

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED                                         (Y/N)  
ADOPTED AS AMENDED                         (Y/N)  
ADOPTED W/O OBJECTION                     (Y/N)  
FAILED TO ADOPT                             (Y/N)  
WITHDRAWN                                    (Y/N)  
OTHER                                         

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1 Committee/Subcommittee hearing bill: Ways & Means Committee  
2 Representative Duggan offered the following:

3  
4            **Amendment (with title amendment)**

5            Remove everything after the enacting clause and insert:

6            Section 1. Paragraph (dd) is added to subsection (1) of  
7 section 125.01, Florida Statutes, to read:

8            125.01 Powers and duties.—

9            (1) The legislative and governing body of a county shall  
10 have the power to carry on county government. To the extent not  
11 inconsistent with general or special law, this power includes,  
12 but is not restricted to, the power to:

13            (dd) Hear appeals of final orders and decisions of  
14 municipal historic preservation boards as provided in s.  
15 166.04152.

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16 Section 2. Section 163.046, Florida Statutes, is created  
17 to read:

18 163.046 Tree pruning, trimming, or removal; property used  
19 for veterans healthcare facilities.-

20 (1) A local government may not require a notice,  
21 application, approval, permit, fee, or mitigation for the  
22 pruning, trimming, or removal of a tree on property being used  
23 for the construction or development of a veterans healthcare  
24 facility, as approved by the United States Department of  
25 Veterans Affairs.

26 (2) A local government may not require a property owner to  
27 replant a tree that was pruned, trimmed, or removed in  
28 accordance with this section.

29 Section 3. Subsection (1) of section 163.3167, Florida  
30 Statutes, is amended to read:

31 163.3167 Scope of act.-

32 (1) Notwithstanding any other provision of general law,  
33 except any law pertaining to the protection and restoration of  
34 the Everglades, the several incorporated municipalities and  
35 counties ~~shall~~ have exclusive power and responsibility:

36 (a) To plan for their future development and growth.

37 (b) To adopt and amend comprehensive plans, or elements or  
38 portions thereof, to guide their future development and growth.

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39 (c) To implement adopted or amended comprehensive plans by  
40 the adoption of appropriate land development regulations or  
41 elements thereof.

42 (d) To evaluate transportation impacts, apply concurrency,  
43 or assess any fee related to transportation improvements.

44 (e) To establish, support, and maintain administrative  
45 instruments and procedures to carry out the provisions and  
46 purposes of this act.

47  
48 The powers and authority set out in this act may be employed by  
49 municipalities and counties individually or jointly by mutual  
50 agreement in accord with this act and in such combinations as  
51 their common interests may dictate and require.

52 Section 4. Paragraph (h) of subsection (5) of section  
53 163.3180, Florida Statutes, is amended to read:

54 163.3180 Concurrency.—

55 (5)

56 (h)1. Notwithstanding any provision in a development  
57 order, an agreement, a local comprehensive plan, or a local land  
58 development regulation, local governments that continue to  
59 implement a transportation concurrency system, whether in the  
60 form adopted into the comprehensive plan before the effective  
61 date of the Community Planning Act, chapter 2011-139, Laws of  
62 Florida, or as subsequently modified, must:

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63 a. Consult with the Department of Transportation when  
64 proposed plan amendments affect facilities on the strategic  
65 intermodal system.

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

77 c. Allow an applicant for a development-of-regional-impact  
78 development order, development agreement, rezoning, or other  
79 land use development permit to satisfy the transportation  
80 concurrency requirements of the local comprehensive plan, the  
81 local government's concurrency management system, and s. 380.06,  
82 when applicable, if:

83 (I) The applicant in good faith offers to enter into a  
84 binding agreement to pay for or construct its proportionate  
85 share of required improvements in a manner consistent with this  
86 subsection.

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87 (II) The proportionate-share contribution or construction  
88 is sufficient to accomplish one or more mobility improvements  
89 that will benefit a regionally significant transportation  
90 facility. A local government may accept contributions from  
91 multiple applicants for a planned improvement if it maintains  
92 contributions in a separate account designated for that purpose.

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 e. Credit the fair market value of any land dedicated to a  
97 governmental entity for transportation facilities against the  
98 total proportionate share payments computed pursuant to this  
99 section.

100 2. An applicant ~~is shall~~ not be held responsible for the  
101 additional cost of reducing or eliminating deficiencies. When an  
102 applicant contributes or constructs its proportionate share  
103 pursuant to this paragraph, a local government may not require  
104 payment or construction of transportation facilities whose costs  
105 would be greater than a development's proportionate share of the  
106 improvements necessary to mitigate the development's impacts.

