

26 to proposed changes to an approved development of
 27 regional impact or to development orders required to
 28 implement the approved development of regional impact;
 29 revising acts that are deemed to constitute an act of
 30 reliance by a developer to vest rights; providing an
 31 effective date.

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

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35 Section 1. Subsection (1) of section 163.3167, Florida
 36 Statutes, is amended to read:

37 163.3167 Scope of act.—

38 (1) Notwithstanding any other provision of general law,
 39 the several incorporated municipalities and counties ~~shall~~ have
 40 exclusive power and responsibility:

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

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

44 (c) To implement adopted or amended comprehensive plans by
 45 the adoption of appropriate land development regulations or
 46 elements thereof.

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

49 (e) To establish, support, and maintain administrative
 50 instruments and procedures to carry out the provisions and

51 | purposes of this act.

52 |

53 | The powers and authority set out in this act may be employed by
 54 | municipalities and counties individually or jointly by mutual
 55 | agreement in accord with this act and in such combinations as
 56 | their common interests may dictate and require.

57 | Section 2. Paragraph (h) of subsection (5) of section
 58 | 163.3180, Florida Statutes, is amended to read:

59 | 163.3180 Concurrency.—

60 | (5)

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

68 | a. Consult with the Department of Transportation when
 69 | proposed plan amendments affect facilities on the strategic
 70 | intermodal system.

71 | b. Exempt public transit facilities from concurrency. For
 72 | the purposes of this sub-subparagraph, public transit facilities
 73 | include transit stations and terminals; transit station parking;
 74 | park-and-ride lots; intermodal public transit connection or
 75 | transfer facilities; fixed bus, guideway, and rail stations; and

76 | airport passenger terminals and concourses, air cargo
 77 | facilities, and hangars for the assembly, manufacture,
 78 | maintenance, or storage of aircraft. As used in this sub-
 79 | subparagraph, the terms "terminals" and "transit facilities" do
 80 | not include seaports or commercial or residential development
 81 | constructed in conjunction with a public transit facility.

82 | c. Allow an applicant for a development-of-regional-impact
 83 | development order, development agreement, rezoning, or other
 84 | land use development permit to satisfy the transportation
 85 | concurrency requirements of the local comprehensive plan, the
 86 | local government's concurrency management system, and s. 380.06,
 87 | when applicable, if:

88 | (I) The applicant in good faith offers to enter into a
 89 | binding agreement to pay for or construct its proportionate
 90 | share of required improvements in a manner consistent with this
 91 | subsection.

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

98 | d. Provide the basis upon which the landowners will be
 99 | assessed a proportionate share of the cost addressing the
 100 | transportation impacts resulting from a proposed development.

101 e. Credit the fair market value of any land dedicated to a
102 governmental entity for transportation facilities against the
103 total proportionate share payments computed pursuant to this
104 section.

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

112 a. The proportionate-share contribution shall be
113 calculated based upon the number of trips from the proposed
114 development expected to reach roadways during the peak hour from
115 the stage or phase being approved, divided by the change in the
116 peak hour maximum service volume of roadways resulting from
117 construction of an improvement necessary to maintain or achieve
118 the adopted level of service, multiplied by the construction
119 cost, at the time of development payment, of the improvement
120 necessary to maintain or achieve the adopted level of service.

121 b. In using the proportionate-share formula provided in
122 this subparagraph, the applicant, in its traffic analysis, shall
123 identify those roads or facilities that have a transportation
124 deficiency in accordance with the transportation deficiency as
125 defined in subparagraph 4. The proportionate-share formula

126 provided in this subparagraph shall be applied only to those
127 facilities that are determined to be significantly impacted by
128 the project traffic under review. If any road is determined to
129 be transportation deficient without the project traffic under
130 review, the costs of correcting that deficiency shall be removed
131 from the project's proportionate-share calculation and the
132 necessary transportation improvements to correct that deficiency
133 shall be considered to be in place for purposes of the
134 proportionate-share calculation. The improvement necessary to
135 correct the transportation deficiency is the funding
136 responsibility of the entity that has maintenance responsibility
137 for the facility. The development's proportionate share shall be
138 calculated only for the needed transportation improvements that
139 are greater than the identified deficiency.

