

1                                   A bill to be entitled  
2           An act relating to land development; amending s.  
3           125.01, F.S.; revising the powers of counties to  
4           include hearing appeals from municipal historic  
5           preservation boards; creating s. 163.046, F.S.;  
6           prohibiting local governments from requiring specified  
7           documents or a fee for tree pruning, trimming, or  
8           removal on certain properties; prohibiting local  
9           governments from requiring property owners to replant  
10          trees pruned, trimmed, or removed on certain  
11          properties; amending s. 163.3167, F.S.; revising the  
12          scope of power and responsibility of municipalities  
13          and counties under the Community Planning Act;  
14          amending s. 163.3180, F.S.; modifying requirements for  
15          local governments implementing a transportation  
16          concurrency system; amending s. 163.31801, F.S.;  
17          revising legislative intent with respect to the  
18          adoption of impact fees by special districts;  
19          clarifying circumstances under which a local  
20          government or special district must credit certain  
21          contributions toward the collection of an impact fee;  
22          creating s. 166.04152, F.S.; prescribing manner for  
23          appealing final order or decision made by a municipal  
24          historic preservation board; requiring the board of  
25          county commissioners to hold a public hearing;

26 | authorizing the board of county commissioners to  
 27 | approve or reject a final order or decision; providing  
 28 | that appeal to board of county commissioners is  
 29 | supplemental to all other remedies available under  
 30 | law; amending s. 380.06, F.S.; revising exceptions  
 31 | from provisions governing credits against local impact  
 32 | fees; revising procedures regarding local government  
 33 | review of changes to previously approved developments  
 34 | of regional impact; specifying changes that are not  
 35 | subject to local government review; authorizing  
 36 | changes to multimodal pathways, or the substitution of  
 37 | such pathways, in previously approved developments of  
 38 | regional impact if certain conditions are met;  
 39 | specifying that certain changes to comprehensive plan  
 40 | policies and land development regulations do not apply  
 41 | to proposed changes to an approved development of  
 42 | regional impact or to development orders required to  
 43 | implement the approved development of regional impact;  
 44 | revising acts that are deemed to constitute an act of  
 45 | reliance by a developer to vest rights; providing an  
 46 | effective date.

47 |

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

49 |

50 | Section 1. Paragraph (dd) is added to subsection (1) of

51 section 125.01, Florida Statutes, to read:

52 125.01 Powers and duties.—

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

57 (dd) Hear appeals of final orders and decisions of  
58 municipal historic preservation boards as provided in s.  
59 166.04152.

60 Section 2. Section 163.046, Florida Statutes, is created  
61 to read:

62 163.046 Tree pruning, trimming, or removal; property used  
63 for veterans health care facilities.—

64 (1) A local government may not require a notice,  
65 application, approval, permit, fee, or mitigation for the  
66 pruning, trimming, or removal of a tree on property being used  
67 for the construction or development of a veterans health care  
68 facility, as approved by the United States Department of  
69 Veterans Affairs.

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

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

75 163.3167 Scope of act.—

76 (1) Notwithstanding any other provision of general law,  
 77 except any law pertaining to the protection and restoration of  
 78 the Everglades, the several incorporated municipalities and  
 79 counties ~~shall~~ have exclusive power and responsibility:

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

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

83 (c) To implement adopted or amended comprehensive plans by  
 84 the adoption of appropriate land development regulations or  
 85 elements thereof.

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

88 (e) To establish, support, and maintain administrative  
 89 instruments and procedures to carry out the provisions and  
 90 purposes of this act.

91  
 92 The powers and authority set out in this act may be employed by  
 93 municipalities and counties individually or jointly by mutual  
 94 agreement in accord with this act and in such combinations as  
 95 their common interests may dictate and require.

96 Section 4. Paragraph (h) of subsection (5) of section  
 97 163.3180, Florida Statutes, is amended to read:

98 163.3180 Concurrency.—

99 (5)

100 (h)1. Notwithstanding any provision in a development

101 order, an agreement, a local comprehensive plan, or a local land  
102 development regulation, local governments that continue to  
103 implement a transportation concurrency system, whether in the  
104 form adopted into the comprehensive plan before the effective  
105 date of the Community Planning Act, chapter 2011-139, Laws of  
106 Florida, or as subsequently modified, must:

107 a. Consult with the Department of Transportation when  
108 proposed plan amendments affect facilities on the strategic  
109 intermodal system.

110 b. Exempt public transit facilities from concurrency. For  
111 the purposes of this sub-subparagraph, public transit facilities  
112 include transit stations and terminals; transit station parking;  
113 park-and-ride lots; intermodal public transit connection or  
114 transfer facilities; fixed bus, guideway, and rail stations; and  
115 airport passenger terminals and concourses, air cargo  
116 facilities, and hangars for the assembly, manufacture,  
117 maintenance, or storage of aircraft. As used in this sub-  
118 subparagraph, the terms "terminals" and "transit facilities" do  
119 not include seaports or commercial or residential development  
120 constructed in conjunction with a public transit facility.

