

By Senator Bennett

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1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3180, F.S.; revising provisions relating to
4 transportation concurrency requirements; requiring
5 that a local government develop a plan and long-term
6 schedule of capital improvements for an existing or
7 previously approved development; revising provisions
8 relating to calculating the proportionate-share
9 contribution; defining the term "present value";
10 providing that any state or local transportation
11 ordinance relating to concurrency does not apply to
12 proposed developments within certain transportation
13 concurrency exception areas; providing exceptions;
14 authorizing a local government that is not designated
15 as a dense urban area to impose the requirements of
16 its ordinances on a development to offset the
17 concurrency requirements of the development under
18 certain circumstances; revising provisions relating to
19 calculating the proportionate fair-share mitigation;
20 requiring that a local government process a
21 development's application to completion even if the
22 designated funds are insufficient; amending s.
23 163.3182, F.S.; revising provisions relating to
24 transportation concurrency backlog authorities;
25 authorizing certain landowners or developers to
26 request that a local government create a
27 transportation concurrency backlog area for certain
28 roadways; requiring that the local government
29 designate the transportation concurrency backlog area

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30 if certain conditions are met; prohibiting a local
31 government from requiring any payments for
32 transportation concurrency beyond impact fees;
33 providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Paragraph (b) of subsection (9), subsection
38 (12), and paragraph (d) of subsection (16) of section 163.3180,
39 Florida Statutes, are amended, and paragraphs (j) and (k) are
40 added to subsection (16) of that section, to read:

41 163.3180 Concurrency.—

42 (9)

43 (b) If a local government has a transportation or school
44 facility backlog for an existing or previously approved
45 development which cannot be adequately addressed in a 10-year
46 plan, the local government shall ~~state land planning agency may~~
47 ~~allow it to~~ develop a plan and long-term schedule of capital
48 improvements covering up to 15 years ~~for good and sufficient~~
49 ~~cause~~, based on a general comparison between that local
50 government and ~~all~~ other similarly situated local jurisdictions,
51 using the following factors:

52 1. The extent of the backlog.

53 2. For roads, whether the backlog is on local or state
54 roads.

55 3. The cost of eliminating the backlog.

56 4. The local government's tax and other revenue-raising
57 efforts.

58 (12) (a) A development of regional impact may satisfy the

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59 transportation concurrency requirements of the local
60 comprehensive plan, the local government's concurrency
61 management system, and s. 380.06 by payment of a proportionate-
62 share contribution for local and regionally significant traffic
63 impacts, if:

64 1. The development of regional impact which, based on its
65 location or mix of land uses, is designed to encourage
66 pedestrian or other nonautomotive modes of transportation;

67 2. The proportionate-share contribution for local and
68 regionally significant traffic impacts is sufficient to pay for
69 one or more required mobility improvements that will benefit a
70 regionally significant transportation facility;

71 3. The owner and developer of the development of regional
72 impact pays or assures payment of the proportionate-share
73 contribution; and

74 4. ~~If~~ The regionally significant transportation facility to
75 be constructed or improved is under the maintenance authority of
76 a governmental entity, as defined by s. 334.03(12), other than
77 the local government having ~~with~~ jurisdiction over the
78 development of regional impact, and the developer is required to
79 enter into a binding and legally enforceable commitment to
80 transfer funds to the governmental entity having maintenance
81 authority or to otherwise assure construction or improvement of
82 the facility.

83

84 The proportionate-share contribution may be applied to any
85 transportation facility to satisfy the provisions of this
86 subsection and the local comprehensive plan, but, for the
87 purposes of this subsection, the amount of the proportionate-

