

1 A bill to be entitled
2 An act relating to alternative mobility funding
3 systems; amending s. 163.3164, F.S.; providing
4 definitions; amending s. 163.3180, F.S.; revising
5 requirements relating to agreements to pay for or
6 construct certain improvements; authorizing certain
7 local governments to adopt an alternative mobility
8 planning and fee system or an alternative system in
9 certain circumstances; providing requirements for the
10 application of an adopted alternative system;
11 prohibiting an alternative system from imposing
12 responsibility for funding an existing transportation
13 deficiency upon new development; prohibiting local
14 governments that do not issue building permits from
15 charging for transportation impacts; requiring local
16 governments that issue building permits to collect for
17 extrajurisdictional impacts; prohibiting local
18 governments from assessing multiple charges for the
19 same transportation impact; amending s. 163.31801,
20 F.S.; revising requirements for the calculation of
21 impact fees by certain local governments and special
22 districts; requiring local governments transitioning
23 to alternative funding systems to provide holders of
24 impact fee credits with full benefit of intensity and
25 density of prepaid credit balances as of a specified

26 | date; amending s. 212.055, F.S.; conforming a cross-
 27 | reference; providing an effective date.

28 |

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

30 |

31 | Section 1. Subsections (32) through (52) of section
 32 | 163.3164, Florida Statutes, are renumbered as subsections (34)
 33 | through (54), respectively, and new subsections (32) and (33)
 34 | are added to that section, to read:

35 | 163.3164 Community Planning Act; definitions.—As used in
 36 | this act:

37 | (32) "Mobility fee" means a local government fee schedule
 38 | established by ordinance and based on the projects included in
 39 | the local government's adopted mobility plan.

40 | (33) "Mobility plan" means an integrated land use and
 41 | alternative mobility transportation plan adopted into a local
 42 | government comprehensive plan that promotes a compact, mixed-
 43 | use, and interconnected development served by a multimodal
 44 | transportation system in an area that is urban in character as
 45 | defined in s. 171.031.

46 | Section 2. Paragraphs (h) and (i) of subsection (5) of
 47 | section 163.3180, Florida Statutes, are amended, and paragraph
 48 | (j) is added to that subsection, to read:

49 | 163.3180 Concurrency.—

50 | (5)

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

56 a. Consult with the Department of Transportation when
57 proposed plan amendments affect facilities on the strategic
58 intermodal system.

59 b. Exempt public transit facilities from concurrency. For
60 the purposes of this sub-subparagraph, public transit facilities
61 include transit stations and terminals; transit station parking;
62 park-and-ride lots; intermodal public transit connection or
63 transfer facilities; fixed bus, guideway, and rail stations; and
64 airport passenger terminals and concourses, air cargo
65 facilities, and hangars for the assembly, manufacture,
66 maintenance, or storage of aircraft. As used in this sub-
67 subparagraph, the terms "terminals" and "transit facilities" do
68 not include seaports or commercial or residential development
69 constructed in conjunction with a public transit facility.

70 c. Allow an applicant for a development-of-regional-impact
71 development order, development agreement, rezoning, or other
72 land use development permit to satisfy the transportation
73 concurrency requirements of the local comprehensive plan, the
74 local government's concurrency management system, and s. 380.06,
75 when applicable, if:

76 (I) The applicant in good faith offers to enter into a
77 binding agreement to pay for or construct its proportionate
78 share of required improvements in a manner consistent with this
79 subsection. The agreement must provide that after an applicant
80 makes its contribution or constructs its proportionate share
81 pursuant to this sub-sub-subparagraph, the project shall be
82 considered to have mitigated its transportation impacts and be
83 allowed to proceed.

84 (II) The proportionate-share contribution or construction
85 is sufficient to accomplish one or more mobility improvements
86 that will benefit a regionally significant transportation
87 facility. A local government may accept contributions from
88 multiple applicants for a planned improvement if it maintains
89 contributions in a separate account designated for that purpose.
90 A local government may not prevent a single applicant from
91 proceeding after the applicant has satisfied its proportionate-
92 share contribution.

93 d. Provide the basis upon which the landowners will be
94 assessed a proportionate share of the cost addressing the
95 transportation impacts resulting from a proposed development.

96 2. An applicant shall not be held responsible for the
97 additional cost of reducing or eliminating deficiencies. When an
98 applicant contributes or constructs its proportionate share
99 pursuant to this paragraph, a local government may not require
100 payment or construction of transportation facilities whose costs

101 would be greater than a development's proportionate share of the
102 improvements necessary to mitigate the development's impacts.