121 c. Allow an applicant for a development-of-regional-impact  
122 development order, development agreement, rezoning, or other  
123 land use development permit to satisfy the transportation  
124 concurrency requirements of the local comprehensive plan, the  
125 local government's concurrency management system, and s. 380.06,

126 when applicable, if:

127 (I) The applicant in good faith offers to enter into a  
 128 binding agreement to pay for or construct its proportionate  
 129 share of required improvements in a manner consistent with this  
 130 subsection.

131 (II) The proportionate-share contribution or construction  
 132 is sufficient to accomplish one or more mobility improvements  
 133 that will benefit a regionally significant transportation  
 134 facility. A local government may accept contributions from  
 135 multiple applicants for a planned improvement if it maintains  
 136 contributions in a separate account designated for that purpose.

137 d. Provide the basis upon which the landowners will be  
 138 assessed a proportionate share of the cost addressing the  
 139 transportation impacts resulting from a proposed development.

140 e. Credit the fair market value of any land dedicated to a  
 141 governmental entity for transportation facilities against the  
 142 total proportionate share payments computed pursuant to this  
 143 section.

144 2. An applicant is ~~shall~~ not be held responsible for the  
 145 additional cost of reducing or eliminating deficiencies. When an  
 146 applicant contributes or constructs its proportionate share  
 147 pursuant to this paragraph, a local government may not require  
 148 payment or construction of transportation facilities whose costs  
 149 would be greater than a development's proportionate share of the  
 150 improvements necessary to mitigate the development's impacts.

151 a. The proportionate-share contribution shall be  
152 calculated based upon the number of trips from the proposed  
153 development expected to reach roadways during the peak hour from  
154 the stage or phase being approved, divided by the change in the  
155 peak hour maximum service volume of roadways resulting from  
156 construction of an improvement necessary to maintain or achieve  
157 the adopted level of service, multiplied by the construction  
158 cost, at the time of development payment, of the improvement  
159 necessary to maintain or achieve the adopted level of service.

160 b. In using the proportionate-share formula provided in  
161 this subparagraph, the applicant, in its traffic analysis, shall  
162 identify those roads or facilities that have a transportation  
163 deficiency in accordance with the transportation deficiency as  
164 defined in subparagraph 4. The proportionate-share formula  
165 provided in this subparagraph shall be applied only to those  
166 facilities that are determined to be significantly impacted by  
167 the project traffic under review. If any road is determined to  
168 be transportation deficient without the project traffic under  
169 review, the costs of correcting that deficiency shall be removed  
170 from the project's proportionate-share calculation and the  
171 necessary transportation improvements to correct that deficiency  
172 shall be considered to be in place for purposes of the  
173 proportionate-share calculation. The improvement necessary to  
174 correct the transportation deficiency is the funding  
175 responsibility of the entity that has maintenance responsibility

176 for the facility. The development's proportionate share shall be  
177 calculated only for the needed transportation improvements that  
178 are greater than the identified deficiency.

179 c. When the provisions of subparagraph 1. and this  
180 subparagraph have been satisfied for a particular stage or phase  
181 of development, all transportation impacts from that stage or  
182 phase for which mitigation was required and provided shall be  
183 deemed fully mitigated in any transportation analysis for a  
184 subsequent stage or phase of development. ~~Trips from a previous  
185 stage or phase that did not result in impacts for which  
186 mitigation was required or provided may be cumulatively analyzed  
187 with trips from a subsequent stage or phase to determine whether  
188 an impact requires mitigation for the subsequent stage or phase.~~

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

192 e. The applicant shall receive a credit on a dollar-for-  
193 dollar basis for impact fees, mobility fees, and other  
194 transportation concurrency mitigation requirements paid or  
195 payable in the future for the project. The credit shall be  
196 reduced up to 20 percent by the percentage share that the  
197 project's traffic represents of the added capacity of the  
198 selected improvement, or by the amount specified by local  
199 ordinance, whichever yields the greater credit.

200 3. This subsection does not require a local government to



201 approve a development that, for reasons other than  
 202 transportation impacts, is not qualified for approval pursuant  
 203 to the applicable local comprehensive plan and land development  
 204 regulations.

205 4. As used in this subsection, the term "transportation  
 206 deficiency" means a facility or facilities on which the adopted  
 207 level-of-service standard is exceeded by the existing,  
 208 committed, and vested trips, plus additional projected  
 209 background trips from any source other than the development  
 210 project under review, and trips that are forecast by established  
 211 traffic standards, including traffic modeling, consistent with  
 212 the University of Florida's Bureau of Economic and Business  
 213 Research medium population projections. Additional projected  
 214 background trips are to be coincident with the particular stage  
 215 or phase of development under review.

