

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

44
 45 Be It Enacted by the Legislature of the State of Florida:

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

49 125.01 Powers and duties.—

50 (1) The legislative and governing body of a county shall

51 have the power to carry on county government. To the extent not
52 inconsistent with general or special law, this power includes,
53 but is not restricted to, the power to:

54 (dd) Hear appeals of final orders and decisions of
55 municipal historic preservation boards as provided in s.
56 166.04152.

57 Section 2. Section 163.046, Florida Statutes, is created
58 to read:

59 163.046 Tree pruning, trimming, or removal; property used
60 for veterans health care facilities.-

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

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

70 Section 3. Paragraphs (a) through (i) of subsection (5) of
71 section 163.3180, Florida Statutes, are redesignated as
72 paragraphs (b) through (j), respectively, present paragraphs (h)
73 and (i) are amended, and a new paragraph (a) is added to that
74 subsection, to read:

75 163.3180 Concurrency.-

76 (5)(a) Local governments shall have exclusive power and
 77 responsibility to evaluate transportation impacts, apply
 78 concurrency, and assess any fee related to transportation
 79 improvements set forth in this subsection.

80 (i)-(h)1. Notwithstanding any provision in a development
 81 order, an agreement, a local comprehensive plan, or a local land
 82 development regulation, local governments that continue to
 83 implement a transportation concurrency system, whether in the
 84 form adopted into the comprehensive plan before the effective
 85 date of the Community Planning Act, chapter 2011-139, Laws of
 86 Florida, or as subsequently modified, must:

87 a. Consult with the Department of Transportation when
 88 proposed plan amendments affect facilities on the strategic
 89 intermodal system.

90 b. Exempt public transit facilities from concurrency. For
 91 the purposes of this sub-subparagraph, public transit facilities
 92 include transit stations and terminals; transit station parking;
 93 park-and-ride lots; intermodal public transit connection or
 94 transfer facilities; fixed bus, guideway, and rail stations; and
 95 airport passenger terminals and concourses, air cargo
 96 facilities, and hangars for the assembly, manufacture,
 97 maintenance, or storage of aircraft. As used in this sub-
 98 subparagraph, the terms "terminals" and "transit facilities" do
 99 not include seaports or commercial or residential development
 100 constructed in conjunction with a public transit facility.

101 c. Allow an applicant for a development-of-regional-impact
 102 development order, development agreement, rezoning, or other
 103 land use development permit to satisfy the transportation
 104 concurrency requirements of the local comprehensive plan, the
 105 local government's concurrency management system, and s. 380.06,
 106 when applicable, if:

107 (I) The applicant in good faith offers to enter into a
 108 binding agreement to pay for or construct its proportionate
 109 share of required improvements in a manner consistent with this
 110 subsection.

111 (II) The proportionate-share contribution or construction
 112 is sufficient to accomplish one or more mobility improvements
 113 that will benefit a regionally significant transportation
 114 facility. A local government may accept contributions from
 115 multiple applicants for a planned improvement if it maintains
 116 contributions in a separate account designated for that purpose.

117 d. Provide the basis upon which the landowners will be
 118 assessed a proportionate share of the cost addressing the
 119 transportation impacts resulting from a proposed development.

120 e. Credit the fair market value of any land dedicated to a
 121 governmental entity for transportation facilities against the
 122 total proportionate share payments computed pursuant to this
 123 section.

124 2. An applicant is ~~shall not be held~~ responsible for the
 125 additional cost of reducing or eliminating deficiencies. When an

126 applicant contributes or constructs its proportionate share
127 pursuant to this paragraph, a local government may not require
128 payment or construction of transportation facilities whose costs
129 would be greater than a development's proportionate share of the
130 improvements necessary to mitigate the development's impacts.

131 a. The proportionate-share contribution shall be
132 calculated based upon the number of trips from the proposed
133 development expected to reach roadways during the peak hour from
134 the stage or phase being approved, divided by the change in the
135 peak hour maximum service volume of roadways resulting from
136 construction of an improvement necessary to maintain or achieve
137 the adopted level of service, multiplied by the construction
138 cost, at the time of development payment, of the improvement
139 necessary to maintain or achieve the adopted level of service.

