

LAND USE & ECONOMIC DEVELOPMENT COMMITTEE

**Friday, October 7, 2022
10:00 a.m. – 2:00 p.m. EDT**

Click [Here](#) to Register for the Zoom Meeting

If you experience technical difficulties joining the meeting, please call FLC staff for assistance:

**Mike Taylor at 321-689-2663 or
Zac Velazquez at 954-226-0203**

FLC Staff Contact: David Cruz



Agenda



Land Use & Economic Development Legislative Policy Committee
Friday, October 7, 2022 ~ 10:00 a.m.—2:00 p.m.

AGENDA

- I. Introduction & Opening Remarks** **Chair Linda Hudson**
Mayor, City of Fort Pierce

- II. FLC Policy Committee Process for 2022-2023** **David Cruz, FLC Staff**

- III. Policy Presentations**
 - A. Sovereign Immunity **David Cruz, FLC Staff**

 - B. Annexation..... **Jeremy Allen**
Village Manager, Village of Tequesta

 - C. Mobility Plans..... **John D’Agostino**
Town Manager, Town of Lake Park
Chelsea Reed
Mayor, City of Palm Beach Gardens

 - D. Home-Based Business Regulations **Honey Minuse**
Councilmember, City of Vero Beach

 - E. Impact Fees **David Cruz, FLC Staff**

 - F. Residential Infill Zoning **David Cruz, FLC Staff**

- IV. Committee Discussion and Voting on Potential Priority** **Chair Linda Hudson**
Mayor, City of Fort Pierce

- V. Additional Information** **David Cruz, FLC Staff**
 - A. Key Legislative Dates
 - B. Home Rule Hero Criteria
 - C. Key Contacts – Click [HERE](#) to sign-up

- VI. Closing Remarks** **Chair Linda Hudson**
Mayor, City of Fort Pierce

- VII. Adjournment**



Committee Roster



2022-2023 Legislative Policy Committee Land Use & Economic Development

Staffed by: David Cruz, Deputy General Counsel

CHAIR:

The Honorable Linda Hudson
Mayor, City of Fort Pierce

VICE CHAIR:

The Honorable William Schaetzle
Mayor Pro Tem, City of Niceville

MEMBERS:

The Honorable David Alfin
Mayor, City of Palm Coast

Jeremy Allen
Village Manager, Village of Tequesta

The Honorable Antonio Arserio
Mayor, City of Margate

The Honorable Keith Babb
Mayor, City of Pahokee

The Honorable Patricia Bates
Mayor, City of Altamonte Springs

Lana Beck
Communications and Govt Relations
Administrator, City of Pinellas Park

The Honorable BJ Bishop
Commissioner, Town of Longboat Key

The Honorable Liston Bochette
Councilman, City of Fort Myers

The Honorable Dorothea Bogert
Mayor, City of Auburndale

Michael Bornstein
Village Manager, Village of Palm
Springs

The Honorable Julia Botel
Councilperson, City of Riviera Beach

Peggy Boule Washington
Assistant Director of Community &
Economic Development, City of
Pahokee

The Honorable Hagen Brody
Commissioner, City of Sarasota

The Honorable Woody Brown
Mayor, City of Largo

The Honorable Richard Bryan
Councilmember, City of Daytona
Beach Shores

The Honorable Doug Bryant
Councilmember, City of Mount Dora

The Honorable Traci Callari
Commissioner, City of Hollywood

The Honorable Bryan Calvo
Councilmember, City of Hialeah

Leondrae Camel
City Manager, City of South Bay

Daniel Clark
Town Manager, Town of Lake Clarke
Shores

The Honorable Jeremy Clark
Commissioner, City of Davenport

Shane Corbin
City Manager, City of Atlantic Beach

Steven Cover
Director of Planning, City of Sarasota

John D'Agostino
Town Manager, Town of Lake Park

The Honorable Bradley Dantzler
Mayor, City of Winter Haven

The Honorable Jack Dearmin

Mayor, City of Lake Alfred

Rebecca DeLaRosa

Chief of Staff - Mayor's Office, City of West Palm Beach

The Honorable Joshua Dieguez

Councilmember, Town of Miami Lakes

The Honorable Ed Dodd

Councilmember, City of Sebastian

The Honorable Melissa Dunn

Vice Mayor, City of Lauderhill

The Honorable Betty Erhard

Councilmember, City of Brooksville

The Honorable Joshua Fuller

Mayor, Town of Bay Harbor Islands

The Honorable Anne Gerwig

Mayor, Village of Wellington

The Honorable Dana Goldman

Mayor, City of Sunny Isles Beach

The Honorable Bobby Gonzalez

Council Member, Town of Lake Clarke Shores

The Honorable Lawrence Gordon

Vice Mayor, Town of Haverhill

The Honorable John Gunter

Mayor, City of Cape Coral

The Honorable Shannon Hayes

Councilmember, City of Crestview

The Honorable Dan Janson

Councilman, City of Jacksonville Beach

The Honorable Ted Johnson

Commissioner, City of Winter Springs

The Honorable Andrew Knapp

Councilmember, City of Oldsmar

R. Max Lohman

Attorney, Lohman Law Group, P.A.

Sara Maxfield

Economic Development Director, City of Delray Beach

The Honorable Debbie McDowell

Commissioner, City of North Port

The Honorable Andrea McGee

Commissioner, City of Pompano Beach

The Honorable Matt McMillan

Commissioner, City of Longwood

The Honorable Joseph McMullen

Commissioner, Town of Oakland

The Honorable Roger Michaud

Commissioner, Town of Lake Park

The Honorable Honey Minuse

Councilmember, City of Vero Beach

The Honorable MG Moran

Councilman, City of Fort Walton Beach

The Honorable Knute Nathe

Mayor Pro Tem, City of Dade City

The Honorable Daniel Nugent

Commissioner, City of Starke

Mark Ogles

Director of Government Relations & Partnerships, Summit Broadband/Florida Business Watch

The Honorable Steve Osmer

Mayor, City of Satellite Beach

The Honorable Karen Ostrand

Mayor, Town of Ocean Breeze

The Honorable John Penny

Commissioner, City of Holly Hill

The Honorable David Pickett

Councilman, City of Port St. Lucie

The Honorable Jacquelyn Randall

Mayor, City of Hawthorne

The Honorable Chelsea Reed
Mayor, City of Palm Beach Gardens

The Honorable Andrea Young
Deputy Mayor, City of West Melbourne

The Honorable Kevin Reid
Commissioner, City of DeLand

The Honorable Thomas Reid
Vice Mayor, City of South Pasadena

The Honorable Betty Resch
Mayor, City of Lake Worth Beach

The Honorable Marie Rosner
Commissioner, Town of Jupiter Inlet
Colony

The Honorable Thomas Shelly
Commissioner, Town of Belleair

The Honorable Megan Sladek
Mayor, City of Oviedo

The Honorable Alexander Smith
Commissioner, City of Apopka

Kassandra Timothe
Councilwoman, City of North Miami

The Honorable Phillip Walker
Commissioner, City of Lakeland

The Honorable Leslie Waters
Mayor, City of Seminole

The Honorable Jamie Watts
Mayor, Town of Welaka

The Honorable Morris West
Commissioner, City of Haines City

The Honorable Delarian Wiggins
Councilmember, City of Pensacola

The Honorable Don Willis
Councilmember, City of Cape
Canaveral

The Honorable Evelyn Wilson
Mayor, City of Groveland

The Honorable Justin York
Commissioner, City of Lake Mary



Policy Development Process

2022-2023 FLC Legislative Policy Process

The Florida League of Cities' (FLC) Charter and Bylaws specify that the League shall engage only on legislation that pertains directly to "municipal affairs." "Municipal affairs" means issues that directly pertain to the governmental, corporate and proprietary powers to conduct municipal government, perform municipal functions, render municipal services, and raise and expend revenues. Protecting Florida's cities from egregious far-reaching attacks on Home Rule powers will always be the top priority.

Each year, municipal officials from across the state volunteer to serve on the League's legislative policy committees. Appointments are a one-year commitment and involve developing the League's Legislative Action Agenda. The Action Agenda addresses priority issues of statewide interest that are most likely to affect daily municipal governance and local decision-making during the upcoming legislative session.

Policy committee members also help League staff understand the real-world implications of proposed legislation, and they are asked to serve as advocates throughout the year. To get a broad spectrum of ideas and better understand the impact of League policy proposals on rural, suburban and urban cities of all sizes, it is ideal that each of Florida's cities be represented on one or more of the legislative policy committees.

The Florida Legislature convenes the 2023 Legislative Session on March 7. The League's legislative policy committee meetings commence in September 2022 and meet three times.

There are currently five standing *legislative policy committees*:

Finance, Taxation and Personnel Committee: This committee addresses municipal roles in general finance and tax issues, Home Rule revenues, infrastructure funding, insurance, local option revenues, pension issues, personnel and collective bargaining issues, revenue sharing, tax and budget reform, telecommunications and workers' compensation.

Land Use and Economic Development Committee: This committee addresses policies specific to municipal concerns with community redevelopment, economic development, growth management and land use planning issues, annexation, eminent domain, tort liability, property rights and ethics.



Municipal Administration Committee: This committee addresses municipal concerns with code enforcement, elections, emergency management, gaming, homeland security, public meetings, public property management, public records, public safety and procurement, as well as charter counties and special districts.

Transportation and Intergovernmental Relations Committee: This committee addresses municipal concerns relating to transportation and highway safety, as well as aviation, affordable housing (and homelessness), billboards, building codes, charter schools, rights-of-way and veterans affairs.

Utilities, Natural Resources and Public Works Committee: This committee addresses policies specific to municipal concerns with coastal management, energy, environmental and wetlands permitting, hazardous and toxic wastes, recycling, solid waste collection and disposal, stormwater, wastewater treatment and reuse, water management and water quality and quantity.

At the last meeting, each of the five policy committees adopts ONE legislative priority that will be submitted to the Legislative Committee. The Legislative Committee is composed of:

- ▶ Each legislative policy committee chair and the chairs of the other standing committees
- ▶ The President of each local and regional league
- ▶ The Presidents of several other municipal associations
- ▶ Chairs of the municipal trust boards
- ▶ Several at-large members appointed by the FLC President.

The policy priorities, as adopted by the Legislative Committee, are then recommended to the general membership for approval as the League's Legislative Action Agenda.

In addition, a legislative policy committee may, but is not required to, recommend ONE policy position related to other relevant legislative issues. The policy position must satisfy the same criteria above for legislative priorities. The recommended policy position will be considered by the Legislative Committee. If favorably considered by that committee, it will be considered by the general membership. If adopted by the general membership, the policy position may be published and communicated to legislators and others, as appropriate.

Due to Sunshine Law issues, only one elected official per city can be represented on a committee, but a city could have an elected and a non-elected city official on each of the five policy committees. Appointments are made by the League president based upon a city official's support and advocacy of the Legislative Action Agenda and participation at meetings, Legislative Action Days and other legislative-related activities.

2022 Legislative Policy Committee Meeting Dates

- ▶ September 16, 2022, 10:00 a.m. to 2:00 p.m. at the Embassy Suites Lake Buena Vista South, 4955 Kyngs Heath Road, Kissimmee, FL.
- ▶ October 7, 2022, 10:00 a.m. to 2:00 p.m. at the Embassy Suites Lake Buena Vista South, 4955 Kyngs Heath Road, Kissimmee, FL.
- ▶ December 1, 2022, during the FLC Legislative Conference at the Embassy Suites Lake Buena Vista South, 4955 Kyngs Heath Road, Kissimmee, FL.

If you are interested in serving or learning more, please contact Mary Edenfield at 850.701.3624 or medenfield@flcities.com.



Sovereign Immunity

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/CS/SB 974

INTRODUCER: Rules Committee; Community Affairs Committee; Judiciary Committee; and Senator Gruters

SUBJECT: Sovereign Immunity

DATE: February 24, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Bond</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 974 increases the limits of the state's waiver of sovereign immunity for some public entities. The limits are increased from \$200,000 per injured person and \$300,000 per incident to \$400,000 per person and \$600,000 per incident for the state, state agencies, and a county or municipality with a population in excess of 250,000, and are increased to \$300,000 per person and \$400,000 per incident for a county or municipality with a population between 50,000 and 250,000. The bill allows sovereign entities other than the state or a state agency to voluntarily pay a claim in excess of the limits without the need for a claim bill.