216 Section 5. Subsection (2) and paragraph (a) of subsection  
 217 (5) of section 163.31801, Florida Statutes, are amended to read:  
 218 163.31801 Impact fees; short title; intent; minimum  
 219 requirements; audits; challenges.—

220 (2) The Legislature finds that impact fees are an  
 221 important source of revenue for a local government to use in  
 222 funding the infrastructure necessitated by new growth. The  
 223 Legislature further finds that impact fees are an outgrowth of  
 224 the home rule power of a local government to provide certain  
 225 services within its jurisdiction. Due to the growth of impact

226 fee collections and local governments' reliance on impact fees,  
 227 it is the intent of the Legislature to ensure that, when a  
 228 county or municipality adopts an impact fee by ordinance or a  
 229 special district, if authorized by its special act, adopts an  
 230 impact fee by resolution, the governing authority complies with  
 231 this section.

232 (5)(a) Notwithstanding any charter provision,  
 233 comprehensive plan policy, ordinance, development order,  
 234 development permit, agreement, or resolution to the contrary,  
 235 the local government or special district must credit against the  
 236 collection of the impact fee any contribution, whether  
 237 identified in an ~~a proportionate share~~ agreement or other form  
 238 of exaction, related to public facilities or infrastructure,  
 239 including land dedication, site planning and design, or  
 240 construction. Any contribution must be applied on a dollar-for-  
 241 dollar basis at fair market value to reduce any impact fee  
 242 collected for the general category or class of public facilities  
 243 or infrastructure for which the contribution was made.

244 Section 6. Section 166.04152, Florida Statutes, is created  
 245 to read:

246 166.04152 Final orders and decisions of municipal historic  
 247 preservation boards.-

248 (1) Notwithstanding any local charter, ordinance, or  
 249 regulation to the contrary, any final order or decision made by  
 250 an historic preservation board established pursuant to municipal

251 charter or ordinance may be appealed to the board of county  
 252 commissioners of the county in which the municipality is  
 253 located.

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

256 (3) The board of county commissioners, after the public  
 257 hearing, may approve or reject the final order or decision. The  
 258 determination of the board of county commissioners is final.

259 (4) This section is supplemental to all other remedies  
 260 available under law.

261 Section 7. Paragraph (d) of subsection (5) and subsections  
 262 (7) and (8) of section 380.06, Florida Statutes, are amended to  
 263 read:

264 380.06 Developments of regional impact.—

265 (5) CREDITS AGAINST LOCAL IMPACT FEES.—

266 (d) This subsection does not apply to internal, private  
 267 onsite facilities required by local regulations or to any  
 268 offsite facilities to the extent that such facilities are  
 269 necessary to provide safe and adequate services solely to the  
 270 development and not the general public.

271 (7) CHANGES.—

272 (a) Notwithstanding any provision to the contrary in any  
 273 development order, agreement, local comprehensive plan, or local  
 274 land development regulation, this section applies to all ~~any~~  
 275 proposed changes ~~change~~ to a previously approved development of

276 regional impact. ~~shall be reviewed by~~ The local government must  
277 base its review ~~based~~ on the standards and procedures in its  
278 adopted local comprehensive plan and adopted local land  
279 development regulations, including, but not limited to,  
280 procedures for notice to the applicant and the public regarding  
281 the issuance of development orders. However, a change to a  
282 development of regional impact that has the effect of reducing  
283 the originally approved height, density, or intensity of the  
284 development or that changes only the location or acreage of uses  
285 and infrastructure or exchanges permitted uses must be  
286 administratively approved and is not subject to review by the  
287 local government. The local government review of any proposed  
288 change to a previously approved development of regional impact  
289 and of any development order required to construct the  
290 development set forth in the development of regional impact ~~must~~  
291 ~~be reviewed by the local government based on the standards in~~  
292 ~~the local comprehensive plan at the time the development was~~  
293 ~~originally approved, and if the development would have been~~  
294 ~~consistent with the comprehensive plan in effect when the~~  
295 ~~development was originally approved, the local government may~~  
296 ~~approve the change. If the revised development is approved, the~~  
297 ~~developer may proceed as provided in s. 163.3167(5). For any~~  
298 ~~proposed change to a previously approved development of regional~~  
299 ~~impact, at least one public hearing must be held on the~~  
300 ~~application for change, and any change must be approved by the~~

301 ~~local governing body before it becomes effective. The review~~  
302 must abide by any prior agreements or other actions vesting the  
303 laws and policies governing the development. Development within  
304 the previously approved development of regional impact may  
305 continue, as approved, during the review in portions of the  
306 development which are not directly affected by the proposed  
307 change.