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88 share contribution shall be calculated based upon the cumulative
89 number of trips from the proposed development expected to reach
90 roadways during the peak hour from the complete buildout of a
91 stage or phase being approved, divided by the change in the peak
92 hour maximum service volume of roadways resulting from
93 construction of an improvement necessary to maintain the adopted
94 level of service, multiplied by the construction cost, at the
95 time of developer payment, of the improvement necessary to
96 maintain the adopted level of service. If the number of trips
97 used to calculate the proportionate-share contribution includes
98 trips from an earlier phase of the development, the
99 determination of mitigation for the subsequent phase of
100 development shall account for any mitigation required by the
101 development order and provided by the developer for the earlier
102 phase, calculated at present value. For purposes of this
103 paragraph, the term "present value" means the fair market value
104 of a right-of-way at the time of contribution and, if
105 applicable, the actual dollar value of the construction
106 improvements on the date of completion as adjusted by the
107 Consumer Price Index. For purposes of this paragraph subsection,
108 the term "construction cost" includes all associated costs of
109 the improvement. Proportionate-share mitigation shall be limited
110 to ensure that a development of regional impact meeting the
111 requirements of this subsection mitigates its impact on the
112 transportation system but is not responsible for the additional
113 cost of reducing or eliminating backlogs. This subsection also
114 applies to Florida Quality Developments pursuant to s. 380.061
115 and to detailed specific area plans implementing optional sector
116 plans pursuant to s. 163.3245.

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117 (b) Notwithstanding any other provision of general law,
118 special act, local government ordinance, or charter, any state
119 or local transportation ordinance relating to transportation
120 concurrency does not apply to proposed developments within
121 transportation concurrency exception areas designated by the
122 Legislature during the 2009 regular legislative session pursuant
123 to subsection (5). However, a local government is not prohibited
124 from adopting mobility ordinances and imposing transportation
125 fees consistent with state law in order to fulfill the
126 requirements of local government plans for transportation
127 facilities within designated transportation concurrency
128 exception areas. The provisions of s. 163.3161 do not apply
129 within transportation concurrency exception areas designated
130 pursuant to subparagraphs (5)(b)1.-3.

131 (c) A local government that is not designated as a dense
132 urban area and that experiences transportation impacts resulting
133 from a development within a transportation concurrency exception
134 area that is under the jurisdiction of another local government,
135 which is designated as a dense urban area, may impose the
136 requirements of its ordinances on the development only for the
137 purpose of collecting the appropriate fair-share or
138 proportionate-share contribution and impact fees to offset the
139 concurrency requirements of the development. However, the local
140 government must have an interlocal agreement with the local
141 government where the impacts arise which governs collection
142 before imposing the requirements.

143 (d) ~~(b)~~ As used in this subsection, the term "backlog" means
144 a facility or facilities on which the adopted level-of-service
145 standard is exceeded by the existing trips, plus additional

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146 projected background trips from any source other than the
147 development project under review that are forecast by
148 established traffic standards, including traffic modeling,
149 consistent with the University of Florida Bureau of Economic and
150 Business Research medium population projections. Additional
151 projected background trips are to be coincident with the
152 particular stage or phase of development under review.

153 (16) It is the intent of the Legislature to provide a
154 method by which the impacts of development on transportation
155 facilities can be mitigated by the cooperative efforts of the
156 public and private sectors. The methodology used to calculate
157 proportionate fair-share mitigation under this section shall be
158 as provided for in subsection (12).

159 (d) This subsection does not require a local government to
160 approve a development that is not otherwise qualified for
161 approval pursuant to the applicable local comprehensive plan and
162 land development regulations. However, the local government must
163 process the development's application to completion even if the
164 designated funds identified within the adopted 5-year capital
165 improvements element of the comprehensive plan and any
166 proportionate-share or proportionate fair-share contribution of
167 the development are insufficient to fully fund construction of a
168 transportation improvement required by the local government's
169 concurrency management system. The local government may impose
170 only those transportation funding requirements on a development
171 which are equal to its proportionate-share or proportionate
172 fair-share contribution and any required impact fees.

173 (j) Notwithstanding any other provision of general law,
174 special act, local government ordinance, or charter, any state

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175 or local transportation ordinance relating to concurrency does
176 not apply to proposed developments within transportation
177 concurrency exception areas designated by the Legislature during
178 the 2009 regular legislative session pursuant to subsection (5).
179 However, this paragraph does not prohibit a local government
180 from adopting mobility ordinances and imposing transportation
181 fees consistent with state law in order to fulfill the
182 requirements of local government plans for transportation
183 facilities within designated transportation concurrency
184 exception areas. The provisions of s. 163.3161(7) do not apply
185 within exception areas designated pursuant to subparagraphs
186 (5) (b) 1.-3.