The bill also provides that there is no statute of limitations or statute of repose on a civil action against the state or a local government where the plaintiff was younger than 16 years of age at the time of the injury and the injury involved a violation of the sexual battery statute.

The bill appears to have a significant indeterminate negative fiscal impact on state and local governments.

The bill is effective October 1, 2022, and applies to any claim accruing on or after that date.

II. Present Situation:

Sovereign immunity is defined as: “A government’s immunity from being sued in its own courts without its consent.”¹ The doctrine had its origin with the judge-made law of England. The basis of the existence of the doctrine of sovereign immunity in the United States was explained as follows:

A sovereign is exempt from suit, not because of any formal conception or obsolete theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends.²

The State Constitution authorizes the Legislature to enact laws that permit suits against the state and its subdivisions. Currently, tort suits against the state and its subdivisions are allowed, but collectability of judgments is limited to \$200,000 per person and \$300,000 per incident. Damaged persons seeking to recover amounts in excess of the limits may request that the Legislature enact a claim bill.

Florida Sovereign Immunity Law

Florida has adopted the common law of England as it existed on July 4, 1776.³ This adoption of English common law includes the doctrine of sovereign immunity. The doctrine of sovereign immunity was in existence centuries before the Declaration of Independence.⁴

The Legislature was first expressly authorized to waive the state’s sovereign immunity under s. 19, Art. IV, State Const. (1868).⁵ The Legislature again was expressly authorized to waive the state’s sovereign immunity under s. 13, Art. X, State Const. (1968). Section 13, Art. X, State Const. (1968) states:

Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.

Although the first general waiver of the state’s sovereign immunity was not adopted until 1969, “one . . . could always petition for legislative relief by means of a claims bill.”⁶ The first claim bill was passed by the Legislative Council of the Territory of Florida in 1833.⁷ The claim bill authorized payment to a person who supplied labor and building materials for the first permanent capitol building.⁸

¹ BLACK’S LAW DICTIONARY (8th ed. 2004).

² *Cauley v. City of Jacksonville*, 403 So. 2d 379, 381 (Fla. 1981) (quoting *Kawananakoa v. Polyblank*, 205 U.S. 349, 353 (1907)).

³ Section 2.01, F.S. English common law that is inconsistent with state or federal law is not included.

⁴ *North Carolina Dept. of Transp. v. Davenport*, 432 S.E.2d 303, 305 (N.C. 1993).

⁵ Section 19, Art. VI, State Const. (1868), states: “Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.”

⁶ *Cauley*, 403 So. 2d at note 5.

⁷ D. Stephen Kahn, *Legislative Claim Bills: A Practical Guide to a Potent(ial) Remedy*, THE FLORIDA BAR JOURNAL, 23 (April, 1988).

⁸ *Id.*

Statutory Waivers of Sovereign Immunity

The 1969 Legislature enacted s. 768.15, F.S., the state's first general waiver of sovereign immunity.⁹ The 1969 Legislature also adopted another law that provided for the repeal of s. 768.15, F.S., after a year in effect.¹⁰

In 1973, the Legislature again adopted a law that acted as a general waiver to the state's sovereign immunity.¹¹ The statute, s. 768.28, F.S., was modeled after the Federal Tort Claims Act and remains substantially the same today. Section 768.28(1), F.S. (1973), states:

In accordance with s. 13, Art. X, state constitution, the state, for itself and for its agencies or subdivisions, hereby waives sovereign immunity for liability for torts, but only to the extent specified in this act. Actions at law against the state or any of its agencies or subdivisions to recover damages in tort for money damages against the state or its agencies or subdivisions for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of his office or employment under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant in accordance with the general laws of this state, may be prosecuted subject to the limitations specified in this act.

Under s. 768.28(5), F.S. (1973), the collectability of tort judgments against the state was limited to \$50,000 per person and \$100,000 per incident. Attorney fees were also limited to 25 percent of the proceeds of judgments or settlements.¹² In 1981, the Legislature increased the amount of damages that could be collected to \$100,000 per person and \$200,000 per incident.¹³ In 2010, the Legislature increased the limits to \$200,000 per person and \$300,000 per incident.¹⁴

Cost of Florida's Waiver of Sovereign Immunity

The exact cost of the state's waiver of sovereign immunity under s. 768.28, F.S., is unknown. No centralized location exists for local government entities, such as cities, counties, school boards, sheriff's offices, special districts, and other entities to record the value of the total claims paid under the current sovereign immunity waiver. Information documenting the cost of the sovereign immunity waiver to state government entities is available from the Division of Risk Management (Division). The Division provides general liability insurance to state agencies up to the amount of the sovereign immunity waiver.¹⁵ The Division also settles and defends tort suits filed against the agencies.

⁹ Chapter 69-116, Laws of Fla.

¹⁰ Chapter 69-357, Laws of Fla.

¹¹ Chapter 73-313, Laws of Fla.

¹² Section 768.28(8), F.S. (1973).

¹³ Chapter 81-317, Laws of Fla.

¹⁴ Chapter 2010-26, Laws of Fla.

¹⁵ Section 284.30, F.S.

In Fiscal Year 2020-21, the Division paid \$4,189,287 for the resolution of 2,588 general liability claims.¹⁶ Additionally, the Division provides auto liability insurance to state agencies for claims arising out of the use of state vehicles. In Fiscal Year 2020-21, the Division paid \$5,884,341 for the resolution of 478 automobile liability claims.¹⁷

Claim Bill Process

Persons who wish to seek the payment of claims in excess of the statutory limits must have a state legislator introduce a claim bill in the Legislature, which must pass both houses. Once a claim bill is filed, the presiding officer of each house of the Legislature may refer the bill to a Special Master, as well as to one or more committees, for review. Senate and House Special Masters typically hold a joint hearing to determine whether the elements of negligence have been satisfied: duty, breach, causation, and damages.

III. Effect of Proposed Changes:

The bill changes the limits of the waiver of sovereign immunity for a claim accruing on or after October 1, 2022, as follows:

- For the state, a state agency, a county or municipality with a population in excess of 250,000 persons, including the constitutional officers of such county, the limits are increased to \$400,000 per person injured and \$600,000 per incident.
- For a county or municipality with a population between 50,000 and 250,000 persons, including the constitutional officers of such county, the limits are increased to \$300,000 per person injured and \$400,000 per incident.
- For a county or municipality of less than 50,000 persons, or for a state university, public college, subdivision of the state, or any other entity covered by sovereign immunity not within the two categories above, the current limits of \$200,000 per person injured and \$300,000 per incident apply.

If multiple sovereign entities are liable, the total liability for all of the entities may not exceed the amount for the entity with the highest liability limit.

The bill provides that a claim, other than one against the state or a state agency, may be voluntarily paid by an entity in excess of the limits without the need for a claim bill. The bill repeals the current law requirement that payment above the caps may only be made without a claim bill if paid within policy limits.

The bill provides that there is no statute of limitations or statute of repose on a civil action against the state or a local government where the plaintiff was younger than 16 years of age at the time of the injury and the injury involved a violation of the sexual battery statute.

The bill is effective October 1, 2022. The bill applies to claims accruing on or after October 1, 2022.

¹⁶ Department of Financial Services, Division of Risk Management, *Fiscal Year 2021 Annual Report*, at 24 (2021).

¹⁷ *Id.* at 22.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Those individuals obtaining judgments from or settlements with the state and its agents and subdivisions may receive additional compensation because of the increase in the liability limits for claims arising on or after October 1, 2022. There is typically a significant time lag from injury to case resolution that will delay the fiscal impact of the bill in the short term.

C. Government Sector Impact:

The potential fiscal impact of increasing the liability limits of state and local governments will be contingent upon the number of claims filed and the value of those claims. The state and its subdivisions may experience an increase in insurance premiums for liability coverage, or may see an increase in self-insurance costs, in response to the increase in liability limits. There is typically a significant time lag from injury to case resolution that will delay the fiscal impact of the bill in the short term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 768.28 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Rules on February 23, 2022:

The CS changes the limits of the waiver of sovereign immunity from a fixed amount applicable to all sovereign entities to a scaled level based on the type of entity; removes from the bill a restriction on claim bill requirements in insurance policies: removes future CPI increases; and adds that the bill only applies to claims accruing on or after October 1, 2022.

CS/CS by Community Affairs on February 8, 2022:

The CS changes the limits of the waiver of sovereign immunity to \$1 million per injured person with a \$3 million limit per incident. A claim may be voluntarily paid in excess of the limits without the need for a claim bill. An insurance policy may not condition the payment of benefits on the enactment of a claim bill.

The CS provides that the annual adjustment of the waiver amount will start July 1, 2023, rather than July 1, 2032.

The CS further provides that there is no statute of limitations or statute of repose on a civil action against the state or a local government where the plaintiff was younger than 16 years of age at the time of the injury and the injury involved a violation of the sexual battery statute. This section applies to those claims that would not have been time barred on or before July 1, 2010.

CS by Judiciary on January 31, 2022:

The CS changes the liability limits, changes the inflation adjustment period, and provides that inflationary adjustments are rounded to the nearest \$10,000. The CS also removes provisions for retroactivity, the ability of an entity to voluntarily pay a claim above the limits without a claim bill, the prohibition on claim bill clauses in insurance contracts, and the extension of a statute of limitations.

B. Amendments:

None.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 985 Sovereign Immunity

SPONSOR(S): Judiciary Committee, Civil Justice & Property Rights Subcommittee, Beltran

TIED BILLS: IDEN./SIM. **BILLS:** HB 799

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Property Rights Subcommittee	16 Y, 1 N, As CS	Mathews	Jones
2) Appropriations Committee	23 Y, 1 N	Harrington	Pridgeon
3) Judiciary Committee	19 Y, 0 N, As CS	Mathews	Kramer

SUMMARY ANALYSIS

Sovereign immunity is a principle under which a government cannot be sued without its consent. Article X, section 13 of the Florida Constitution allows the Legislature to waive this immunity. In turn, s. 768.28(1), F.S., allows for suits in tort against the state and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct.

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per incident. Although a court may enter a judgment in excess of these caps, it is impossible, absent a claim bill passed by the Legislature, for a claimant to collect more than the caps provide. Further, section 768.28(6), F.S., imposes pre-suit requirements upon a claimant seeking to recover against a state or local government entity, allowing a general six-month period for the government entity to review and dispose of a claim before the claimant may file a lawsuit.

A state or local government entity may, without the need for a claim bill, settle a claim or pay a judgment against it for an amount in excess of the caps in s. 768.28, F.S., if that amount is within the limits of its insurance coverage.

CS/CS/HB 985:

- Increases the sovereign immunity caps for damages against state and local government entities to \$400,000 per person and \$600,000 per incident.
- Allows a subdivision of the state to settle a claim and pay the settled amount without the need for a claim bill, but does not provide for a state government entity to pay a claim above the statutory cap amount without a claim bill.
- Eliminates any statute of limitations for filing a claim against the state or a local government entity for sexual battery actions involving a victim who was younger than 16 years old at the time of the incident. However, the bill does not resuscitate any such claim which would have been time-barred as of July 1, 2010.
- Reduces from six months to three months the general pre-suit statutory time period for a government entity to review and dispose of a claim.
- Reenacts several statutory sections for the purpose of incorporating the changes made by the bill.

The bill will likely have an indeterminate, significant negative fiscal impact on state and local governments. The increased costs will affect the State Risk Management Trust Fund.