308 (b) The local government shall either adopt an amendment  
309 to the development order that approves the application, with or  
310 without conditions, or deny the application for the proposed  
311 change. Any new conditions in the amendment to the development  
312 order issued by the local government may address only those  
313 impacts directly created by the proposed change, and must be  
314 consistent with s. 163.3180 (5) ~~, the adopted comprehensive plan,~~  
315 ~~and adopted land development regulations.~~ Changes to a phase  
316 date, buildout date, expiration date, or termination date may  
317 also extend any required mitigation associated with a phased  
318 construction project so that mitigation takes place in the same  
319 timeframe relative to the impacts as approved.

320 (c) This section is not intended to alter or otherwise  
321 limit the extension, previously granted by statute, of a  
322 commencement, buildout, phase, termination, or expiration date  
323 in any development order for an approved development of regional  
324 impact and any corresponding modification of a related permit or  
325 agreement. Any such extension is not subject to review or

326 modification in any future amendment to a development order  
327 pursuant to the adopted local comprehensive plan and adopted  
328 local land development regulations.

329 (d) Any proposed change to a previously approved  
330 development of regional impact showing a dedicated multimodal  
331 pathway suitable for bicycles, pedestrians, and low-speed  
332 vehicles, as defined in s. 320.01(41), along any internal  
333 roadway must be approved so long as the right-of-way remains  
334 sufficient for the ultimate number of lanes of the internal  
335 roadway. Any proposed change to a previously approved  
336 development of regional impact which proposes to substitute a  
337 multimodal pathway suitable for bicycles, pedestrians, and low-  
338 speed vehicles, as defined in s. 320.01(41), in lieu of an  
339 internal roadway must be approved if the change does not result  
340 in any roadway within or adjacent to the development of regional  
341 impact falling below the local government's adopted level of  
342 service and does not increase the original distribution of trips  
343 on any roadway analyzed as part of the approved development of  
344 regional impact by more than 20 percent. If the developer has  
345 already dedicated right-of-way to the local government for the  
346 proposed internal roadway as part of the approval of the  
347 proposed change, the local government must return any interest  
348 it may have in the right-of-way to the developer.

349 (8) VESTED RIGHTS.—Nothing in this section shall limit or  
350 modify the rights of any person to complete any development that

351 was authorized by registration of a subdivision pursuant to  
352 former chapter 498, by recordation pursuant to local subdivision  
353 plat law, or by a building permit or other authorization to  
354 commence development on which there has been reliance and a  
355 change of position and which registration or recordation was  
356 accomplished, or which permit or authorization was issued, prior  
357 to July 1, 1973. If a developer has, by his or her actions in  
358 reliance on prior regulations, obtained vested or other legal  
359 rights that in law would have prevented a local government from  
360 changing those regulations in a way adverse to the developer's  
361 interests, nothing in this chapter authorizes any governmental  
362 agency to abridge those rights. Consistent with s. 163.3167(5),  
363 comprehensive plan policies and land development regulations  
364 adopted after a development of regional impact has vested do not  
365 apply to proposed changes to an approved development of regional  
366 impact or to development orders required to implement the  
367 approved development of regional impact.

368 (a) For the purpose of determining the vesting of rights  
369 under this subsection, approval pursuant to local subdivision  
370 plat law, ordinances, or regulations of a subdivision plat by  
371 formal vote of a county or municipal governmental body having  
372 jurisdiction after August 1, 1967, and prior to July 1, 1973, is  
373 sufficient to vest all property rights for the purposes of this  
374 subsection; and no action in reliance on, or change of position  
375 concerning, such local governmental approval is required for

376 vesting to take place. Anyone claiming vested rights under this  
377 paragraph must notify the department in writing by January 1,  
378 1986. Such notification shall include information adequate to  
379 document the rights established by this subsection. When such  
380 notification requirements are met, in order for the vested  
381 rights authorized pursuant to this paragraph to remain valid  
382 after June 30, 1990, development of the vested plan must be  
383 commenced prior to that date upon the property that the state  
384 land planning agency has determined to have acquired vested  
385 rights following the notification or in a binding letter of  
386 interpretation. When the notification requirements have not been  
387 met, the vested rights authorized by this paragraph shall expire  
388 June 30, 1986, unless development commenced prior to that date.

389 (b) For the purpose of this act, the conveyance of  
390 property or compensation, or the agreement to convey ~~7~~ property  
391 or compensation, to the county, state, or local government ~~as a~~  
392 ~~prerequisite to zoning change approval~~ shall be construed as an  
393 act of reliance to vest rights as determined under this  
394 subsection, ~~provided such zoning change is actually granted by~~  
395 ~~such government.~~

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