A bill to be entitled

An act relating to impact fees; amending s. 163.3164, F.S.; defining the term "plan-based methodology"; amending s. 163.3177, F.S.; providing requirements for coordination mechanisms that are required for certain agreements required as part of the intergovernmental coordination element of a comprehensive plan; amending s. 163.3180, F.S.; requiring that certain interlocal agreements use a plan-based methodology for a certain purpose; prohibiting certain interlocal agreements from extending beyond a specified date; deleting an exception to an applicability provision relating to concurrency; amending s. 163.31801, F.S.; defining the term "extraordinary circumstances"; requiring that a demonstrated-need study use a plan-based methodology for a certain purpose; requiring that certain capacity standards be specified in a certain impact fee study; requiring that a demonstrated-need study be accompanied by a certain declaration; requiring local governments, school districts, and special districts to use localized data for a certain purpose; prohibiting local governments, school districts, and special districts from using certain data for a specified purpose; prohibiting local governments, school districts, and special districts from including

certain deductions in certain impact fee increases and from increasing impact fee rates beyond certain phase-in limitations by more than a specified percentage within a certain timeframe; providing that a prevailing petitioner is entitled to an impact fee overpayment refund, with interest, under certain circumstances; requiring local governments, school districts, and special districts to issue such refunds within a specified timeframe; providing that certain prevailing petitioners are entitled to reasonable attorney fees and costs; amending s. 212.055, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Present subsections (39) through (54) of section 163.3164, Florida Statutes, are redesignated as subsections (40) through (55), respectively, and a new subsection (39) is added to that section, to read:

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

(39) "Plan-based methodology" means a study methodology that uses the most recent and localized data to project growth within a jurisdiction over a 10-year period, anticipate capacity

impacts on relevant systems which will be created by the projected growth, and establish a list of capital projects to be constructed or purchased in a defined time period to mitigate the anticipated capacity impacts as part of a new or updated impact fee study. The capital projects identified in the study and any necessary interlocal agreement must comport with the requirements of s. 163.3177(6)(h).

Section 2. Paragraph (h) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.709, as the case may require and as such adopted plans or plans in preparation may exist. This element of

the local comprehensive plan must demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element must provide procedures for identifying and implementing joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for a dispute resolution process, as established pursuant to s. 186.509, for bringing intergovernmental disputes to closure in a timely manner.

c. The intergovernmental coordination element shall provide for interlocal agreements as established pursuant to s. 333.03(1)(b).

2. The intergovernmental coordination element shall also state principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element must describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject

to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement.

3. Within 1 year after adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements. The agreement must:

a. Ensure that the local government addresses through coordination mechanisms the impacts of development proposed in the local comprehensive plan upon development in adjacent municipalities, the county, adjacent counties, the region, and the state. The area of concern for municipalities shall include adjacent municipalities, the county, and counties adjacent to the municipality. The area of concern for counties shall include all municipalities within the county, adjacent counties, and adjacent municipalities. Such coordination mechanisms must include plans to provide mitigation funding to address any extrajurisdictional impacts of development, consistent with the requirements of s. 163.3180(5)(j).

b. Ensure coordination in establishing level of service standards for public facilities with any state, regional, or

local entity having operational and maintenance responsibility for such facilities.

Section 3. Paragraph (j) of subsection (5) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(5)

(j)1. If a county and municipality charge the developer of a new development or redevelopment a fee for transportation capacity impacts, the county and municipality must create and execute an interlocal agreement to coordinate the mitigation of their respective transportation capacity impacts.

2. The interlocal agreement must, at a minimum:

a. Ensure that any new development or redevelopment is not charged twice for the same transportation capacity impacts.

b. Establish a plan-based methodology for determining the legally permissible fee to be charged to a new development or redevelopment.

c. Require the county or municipality issuing the building permit to collect the fee, unless agreed to otherwise.

d. Provide a method for the proportionate distribution of the revenue collected by the county or municipality to address the transportation capacity impacts of a new development or redevelopment, or provide a method of assigning responsibility for the mitigation of the transportation capacity impacts belonging to the county and the municipality.

e. Use a plan-based methodology in complying with the requirements of s. 163.3177(6)(h).

3. By October 1, 2025, if an interlocal agreement is not executed pursuant to this paragraph:

a. The fee charged to a new development or redevelopment shall be based on the transportation capacity impacts apportioned to the county and municipality as identified in the developer's traffic impact study or the mobility plan adopted by the county or municipality.

b. The developer shall receive a 10 percent reduction in the total fee calculated pursuant to sub-subparagraph a.

c. The county or municipality issuing the building permit must collect the fee charged pursuant to sub-subparagraphs a. and b. and distribute the proceeds of such fee to the county and municipality within 60 days after the developer's payment.

4. This paragraph does not apply to:

a. A county as defined in s. 125.011(1).

b. A county or municipality that has entered into, or otherwise updated, an existing interlocal agreement, as of October 1, 2024, to coordinate the mitigation of transportation impacts. However, if such existing interlocal agreement is terminated, the affected county and municipality that have entered into the agreement are ~~shall be~~ subject to the requirements of this paragraph. An interlocal agreement entered into before October 1, 2024, may not extend beyond October 1,

2031 ~~unless the county and municipality mutually agree to extend the existing interlocal agreement before the expiration of the agreement~~.