103 a. The proportionate-share contribution shall be
104 calculated based upon the number of trips from the proposed
105 development expected to reach roadways during the peak hour from
106 the stage or phase being approved, divided by the change in the
107 peak hour maximum service volume of roadways resulting from
108 construction of an improvement necessary to maintain or achieve
109 the adopted level of service, multiplied by the construction
110 cost, at the time of development payment, of the improvement
111 necessary to maintain or achieve the adopted level of service.

112 b. In using the proportionate-share formula provided in
113 this subparagraph, the applicant, in its traffic analysis, shall
114 identify those roads or facilities that have a transportation
115 deficiency in accordance with the transportation deficiency as
116 defined in subparagraph 4. The proportionate-share formula
117 provided in this subparagraph shall be applied only to those
118 facilities that are determined to be significantly impacted by
119 the project traffic under review. If any road is determined to
120 be transportation deficient without the project traffic under
121 review, the costs of correcting that deficiency shall be removed
122 from the project's proportionate-share calculation and the
123 necessary transportation improvements to correct that deficiency
124 shall be considered to be in place for purposes of the
125 proportionate-share calculation. The improvement necessary to

126 correct the transportation deficiency is the funding
127 responsibility of the entity that has maintenance responsibility
128 for the facility. The development's proportionate share shall be
129 calculated only for the needed transportation improvements that
130 are greater than the identified deficiency.

131 c. When the provisions of subparagraph 1. and this
132 subparagraph have been satisfied for a particular stage or phase
133 of development, all transportation impacts from that stage or
134 phase for which mitigation was required and provided shall be
135 deemed fully mitigated in any transportation analysis for a
136 subsequent stage or phase of development. Trips from a previous
137 stage or phase that did not result in impacts for which
138 mitigation was required or provided may be cumulatively analyzed
139 with trips from a subsequent stage or phase to determine whether
140 an impact requires mitigation for the subsequent stage or phase.

141 d. In projecting the number of trips to be generated by
142 the development under review, any trips assigned to a toll-
143 financed facility shall be eliminated from the analysis.

144 e. The applicant shall receive a credit on a dollar-for-
145 dollar basis for impact fees, mobility fees, and other
146 transportation concurrency mitigation requirements paid or
147 payable in the future for the project. The credit shall be
148 reduced up to 20 percent by the percentage share that the
149 project's traffic represents of the added capacity of the
150 selected improvement, or by the amount specified by local

151 ordinance, whichever yields the greater credit.

152 3. This subsection does not require a local government to
 153 approve a development that, for reasons other than
 154 transportation impacts, is not qualified for approval pursuant
 155 to the applicable local comprehensive plan and land development
 156 regulations.

157 4. As used in this subsection, the term "transportation
 158 deficiency" means a facility or facilities on which the adopted
 159 level-of-service standard is exceeded by the existing,
 160 committed, and vested trips, plus additional projected
 161 background trips from any source other than the development
 162 project under review, and trips that are forecast by established
 163 traffic standards, including traffic modeling, consistent with
 164 the University of Florida's Bureau of Economic and Business
 165 Research medium population projections. Additional projected
 166 background trips are to be coincident with the particular stage
 167 or phase of development under review.

168 (i) If a local government elects to repeal transportation
 169 concurrency, the local government may ~~it is encouraged to~~ adopt
 170 an alternative mobility planning and fee ~~funding~~ system or an
 171 alternative system that is not mobility plan and fee based. The
 172 local government ~~that uses one or more of the tools and~~
 173 ~~techniques identified in paragraph (f). Any alternative mobility~~
 174 ~~funding system adopted~~ may not use an alternative system ~~be used~~
 175 to deny, time, or phase an application for site plan approval,

176 plat approval, final subdivision approval, building permits, or
177 the functional equivalent of such approvals provided that the
178 developer agrees to pay for the development's identified
179 transportation impacts via the funding mechanism implemented by
180 the local government. The revenue from the funding mechanism
181 used in the alternative system must be used to implement the
182 needs of the local government's plan which serves as the basis
183 for the fee imposed. An alternative ~~A mobility fee-based funding~~
184 system must comply with s. 163.31801 governing impact fees. An
185 alternative system may not impose ~~that is not mobility fee-based~~
186 ~~shall not be applied in a manner that imposes~~ upon new
187 development any responsibility for funding an existing
188 transportation deficiency as defined in paragraph (h).