The bill provides an effective date of October 1, 2023. The bill applies to all claims accruing on or after that date, except as otherwise provided within the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Sovereign Immunity

Sovereign immunity is a principle under which a government cannot be sued without its consent.¹ Article X, section 13 of the Florida Constitution allows the Legislature to waive this immunity. In accordance with article X, section 13 of the Florida Constitution, s. 768.28(1), F.S., allows for suits in tort against the state and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28, F.S., applies only to “injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment”²

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per incident.³ Although a court may enter an excess judgment, the statutory caps make it impossible, absent a claim bill passed by the Legislature, for a claimant to collect more than the caps provide.⁴

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment, unless the damages result from the employee’s acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.⁵ A government entity is not liable for any damages resulting for actions by an employee outside the scope of his or her employment, and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.⁶

A law enforcement agency may be liable for injury, death, or property damage by a person fleeing one of its law enforcement officers if the pursuit involves conduct by the officer so reckless as to constitute disregard for human rights, the officer did not initiate pursuit under the reasonable belief that the fleeing person had committed a forcible felony, and the pursuit was not conducted pursuant to a written policy.⁷ While s. 768.28(9)(a), F.S., grants individual state officers immunity from judgment *and* suit in certain cases, s. 768.28(9)(d), F.S., only grants employing agencies immunity from judgment.⁸

Persuit Procedures for a Claim Against the Government

Before a claimant files a lawsuit against a government entity, the claimant generally must present its claim in writing to the government entity within the statute of limitations prescribed by law.⁹ If the claim is brought against the state, the claimant must also present its claim to the Department of Financial Services (DFS). The government entity generally then has six months to review the claim. If the government entity does not dispose of the claim within that six-month period, the claimant may generally proceed with the lawsuit.¹⁰

¹ *Sovereign immunity*, Legal Information Institute, https://www.law.cornell.edu/wex/sovereign_immunity (last visited Feb. 17, 2022).

² *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).

³ S. 768.28(5), F.S.

⁴ *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).

⁵ S. 768.28(9)(a), F.S.

⁶ *Id.*

⁷ S. 768.28(9)(d), F.S.

⁸ *Ross v. City of Jacksonville*, 274 So. 3d 1180, 1186 (Fla. 1st DCA 2019).

⁹ See s. 768.28(6)(a), F.S.

¹⁰ See s. 768.28(6)(d), F.S.

Damages

The liability caps in s. 768.28(5), F.S., apply to “all of the elements of the monetary award to a plaintiff against a sovereignly immune entity.”¹¹ In other words, a plaintiff’s entire recovery, including damages, back pay, attorney fees, and any other costs, are limited by the caps in s. 768.28, F.S.

Generally, damages are of two kinds: compensatory and punitive.¹² Compensatory damages are awarded as compensation for the loss sustained to make the party whole, insofar as that is possible.¹³ They arise from actual and indirect pecuniary loss.¹⁴ Section 768.28, F.S., does not allow for the recovery of punitive damages, but only for the recovery of compensatory damages.

Claim Bills

A plaintiff may recover an amount in excess of the caps described in s. 768.28(5), F.S., by way of a claim bill. A claim bill is not an action at law, but rather is a legislative measure that directs the Chief Financial Officer, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation.¹⁵ Such obligations typically arise from the negligence of officers or employees of the State or a local governmental agency.¹⁶ Legislative claim bills are typically used after procurement of a judgment or settlement in an action at law.¹⁷ The amount awarded is based on the Legislature’s concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.¹⁸ Unlike civil judgments, claim bills are not obtainable by right upon the claimant’s proof of his entitlement; rather, they are granted as a matter of legislative grace.¹⁹

Once a legislative claim bill is formally introduced, a special master usually conducts a quasi-judicial hearing.²⁰ This hearing may resemble a trial during which the claimant offers testimony as well as documentary and physical evidence necessary to establish the claim. Trial records may be substituted for witness testimony. Witnesses who testify are sworn and subject to cross-examination.²¹ A responding agency may present a defense to contest the claim, and the special master may then prepare a report with an advisory recommendation to the Legislature if the bill is placed on an agenda.²²

A government entity may, without the need for a claim bill, settle a claim or pay a judgment against it for an amount in excess of the caps in s. 768.28, F.S., if that amount is within the limits of insurance coverage.²³

Statute of Limitations for Sexual Battery on a Person Under 16

Section 95.11, F.S., provides statutes of limitations for various types of civil actions. In 2010, the Legislature amended s. 95.11 to remove any statute of limitations applying to a civil action for sexual battery if the victim was under 16 at the time of the crime.²⁴ The Legislature provided, however, that this amendment would not resuscitate any civil claims that were already barred by the statute of limitations at the time.²⁵

¹¹ *Gallagher v. Manatee Cty.*, 927 So. 2d 914, 918 (Fla. 2d DCA 2006).

¹² 22 Am. Jur. 2d s. 1 at 13 (1965).

¹³ *Fisher v. City of Miami*, 172 So. 2d 455 (Fla. 1965).

¹⁴ *Margaret Ann Supermarkets, Inc. v. Dent*, 64 So. 2d 291 (Fla. 1953).

¹⁵ *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007)

¹⁶ *Id.*

¹⁷ *City of Miami v. Valdez*, 847 So. 2d 1005 (Fla. 3d DCA 2003).

¹⁸ *Wagner*, 960 So. 2d at 788 (citing Kahn, Legislative Claim Bills, Fla. B. Journal (April 1988)).

¹⁹ *United Servs. Auto. Ass’n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).

²⁰ *Wagner*, 960 So. 2d at 788 (citing Kahn at 26).

²¹ *Id.*

²² *Id.*

²³ S. 768.28(5), F.S.

²⁴ Ch. 2010-54, s. 1, Laws of Fla.; s. 95.11(9), F.S.

²⁵ *Id.* (“This subsection applies to any such action other than one which would have been time barred on or before July 1, 2010”).

Effect of Proposed Changes

The bill amends s. 768.28, F.S., to increase the caps for tort damages against the state, its agencies, and its subdivisions from \$200,000 to \$400,000 per person, and from \$300,000 to \$600,000 per incident.

The bill also amends s. 768.28(6) and (14), F.S., to eliminate any statute of limitations for a civil claim against the state or one of its subdivisions for sexual battery actions involving a victim who was younger than 16 years old at the time of the incident. As such, a claimant in such situation may present his or her claim in writing at any time, and he or she may commence the civil action at any time. However, the bill does not resuscitate any such claims which would have been time-barred as of July 1, 2010. In making these changes, the bill aligns the provisions of s. 768.28, F.S., with the 2010 amendments to s. 95.11, F.S., involving a civil action where a plaintiff under 16 is the victim of sexual battery. Under the bill, such victim of sexual battery will be able to bring his or her claim at any time, regardless of whether the civil defendant is a private party or a government entity.

The bill changes language within s. 768.28, F.S., to allow a subdivision of the state to settle a claim in any amount and then pay that amount without the need for a legislative claim bill. However, the bill does not allow a state government entity to settle a claim in excess of the statutory cap amount.

The bill also decreases from six months to three months the amount of time a government entity has to make a final disposition of a claim during the pre-suit process within s. 768.28(6), F.S., after which time the plaintiff may bring a lawsuit.

The bill reenacts a number of statutory sections for the purpose of incorporating the changes made by the language of the bill.

The bill provides an effective date of October 1, 2023. The provisions of the bill apply to all claims accruing on or after that date, except that the bill applies to claims relating to sexual battery on a person under 16 that may have accrued at any time. However, the bill does not resuscitate any such claims which would have been time-barred as of July 1, 2010.

B. SECTION DIRECTORY:

Section 1: Amends s. 768.28, F.S., relating to waiver of sovereign immunity in tort actions.

Section 2: Reenacts provisions within the Florida Statutes for the purpose of incorporating the amendments made by the act.

Section 3: Provides that the act applies to claims accruing on or after the effective date, except as otherwise provided.

Section 4: Provides an effective date of October 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill has a negative fiscal impact on local governments. The amount of the cost resulting from the change to the state's waiver of sovereign immunity limits and ability to settle claims in excess of those limits under s. 768.28, F.S., is indeterminate. However, local government expenditures would likely increase for settlements, awards, and other legal costs.²⁶

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may enable more individuals who have tort claims against the state or one of its agencies or subdivisions to receive larger payments without the need to pursue a claim bill. The ability to collect larger settlements or judgments against government entities may also serve as an incentive for private attorneys to represent claimants in these matters. However, the bill may reduce government services to the public in proportion to additional amounts paid to satisfy tort claims.

D. FISCAL COMMENTS:

By increasing the sovereign immunity cap, the bill increases the possibility that the state and its agencies and subdivisions will spend more of their resources to satisfy tort claims. The provision of larger payments in satisfaction of tort claims, however, may also reduce the demand for other government services that would have otherwise been necessary for claimants.

By reducing the pre-suit time period for a government entity or DFS to review and dispose of a claim against the state, the bill may have an impact on the pre-suit settlement process.

Finally, the bill may reduce the workload of the Legislature by reducing the number of claim bills filed but may also reduce the legislative oversight of claims against government entities.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2022, the Civil Justice and Property Rights Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment decreased from six months to three months the amount of time a state or local government entity has to make a final disposition of a claim during the pre-suit process set out in s. 768.28(6), F.S.

On February 28, 2022, the Judiciary Committee adopted a proposed committee substitute and passed the bill favorably as a committee substitute. The committee substitute differed from the underlying bill in that it:

²⁶ DFS, *supra* note 24.
STORAGE NAME: h0985e.JDC
DATE: 2/28/2022

- Changed the sovereign immunity cap, for the state and subdivisions of the state, from:
 - \$1,000,000 per person to \$400,000 per person.
 - An unlimited amount per incident to \$600,000 per incident.
- Permitted a subdivision of the state to settle and pay a claim in any amount without the need for a claim bill, but did not provide for a state government entity to do so.
- Removed language prohibiting an insurance agreement from conditioning payment on the passage of a claim bill.
- Removed an automatic annual adjustment to the sovereign immunity cap based on the Consumer Price Index (CPI).
- Changed the bill's effective date from July 1, 2022, to October 1, 2023, to accommodate the fiscal cycle of subdivisions of the state.
- Provided that the bill generally applies to a cause of action accruing on or after the bill's effective date.
- Made other technical and clarifying changes.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.



Annexation



Annexation

Priority Statement:

The Florida League of Cities SUPPORTS legislation that facilitates the municipal annexation of unincorporated areas while protecting private property rights and respecting municipal boundaries.

Background:

In Florida, there are four ways in which an annexation may take place: by special act of the Legislature, a voluntary annexation, an involuntary annexation or an interlocal agreement with the county.

Under the Florida Constitution, the Legislature has the authority to develop procedures for the municipal annexation of unincorporated territory by general or special law. In 1974, the Municipal Annexation or Contraction Act was passed, providing a mechanism for municipalities to annex territory and recede from territory by contraction. This act allowed municipalities to annex territories that is "contiguous, compact, unincorporated and developed for urban purposes."

The current annexation process makes it difficult for cities to annex certain unincorporated enclaves and unincorporated areas where city services are already being provided. Current law requires that if more than 70% of the land in the area proposed to be annexed is owned by individuals, corporations or legal entities that are not registered electors of the area, the area cannot be annexed without the approval of at least 50% of the owners. Additionally, a vote of electors of the area proposed to be annexed is not required if the area does not have any registered voters.

In some cases, the process of taking a vote of the electors of the area proposed to be annexed prior to annexation has frustrated annexation efforts to the detriment of property owners desiring to be annexed.

During the 2017 Legislative Session, a bill was proposed that would have removed the limitation on requiring the city to get permission "from at least 50 percent of owners in an area proposed to be annexed, when more than 70 percent of the land is owned by individuals, corporations, or legal entities." Additionally, the legislation would have allowed for an area to be annexed without a vote of the electors if there are no registered electors that own property in the area proposed to be annexed on the date the ordinance is adopted. Ultimately, the 2017 legislation

Contact: David Cruz, Legislative Counsel – 850.701.3676 – dcruz@flcities.com

failed to pass the Legislature.

The League will support legislation that facilitates the annexation of enclaves, gives property owners an adequate voice in the annexation of their properties and requires that any contraction or de-annexation initiated by special act must be agreed to by each of the municipalities involved.



Annexation

Priority Statement:

The Florida League of Cities SUPPORTS legislation that facilitates the municipal annexation of unincorporated areas while protecting private property rights and respecting municipal boundaries.