Section 4. Present paragraphs (a) and (b) of subsection (3) of section 163.31801, Florida Statutes, are redesignated as paragraphs (b) and (c), respectively, a new paragraph (a) is added to that subsection, and paragraph (g) of subsection (6) and subsection (9) of that section are amended, to read:

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

(3) For purposes of this section, the term:

(a) "Extraordinary circumstances" means measurable effects of development which will require mitigation by the affected local government, school district, or special district and which exceed the total of the current adopted impact fee amount and any increase as provided in paragraphs (6)(c), (d), and (e) in less than 4 years.

(6) A local government, school district, or special district may increase an impact fee only as provided in this subsection.

(g)1. A local government, school district, or special district may increase an impact fee rate beyond the phase-in limitations established under paragraph (b), paragraph (c), paragraph (d), or paragraph (e) by establishing the need for

such increase in full compliance with the requirements of subsection (4), provided the following criteria are met:

a. A demonstrated-need study using a plan-based methodology which justifies ~~justifying~~ any increase in excess of those authorized in paragraph (b), paragraph (c), paragraph (d), or paragraph (e) has been completed within the 12 months before the adoption of the impact fee increase and expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations. The capacity standards used to support the existence of such extraordinary circumstances must be specified in the impact fee study adopted under paragraph (4)(a). The demonstrated-need study must be accompanied by a declaration stating how and the timeframe during which the proposed impact fee increase will be used to construct or purchase the improvements necessary to increase capacity. The local government, school district, or special district must use localized data reflecting differences in costs and modality of projects between urban, emerging urban, and rural areas, as applicable within the study area, to project the anticipated growth or capacity impacts which underlie the extraordinary circumstances necessitating the impact fee increase.

b. The local government jurisdiction has held at least two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in

limitations set forth in paragraph (b), paragraph (c), paragraph (d), or paragraph (e).

c. The impact fee increase ordinance is approved by a unanimous vote of the governing body.

2. An impact fee increase approved under this paragraph must be implemented in at least two but not more than four equal annual increments beginning with the date on which the impact fee increase ordinance is adopted.

3. A local government, school district, or special district may not:

a. Increase an impact fee rate beyond the phase-in limitations under this paragraph if the local government, school district, or special district has not increased the impact fee within the past 5 years. Any year in which the local government, school district, or special district is prohibited from increasing an impact fee because the jurisdiction is in a hurricane disaster area is not included in the 5-year period.

b. Use data that is older than 4 years to demonstrate extraordinary circumstances.

c. Include in the impact fee increase any deduction authorized by a previous or existing impact fee.

d. Increase an impact fee rate beyond the phase-in limitations under this paragraph by more than 100 percent divided equally over a 4-year period.

(9) In any action challenging an impact fee or the

government's failure to provide required dollar-for-dollar credits for the payment of impact fees as provided in s. 163.3180(6)(h)2.b.:~~,~~

(a) The government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government. If the court determines that the petitioner made an overpayment due to an improperly assessed impact fee, the petitioner is entitled to a refund in the amount of the overpayment with interest, with such interest amount determined by the court. The local government, school district, or special district that assessed the impact fee must issue the refund within 90 days after the judgment becomes final.

(b) A prevailing petitioner who is a resident of or an owner of a business located within the jurisdiction of the local government, school district, or special district that imposed the impact fee in violation of this section is entitled to reasonable attorney fees and costs. Such petitioner is further entitled to reasonable attorney fees and costs in any subsequent action necessary to collect a refund ordered by the court for any impact fee overpayment.

Section 5. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; to provide loans, grants, or rebates to residential or commercial property owners who make energy

efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

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

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, any related land acquisition, land improvement, design,

and engineering costs, and all other professional and related costs required to bring the public facilities into service. For purposes of this sub-subparagraph, the term "public facilities" means facilities as defined in s. 163.3164(42) ~~s. 163.3164(41)~~, s. 163.3221(13), or s. 189.012(5), and includes facilities that are necessary to carry out governmental purposes, including, but not limited to, fire stations, general governmental office buildings, and animal shelters, regardless of whether the facilities are owned by the local taxing authority or another governmental entity.

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

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

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s.

252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

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

f. Instructional technology used solely in a school district's classrooms. As used in this sub-subparagraph, the term "instructional technology" means an interactive device that assists a teacher in instructing a class or a group of students

and includes the necessary hardware and software to operate the interactive device. The term also includes support systems in which an interactive device may mount and is not required to be affixed to the facilities.

2. For the purposes of this paragraph, the term "energy efficiency improvement" means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. 206.9951; and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county's accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and

incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

4. Surtax revenues that are shared with eligible charter schools pursuant to paragraph (c) shall be allocated among such schools based on each school's proportionate share of total school district capital outlay full-time equivalent enrollment as adopted by the education estimating conference established in s. 216.136. Surtax revenues must be expended by the charter school in a manner consistent with the allowable uses provided in s. 1013.62(4). All revenues and expenditures shall be accounted for in a charter school's monthly or quarterly financial statement pursuant to s. 1002.33(9). If a school's charter is not renewed or is terminated and the school is dissolved under the provisions of law under which the school was organized, any unencumbered funds received under this paragraph shall revert to the sponsor.

Section 6. This act shall take effect July 1, 2026.