107 a. The proportionate-share contribution shall be  
108 calculated based upon the number of trips from the proposed  
109 development expected to reach roadways during the peak hour from  
110 the stage or phase being approved, divided by the change in the  
111 peak hour maximum service volume of roadways resulting from

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112 construction of an improvement necessary to maintain or achieve  
113 the adopted level of service, multiplied by the construction  
114 cost, at the time of development payment, of the improvement  
115 necessary to maintain or achieve the adopted level of service.

116 b. In using the proportionate-share formula provided in  
117 this subparagraph, the applicant, in its traffic analysis, shall  
118 identify those roads or facilities that have a transportation  
119 deficiency in accordance with the transportation deficiency as  
120 defined in subparagraph 4. The proportionate-share formula  
121 provided in this subparagraph shall be applied only to those  
122 facilities that are determined to be significantly impacted by  
123 the project traffic under review. If any road is determined to  
124 be transportation deficient without the project traffic under  
125 review, the costs of correcting that deficiency shall be removed  
126 from the project's proportionate-share calculation and the  
127 necessary transportation improvements to correct that deficiency  
128 shall be considered to be in place for purposes of the  
129 proportionate-share calculation. The improvement necessary to  
130 correct the transportation deficiency is the funding  
131 responsibility of the entity that has maintenance responsibility  
132 for the facility. The development's proportionate share shall be  
133 calculated only for the needed transportation improvements that  
134 are greater than the identified deficiency.

135 c. When the provisions of subparagraph 1. and this  
136 subparagraph have been satisfied for a particular stage or phase

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137 of development, all transportation impacts from that stage or  
138 phase for which mitigation was required and provided shall be  
139 deemed fully mitigated in any transportation analysis for a  
140 subsequent stage or phase of development. ~~Trips from a previous  
141 stage or phase that did not result in impacts for which  
142 mitigation was required or provided may be cumulatively analyzed  
143 with trips from a subsequent stage or phase to determine whether  
144 an impact requires mitigation for the subsequent stage or phase.~~

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

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

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

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

172 Section 5. Subsection (2) and paragraph (a) of subsection  
173 (5) of section 163.31801, Florida Statutes, are amended to read:

174 163.31801 Impact fees; short title; intent; minimum  
175 requirements; audits; challenges.—

176 (2) The Legislature finds that impact fees are an  
177 important source of revenue for a local government to use in  
178 funding the infrastructure necessitated by new growth. The  
179 Legislature further finds that impact fees are an outgrowth of  
180 the home rule power of a local government to provide certain  
181 services within its jurisdiction. Due to the growth of impact  
182 fee collections and local governments' reliance on impact fees,  
183 it is the intent of the Legislature to ensure that, when a  
184 county or municipality adopts an impact fee by ordinance or a  
185 special district, if authorized by its special act, adopts an



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186 impact fee by resolution, the governing authority complies with  
187 this section.

188 (5)(a) Notwithstanding any charter provision,  
189 comprehensive plan policy, ordinance, development order,  
190 development permit, agreement, or resolution to the contrary,  
191 the local government or special district must credit against the  
192 collection of the impact fee any contribution, whether  
193 identified in an a proportionate share agreement or other form  
194 of exaction, related to public facilities or infrastructure,  
195 including land dedication, site planning and design, or  
196 construction. Any contribution must be applied on a dollar-for-  
197 dollar basis at fair market value to reduce any impact fee  
198 collected for the general category or class of public facilities  
199 or infrastructure for which the contribution was made.

200 Section 6. Section 166.04152, Florida Statutes, is created  
201 to read:

202 166.04152 Final orders and decisions of historic  
203 preservation boards.-

204 (1) Notwithstanding any local charter, ordinance, or  
205 regulation to the contrary, any final order or decision made by  
206 an historic preservation board established pursuant to municipal  
207 charter or ordinance may be appealed to the board of county  
208 commissioners of the county in which the municipality is  
209 located.

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210       (2) The board of county commissioners shall hold a public  
211 hearing on the appeal within 30 days of receipt of the appeal.

212       (3) The board of county commissioners, after the public  
213 hearing, may approve or reject the final order or decision. The  
214 determination of the board of county commissioners is final.

215       (4) This section is supplemental to all other remedies  
216 available under law.

