

CHAPTER 2013-78

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 319

An act relating to community transportation projects; amending s. 163.3180, F.S., relating to transportation concurrency; revising and providing requirements for local governments that continue to implement a transportation concurrency system; revising provisions for applicants for rezoning or a permit for a planned development to satisfy concurrency requirements; providing for such provisions to apply to development agreements; authorizing a local government to accept contributions from multiple applicants to satisfy such requirements under certain conditions; requiring local governments to provide the basis upon which landowners will be assessed certain costs; encouraging local governments without transportation concurrency to adopt an alternative mobility funding system; prohibiting alternative systems from denying, timing, or phasing a development application process if the developer agrees to pay for identified transportation impacts; requiring mobility fees to comply with the dual rational nexus test; prohibiting alternative systems from holding new developments responsible for existing deficiencies; providing an effective date.

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

Section 1. Paragraph (h) of subsection (5) of section 163.3180, Florida Statutes, is amended, and paragraph (i) is added to that subsection, to read:

163.3180 Concurrency.—

(5)

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

a.1. Consult with the Department of Transportation when proposed plan amendments affect facilities on the strategic intermodal system.

b.2. Exempt public transit facilities from concurrency. For the purposes of this sub-subparagraph ~~subparagraph~~, public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangars for the assembly, manufacture, maintenance, or storage of aircraft. As used in this sub-subparagraph ~~subparagraph~~, the terms “terminals” and “transit facilities” do not include seaports or

commercial or residential development constructed in conjunction with a public transit facility.

~~c.3.~~ Allow an applicant for a development-of-regional-impact development order, development agreement, a rezoning, or other land use development permit to satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06, when applicable, if:

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

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

~~d.e.(I)~~ Provide the basis upon ~~The local government has provided a means by which the~~ landowners ~~landowner~~ will be assessed a proportionate share of the cost addressing the transportation impacts resulting from a ~~of providing the transportation facilities necessary to serve the proposed development.~~

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

~~(H)~~ When an applicant contributes or constructs its proportionate share pursuant to this paragraph ~~subparagraph~~, a local government may not require payment or construction of transportation facilities whose costs would be greater than a development's proportionate share of the improvements necessary to mitigate the development's impacts.

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

b.(B) In using the proportionate-share formula provided in this subparagraph, the applicant, in its traffic analysis, shall identify those roads or facilities that have a transportation deficiency in accordance with the transportation deficiency as defined in subparagraph 4 ~~sub-subparagraph e~~. The proportionate-share formula provided in this subparagraph shall be applied only to those facilities that are determined to be significantly impacted by the project traffic under review. If any road is determined to be transportation deficient without the project traffic under review, the costs of

correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary transportation improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation. The improvement necessary to correct the transportation deficiency is the funding responsibility of the entity that has maintenance responsibility for the facility. The development's proportionate share shall be calculated only for the needed transportation improvements that are greater than the identified deficiency.

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

~~d.(D)~~ In projecting the number of trips to be generated by the development under review, any trips assigned to a toll-financed facility shall be eliminated from the analysis.

~~e.(E)~~ The applicant shall receive a credit on a dollar-for-dollar basis for impact fees, mobility fees, and other transportation concurrency mitigation requirements paid or payable in the future for the project. The credit shall be reduced up to 20 percent by the percentage share that the project's traffic represents of the added capacity of the selected improvement, or by the amount specified by local ordinance, whichever yields the greater credit.

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

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

~~(i)~~ If a local government elects to repeal transportation concurrency, it is encouraged to adopt an alternative mobility funding system that uses one or more of the tools and techniques identified in paragraph (f). Any alternative mobility funding system adopted may not be used to deny, time, or phase an application for site plan approval, plat approval, final subdivision approval,

building permits, or the functional equivalent of such approvals provided that the developer agrees to pay for the development's identified transportation impacts via the funding mechanism implemented by the local government. The revenue from the funding mechanism used in the alternative system must be used to implement the needs of the local government's plan which serves as the basis for the fee imposed. A mobility fee-based funding system must comply with the dual rational nexus test applicable to impact fees. An alternative system that is not mobility fee-based shall not be applied in a manner that imposes upon new development any responsibility for funding an existing transportation deficiency as defined in paragraph (h).

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor May 30, 2013.

Filed in Office Secretary of State May 30, 2013.