes, and for bonds subsequently issued to
306 refund such bonds. Any use of the proceeds or interest for
307 purposes of retiring or servicing indebtedness incurred for
308 refunding bonds before July 1, 1999, is ratified.

309 1. For the purposes of this paragraph, the term
310 "infrastructure" means:

311 a. Any fixed capital expenditure or fixed capital outlay
312 associated with the construction, reconstruction, or improvement
313 of public facilities that have a life expectancy of 5 or more
314 years, any related land acquisition, land improvement, design,
315 and engineering costs, and all other professional and related
316 costs required to bring the public facilities into service. For
317 purposes of this sub-subparagraph, the term "public facilities"
318 means facilities as defined in s. 163.3164(41) ~~s. 163.3164(39)~~,
319 s. 163.3221(13), or s. 189.012(5), and includes facilities that

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320 are necessary to carry out governmental purposes, including, but
321 not limited to, fire stations, general governmental office
322 buildings, and animal shelters, regardless of whether the
323 facilities are owned by the local taxing authority or another
324 governmental entity.

325 b. A fire department vehicle, an emergency medical service
326 vehicle, a sheriff's office vehicle, a police department
327 vehicle, or any other vehicle, and the equipment necessary to
328 outfit the vehicle for its official use or equipment that has a
329 life expectancy of at least 5 years.

330 c. Any expenditure for the construction, lease, or
331 maintenance of, or provision of utilities or security for,
332 facilities, as defined in s. 29.008.

333 d. Any fixed capital expenditure or fixed capital outlay
334 associated with the improvement of private facilities that have
335 a life expectancy of 5 or more years and that the owner agrees
336 to make available for use on a temporary basis as needed by a
337 local government as a public emergency shelter or a staging area
338 for emergency response equipment during an emergency officially
339 declared by the state or by the local government under s.
340 252.38. Such improvements are limited to those necessary to
341 comply with current standards for public emergency evacuation
342 shelters. The owner must enter into a written contract with the
343 local government providing the improvement funding to make the
344 private facility available to the public for purposes of
345 emergency shelter at no cost to the local government for a
346 minimum of 10 years after completion of the improvement, with
347 the provision that the obligation will transfer to any
348 subsequent owner until the end of the minimum period.

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349 e. Any land acquisition expenditure for a residential
350 housing project in which at least 30 percent of the units are
351 affordable to individuals or families whose total annual
352 household income does not exceed 120 percent of the area median
353 income adjusted for household size, if the land is owned by a
354 local government or by a special district that enters into a
355 written agreement with the local government to provide such
356 housing. The local government or special district may enter into
357 a ground lease with a public or private person or entity for
358 nominal or other consideration for the construction of the
359 residential housing project on land acquired pursuant to this
360 sub-subparagraph.

361 f. Instructional technology used solely in a school
362 district's classrooms. As used in this sub-subparagraph, the
363 term "instructional technology" means an interactive device that
364 assists a teacher in instructing a class or a group of students
365 and includes the necessary hardware and software to operate the
366 interactive device. The term also includes support systems in
367 which an interactive device may mount and is not required to be
368 affixed to the facilities.

369 2. For the purposes of this paragraph, the term "energy
370 efficiency improvement" means any energy conservation and
371 efficiency improvement that reduces consumption through
372 conservation or a more efficient use of electricity, natural
373 gas, propane, or other forms of energy on the property,
374 including, but not limited to, air sealing; installation of
375 insulation; installation of energy-efficient heating, cooling,
376 or ventilation systems; installation of solar panels; building
377 modifications to increase the use of daylight or shade;

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378 replacement of windows; installation of energy controls or
379 energy recovery systems; installation of electric vehicle
380 charging equipment; installation of systems for natural gas fuel
381 as defined in s. 206.9951; and installation of efficient
382 lighting equipment.

383 3. Notwithstanding any other provision of this subsection,
384 a local government infrastructure surtax imposed or extended
385 after July 1, 1998, may allocate up to 15 percent of the surtax
386 proceeds for deposit into a trust fund within the county's
387 accounts created for the purpose of funding economic development
388 projects having a general public purpose of improving local
389 economies, including the funding of operational costs and
390 incentives related to economic development. The ballot statement
391 must indicate the intention to make an allocation under the
392 authority of this subparagraph.

393 Section 5. This act shall take effect July 1, 2022.