187 (k) A local government that is not designated as a dense
188 urban area and that experiences transportation impacts resulting
189 from a development within a transportation concurrency exception
190 area that is under the jurisdiction of another local government,
191 which is designated as a dense urban area, may impose the
192 requirements of its ordinances on the development only for the
193 purpose of collecting the appropriate fair-share or
194 proportionate-share contribution and impact fees to offset the
195 concurrency requirements of the development. However, the local
196 government must have an interlocal agreement with the local
197 government where the impacts arise which governs collection
198 before imposing the requirements.

199 Section 2. Subsection (2) of section 163.3182, Florida
200 Statutes, is amended to read:

201 163.3182 Transportation concurrency backlogs.—

202 (2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG
203 AUTHORITIES.—

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204 (a) A county or municipality may create a transportation
205 concurrency backlog authority if it has an identified
206 transportation concurrency backlog.

207 (b) A landowner or developer within a large-scale
208 development area of 500 cumulative acres or more may request
209 that the local government create a transportation concurrency
210 backlog area for roadways significantly affected by traffic
211 impacts resulting from the development if those roadways are or
212 will be backlogged as defined by s. 163.3180(12) (d) and (16) (i).
213 The local government shall designate the transportation
214 concurrency backlog area by ordinance if a development permit is
215 issued or a comprehensive plan amendment is approved within the
216 development area and the funding provided is sufficient to
217 address one or more transportation capacity improvements
218 necessary to satisfy the additional deficiencies coexisting or
219 anticipated as a result of the new development. The
220 transportation concurrency backlog area shall be used to satisfy
221 all proportionate-share or proportionate fair-share
222 transportation concurrency contributions of the development not
223 otherwise satisfied by impact fees. The local government shall
224 manage the area by acting as a transportation concurrency
225 backlog authority. The applicable provisions of this section
226 shall apply except that the tax increment shall be used to
227 satisfy transportation concurrency requirements not otherwise
228 satisfied by impact fees.

229 (c)~~(b)~~ Acting as the transportation concurrency backlog
230 authority within the authority's jurisdictional boundary, the
231 governing body of a county or municipality shall adopt and
232 implement a plan to eliminate all identified transportation

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233 concurrency backlogs within the authority's jurisdiction using
234 funds provided pursuant to subsection (5) and as otherwise
235 provided pursuant to this section.

236 ~~(d)~~ (e) The Legislature finds and declares that there exist
237 in many counties and municipalities areas that have significant
238 transportation deficiencies and inadequate transportation
239 facilities; that many insufficiencies and inadequacies severely
240 limit or prohibit the satisfaction of transportation concurrency
241 standards; that the transportation insufficiencies and
242 inadequacies affect the health, safety, and welfare of the
243 residents of these counties and municipalities; that the
244 transportation insufficiencies and inadequacies adversely affect
245 economic development and growth of the tax base for the areas in
246 which these insufficiencies and inadequacies exist; and that the
247 elimination of transportation deficiencies and inadequacies and
248 the satisfaction of transportation concurrency standards are
249 paramount public purposes for the state and its counties and
250 municipalities.

251 (e) Notwithstanding any general law, special act,
252 ordinance, or charter to the contrary, a local government may
253 not require any payments for transportation concurrency beyond a
254 subject development's traffic impacts as identified pursuant to
255 impact fees or s. 163.3180(12) or (16) or require such payments
256 as a condition of receiving a development order or permit. If
257 the payments required to satisfy a development's share of
258 transportation concurrency costs do not mitigate all traffic
259 impacts of the planned development area because of existing or
260 future backlog conditions, the owner or developer may petition
261 the local government for designation of a transportation

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262 concurrency backlog area pursuant to this section. The
263 designation of a transportation concurrency backlog area shall
264 satisfy any remaining concurrency backlog requirements in the
265 impacted area.

266 Section 3. This act shall take effect July 1, 2010.