189 (j) Only the local government issuing the building permit
190 may charge for transportation impacts within its jurisdiction.
191 Such local government must collect and account for any
192 extrajurisdictional impacts pursuant to s. 163.3177(6)(h),
193 regardless of whether it implements a transportation concurrency
194 system or an alternative system. A local government may not
195 charge new development or redevelopment for the same
196 transportation impacts.

197 Section 3. Paragraph (a) of subsection (4), paragraph (a)
198 of subsection (5), and subsection (7) of section 163.31801,
199 Florida Statutes, are amended to read:

200 163.31801 Impact fees; short title; intent; minimum

201 requirements; audits; challenges.—

202 (4) At a minimum, each local government that adopts and
 203 collects an impact fee by ordinance and each special district
 204 that adopts, collects, and administers an impact fee by
 205 resolution must:

206 (a) Ensure that the calculation of the impact fee is based
 207 on the most recent and localized data available within the
 208 previous 12 months before adoption.

209 (5)(a) Notwithstanding any charter provision,
 210 comprehensive plan policy, ordinance, development order,
 211 development permit, or resolution, the local government or
 212 special district that requires any improvement or contribution
 213 must credit against the collection of the impact fee any
 214 contribution, whether identified in a development order,
 215 proportionate share agreement, or any other form of exaction,
 216 related to public facilities or infrastructure, including
 217 monetary contributions, land dedication, site planning and
 218 design, or construction. Any contribution must be applied on a
 219 dollar-for-dollar basis at fair market value to reduce any
 220 impact fee collected for the general category or class of public
 221 facilities or infrastructure for which the contribution was
 222 made.

223 (7) If an impact fee is increased, the holder of any
 224 impact fee credits, whether such credits are granted under s.
 225 163.3180, s. 380.06, or otherwise, which were in existence

226 before the increase, is entitled to the full benefit of the
 227 intensity or density prepaid by the credit balance as of the
 228 date it was first established. If a local government adopts an
 229 alternative funding system pursuant to s. 163.3180(5)(i), the
 230 holder of any transportation or road impact fee credits granted
 231 under s. 163.3180 or s. 380.06 or otherwise that were in
 232 existence before the adoption of the alternative funding system
 233 is entitled to the full benefit of the intensity and density
 234 prepaid by the credit balance as of the date the alternative
 235 funding system was first established.

236 Section 4. Paragraph (d) of subsection (2) of section
 237 212.055, Florida Statutes, is amended to read:

238 212.055 Discretionary sales surtaxes; legislative intent;
 239 authorization and use of proceeds.—It is the legislative intent
 240 that any authorization for imposition of a discretionary sales
 241 surtax shall be published in the Florida Statutes as a
 242 subsection of this section, irrespective of the duration of the
 243 levy. Each enactment shall specify the types of counties
 244 authorized to levy; the rate or rates which may be imposed; the
 245 maximum length of time the surtax may be imposed, if any; the
 246 procedure which must be followed to secure voter approval, if
 247 required; the purpose for which the proceeds may be expended;
 248 and such other requirements as the Legislature may provide.
 249 Taxable transactions and administrative procedures shall be as
 250 provided in s. 212.054.

251 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

252 (d) The proceeds of the surtax authorized by this
253 subsection and any accrued interest shall be expended by the
254 school district, within the county and municipalities within the
255 county, or, in the case of a negotiated joint county agreement,
256 within another county, to finance, plan, and construct
257 infrastructure; to acquire any interest in land for public
258 recreation, conservation, or protection of natural resources or
259 to prevent or satisfy private property rights claims resulting
260 from limitations imposed by the designation of an area of
261 critical state concern; to provide loans, grants, or rebates to
262 residential or commercial property owners who make energy
263 efficiency improvements to their residential or commercial
264 property, if a local government ordinance authorizing such use
265 is approved by referendum; or to finance the closure of county-
266 owned or municipally owned solid waste landfills that have been
267 closed or are required to be closed by order of the Department
268 of Environmental Protection. Any use of the proceeds or interest
269 for purposes of landfill closure before July 1, 1993, is
270 ratified. The proceeds and any interest may not be used for the
271 operational expenses of infrastructure, except that a county
272 that has a population of fewer than 75,000 and that is required
273 to close a landfill may use the proceeds or interest for long-
274 term maintenance costs associated with landfill closure.
275 Counties, as defined in s. 125.011, and charter counties may, in

276 addition, use the proceeds or interest to retire or service
277 indebtedness incurred for bonds issued before July 1, 1987, for
278 infrastructure purposes, and for bonds subsequently issued to
279 refund such bonds. Any use of the proceeds or interest for
280 purposes of retiring or servicing indebtedness incurred for
281 refunding bonds before July 1, 1999, is ratified.