Background:

- The Florida Constitution authorizes the Legislature to develop procedures for the municipal annexation of unincorporated territory by general or special law.
- The Legislature passed the “Municipal Annexation or Contraction Act,” in 1974, which provides a mechanism for municipalities to annex territory and to recede from territory by contraction.
- Currently, the annexation process makes it difficult for cities to annex certain unincorporated enclaves and unincorporated areas where city services are already being provided.
- Additionally, the processes of taking a vote of the electors of the area proposed to be annexed prior to annexation has frustrated annexation efforts to the detriment of property owners desiring to be annexed.

Contact: David Cruz, Legislative Counsel – 850-701-3676 - dcruz@flcities.com

11/13/2020

**2020 ANNEXATION PRESENTATION to the FLC LAND USE & GROWTH MANAGEMENT POLICY
COMMITTEE MEETING, SEPTEMBER 18, 2020**

- I. Issues Discussed Below
 - a. Enclaves
 - b. Non-property Owner Voters in a Voluntary Annexation
 - c. Annexation/De-Annexation
- II. Attachments:
 - a. Proposed Annexation Bill Draft

2019 ANNEXATION PROPOSAL – The issues discussed below were matters discussed by the Ad Hoc Committee on Annexation - Brief Explanation: the three issues listed above are addressed in the attached legislative bill draft (this draft is essentially the same as the bill draft that Rep. Silvers received from House Bill Drafting just before the start of the 2019 Legislative Session for filing. Although, Rep. Silvers ultimately decided not to file the bill this last Session, he indicated a willingness to file it in 2020).

The proposed bill would amend chapter 171 – the annexation law:

- a. Enclaves: It expands the definition of enclave to include situations where two or more cities surround an unincorporated area or a situation where an unincorporated area is surrounded by two or more cities and a natural or man-made barrier. Typically cities in this situation will be the regular provider of first responder services. This change would facilitate a city or cities in these kinds of situations in initiating the annexation process already provided for in law for unincorporated areas of 110 acres or less (the size of an enclave is limited by definition within the statute) .
- b. Non-property Owner Voters in a Voluntary Annexation: The bill would facilitate annexation where a majority of individual property owners in a given area seek annexation and where there are no registered voters living in the area to be annexed that are property owners. Currently property owners seeking to be annexed under the statute can be prevented from doing so by tenants or other registered voters who use the address of a post office, library or storage facility to register to vote (the so-called “homeless voters”). This bill would allow the ultimate decision on whether to be annexed up to the property owners.
- c. Annexation/De-Annexation: And finally, the bill would clarify that only a municipality or its residents may initiate a contraction or de-annexation of an area that lies within its boundaries under the statute (s.171.051, F.S.). Furthermore, this section is amended to require that any contraction or de-annexation initiated by special act must be agreed to by each of the municipalities involved.

1 A bill to be entitled

2 An Act relating to annexation procedures for municipalities; amending s. 171.031, F.S., revising
3 definitions; amending s. 171.0413, F.S., revising circumstances under which a municipality is prohibited
4 from annexing certain lands in contiguous, compact, or unincorporated areas without getting consent
5 from a specified percent of landowners in the area; specifying circumstances under which a vote of the
6 electors in the area to be annexed is not required; amending s.171.051, F.S., clarifying language in the
7 section, providing certain procedures for a contraction proposed by special act; providing an effective
8 date.

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

10 Section 1. Subsection (13) of section 171.031, Florida Statutes is amended to read:

11 171.031 Definitions.— As used in this chapter, the following words and terms have the following
12 meanings unless some other meaning is plainly indicated:

13 (13) “Enclave” means:

14 (a) Any unincorporated improved or developed area that is enclosed within and bounded on all sides
15 by a single municipality or by two or more municipalities; or

16 (b) Any unincorporated improved or developed area that is enclosed within and bounded by one or
17 more municipalities ~~a single municipality~~ and a natural or manmade obstacle that allows the passage of
18 vehicular traffic to that unincorporated area only through one or another of those municipalities ~~the~~
19 ~~municipality~~.

20 Section 2. Subsections (5) and (6) of section 171.0413, Florida Statutes, are amended to read:

21 171.0413 Annexation procedures.— Any municipality may annex contiguous, compact, unincorporated
22 territory in the following manner:

23 (5) If more than 70 percent of the land in an area proposed to be annexed is owned by individuals,
24 corporations, or legal entities ~~which are not registered electors of such area~~, such area shall not be
25 annexed unless the owners of more than 50 percent of the land in such area consent to such
26 annexation. Such consent shall be obtained by the parties proposing the annexation prior to the
27 referendum to be held on the annexation.

28 (6) Notwithstanding subsections (1) and (2), if the area proposed to be annexed does not have any
29 registered electors that own property in the area to be annexed on the date the ordinance is ~~finally~~
30 adopted, a vote of the electors of the area proposed to be annexed is not required. In addition to the
31 requirements of subsection (5), the area may not be annexed unless the owners of more than 50

32 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the
33 governing body of the annexing municipality does not ~~choose to~~ hold a referendum ~~of the annexing~~
34 ~~municipality~~ pursuant to subsection (2), then the consent of the property owners ~~property owners~~
35 ~~consents~~ required pursuant to subsection (5) shall be obtained by the parties proposing the annexation
36 prior to the final adoption of the ordinance, and the annexation ordinance shall be effective upon
37 becoming a law or as otherwise provided in the ordinance.

38 Section 3. Subsections (1) and (2) of section 171.051, Florida Statutes, are amended and a new
39 subsection (11) is added to that section, to read:

40 171.051 Contraction procedures.— Any municipality may initiate the contraction of its municipal
41 boundaries in the following manner:

42 (1) The governing body shall by ordinance propose the contraction of its municipal boundaries, as
43 described in the ordinance, and provide an effective date for the contraction.

44 (2) A petition of 15 percent of the qualified voters in an area desiring to be excluded from the
45 municipal boundaries, filed with the clerk of the municipal governing body, may propose such an
46 ordinance, which must specifically state the facts upon which the contraction petition is based. The
47 municipality to which such petition is directed to immediately undertake a study of the feasibility of
48 such proposal and shall, within 6 months, either initiate proceedings under subsection (1) or reject the
49 petition, specifically stating the facts upon which the rejection is based.

50 (11) Special acts of the legislature providing for contraction of one municipality's boundaries and
51 annexation of the contracted area into another municipality must first be proposed in a resolution
52 adopted by the governing body of each municipality involved.

53 Section 4. This act shall take effect July 1, 2019.



Mobility Plans

League of Cities Mobility Plans & Mobility Fees

Fall 2022

Presented by:

Jonathan B. Paul, AICP

Louis Rotundo


NUE URBAN CONCEPTS
LAND USE • MOBILITY • PARKING • FEES
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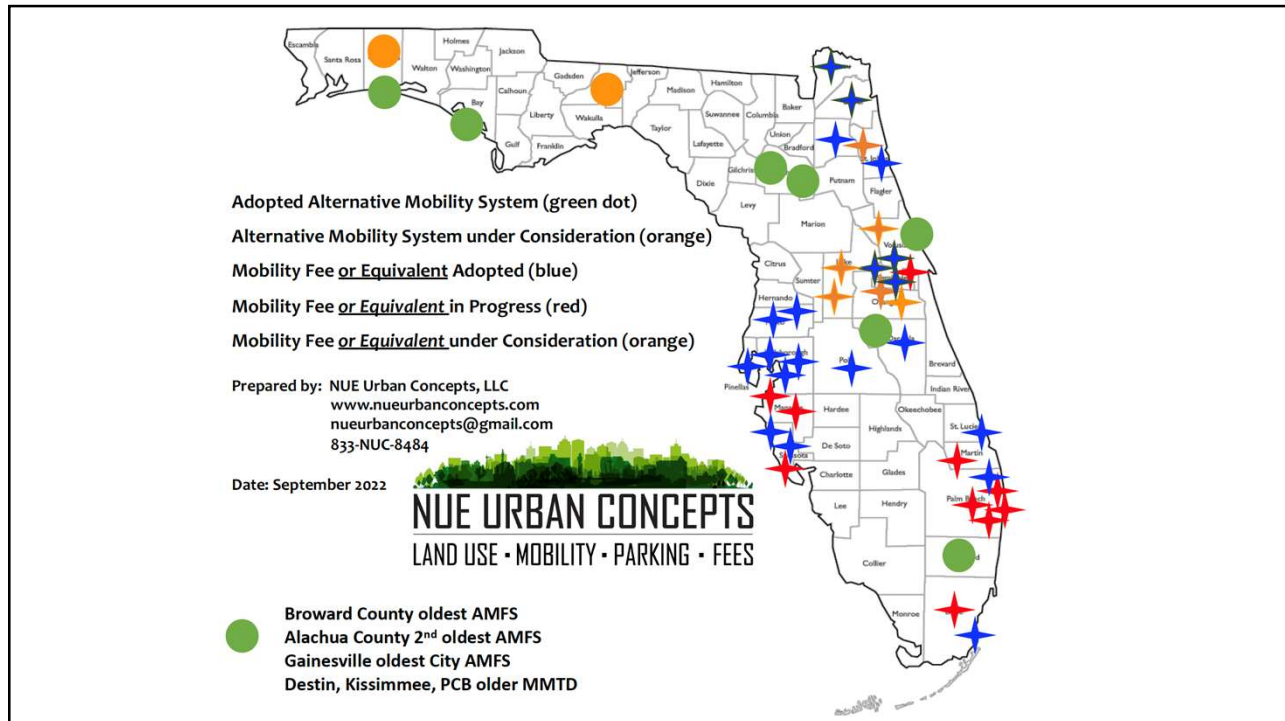
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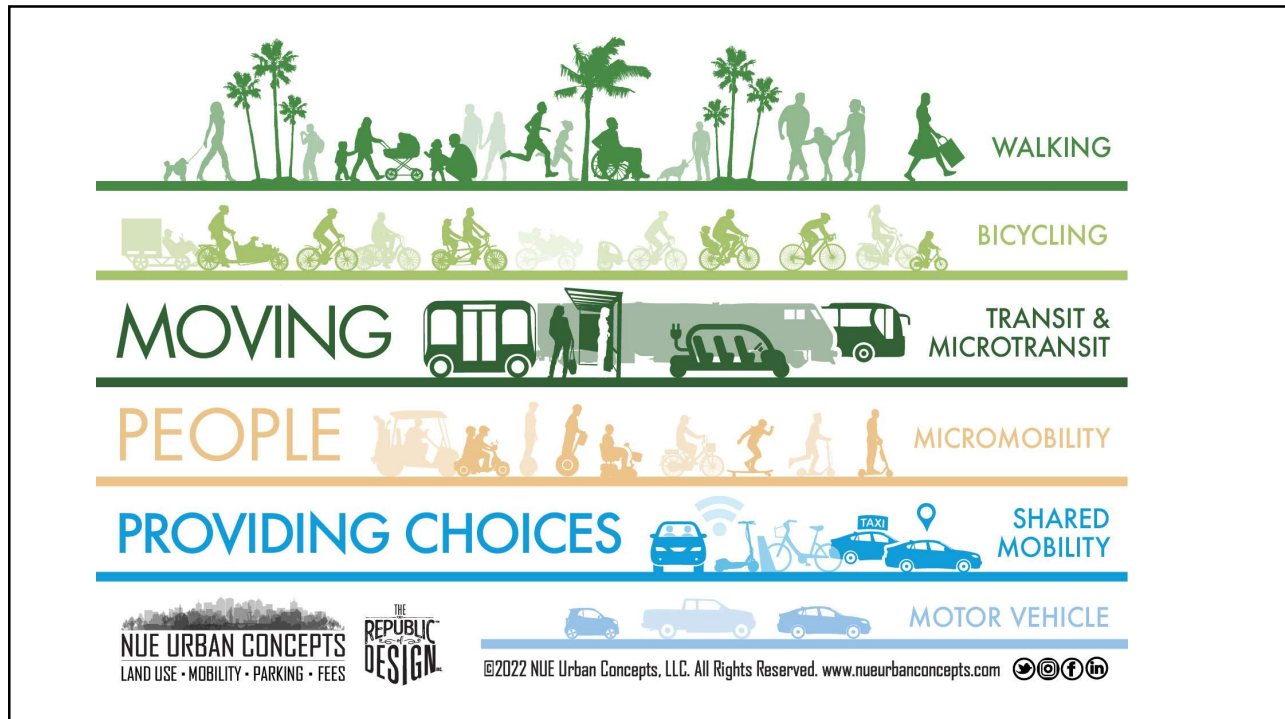
Mobility Plans & Mobility Fees: Questions to Ponder

- Should development in Cities pay more?
- Should development be charged 2x for same impact?
- Who has the right to charge for travel on State Roads?
- Can Cities charge for 100% of developments impact?
- Who has the right to charge for travel on County Roads?
- How do you determine City & County share of fees?
- Can County's enforce transportation concurrency in Cities?
- Who enforces level of service on State Roads?
- Why does there need to be new legislation?