217       Section 7. Paragraph (d) of subsection (5) and subsections  
218 (7) and (8) of section 380.06, Florida Statutes, are amended to  
219 read:

220       380.06 Developments of regional impact.—

221       (5) CREDITS AGAINST LOCAL IMPACT FEES.—

222       (d) This subsection does not apply to internal, private  
223 onsite facilities required by local regulations or to any  
224 offsite facilities to the extent that such facilities are  
225 necessary to provide safe and adequate services solely to the  
226 development and not the general public.

227       (7) CHANGES.—

228       (a) Notwithstanding any provision to the contrary in any  
229 development order, agreement, local comprehensive plan, or local  
230 land development regulation, this section applies to all any  
231 proposed changes ~~change~~ to a previously approved development of  
232 regional impact. ~~shall be reviewed by~~ The local government must  
233 base its review ~~based~~ on the standards and procedures in its  
234 adopted local comprehensive plan and adopted local land

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235 development regulations, including, but not limited to,  
236 procedures for notice to the applicant and the public regarding  
237 the issuance of development orders. However, a change to a  
238 development of regional impact that has the effect of reducing  
239 the originally approved height, density, or intensity of the  
240 development or that changes only the location or acreage of uses  
241 and infrastructure or exchanges permitted uses must be  
242 administratively approved and is not subject to review by the  
243 local government. The local government review of any proposed  
244 change to a previously approved development of regional impact  
245 and of any development order required to construct the  
246 development set forth in the development of regional impact must  
247 ~~be reviewed by the local government based on the standards in~~  
248 ~~the local comprehensive plan at the time the development was~~  
249 ~~originally approved, and if the development would have been~~  
250 ~~consistent with the comprehensive plan in effect when the~~  
251 ~~development was originally approved, the local government may~~  
252 ~~approve the change. If the revised development is approved, the~~  
253 ~~developer may proceed as provided in s. 163.3167(5). For any~~  
254 ~~proposed change to a previously approved development of regional~~  
255 ~~impact, at least one public hearing must be held on the~~  
256 ~~application for change, and any change must be approved by the~~  
257 ~~local governing body before it becomes effective. The review~~  
258 must abide by any prior agreements or other actions vesting the  
259 laws and policies governing the development. Development within

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260 the previously approved development of regional impact may  
261 continue, as approved, during the review in portions of the  
262 development which are not directly affected by the proposed  
263 change.

264 (b) The local government shall either adopt an amendment  
265 to the development order that approves the application, with or  
266 without conditions, or deny the application for the proposed  
267 change. Any new conditions in the amendment to the development  
268 order issued by the local government may address only those  
269 impacts directly created by the proposed change, and must be  
270 consistent with s. 163.3180 (5), ~~the adopted comprehensive plan,~~  
271 ~~and adopted land development regulations.~~ Changes to a phase  
272 date, buildout date, expiration date, or termination date may  
273 also extend any required mitigation associated with a phased  
274 construction project so that mitigation takes place in the same  
275 timeframe relative to the impacts as approved.

276 (c) This section is not intended to alter or otherwise  
277 limit the extension, previously granted by statute, of a  
278 commencement, buildout, phase, termination, or expiration date  
279 in any development order for an approved development of regional  
280 impact and any corresponding modification of a related permit or  
281 agreement. Any such extension is not subject to review or  
282 modification in any future amendment to a development order  
283 pursuant to the adopted local comprehensive plan and adopted  
284 local land development regulations.

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285        (d) Any proposed change to a previously approved  
286 development of regional impact showing a dedicated multimodal  
287 pathway suitable for bicycles, pedestrians, and low-speed  
288 vehicles, as defined in s. 320.01, along any internal roadway  
289 must be approved so long as the right-of-way remains sufficient  
290 for the ultimate number of lanes of the internal road. Any  
291 proposed change to a previously approved development of regional  
292 impact which proposes to substitute a multimodal pathway  
293 suitable for bicycles, pedestrians, and low-speed vehicles, as  
294 defined in s. 320.01, in lieu of an internal road must be  
295 approved if the change does not result in any road within or  
296 adjacent to the development of regional impact falling below the  
297 local government's adopted level of service and does not  
298 increase the original distribution of trips on any road analyzed  
299 as part of the approved development of regional impact by more  
300 than 20 percent. If the developer has already dedicated right-  
301 of-way to the local government for the proposed internal roadway  
302 as part of the approval of the proposed change, the local  
303 government must return any interest it may have in the right-of-  
304 way to the developer.