282 1. For the purposes of this paragraph, the term
283 "infrastructure" means:

284 a. Any fixed capital expenditure or fixed capital outlay
285 associated with the construction, reconstruction, or improvement
286 of public facilities that have a life expectancy of 5 or more
287 years, any related land acquisition, land improvement, design,
288 and engineering costs, and all other professional and related
289 costs required to bring the public facilities into service. For
290 purposes of this sub-subparagraph, the term "public facilities"
291 means facilities as defined in s. 163.3164(41) ~~s. 163.3164(39)~~,
292 s. 163.3221(13), or s. 189.012(5), and includes facilities that
293 are necessary to carry out governmental purposes, including, but
294 not limited to, fire stations, general governmental office
295 buildings, and animal shelters, regardless of whether the
296 facilities are owned by the local taxing authority or another
297 governmental entity.

298 b. A fire department vehicle, an emergency medical service
299 vehicle, a sheriff's office vehicle, a police department
300 vehicle, or any other vehicle, and the equipment necessary to

301 outfit the vehicle for its official use or equipment that has a
 302 life expectancy of at least 5 years.

303 c. Any expenditure for the construction, lease, or
 304 maintenance of, or provision of utilities or security for,
 305 facilities, as defined in s. 29.008.

306 d. Any fixed capital expenditure or fixed capital outlay
 307 associated with the improvement of private facilities that have
 308 a life expectancy of 5 or more years and that the owner agrees
 309 to make available for use on a temporary basis as needed by a
 310 local government as a public emergency shelter or a staging area
 311 for emergency response equipment during an emergency officially
 312 declared by the state or by the local government under s.
 313 252.38. Such improvements are limited to those necessary to
 314 comply with current standards for public emergency evacuation
 315 shelters. The owner must enter into a written contract with the
 316 local government providing the improvement funding to make the
 317 private facility available to the public for purposes of
 318 emergency shelter at no cost to the local government for a
 319 minimum of 10 years after completion of the improvement, with
 320 the provision that the obligation will transfer to any
 321 subsequent owner until the end of the minimum period.

322 e. Any land acquisition expenditure for a residential
 323 housing project in which at least 30 percent of the units are
 324 affordable to individuals or families whose total annual
 325 household income does not exceed 120 percent of the area median

326 income adjusted for household size, if the land is owned by a
327 local government or by a special district that enters into a
328 written agreement with the local government to provide such
329 housing. The local government or special district may enter into
330 a ground lease with a public or private person or entity for
331 nominal or other consideration for the construction of the
332 residential housing project on land acquired pursuant to this
333 sub-subparagraph.

334 f. Instructional technology used solely in a school
335 district's classrooms. As used in this sub-subparagraph, the
336 term "instructional technology" means an interactive device that
337 assists a teacher in instructing a class or a group of students
338 and includes the necessary hardware and software to operate the
339 interactive device. The term also includes support systems in
340 which an interactive device may mount and is not required to be
341 affixed to the facilities.

342 2. For the purposes of this paragraph, the term "energy
343 efficiency improvement" means any energy conservation and
344 efficiency improvement that reduces consumption through
345 conservation or a more efficient use of electricity, natural
346 gas, propane, or other forms of energy on the property,
347 including, but not limited to, air sealing; installation of
348 insulation; installation of energy-efficient heating, cooling,
349 or ventilation systems; installation of solar panels; building
350 modifications to increase the use of daylight or shade;

351 replacement of windows; installation of energy controls or
352 energy recovery systems; installation of electric vehicle
353 charging equipment; installation of systems for natural gas fuel
354 as defined in s. 206.9951; and installation of efficient
355 lighting equipment.

356 3. Notwithstanding any other provision of this subsection,
357 a local government infrastructure surtax imposed or extended
358 after July 1, 1998, may allocate up to 15 percent of the surtax
359 proceeds for deposit into a trust fund within the county's
360 accounts created for the purpose of funding economic development
361 projects having a general public purpose of improving local
362 economies, including the funding of operational costs and
363 incentives related to economic development. The ballot statement
364 must indicate the intention to make an allocation under the
365 authority of this subparagraph.

366 Section 5. This act shall take effect July 1, 2023.