2



3



4

MOBILITY PLANNING BASED ON THE SPEED OF TRAVEL

SIDEWALK, TRAIL, & SHARED STREET	WALKING JOGGING RUNNING	1-7 MPH		PEOPLE
TRAIL, BUFFERED/ PROTECTED BIKE LANE, SHARED STREET	SKATEBOARD ROLLERBLADE BICYCLE	7-12 MPH		PEOPLE POWERED
BUFFERED/PROTECTED BIKE LANE, DESIGNATED TRAIL, MICROMOBILITY LANE, & STREETS 25 MPH OR LESS	E-SCOOTER SEGWAY/ONEWHEEL E-BICYCLE MOPED	12-15 MPH		MICRO MOBILITY
DEDICATED LANE, MICROTRANSIT LANE, & STREETS 30 MPH OR LESS	AUTONOMOUS TRANSIT SHUTTLE / GOLF CART NEIGHBORHOOD ELECTRIC VEHICLE	15-20 MPH		MICRO TRANSIT
DEDICATED LANE, SHARED TRAVEL LANE, & HOV LANE	TRANSIT TNC TAXI	20-25 MPH		SHARED MOBILITY

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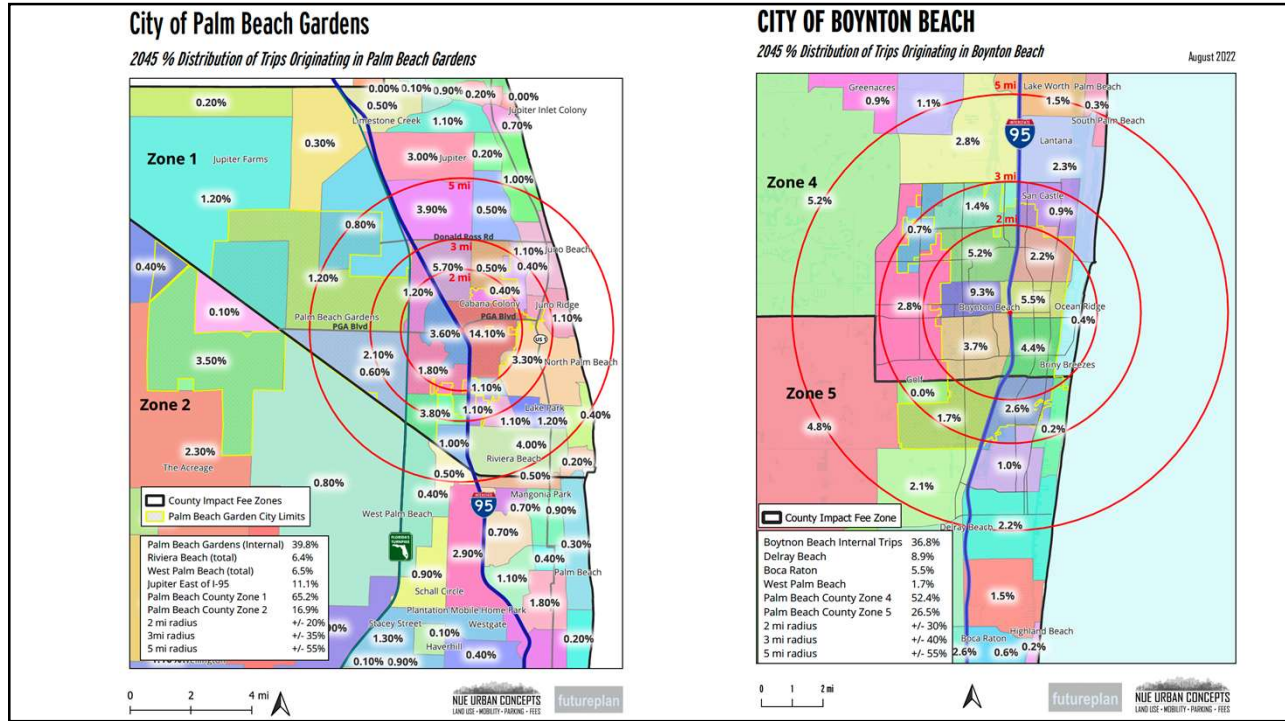
BEFORE

AFTER

Car-Oriented Street		Multimodal Street	
	1,200 x2 2,400 people		3,600 x2 7,200 people
	13,500 x2 27,000 people		8,400 x2 16,800 people
			13,500 x2 27,000 people
Total Capacity: 29,400 people		Total Capacity: 51,000 people	

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6



9

Person Travel Demand per use (PTDu) per Assessment Area

$$PTD_{ue} = (((TG \times \% NEW) \times ET_{fe}) \times PT_{fe}) \times PT_e = PTD_{ge}; (((PTD_{ge} \times CR_f) \times LAE_f) \times ODA_f)$$

$$PTD_{us} = (((TG \times IC_f) \times \% NEW) \times ET_{fs}) \times PT_{fs} = PTD_{gs}; (((PTD_{gs} \times CR_f) \times LAE_f) \times ODA_f)$$

$$PTD_{un} = (((TG \times IC_n) \times \% NEW) \times ET_{fn}) \times PT_{fn} = PTD_{gn}; (((PTD_{gn} \times CR_f) \times LAE_f) \times ODA_f)$$

Where:

- PTDu = Person Travel Demand per use (Appendix X)
- e = East Assessment Area (Map A)
- s = Southwest Assessment Area (Map A)
- n = Northwest Assessment Area (Map A)
- TG = Trip Generation (Appendix R)
- % NEW = Percent of Trips that are Primary Trips (Appendix R)
- ICfs = Internal Capture factor (Appendix S) of 0.783 (Figure 10)
- ICfn = Internal Capture factor (Appendix S) of 0.889 (Figure 10)
- ETfe = External Trip factor (Appendix S) of 0.753 (Table 17)
- ETfs = External Trip factor (Appendix S) of 0.734 (Table 17)
- ETfn = External Trip factor (Appendix S) of 0.629 (Table 17)
- PTf = Person Trip Factor by Trip Purpose (Appendix T)
- PTl = Person Trip Length by Trip Purpose (Appendix T)
- PTDg = Person Travel Demand gross per use (Appendix X)
- CRf = County Road factor of 0.878 (Table 19)
- LAEf = Limited Access Evaluation factor of 0.643 (Table 20)
- ODAf = Origin & Destination Adjustment factor of 0.50 to avoid double-counting

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Person Miles of Travel Rate (PMTr) per Assessment Area

$$IC_{fs} = (1 - 0.217) = 0.783$$

$$IC_{fn} = (1 - 0.111) = 0.889$$

$$ACSTmp = (UCSTmp \times ECEf) \times NGEf$$

$$ACSTmps = (ACSTmp \times IC_{fs})$$

$$ACSTmpn = (ACSTmp \times IC_{fn})$$

$$PMTre = (ACSTmp / PMTI)$$

$$PMTrs = (ACSTmps / PMTI)$$

$$PMTrn = (ACSTmpn / PMTI)$$

Where:

- e = East Assessment Area (Map A)
- s = Southwest Assessment Area (Map A)
- n = Northwest Assessment Area (Map A)
- UCSTmp = Unfunded Cost of Mobility Plan projects (Table 14)
- ECEf = Existing Conditions Evaluation factor of 1.00 (Table 7)
- NGEf = New Growth Evaluation factor of 1.00 (Table 15)
- ACSTmp = Attributable Cost of Mobility Plan projects
- ICf = Internal Capture factor (Table 16)
- PMTi = Person Miles of Travel Increase (Table 6)
- PMTr = Person Miles of Travel Rate

Prepared by NUE Urban Concepts, LLC

10

Use Categories, Use Classifications, and Representative Uses	Unit of Measure for Comparative Purposes	Existing City Mobility Fee	Draft Mobility Fee versus Road Impact Fee (RIF)			Total Mobility Fees & Road Impact Fees
			Developments W/O Credit Agreements			
		West of St. Lucie River (WOR)	Mobility Fee East of 95	St. Lucie County RIF in City of PSL	Adopted St. Lucie County RIF (2025)	To be Collected in City of PSL
Residential & Lodging Uses		County Single Family & Active Adult fee (\$2,060) based on under 2,400 Sq. Ft. PSL Fee based on 2,200 Sq. Ft.				
Single-Family Residential per sq. ft. (Maximum 3,500 sq. ft.)	per 1,000 sq. ft.	\$ 1,775	\$ 1,605	\$ 2,060	\$ 5,771	\$ 5,591
Active Adult (55+) Residential per sq. ft. (Maximum 3,500 sq. ft.)	per 1,000 sq. ft.	\$ 1,558	\$ 1,454	\$ 2,060	\$ 5,771	\$ 5,259
Multi-Family Residential per sq. ft. (Maximum 2,500 sq. ft.)	per 1,000 sq. ft.	\$ 2,830	\$ 2,645	\$ 1,589	\$ 4,460	\$ 4,234
Overnight Lodging (Hotel, Inn, Motel, Resort)	per room	\$ 2,192	\$ 1,998	\$ 890	\$ 2,500	\$ 2,888
Mobile Residence (Mobile Home, Recreational Vehicle, Travel Trailer)	per space / lot	\$ 1,801	\$ 1,605	\$ 807	\$ 2,289	\$ 2,412
Industrial Uses						
Industrial (Assembly, Fabrication, Manufacturing, R&D, Trades, Utilities)	per 1,000 sq. ft.	\$ 1,083	\$ 695	\$ 441	\$ 1,241	\$ 1,227
Commercial Storage (Mini-Warehouse, Boats, RVs & Outdoor Storage, Warehouse)	per 1,000 sq. ft.	\$ 836	\$ 555	\$ 353	\$ 984	\$ 908
Office Uses						
Office (Bank, Dental, General, Higher Education, Hospital, Medical, Professional)	per 1,000 sq. ft.	\$ 3,585	\$ 2,662	\$ 1,489	\$ 4,183	\$ 4,151
Free-Standing Medical Office (Clinic, Dental, Emergency Care, Medical, Veterinary)	per 1,000 sq. ft.	\$ 5,759	\$ 4,461	\$ 2,382	\$ 6,478	\$ 6,843
Commercial Services & Retail Uses		Retail Trip Generation Rates Changed Considerably between ITE 10th & ITE 11th Editions				
Local Retail [Non-Chain or Franchisee] (Entertainment, Restaurant, Retail, Services)	per 1,000 sq. ft.	\$ 3,154	\$ 2,390	\$ 1,292	\$ 3,925	\$ 3,682
Multi-Tenant Retail (Entertainment, Restaurant, Retail, Services)	per 1,000 sq. ft.	\$ 6,306	\$ 4,780	\$ 2,414	\$ 7,133	\$ 7,194
Free-Standing Retail (Entertainment, Restaurant, Retail, Services)	per 1,000 sq. ft.	\$ 7,551	\$ 6,529	\$ 3,011	\$ 8,693	\$ 9,540

11

Need for Legislation

- Cost more to build in in Cities versus Counties
- Fees are becoming increasingly technical
- No clear direction on charging for State Roads
- Development charged twice for same impact
- How do you quantify County Road impact
- Most cities want to move away from transportation concurrency
- County’s control gas taxes & ability to pursue sales taxes
- Need to add clarity to the legislative process

12

Questions & Comments

Jonathan B. Paul, AICP

Louis Rotundo



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LAND USE · MOBILITY · PARKING · FEES

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833-NUC-8484

By Senator Brodeur

9-01555B-22

20221824__

1 A bill to be entitled
2 An act relating to mobility funding systems; amending
3 s. 163.3164, F.S.; defining the terms "mobility fee"
4 and "mobility plan"; amending s. 163.3180, F.S.;
5 revising requirements and best practices for local
6 governments applying concurrency to transportation
7 facilities; requiring a local government electing to
8 repeal transportation concurrency to adopt a specified
9 alternative mobility funding system; creating s.
10 163.31803, F.S.; specifying prohibited uses of, and
11 requirements and best practices for, mobility plans by
12 local governments; providing requirements for a local
13 government electing to adopt a mobility plan and
14 mobility fee; providing that mobility fee-based
15 funding systems must comply with specified
16 requirements governing impact fees; specifying
17 authorized and prohibited provisions in mobility
18 plans; prohibiting the imposition of transportation
19 impact fees in certain areas; specifying requirements
20 for, and restrictions on, mobility fees, fee updates,
21 and fee increases; specifying requirements for the
22 calculation of mobility fees and person travel demand;
23 requiring that collected mobility fees be expended or
24 committed within a specified timeframe or be returned
25 to the applicant paying the fee; specifying
26 requirements for, and restrictions on, transportation
27 impact mitigation by multiple local governments;
28 providing best practices for certain coordination by
29 local governments; providing a burden of proof;

9-01555B-22

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30 prohibiting a court from using a certain standard for
31 the benefit of a local government; providing
32 construction; amending s. 212.055, F.S.; conforming a
33 cross-reference; providing an effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Present subsections (32) through (52) of section
38 163.3164, Florida Statutes, are redesignated as subsections (34)
39 through (54), respectively, and new subsections (32) and (33)
40 are added to that section, to read:

41 163.3164 Community Planning Act; definitions.—As used in
42 this act:

43 (32) "Mobility fee" means a local governmental fee schedule
44 established by ordinance and based on the projects included in
45 the adopted mobility plan.