305        (8) VESTED RIGHTS.—Nothing in this section shall limit or  
306 modify the rights of any person to complete any development that  
307 was authorized by registration of a subdivision pursuant to  
308 former chapter 498, by recordation pursuant to local subdivision  
309 plat law, or by a building permit or other authorization to

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310 commence development on which there has been reliance and a  
311 change of position and which registration or recordation was  
312 accomplished, or which permit or authorization was issued, prior  
313 to July 1, 1973. If a developer has, by his or her actions in  
314 reliance on prior regulations, obtained vested or other legal  
315 rights that in law would have prevented a local government from  
316 changing those regulations in a way adverse to the developer's  
317 interests, nothing in this chapter authorizes any governmental  
318 agency to abridge those rights. Consistent with s. 163.3167(5),  
319 comprehensive plan policies and land development regulations  
320 adopted after a development of regional impact has vested do not  
321 apply to proposed changes to an approved development of regional  
322 impact or to development orders required to implement the  
323 approved development of regional impact.

324 (a) For the purpose of determining the vesting of rights  
325 under this subsection, approval pursuant to local subdivision  
326 plat law, ordinances, or regulations of a subdivision plat by  
327 formal vote of a county or municipal governmental body having  
328 jurisdiction after August 1, 1967, and prior to July 1, 1973, is  
329 sufficient to vest all property rights for the purposes of this  
330 subsection; and no action in reliance on, or change of position  
331 concerning, such local governmental approval is required for  
332 vesting to take place. Anyone claiming vested rights under this  
333 paragraph must notify the department in writing by January 1,  
334 1986. Such notification shall include information adequate to

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335 document the rights established by this subsection. When such  
 336 notification requirements are met, in order for the vested  
 337 rights authorized pursuant to this paragraph to remain valid  
 338 after June 30, 1990, development of the vested plan must be  
 339 commenced prior to that date upon the property that the state  
 340 land planning agency has determined to have acquired vested  
 341 rights following the notification or in a binding letter of  
 342 interpretation. When the notification requirements have not been  
 343 met, the vested rights authorized by this paragraph shall expire  
 344 June 30, 1986, unless development commenced prior to that date.

345 (b) For the purpose of this act, the conveyance of  
 346 property or compensation, or the agreement to convey~~7~~ property  
 347 or compensation, to the county, state, or local government ~~as a~~  
 348 ~~prerequisite to zoning change approval~~ shall be construed as an  
 349 act of reliance to vest rights as determined under this  
 350 subsection, ~~provided such zoning change is actually granted by~~  
 351 ~~such government.~~

352 Section 8. This act shall take effect upon becoming a law.

354 -----

355 **T I T L E A M E N D M E N T**

356 Remove lines 3-31 and insert:

357 125.01, F.S.; revising the powers of counties to  
 358 include hearing appeals from historic preservation  
 359 boards; creating s. 163.046, F.S.; prohibiting local

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360 governments from requiring specified documents or a  
361 fee for tree pruning, trimming, or removal on certain  
362 properties; prohibiting local governments from  
363 requiring property owners to replant trees pruned,  
364 trimmed, or removed on certain properties; amending s.  
365 163.3167, F.S.; revising the scope of power and  
366 responsibility of municipalities and counties under  
367 the Community Planning Act; amending s. 163.3180,  
368 F.S.; modifying requirements for local governments  
369 implementing a transportation concurrency system;  
370 amending s. 163.31801, F.S.; revising legislative  
371 intent with respect to the adoption of impact fees by  
372 special districts; clarifying circumstances under  
373 which a local government or special district must  
374 credit certain contributions toward the collection of  
375 an impact fee; creating s. 166.04152, F.S.;  
376 prescribing manner for appealing final order or  
377 decision made by an historic preservation board;  
378 requiring the board of county commissioners to hold a  
379 public hearing; authorizing the board of county  
380 commissioners to approve or reject a final order or  
381 decision; clarifying appeal to board of county  
382 commissioners is supplemental to other remedies  
383 available under law; amending s. 380.06, F.S.;  
384 revising exceptions from provisions governing credits



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385 | against local impact fees; revising procedures  
386 | regarding local government review of changes to  
387 | previously approved developments of regional impact;  
388 | specifying changes that are not subject to local  
389 | government review; authorizing changes to multimodal  
390 | pathways, or the substitution of such pathways, in  
391 | previously approved developments of regional impact if  
392 | certain conditions are met; specifying that certain  
393 | changes to comprehensive plan policies and land  
394 | development regulations do not apply to proposed  
395 | changes to an approved development of regional impact  
396 | or to development orders required to implement the  
397 | approved development of regional impact; revising acts  
398 | that are deemed to constitute an act of reliance by a  
399 | developer to vest rights; providing an effective date.