140 b. In using the proportionate-share formula provided in
141 this subparagraph, the applicant, in its traffic analysis, shall
142 identify those roads or facilities that have a transportation
143 deficiency in accordance with the transportation deficiency as
144 defined in subparagraph 4. The proportionate-share formula
145 provided in this subparagraph shall be applied only to those
146 facilities that are determined to be significantly impacted by
147 the project traffic under review. If any road is determined to
148 be transportation deficient without the project traffic under
149 review, the costs of correcting that deficiency shall be removed
150 from the project's proportionate-share calculation and the

151 necessary transportation improvements to correct that deficiency
152 shall be considered to be in place for purposes of the
153 proportionate-share calculation. The improvement necessary to
154 correct the transportation deficiency is the funding
155 responsibility of the entity that has maintenance responsibility
156 for the facility. The development's proportionate share shall be
157 calculated only for the needed transportation improvements that
158 are greater than the identified deficiency.

159 c. When the provisions of subparagraph 1. and this
160 subparagraph have been satisfied for a particular stage or phase
161 of development, all transportation impacts from that stage or
162 phase for which mitigation was required and provided shall be
163 deemed fully mitigated in any transportation analysis for a
164 subsequent stage or phase of development. Trips from a previous
165 stage or phase that were not analyzed ~~did not result in impacts~~
166 ~~for which mitigation was required or provided~~ may be
167 cumulatively analyzed ~~with trips from a subsequent stage or~~
168 ~~phase to determine whether an impact requires mitigation for the~~
169 ~~subsequent stage or phase.~~

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

173 e. The applicant shall receive a credit on a dollar-for-
174 dollar basis for impact fees, mobility fees, and other
175 transportation concurrency mitigation requirements paid or

176 payable in the future for the project. The credit shall be
177 reduced up to 20 percent by the percentage share that the
178 project's traffic represents of the added capacity of the
179 selected improvement, or by the amount specified by local
180 ordinance, whichever yields the greater credit.

181 3. This subsection does not require a local government to
182 approve a development that, for reasons other than
183 transportation impacts, is not qualified for approval pursuant
184 to the applicable local comprehensive plan and land development
185 regulations.

186 4. As used in this subsection, the term "transportation
187 deficiency" means a facility or facilities on which the adopted
188 level-of-service standard is exceeded by the existing,
189 committed, and vested trips, plus additional projected
190 background trips from any source other than the development
191 project under review, and trips that are forecast by established
192 traffic standards, including traffic modeling, consistent with
193 the University of Florida's Bureau of Economic and Business
194 Research medium population projections. Additional projected
195 background trips are to be coincident with the particular stage
196 or phase of development under review.

197 (j)~~(i)~~ If a local government elects to repeal
198 transportation concurrency, it is encouraged to adopt an
199 alternative mobility funding system that uses one or more of the
200 tools and techniques identified in paragraph (g)~~(f)~~. Any

201 alternative mobility funding system adopted may not be used to
 202 deny, time, or phase an application for site plan approval, plat
 203 approval, final subdivision approval, building permits, or the
 204 functional equivalent of such approvals provided that the
 205 developer agrees to pay for the development's identified
 206 transportation impacts via the funding mechanism implemented by
 207 the local government. The revenue from the funding mechanism
 208 used in the alternative system must be used to implement the
 209 needs of the local government's plan which serves as the basis
 210 for the fee imposed. A mobility fee-based funding system must
 211 comply with s. 163.31801 governing impact fees. An alternative
 212 system that is not mobility fee-based shall not be applied in a
 213 manner that imposes upon new development any responsibility for
 214 funding an existing transportation deficiency as defined in
 215 paragraph (i)~~(h)~~.

216 Section 4. 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 5. 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 6. 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 7. This act shall take effect upon becoming a law.