46 (33) "Mobility plan" means an integrated land use and
47 alternative mobility transportation plan adopted into a local
48 government's comprehensive plan which promotes compact, mixed-
49 use, and interconnected development served by a multimodal
50 transportation system.

51 Section 2. Paragraphs (b), (c), (f), and (i) of subsection
52 (5) of section 163.3180, Florida Statutes, are amended to read:

53 163.3180 Concurrency.—

54 (5)

55 (b) A local government shall apply the principles,
56 guidelines, standards, and strategies provided in its
57 comprehensive plan ~~governments shall use professionally accepted~~
58 ~~studies~~ to evaluate the appropriate levels of service. A local

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59 government ~~governments~~ should consider the number and type of
60 facilities that will be necessary to meet level-of-service
61 demands when determining the appropriate levels of service. The
62 schedule of facilities that are necessary to meet the adopted
63 level of service shall be reflected in the capital improvement
64 element.

65 (c) A local government shall apply the principles,
66 guidelines, standards, and strategies provided in its
67 comprehensive plan ~~governments shall use professionally accepted~~
68 ~~techniques~~ for measuring levels of service when evaluating
69 potential impacts of a proposed development.

70 (f) Local governments are encouraged to develop tools and
71 techniques to complement the application of transportation
72 concurrency such as:

73 1. Adoption of long-term strategies to facilitate
74 development patterns that support multimodal solutions,
75 including urban design, and appropriate land use mixes,
76 including intensity and density.

77 2. Adoption of an areawide level of service not dependent
78 on any single road segment or other facility function.

79 3. Exempting or discounting impacts of locally desired
80 development, such as development in urban areas, redevelopment,
81 job creation, and mixed use on the transportation system.

82 4. Assigning secondary priority to vehicle mobility and
83 primary priority to ensuring a safe, comfortable, and attractive
84 pedestrian environment, with convenient interconnection to
85 transit.

86 5. Establishing multimodal level of service standards that
87 rely primarily on nonvehicular modes of transportation where

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88 existing or planned community design will provide adequate level
89 of mobility.

90 6. Reducing impact fees or local access fees to promote
91 development within urban areas, multimodal transportation
92 districts, and a balance of mixed-use development in certain
93 areas or districts, or for affordable or workforce housing.

94 (i) ~~If A local government electing elects to repeal~~
95 ~~transportation concurrency shall, it is encouraged to adopt an~~
96 ~~alternative mobility funding system as provided in s. 163.31803~~
97 ~~that uses one or more of the tools and techniques identified in~~
98 ~~paragraph (f). Any alternative mobility funding system adopted~~
99 ~~may not be used to deny, time, or phase an application for site~~
100 ~~plan approval, plat approval, final subdivision approval,~~
101 ~~building permits, or the functional equivalent of such approvals~~
102 ~~provided that the developer agrees to pay for the development's~~
103 ~~identified transportation impacts via the funding mechanism~~
104 ~~implemented by the local government. The revenue from the~~
105 ~~funding mechanism used in the alternative system must be used to~~
106 ~~implement the needs of the local government's plan which serves~~
107 ~~as the basis for the fee imposed. A mobility fee-based funding~~
108 ~~system must comply with s. 163.31801 governing impact fees. An~~
109 ~~alternative system that is not mobility fee-based shall not be~~
110 ~~applied in a manner that imposes upon new development any~~
111 ~~responsibility for funding an existing transportation deficiency~~
112 ~~as defined in paragraph (h).~~

113 Section 3. Section 163.31803, Florida Statutes, is created
114 to read:

115 163.31803 Mobility plans.—

116 (1) This section establishes the uniform framework for the

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117 adoption and implementation of a mobility plan as an alternative
118 to transportation concurrency, as provided in s. 163.3180.

119 (a) A mobility plan may not be used to deny, time, or phase
120 an application for site plan approval, plat approval, final
121 subdivision approval, building permits, or the functional
122 equivalent of such approvals, provided that the developer agrees
123 to pay for the development's identified transportation impacts
124 via the mobility fees implemented by the local government in the
125 mobility plan.

126 (b) A mobility plan must comply with the requirements of s.
127 163.3180(5)(h), and a local government adopting a mobility plan
128 is encouraged to apply the criteria in s. 163.3180(5)(f).

129 (c) A local government electing to adopt a mobility plan
130 must adopt the mobility plan and mobility fee into its
131 comprehensive plan.

132 (d) A local government must adopt a mobility plan and
133 mobility fee system by ordinance after conducting at least two
134 public workshops before adoption.

135 (e) The adoption of the mobility fee ordinance must be
136 approved by a two-thirds vote of the governing body of the local
137 government unless the total amount of the new mobility fee is
138 less than the total of all fees available to be imposed by the
139 local government on a single development to mitigate the
140 transportation impact of the new development or redevelopment.

141 (2) A mobility fee-based funding system must comply with
142 this section and s. 163.31801, governing impact fees.

143 (3) A mobility plan may include existing and emerging
144 transportation technologies that reduce dependence on motor
145 vehicle travel capacity. The mobility plan may not be based

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146 solely on the addition of motor vehicle capacity; must reflect
147 modes of travel and emerging transportation technologies
148 reducing reliance on motor vehicle capacity which are
149 established in the local government's comprehensive plan; and
150 must identify multimodal projects consisting of improvements,
151 services, and programs which increase capacity needed to meet
152 future travel demands.

153 (4) A transportation impact fee may not be imposed within
154 the area designated for the imposition of a mobility fee by a
155 local government mobility plan.

156 (5) A mobility fee, fee update, or fee increase must be
157 based on the mobility plan, may not rely solely on motor vehicle
158 capacity, and must be used exclusively to implement the mobility
159 plan and for no other purpose.

160 (6) Notwithstanding s. 163.31801(6), if a local government
161 elects to update an existing mobility fee or adopt a new
162 mobility fee that replaces one or more existing transportation
163 mitigation fees after July 1, 2022, it may not increase the fee
164 by more than a total of 50 percent, which increase must be
165 implemented over 5 years in equal increments.

166 (7) A mobility fee must be updated at least once within 5
167 years after the date of the immediately preceding adoption or
168 update. A mobility fee not updated within 5 years as provided in
169 this subsection is expired, void, and of no further force or
170 effect. A local government considering a mobility fee update may
171 not consider annual inflation adjustments or any phased-in fees
172 as the fulfillment of the required update.

173 (8) A local government adopting a mobility plan and
174 mobility fee system for transportation mitigation shall comply

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175 with all of the following:

176 (a) Beginning September 1, 2022, a new mobility fee, fee
177 update, or fee increase must be based on a mobility plan.

178 (b) The calculation of mobility fees must be based on all
179 of the following in addition to the requirements of s.

180 163.31801:

181 1. Projected increases in population, employment, and
182 vehicle and person miles of travel.

183 2. Areawide road levels of service or quality of service
184 standards and multimodal quality of service standards for modes
185 of travel included in the mobility plan.

186 3. Multimodal projects identified in the mobility plan
187 which are attributable to, and meet the travel demands of, new
188 development and redevelopment and which include person
189 capacities based on service standards and projected costs.

190 4. An evaluation of current and future travel conditions to
191 ensure that new development and redevelopment are not charged
192 for backlog and associated capacity deficiencies.

193 5. An evaluation of the projected increases in person miles
194 of travel and person miles of capacity to calculate the fair
195 share of multimodal capacity and the costs of multimodal
196 projects which are assignable and attributable to new
197 development and redevelopment.

198 6. Person travel demand corresponding to the transportation
199 impact assigned to uses included in the mobility fee schedule,
200 based on trip generation, new trips, person trips, person trip
201 lengths, excluded travel on limited access facilities, and
202 adjustments for origin and destination.

203 7. The mobility fee may not be based on recurring

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204 transportation costs.

205 (c) Person travel demand must be localized, reflecting
206 differences in the need for multimodal projects and travel
207 within urban areas based on reduced trip lengths and the
208 availability of existing transportation infrastructure.

209 (d) A local government may recognize reductions in person
210 travel demand for affordable housing and economic development.

211 (e) Any calculation of person travel demand must ensure
212 that new development and redevelopment are not assessed twice
213 for the same transportation impact.

214 (9) A mobility fee collected for an identified
215 transportation mitigation improvement must be expended or
216 committed for an identified project within 6 years after the
217 date of collection or must be returned to the applicant who paid
218 the fee. For purposes of this subsection, an expenditure or
219 improvement is deemed committed if the preliminary design,
220 right-of-way, or detailed design for the project is completed
221 and construction will commence within 2 years.

222 (10) A local government issuing a building permit for
223 development within its jurisdiction shall develop a mobility
224 fee, based on the adopted mobility plan, to ensure that the
225 transportation impacts of the new development or redevelopment
226 project are fully mitigated. Where multiple local governments
227 are seeking to implement a mobility fee, an impact fee, or
228 another transportation mitigation exaction within the boundaries
229 of a local government, the person travel demand roughly
230 proportional to the transportation impact of new development and
231 redevelopment must initially be based on that assessed by the
232 governmental entity issuing the subject development's building

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233 permit. Another local government may not charge new development
234 or redevelopment for the same travel demand, capacity, and
235 improvements assessed by the governmental entity issuing the
236 development's building permits.

237 (11) Local governments are encouraged to coordinate the
238 identification of multimodal projects, along with capacity
239 improvements, full costs, and timing of improvements, included
240 in mobility plans with other affected local governments to
241 address intrajurisdictional and extrajurisdictional impacts. The
242 coordination is encouraged to identify measurable factors
243 addressing the share of person travel demand which each local
244 government should assess; the proportion of costs of multimodal
245 projects to be included in the mobility fee calculations; which
246 entity will construct the multimodal projects; and, if
247 necessary, whether the projected future ownership of the
248 multimodal project and underlying facility should be transferred
249 from the affected local government to the local government
250 adopting the mobility fee. Any mobility fee, impact fee, or
251 other transportation mitigation exaction other than the one
252 assessed by the local government issuing the building permits
253 must include the same benefit reductions in person travel demand
254 for affordable housing, economic development, urban areas, and
255 mixed-use development.

256 (12) A local government adopting a mobility fee, and any
257 other local government assessing a transportation exaction for
258 intrajurisdictional or extrajurisdictional impacts, has the
259 burden of proving by a preponderance of the evidence that the
260 imposition or amount of the fee or exaction meets the
261 requirements of this section. A court may not use a deferential

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262 standard for the benefit of the local government.

