

26 | impact fee credits with full benefit of intensity and
 27 | density of prepaid credit balances as of a specified
 28 | date in certain circumstances; amending s. 212.055,
 29 | F.S.; conforming a cross-reference; providing an
 30 | effective date.

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

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34 | Section 1. Subsections (32) through (52) of section
 35 | 163.3164, Florida Statutes, are renumbered as subsections (34)
 36 | through (54), respectively, and new subsections (32) and (33)
 37 | are added to that section, to read:

38 | 163.3164 Community Planning Act; definitions.—As used in
 39 | this act:

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

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

49 | Section 2. Paragraphs (h) and (i) of subsection (5) of
 50 | section 163.3180, Florida Statutes, are amended, and paragraph

51 (j) is added to that subsection, to read:

52 163.3180 Concurrency.—

53 (5)

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

59 a. Consult with the Department of Transportation when
 60 proposed plan amendments affect facilities on the strategic
 61 intermodal system.

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

73 c. Allow an applicant for a development-of-regional-impact
 74 development order, development agreement, rezoning, or other
 75 land use development permit to satisfy the transportation

76 concurrency requirements of the local comprehensive plan, the
 77 local government's concurrency management system, and s. 380.06,
 78 when applicable, if:

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

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 A local government may not prevent a single applicant from
 94 proceeding after the applicant has satisfied its proportionate-
 95 share contribution.

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

99 2. An applicant shall not be held responsible for the
 100 additional cost of reducing or eliminating deficiencies. When an

101 applicant contributes or constructs its proportionate share
102 pursuant to this paragraph, a local government may not require
103 payment or construction of transportation facilities whose costs
104 would be greater than a development's proportionate share of the
105 improvements necessary to mitigate the development's impacts.

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

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

126 necessary transportation improvements to correct that deficiency
127 shall be considered to be in place for purposes of the
128 proportionate-share calculation. The improvement necessary to
129 correct the transportation deficiency is the funding
130 responsibility of the entity that has maintenance responsibility
131 for the facility. The development's proportionate share shall be
132 calculated only for the needed transportation improvements that
133 are greater than the identified deficiency.

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

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

147 e. The applicant shall receive a credit on a dollar-for-
148 dollar basis for impact fees, mobility fees, and other
149 transportation concurrency mitigation requirements paid or
150 payable in the future for the project. The credit shall be

151 reduced up to 20 percent by the percentage share that the
 152 project's traffic represents of the added capacity of the
 153 selected improvement, or by the amount specified by local
 154 ordinance, whichever yields the greater credit.

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

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

171 (i) If a local government elects to repeal transportation
 172 concurrency, the local government may ~~it is encouraged to~~ adopt
 173 an alternative mobility plan and fee ~~funding~~ system or an
 174 alternative system that is not mobility plan and fee based. The
 175 local government ~~that uses one or more of the tools and~~

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

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

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

204 163.31801 Impact fees; short title; intent; minimum
 205 requirements; audits; challenges.—

206 (4) At a minimum, each local government that adopts and
 207 collects an impact fee by ordinance and each special district
 208 that adopts, collects, and administers an impact fee by
 209 resolution must:

210 (a) Ensure that the calculation of the impact fee is based
 211 on the most recent and localized data available within the
 212 previous 12 months before adoption if the ordinance or
 213 resolution increases the impact fee.

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

226 facilities or infrastructure for which the contribution was
 227 made.

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

241 Section 4. Paragraph (d) of subsection (2) of section
 242 212.055, Florida Statutes, is amended to read:

243 212.055 Discretionary sales surtaxes; legislative intent;
 244 authorization and use of proceeds.—It is the legislative intent
 245 that any authorization for imposition of a discretionary sales
 246 surtax shall be published in the Florida Statutes as a
 247 subsection of this section, irrespective of the duration of the
 248 levy. Each enactment shall specify the types of counties
 249 authorized to levy; the rate or rates which may be imposed; the
 250 maximum length of time the surtax may be imposed, if any; the

251 procedure which must be followed to secure voter approval, if
 252 required; the purpose for which the proceeds may be expended;
 253 and such other requirements as the Legislature may provide.
 254 Taxable transactions and administrative procedures shall be as
 255 provided in s. 212.054.

256 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

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

276 operational expenses of infrastructure, except that a county
 277 that has a population of fewer than 75,000 and that is required
 278 to close a landfill may use the proceeds or interest for long-
 279 term maintenance costs associated with landfill closure.
 280 Counties, as defined in s. 125.011, and charter counties may, in
 281 addition, use the proceeds or interest to retire or service
 282 indebtedness incurred for bonds issued before July 1, 1987, for
 283 infrastructure purposes, and for bonds subsequently issued to
 284 refund such bonds. Any use of the proceeds or interest for
 285 purposes of retiring or servicing indebtedness incurred for
 286 refunding bonds before July 1, 1999, is ratified.

287 1. For the purposes of this paragraph, the term
 288 "infrastructure" means:

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

301 facilities are owned by the local taxing authority or another
 302 governmental entity.

303 b. A fire department vehicle, an emergency medical service
 304 vehicle, a sheriff's office vehicle, a police department
 305 vehicle, or any other vehicle, and the equipment necessary to
 306 outfit the vehicle for its official use or equipment that has a
 307 life expectancy of at least 5 years.

308 c. Any expenditure for the construction, lease, or
 309 maintenance of, or provision of utilities or security for,
 310 facilities, as defined in s. 29.008.

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

326 subsequent owner until the end of the minimum period.

327 e. Any land acquisition expenditure for a residential
 328 housing project in which at least 30 percent of the units are
 329 affordable to individuals or families whose total annual
 330 household income does not exceed 120 percent of the area median
 331 income adjusted for household size, if the land is owned by a
 332 local government or by a special district that enters into a
 333 written agreement with the local government to provide such
 334 housing. The local government or special district may enter into
 335 a ground lease with a public or private person or entity for
 336 nominal or other consideration for the construction of the
 337 residential housing project on land acquired pursuant to this
 338 sub-subparagraph.

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

347 2. For the purposes of this paragraph, the term "energy
 348 efficiency improvement" means any energy conservation and
 349 efficiency improvement that reduces consumption through
 350 conservation or a more efficient use of electricity, natural

351 gas, propane, or other forms of energy on the property,
352 including, but not limited to, air sealing; installation of
353 insulation; installation of energy-efficient heating, cooling,
354 or ventilation systems; installation of solar panels; building
355 modifications to increase the use of daylight or shade;
356 replacement of windows; installation of energy controls or
357 energy recovery systems; installation of electric vehicle
358 charging equipment; installation of systems for natural gas fuel
359 as defined in s. 206.9951; and installation of efficient
360 lighting equipment.

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

371 Section 5. This act shall take effect July 1, 2024.