

By the Committee on Community Affairs; and Senator Bennett

578-02515-10

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1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3164, F.S.; defining the term "transit oriented
4 development"; amending s. 163.3180, F.S.; providing
5 for the expedited review of comprehensive plan
6 amendments that implement transportation concurrency
7 exception areas; accounting for the time value of
8 money for phased projects; providing for the sharing
9 of costs of mitigation for transportation concurrency;
10 amending s. 163.3182, F.S.; revising provisions
11 relating to transportation concurrency backlog
12 authorities; providing for certain landowners or
13 developers to request a transportation concurrency
14 backlog area for a development area; amending s.
15 380.06, F.S.; exempting transit oriented developments
16 from review of transportation impacts in the
17 development-of-regional-impact process; providing a
18 legislative declaration of important state interest;
19 providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (35) is added to section 163.3164,
24 Florida Statutes, to read:

25 163.3164 Local Government Comprehensive Planning and Land
26 Development Regulation Act; definitions.—As used in this act:

27 (35) "Transit oriented development" means a project or
28 projects in areas that may be served by existing or anticipated
29 transit service and are compact, mixed-use, interconnected, and

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30 pedestrian and bicycle friendly communities designed to reduce
31 per capita greenhouse gas emissions and vehicular trips and
32 include the densities, intensities, and amenities needed to
33 support frequent transit service on identified or dedicated
34 transit facilities that enable an individual to live, work,
35 play, and shop in a community without the need to rely solely on
36 a motor vehicle for mobility.

37 Section 2. Paragraph (a) of subsection (12) of section
38 163.3180, Florida Statutes, is amended, and paragraph (h) is
39 added to subsection (5) of that section and subsection (18) is
40 added that section, to read:

41 163.3180 Concurrency.—

42 (5)

43 (h) Any proposed comprehensive plan amendment directly
44 related to the creation of a transportation concurrency
45 exception area is exempt from s. 163.3187(1) and may use the
46 alternative state review process in s. 163.32465.

47 (12) (a) A development of regional impact may satisfy the
48 transportation concurrency requirements of the local
49 comprehensive plan, the local government's concurrency
50 management system, and s. 380.06 by payment of a proportionate-
51 share contribution for local and regionally significant traffic
52 impacts, if:

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

56 2. The proportionate-share contribution for local and
57 regionally significant traffic impacts is sufficient to pay for
58 one or more required mobility improvements that will benefit a

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59 regionally significant transportation facility;

60 3. The owner and developer of the development of regional
61 impact pays or assures payment of the proportionate-share
62 contribution; and

63 4. If the regionally significant transportation facility to
64 be constructed or improved is under the maintenance authority of
65 a governmental entity, as defined by s. 334.03(12), other than
66 the local government with jurisdiction over the development of
67 regional impact, the developer is required to enter into a
68 binding and legally enforceable commitment to transfer funds to
69 the governmental entity having maintenance authority or to
70 otherwise assure construction or improvement of the facility.

71
72 The proportionate-share contribution may be applied to any
73 transportation facility to satisfy the provisions of this
74 subsection and the local comprehensive plan, but, for the
75 purposes of this subsection, the amount of the proportionate-
76 share contribution shall be calculated based upon the cumulative
77 number of trips from the proposed development expected to reach
78 roadways during the peak hour from the complete buildout of a
79 stage or phase being approved, divided by the change in the peak
80 hour maximum service volume of roadways resulting from
81 construction of an improvement necessary to maintain the adopted
82 level of service, multiplied by the construction cost, at the
83 time of developer payment, of the improvement necessary to
84 maintain the adopted level of service. If the number of trips
85 used to calculate the proportionate-share contribution includes
86 trips from an earlier phase of the development, the
87 determination of mitigation for the subsequent phase of

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88 development shall account for any mitigation required by the
89 development order and provided by the developer for the earlier
90 phase, calculated at present value. For purposes of this
91 paragraph, the term "present value" means the fair market value
92 of a right-of-way at the time of contribution and, if
93 applicable, the actual dollar value of the construction
94 improvements on the date of completion as adjusted by the
95 Consumer Price Index. For purposes of this subsection,
96 "construction cost" includes all associated costs of the
97 improvement. Proportionate-share mitigation shall be limited to
98 ensure that a development of regional impact meeting the
99 requirements of this subsection mitigates its impact on the
100 transportation system but is not responsible for the additional
101 cost of reducing or eliminating backlogs. This subsection also
102 applies to Florida Quality Developments pursuant to s. 380.061
103 and to detailed specific area plans implementing optional sector
104 plans pursuant to s. 163.3245.