263 Section 4. Paragraph (d) of subsection (2) of section
264 212.055, Florida Statutes, is amended to read:

265 212.055 Discretionary sales surtaxes; legislative intent;
266 authorization and use of proceeds.—It is the legislative intent
267 that any authorization for imposition of a discretionary sales
268 surtax shall be published in the Florida Statutes as a
269 subsection of this section, irrespective of the duration of the
270 levy. Each enactment shall specify the types of counties
271 authorized to levy; the rate or rates which may be imposed; the
272 maximum length of time the surtax may be imposed, if any; the
273 procedure which must be followed to secure voter approval, if
274 required; the purpose for which the proceeds may be expended;
275 and such other requirements as the Legislature may provide.
276 Taxable transactions and administrative procedures shall be as
277 provided in s. 212.054.

278 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

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

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

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

311 a. Any fixed capital expenditure or fixed capital outlay
312 associated with the construction, reconstruction, or improvement
313 of public facilities that have a life expectancy of 5 or more
314 years, any related land acquisition, land improvement, design,
315 and engineering costs, and all other professional and related
316 costs required to bring the public facilities into service. For
317 purposes of this sub-subparagraph, the term "public facilities"
318 means facilities as defined in s. 163.3164(41) ~~s. 163.3164(39)~~,
319 s. 163.3221(13), or s. 189.012(5), and includes facilities that

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320 are necessary to carry out governmental purposes, including, but
321 not limited to, fire stations, general governmental office
322 buildings, and animal shelters, regardless of whether the
323 facilities are owned by the local taxing authority or another
324 governmental entity.

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

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

333 d. Any fixed capital expenditure or fixed capital outlay
334 associated with the improvement of private facilities that have
335 a life expectancy of 5 or more years and that the owner agrees
336 to make available for use on a temporary basis as needed by a
337 local government as a public emergency shelter or a staging area
338 for emergency response equipment during an emergency officially
339 declared by the state or by the local government under s.
340 252.38. Such improvements are limited to those necessary to
341 comply with current standards for public emergency evacuation
342 shelters. The owner must enter into a written contract with the
343 local government providing the improvement funding to make the
344 private facility available to the public for purposes of
345 emergency shelter at no cost to the local government for a
346 minimum of 10 years after completion of the improvement, with
347 the provision that the obligation will transfer to any
348 subsequent owner until the end of the minimum period.

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

361 f. Instructional technology used solely in a school
362 district's classrooms. As used in this sub-subparagraph, the
363 term "instructional technology" means an interactive device that
364 assists a teacher in instructing a class or a group of students
365 and includes the necessary hardware and software to operate the
366 interactive device. The term also includes support systems in
367 which an interactive device may mount and is not required to be
368 affixed to the facilities.

369 2. For the purposes of this paragraph, the term "energy
370 efficiency improvement" means any energy conservation and
371 efficiency improvement that reduces consumption through
372 conservation or a more efficient use of electricity, natural
373 gas, propane, or other forms of energy on the property,
374 including, but not limited to, air sealing; installation of
375 insulation; installation of energy-efficient heating, cooling,
376 or ventilation systems; installation of solar panels; building
377 modifications to increase the use of daylight or shade;

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378 replacement of windows; installation of energy controls or
379 energy recovery systems; installation of electric vehicle
380 charging equipment; installation of systems for natural gas fuel
381 as defined in s. 206.9951; and installation of efficient
382 lighting equipment.

383 3. Notwithstanding any other provision of this subsection,
384 a local government infrastructure surtax imposed or extended
385 after July 1, 1998, may allocate up to 15 percent of the surtax
386 proceeds for deposit into a trust fund within the county's
387 accounts created for the purpose of funding economic development
388 projects having a general public purpose of improving local
389 economies, including the funding of operational costs and
390 incentives related to economic development. The ballot statement
391 must indicate the intention to make an allocation under the
392 authority of this subparagraph.

393 Section 5. This act shall take effect July 1, 2022.

26 parameters that must or may be included in a mobility
 27 fee; specifying criteria to be used by a local
 28 government in adopting a mobility plan and mobility
 29 fee for transportation mitigation improvements;
 30 requiring mobility fees for transportation mitigation
 31 improvements to be expended or committed within a
 32 specified time period; providing criteria for use by
 33 local governments issuing building permits related to
 34 mobility fees; encouraging local governments to
 35 coordinate certain activities included in mobility
 36 plans with other affected local governments for
 37 certain purposes; specifying that local governments
 38 have the burden of proving that the imposition or
 39 amount of a fee or exaction meets certain criteria;
 40 prohibiting the courts from using a deferential
 41 standard for a specified purpose; amending s. 212.055,
 42 F.S.; conforming a cross-reference; providing an
 43 effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Subsections (32) through (52) of section
 48 163.3164, Florida Statutes, are renumbered as subsections (34)
 49 through (54), respectively, and new subsections (32) and (33)
 50 are added to that section, to read:

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51 163.3164 Community Planning Act; definitions.—As used in
52 this act:

53 (32) "Mobility fee" means a local government fee schedule
54 established by ordinance and based on the projects included in
55 the local government's adopted mobility plan.

56 (33) "Mobility plan" means an integrated land use and
57 alternative mobility transportation plan adopted into a local
58 government comprehensive plan that promotes a compact, mixed-
59 use, and an interconnected development served by a multimodal
60 transportation system.

61 Section 2. Paragraphs (b), (c), (f), and (i) of subsection
62 (5) of section 163.3180, Florida Statutes, are amended to read:

63 163.3180 Concurrency.—

64 (5)

65 (b) A local government ~~governments~~ shall use
66 professionally accepted studies to evaluate the appropriate
67 levels of service. A local government ~~governments~~ should
68 consider the number and type of facilities that will be
69 necessary to meet level-of-service demands when determining the
70 appropriate levels of service. The schedule of facilities that
71 are necessary to meet the adopted level of service shall be
72 reflected in the capital improvement element.

73 (c) A local government ~~governments~~ shall apply the
74 principles, guidelines, standards, and strategies provided in
75 its comprehensive plan ~~use professionally accepted techniques~~

76 | for measuring levels of service when evaluating potential
 77 | impacts of a proposed development.

78 | (f) Local governments are encouraged to develop tools and
 79 | techniques to complement the application of transportation
 80 | concurrency such as:

81 | 1. Adoption of long-term strategies to facilitate
 82 | development patterns that support multimodal solutions,
 83 | including urban design, and appropriate land use mixes,
 84 | including intensity and density.

85 | 2. Adoption of an areawide level of service not dependent
 86 | on any single road segment or other facility function.

87 | 3. Exempting or discounting impacts of locally desired
 88 | development, such as development in urban areas, redevelopment,
 89 | job creation, and mixed use on the transportation system.

90 | 4. Assigning secondary priority to vehicle mobility and
 91 | primary priority to ensuring a safe, comfortable, and attractive
 92 | pedestrian environment, with convenient interconnection to
 93 | transit.

94 | 5. Establishing multimodal level of service standards that
 95 | rely primarily on nonvehicular modes of transportation where
 96 | existing or planned community design will provide adequate level
 97 | of mobility.

98 | 6. Reducing impact fees or local access fees to promote
 99 | development within urban areas, multimodal transportation
 100 | districts, and a balance of mixed-use development in certain

101 areas or districts, or for affordable or workforce housing.

102 (i) ~~If A local government electing ~~elects~~ to repeal~~
 103 ~~transportation concurrency must, it is encouraged to adopt an~~
 104 ~~alternative mobility funding system as provided in s. 163.31803.~~
 105 ~~that uses one or more of the tools and techniques identified in~~
 106 ~~paragraph (f). Any alternative mobility funding system adopted~~
 107 ~~may not be used to deny, time, or phase an application for site~~
 108 ~~plan approval, plat approval, final subdivision approval,~~
 109 ~~building permits, or the functional equivalent of such approvals~~
 110 ~~provided that the developer agrees to pay for the development's~~
 111 ~~identified transportation impacts via the funding mechanism~~
 112 ~~implemented by the local government. The revenue from the~~
 113 ~~funding mechanism used in the alternative system must be used to~~
 114 ~~implement the needs of the local government's plan which serves~~
 115 ~~as the basis for the fee imposed. A mobility fee-based funding~~
 116 ~~system must comply with s. 163.31801 governing impact fees. An~~
 117 ~~alternative system that is not mobility fee-based shall not be~~
 118 ~~applied in a manner that imposes upon new development any~~
 119 ~~responsibility for funding an existing transportation deficiency~~
 120 ~~as defined in paragraph (h).~~

121 Section 3. Section 163.31803, Florida Statutes, is created
 122 to read:

123 163.31803 Mobility plans.-

124 (1) This section establishes the uniform framework for the
 125 adoption and implementation of a mobility plan as an alternative

126 to transportation concurrency as provided in s. 163.3180(5).

127 (a) A mobility plan may not be used to deny, time, or
128 phase an application for site plan approval, plat approval,
129 final subdivision approval, building permit, or the functional
130 equivalent of such approvals provided that the developer agrees
131 to pay for the development's identified transportation impacts
132 via the mobility fees adopted by the local government in the
133 mobility plan.

134 (b) A mobility plan must comply with the requirements of
135 s. 163.3180(5)(h) and is encouraged to meet the criteria in s.
136 163.3180(5)(f).

137 (c) A local government choosing to adopt a mobility plan
138 must adopt the mobility plan and a mobility fee system into its
139 comprehensive plan.

140 (d) A local government must adopt each mobility plan and
141 mobility fee system by ordinance after conducting at least two
142 public workshops before adoption of the ordinance.

143 (e)1. A local government may:

144 a. Adopt a mobility plan and the initial mobility fee
145 system in a single ordinance by a two-thirds vote of the
146 governing body; or

147 b. Adopt a mobility plan in a single ordinance by a simple
148 majority vote and adopt the initial mobility fee system in a
149 separate ordinance by a two-thirds vote of the governing body.

150 2. A two-thirds vote of the governing body is not

151 necessary if the total amount of the new mobility fee system is
152 less than the total of all fees available to be imposed by the
153 local government on a single development to mitigate the
154 transportation impact of the new development or redevelopment.
155 In such case, a simple majority vote of the governing body is
156 sufficient to approve the mobility fee system.

157 (2) The determination, adoption, and implementation of a
158 mobility fee pursuant to an adopted mobility fee system must
159 comply with this section and s. 163.31801, governing impact
160 fees.

161 (3) A mobility plan:

162 (a) May include existing and emerging transportation
163 technologies that reduce dependence on motor vehicle travel
164 capacity.

165 (b) May not be based solely on adding motor vehicle
166 capacity.

167 (c) Must reflect modes of travel and emerging
168 transportation technologies reducing reliance on motor vehicle
169 capacity established in the local government's comprehensive
170 plan,

171 (d) Must identify multimodal projects consisting of
172 improvements, services, and programs which increase capacity
173 needed to meet future travel demands.

174 (4) A transportation impact fee may not be imposed within
175 the area designated for the imposition of a mobility fee by a

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176 local government mobility plan.

177 (5) A mobility fee, fee update, or fee increase must be
178 based on the adopted mobility fee schedule and mobility plan,
179 may not rely solely on motor vehicle capacity, and must be used
180 exclusively to implement the mobility plan.

181 (6) A mobility fee must be updated at least once within 5
182 years after the date the mobility fee is imposed or its most
183 recent update. A mobility fee that is not updated within the 5
184 years is void. A local government considering a mobility fee
185 update may not consider annual inflation adjustments or any
186 phased-in fees to meet the requirements of this subsection.

187 (7) A local government adopting a mobility plan and
188 mobility fee for transportation mitigation improvements must
189 comply with all of the following:

190 (a) Beginning September 1, 2022, any new mobility fee, fee
191 update, or fee increase must be based on an adopted mobility fee
192 schedule and mobility plan.

193 (b) In addition to meeting the requirements of s.
194 163.31801, mobility fees must be calculated using all of the
195 following criteria:

196 1. Projected increases in population, employment, and
197 motor vehicle travel demand and per person travel demand.

198 2. Areawide road levels of service or quality of service
199 standards and multimodal quality of service standards for modes
200 of travel included in the mobility plan.

