1   A bill to be entitled

2   An act relating to school concurrency; amending s.

3   163.3180, F.S.; revising provisions specifying when

4   school concurrency is satisfied; authorizing a

5   proportionate-share mitigation to be set aside and not

6   spent if an improvement has not been identified under

7   certain circumstances; providing an effective date.

8

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

10

11   Section 1. Paragraph (h) of subsection (6) of section

12   163.3180, Florida Statutes, is amended to read:

13   163.3180 Concurrency.—

14   (6)

15   (h)1. In order to limit the liability of local

16   governments, a local government may allow a landowner to proceed

17   with development of a specific parcel of land notwithstanding a

18   failure of the development to satisfy school concurrency, if all

19   the following factors are shown to exist:

20   a. The proposed development would be consistent with the

21   future land use designation for the specific property and with

22   pertinent portions of the adopted local plan, as determined by

23   the local government.

24   b. The local government's capital improvements element and

25   the school board's educational facilities plan provide for

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

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26 school facilities adequate to serve the proposed development,
27 and the local government or school board has not implemented
28 that element or the project includes a plan that demonstrates
29 that the capital facilities needed as a result of the project
30 can be reasonably provided.
31   c. The local government and school board have provided a
32 means by which the landowner will be assessed a proportionate
33 share of the cost of providing the school facilities necessary
34 to serve the proposed development.
35   2. If a local government applies school concurrency, it
36 may not deny an application for site plan, final subdivision
37 approval, or the functional equivalent for a development or
38 phase of a development authorizing residential development for
39 failure to achieve and maintain the level-of-service standard
40 for public school capacity in a local school concurrency
41 management system where adequate school facilities will be in
42 place or under actual construction within 3 years after the
43 issuance of final subdivision or site plan approval, or the
44 functional equivalent. School concurrency is satisfied if the
45 developer tenders executes a written, legally binding commitment
46 to provide mitigation proportionate to the demand for public
47 school facilities to be created by actual development of the
48 property, including, but not limited to, the options described
49 in sub-subparagraph a. Options for proportionate-share
50 mitigation of impacts on public school facilities must be

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51 established in the comprehensive plan and the interlocal
52 agreement pursuant to s. 163.31777. A local government must
53 issue a final decision on the developer's tendered legally
54 binding commitment within 60 days after the date of receipt. If
55 the local government fails to issue a final decision within 60
56 days, the tendered legally binding commitment is deemed
57 approved.
58   a. Appropriate mitigation options include the contribution
59 of land; the construction, expansion, or payment for land
60 acquisition or construction of a public school facility; the
61 construction of a charter school that complies with the
62 requirements of s. 1002.33(18); or the creation of mitigation
63 banking based on the construction of a public school facility in
64 exchange for the right to sell capacity credits. Such options
65 must include execution by the applicant and the local government
66 of a development agreement that constitutes a legally binding
67 commitment to pay proportionate-share mitigation for the
68 additional residential units approved by the local government in
69 a development order and actually developed on the property,
70 taking into account residential density allowed on the property
71 prior to the plan amendment that increased the overall
72 residential density. The district school board must be a party
73 to such an agreement. As a condition of its entry into such a
74 development agreement, the local government may require the
75 landowner to agree to continuing renewal of the agreement upon

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76 its expiration.

77   b. If the interlocal agreement and the local government

78 comprehensive plan authorize a contribution of land; the

79 construction, expansion, or payment for land acquisition; the

80 construction or expansion of a public school facility, or a

81 portion thereof; or the construction of a charter school that

82 complies with the requirements of s. 1002.33(18), as

83 proportionate-share mitigation, the local government shall

84 credit such a contribution, construction, expansion, or payment

85 toward any other impact fee or exaction imposed by local

86 ordinance for public educational facilities, on a dollar-for-

87 dollar basis at fair market value. The credit must be based on

88 the total impact fee assessed and not on the impact fee for any

89 particular type of school.

90   c. Any proportionate-share mitigation must be directed by

91 the school board toward a school capacity improvement identified

92 in the 5-year school board educational facilities plan or must

93 be set aside and not spent until such an improvement has been

94 identified that satisfies the demands created by the development

95 in accordance with a binding developer's agreement.

96   3. This paragraph does not limit the authority of a local

97 government to deny a development permit or its functional

98 equivalent pursuant to its home rule regulatory powers, except

99 as provided in this part.

100   Section 2. This act shall take effect July 1, 2022.

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