105 (18) The costs of mitigation for transportation impacts
106 shall be distributed to all affected jurisdictions by the local
107 government having jurisdiction over project or development
108 approval. Distribution shall be proportionate to the percentage
109 of the total transportation mitigation costs incurred by an
110 affected jurisdiction unless otherwise agreed to by the effected
111 jurisdictions. Any dispute between jurisdictions shall be
112 resolved pursuant to the governmental dispute process in chapter
113 164.

114 Section 3. Present paragraphs (b) and (c) of subsection (2)
115 of section 163.3182, Florida Statutes, are redesignated as
116 paragraphs (c) and (d), respectively, and a new paragraph (b) is

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117 added to that subsection, to read:

118 163.3182 Transportation concurrency backlogs.-

119 (2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG

120 AUTHORITIES.-

121 (b) A landowner or developer within a transit oriented
122 development of 100 or more cumulative acres or a large-scale
123 development area of 500 cumulative acres or more may request
124 that the local government establish a transportation concurrency
125 backlog area for roadways significantly affected by traffic
126 impacts resulting from the development if those roadways are or
127 will be backlogged as defined by s. 163.3180(12)(b) and (16)(i).
128 The local government shall designate the transportation
129 concurrency backlog area by ordinance if a development order is
130 issued or a comprehensive plan amendment is approved within the
131 development area and the funding provided is sufficient to
132 address one or more transportation mobility improvements
133 necessary to satisfy the additional deficiencies coexisting or
134 anticipated as a result of the new development. The
135 transportation concurrency backlog area shall be used to satisfy
136 all proportionate-share or proportionate fair-share
137 transportation concurrency contributions of the development not
138 otherwise satisfied by impact fees. The local government shall
139 manage the area by acting as a transportation concurrency
140 backlog authority. The applicable provisions of this section
141 shall apply except that the tax increment shall be used to
142 satisfy transportation concurrency requirements not otherwise
143 satisfied by impact fees.

144 Section 4. Paragraph (u) is added to subsection (24) of
145 section 380.06, Florida Statutes, to read:

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146 380.06 Developments of regional impact.—

147 (24) STATUTORY EXEMPTIONS.—

148 (u) Any transit oriented development as defined in s.
149 163.3164 incorporated into the county or municipality
150 comprehensive plan that has adopted land use and transportation
151 strategies to support and fund mobility, including alternative
152 modes of transportation, is exempt from review for
153 transportation impacts conducted pursuant to this section. This
154 paragraph does not apply to areas:

155 1. Within the boundary of any area of critical state
156 concern designated pursuant to s. 380.05;

157 2. Within the boundary of the Wekiva Study Area as
158 described in s. 369.316; or

159 3. Within 2 miles of the boundary of the Everglades
160 Protection Area as described in s. 373.4592(2).

161
162 If a use is exempt from review as a development of regional
163 impact under paragraphs (a)-(s), but will be part of a larger
164 project that is subject to review as a development of regional
165 impact, the impact of the exempt use must be included in the
166 review of the larger project, unless such exempt use involves a
167 development of regional impact that includes a landowner,
168 tenant, or user that has entered into a funding agreement with
169 the Office of Tourism, Trade, and Economic Development under the
170 Innovation Incentive Program and the agreement contemplates a
171 state award of at least \$50 million.

172 Section 5. The Legislature finds that this act fulfills an
173 important state interest.

174 Section 6. This act shall take effect July 1, 2010.