140 c. When the provisions of subparagraph 1. and this
141 subparagraph have been satisfied for a particular stage or phase
142 of development, all transportation impacts from that stage or
143 phase for which mitigation was required and provided shall be
144 deemed fully mitigated in any transportation analysis for a
145 subsequent stage or phase of development. ~~Trips from a previous
146 stage or phase that did not result in impacts for which
147 mitigation was required or provided may be cumulatively analyzed
148 with trips from a subsequent stage or phase to determine whether
149 an impact requires mitigation for the subsequent stage or phase.~~

150 d. In projecting the number of trips to be generated by

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

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

161 3. This subsection does not require a local government to
 162 approve a development that, for reasons other than
 163 transportation impacts, is not qualified for approval pursuant
 164 to the applicable local comprehensive plan and land development
 165 regulations.

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

176 or phase of development under review.

177 Section 3. Subsection (2), paragraph (a) of subsection
 178 (5), and subsection (12) of section 163.31801, Florida Statutes,
 179 are amended to read:

180 163.31801 Impact fees; short title; intent; minimum
 181 requirements; audits; challenges.—

182 (2) The Legislature finds that impact fees are an
 183 important source of revenue for a local government to use in
 184 funding the infrastructure necessitated by new growth. The
 185 Legislature further finds that impact fees are an outgrowth of
 186 the home rule power of a local government to provide certain
 187 services within its jurisdiction. Due to the growth of impact
 188 fee collections and local governments' reliance on impact fees,
 189 it is the intent of the Legislature to ensure that, when a
 190 county or municipality adopts an impact fee by ordinance or a
 191 special district, if authorized by its special act, adopts an
 192 impact fee by resolution, the governing authority complies with
 193 this section.

194 (5) (a) Notwithstanding any charter provision,
 195 comprehensive plan policy, ordinance, development order,
 196 development permit, agreement, or resolution to the contrary,
 197 the local government or special district must credit against the
 198 collection of the impact fee any contribution, whether
 199 identified in an ~~a proportionate share~~ agreement or other form
 200 of exaction, related to public facilities or infrastructure,

201 including land dedication, site planning and design, or
 202 construction. Any contribution must be applied on a dollar-for-
 203 dollar basis at fair market value to reduce any impact fee
 204 collected for the general category or class of public facilities
 205 or infrastructure for which the contribution was made.

206 ~~(12) This section does not apply to water and sewer~~
 207 ~~connection fees.~~

208 Section 4. Paragraph (d) of subsection (5) and subsections
 209 (7) and (8) of section 380.06, Florida Statutes, are amended to
 210 read:

211 380.06 Developments of regional impact.—

212 (5) CREDITS AGAINST LOCAL IMPACT FEES.—

213 (d) This subsection does not apply to internal, private
 214 onsite facilities required by local regulations or to any
 215 offsite facilities to the extent that such facilities are
 216 necessary to provide safe and adequate services solely to the
 217 development and not the general public.

218 (7) CHANGES.—

219 (a) Notwithstanding any provision to the contrary in any
 220 development order, agreement, local comprehensive plan, or local
 221 land development regulation, this section applies to all ~~any~~
 222 proposed changes ~~change~~ to a previously approved development of
 223 regional impact. ~~shall be reviewed by~~ The local government must
 224 base its review ~~based~~ on the standards and procedures in its
 225 adopted local comprehensive plan and adopted local land

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

CS/HB 1177

2024

251 the previously approved development of regional impact may
252 continue, as approved, during the review in portions of the
253 development which are not directly affected by the proposed
254 change.

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

267 (c) This section is not intended to alter or otherwise
268 limit the extension, previously granted by statute, of a
269 commencement, buildout, phase, termination, or expiration date
270 in any development order for an approved development of regional
271 impact and any corresponding modification of a related permit or
272 agreement. Any such extension is not subject to review or
273 modification in any future amendment to a development order
274 pursuant to the adopted local comprehensive plan and adopted
275 local land development regulations.

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

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

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

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

CS/HB 1177

2024

326 document the rights established by this subsection. When such
327 notification requirements are met, in order for the vested
328 rights authorized pursuant to this paragraph to remain valid
329 after June 30, 1990, development of the vested plan must be
330 commenced prior to that date upon the property that the state
331 land planning agency has determined to have acquired vested
332 rights following the notification or in a binding letter of
333 interpretation. When the notification requirements have not been
334 met, the vested rights authorized by this paragraph shall expire
335 June 30, 1986, unless development commenced prior to that date.

336 (b) For the purpose of this act, the conveyance of
337 property or compensation, or the agreement to convey~~7~~ property
338 or compensation, to the county, state, or local government ~~as a~~
339 ~~prerequisite to zoning change approval~~ shall be construed as an
340 act of reliance to vest rights as determined under this
341 subsection, ~~provided such zoning change is actually granted by~~
342 ~~such government~~.

343 Section 5. This act shall take effect upon becoming a law.