201 3. Multimodal projects identified in the adopted mobility
202 plan which are attributable to, and meet the travel demands of,
203 new development and redevelopment and which include capacities
204 based on service standards and projected costs.

205 4. An evaluation of current and future travel conditions
206 to ensure that new development and redevelopment are not charged
207 for backlog and associated capacity deficiencies.

208 5. An evaluation of the projected increases in per person
209 travel demand and system capacity to calculate the fair share of
210 multimodal capacity and the costs of multimodal projects that
211 are assignable and attributable to new development and
212 redevelopment.

213 6. Per person travel demand corresponding to the
214 transportation impact assigned to uses included in the mobility
215 fee schedule ordinance based on trip generation, new trips, per
216 person travel demand, excluded travel on limited access
217 facilities, and adjustments for origin and destination of
218 travel.

219 7. The mobility fee may not be based on recurring
220 transportation costs.

221 (c) Per person travel demand must be localized, reflecting
222 differences in the need for multimodal projects and travel
223 within urban areas based on reduced trip lengths and the
224 availability of existing transportation infrastructure.

225 (d) A local government may recognize reductions in per

226 person travel demand for affordable housing and economic
 227 development.

228 (e) Any calculation of per person travel demand must
 229 ensure that new development and redevelopment are not assessed
 230 twice for the same transportation impact.

231 (8) If a mobility fee for a specific transportation
 232 mitigation improvement is not expended or committed for an
 233 identified project within 6 years after the date it is
 234 collected, the mobility fee must be returned to the applicant.
 235 For purposes of this subsection, an expenditure is deemed
 236 committed if the preliminary design, right-of-way, or detailed
 237 design for the project is completed and construction will
 238 commence within 2 years after the fee was committed.

239 (9) A local government issuing a building permit for
 240 development within its jurisdiction shall develop an appropriate
 241 mobility fee based on the adopted mobility plan and the mobility
 242 fee schedule to ensure that the transportation impacts of the
 243 new development or redevelopment project are fully mitigated. If
 244 multiple local governments seek to implement a mobility fee, an
 245 impact fee, or another transportation mitigation exaction within
 246 the boundaries of a local government, the per person travel
 247 demand must be roughly proportional to the transportation impact
 248 of new development and redevelopment and must initially be based
 249 on that assessed by the government issuing the development's
 250 building permit. Another local government may not charge new

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251 development or redevelopment for the same travel demand,
252 capacity, and improvements assessed by the governmental entity
253 that issued the building permit.

254 (10) Local governments are encouraged to coordinate the
255 identification of multimodal projects, along with capacity
256 improvements, full costs, and timing of improvements, included
257 in mobility plans with other affected local governments to
258 address impacts both within the boundary of the local
259 governments and are encouraged to identify measurable factors
260 addressing the share of per person travel demand which each
261 local government should assess, the proportion of costs of
262 multimodal projects to be included in the mobility fee
263 calculations, which entity will construct the multimodal
264 projects, and, if necessary, whether the projected future
265 ownership of the multimodal project and underlying facility
266 should be transferred from the affected local government to the
267 local government adopting the mobility fee. Any mobility fee,
268 impact fee, or other transportation mitigation exaction other
269 than the one assessed by the local government issuing the
270 building permits must include the same benefit reductions in per
271 person travel demand for affordable housing, economic
272 development, urban areas, and mixed-use development.

273 (11) A local government adopting a mobility fee and any
274 other local government assessing a transportation exaction for
275 impacts within or beyond the boundaries of a local government

276 has the burden of proving by a preponderance of the evidence
 277 that the imposition or amount of the fee or exaction meets the
 278 requirements of this section. A court may not use a deferential
 279 standard for the benefit of the local government.

280 Section 4. Paragraph (d) of subsection (2) of section
 281 212.055, Florida Statutes, is amended to read:

282 212.055 Discretionary sales surtaxes; legislative intent;
 283 authorization and use of proceeds.—It is the legislative intent
 284 that any authorization for imposition of a discretionary sales
 285 surtax shall be published in the Florida Statutes as a
 286 subsection of this section, irrespective of the duration of the
 287 levy. Each enactment shall specify the types of counties
 288 authorized to levy; the rate or rates which may be imposed; the
 289 maximum length of time the surtax may be imposed, if any; the
 290 procedure which must be followed to secure voter approval, if
 291 required; the purpose for which the proceeds may be expended;
 292 and such other requirements as the Legislature may provide.
 293 Taxable transactions and administrative procedures shall be as
 294 provided in s. 212.054.

295 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

296 (d) The proceeds of the surtax authorized by this
 297 subsection and any accrued interest shall be expended by the
 298 school district, within the county and municipalities within the
 299 county, or, in the case of a negotiated joint county agreement,
 300 within another county, to finance, plan, and construct

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301 infrastructure; to acquire any interest in land for public
302 recreation, conservation, or protection of natural resources or
303 to prevent or satisfy private property rights claims resulting
304 from limitations imposed by the designation of an area of
305 critical state concern; to provide loans, grants, or rebates to
306 residential or commercial property owners who make energy
307 efficiency improvements to their residential or commercial
308 property, if a local government ordinance authorizing such use
309 is approved by referendum; or to finance the closure of county-
310 owned or municipally owned solid waste landfills that have been
311 closed or are required to be closed by order of the Department
312 of Environmental Protection. Any use of the proceeds or interest
313 for purposes of landfill closure before July 1, 1993, is
314 ratified. The proceeds and any interest may not be used for the
315 operational expenses of infrastructure, except that a county
316 that has a population of fewer than 75,000 and that is required
317 to close a landfill may use the proceeds or interest for long-
318 term maintenance costs associated with landfill closure.
319 Counties, as defined in s. 125.011, and charter counties may, in
320 addition, use the proceeds or interest to retire or service
321 indebtedness incurred for bonds issued before July 1, 1987, for
322 infrastructure purposes, and for bonds subsequently issued to
323 refund such bonds. Any use of the proceeds or interest for
324 purposes of retiring or servicing indebtedness incurred for
325 refunding bonds before July 1, 1999, is ratified.

326 1. For the purposes of this paragraph, the term
 327 "infrastructure" means:
 328 a. Any fixed capital expenditure or fixed capital outlay
 329 associated with the construction, reconstruction, or improvement
 330 of public facilities that have a life expectancy of 5 or more
 331 years, any related land acquisition, land improvement, design,
 332 and engineering costs, and all other professional and related
 333 costs required to bring the public facilities into service. For
 334 purposes of this sub-subparagraph, the term "public facilities"
 335 means facilities as defined in s. 163.3164(41) ~~s. 163.3164(39)~~,
 336 s. 163.3221(13), or s. 189.012(5), and includes facilities that
 337 are necessary to carry out governmental purposes, including, but
 338 not limited to, fire stations, general governmental office
 339 buildings, and animal shelters, regardless of whether the
 340 facilities are owned by the local taxing authority or another
 341 governmental entity.
 342 b. A fire department vehicle, an emergency medical service
 343 vehicle, a sheriff's office vehicle, a police department
 344 vehicle, or any other vehicle, and the equipment necessary to
 345 outfit the vehicle for its official use or equipment that has a
 346 life expectancy of at least 5 years.
 347 c. Any expenditure for the construction, lease, or
 348 maintenance of, or provision of utilities or security for,
 349 facilities, as defined in s. 29.008.
 350 d. Any fixed capital expenditure or fixed capital outlay

351 associated with the improvement of private facilities that have
352 a life expectancy of 5 or more years and that the owner agrees
353 to make available for use on a temporary basis as needed by a
354 local government as a public emergency shelter or a staging area
355 for emergency response equipment during an emergency officially
356 declared by the state or by the local government under s.
357 252.38. Such improvements are limited to those necessary to
358 comply with current standards for public emergency evacuation
359 shelters. The owner must enter into a written contract with the
360 local government providing the improvement funding to make the
361 private facility available to the public for purposes of
362 emergency shelter at no cost to the local government for a
363 minimum of 10 years after completion of the improvement, with
364 the provision that the obligation will transfer to any
365 subsequent owner until the end of the minimum period.

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

376 residential housing project on land acquired pursuant to this
377 sub-subparagraph.

378 f. Instructional technology used solely in a school
379 district's classrooms. As used in this sub-subparagraph, the
380 term "instructional technology" means an interactive device that
381 assists a teacher in instructing a class or a group of students
382 and includes the necessary hardware and software to operate the
383 interactive device. The term also includes support systems in
384 which an interactive device may mount and is not required to be
385 affixed to the facilities.

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

400 3. Notwithstanding any other provision of this subsection,

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401 a local government infrastructure surtax imposed or extended
402 after July 1, 1998, may allocate up to 15 percent of the surtax
403 proceeds for deposit into a trust fund within the county's
404 accounts created for the purpose of funding economic development
405 projects having a general public purpose of improving local
406 economies, including the funding of operational costs and
407 incentives related to economic development. The ballot statement
408 must indicate the intention to make an allocation under the
409 authority of this subparagraph.

410 Section 5. This act shall take effect July 1, 2022.



Home-based Business Regulations

V-B

DEPARTMENTAL CORRESPONDENCE

TO: Chairman Steve Lauer and
Planning and Zoning Board Members

FROM: Jason H. Jeffries, AICP *JHJ*
Director of Planning and Development

DATE: September 27, 2021

SUBJECT: **Home-Based Business Regulations**

During the 2021 legislative session, the State of Florida Legislature passed House Bill (HB) 403, to preempt a local municipality's ability to regulate home-based businesses in residential areas. HB 403 added F.S. 559.955 (see attached), to limit a local government's authority to regulate, enforce, or license home-based business, except in conformance with the standards for home-based business provided in Florida Statutes. The new regulation could result in unexpected business enterprises being permitted in residential neighborhoods.

Currently, Vero Beach regulates home-based businesses as an accessory use to residential dwellings in the Zoning Code. Vero Beach allows residential properties to have accessory home-based businesses in compliance with the following standards in Sec. 64.13, Home occupations:

- (a) A home occupation may be conducted within any residential dwelling unit located in any district, provided that the home occupation is a small and unobtrusive business that is clearly incidental and secondary to the principal residential use and is consistent and compatible with maintaining the quiet, low traffic character of a residential neighborhood; and provided that:
 - (1) The primary use of the unit is a residential dwelling.
 - (2) Any application for home occupation permit must be signed by the property owner.
 - (3) The applicant provides written and graphic documentation demonstrating compliance with the criteria of this section, as outlined in (b), below.
- (b) The following criteria shall be complied with in full at all times:
 - (1) Permitted home occupation uses shall employ a maximum of two persons who shall be members of the immediate family that are living per dwelling unit where the home occupation is approved. Further, no dwelling may be used for assembling employees for instruction or other purposes such as being dispatched to other locations.
 - (2) Permitted home occupation uses shall only be conducted from within the principal dwelling on a property and shall not exceed the lesser of 20 percent of the total floor area of the principal dwelling or 300 square feet, including storage areas.
 - (3) No sign is displayed which would be visible from a street, and no vehicle displaying the business name shall be parked so that the sign is visible from a street or adjacent residential properties.
 - (4) There shall be no outdoor storage of business equipment, materials, or merchandise.

- (5) No use, equipment, material or process shall be used which is hazardous to public health, safety, morals, or welfare.
 - (6) No uses, process, material or equipment shall be permitted which emits offensive noise, vibration, smoke, dust, or other particulate matter, odorous matter, heat, glare or other objectionable effects. Further, no equipment or process shall be used that creates visual or audible interference with off-premises audio/visual equipment or causes fluctuation in line voltage off the premises.
 - (7) No home occupation shall displace or impede the use of parking spaces required for the principal residential use.
 - (8) Customers, clients and/or deliveries pertaining to the home occupation shall not be permitted. Any materials required to accomplish the home occupation shall be obtained by the owner off-site and brought to the site by the owner. Any finished products completed on a site shall be delivered by the owner to their intended recipient.
 - (9) The only home occupation allowed in the R-1A, and R-1AA single family residential zoning districts is the limited use of office space that includes a telephone, computers, copiers, and other typical office equipment.
 - (10) Any home occupation in a residential zoning district, other than R-1A and R-1AA single family residential zoning districts, that includes activity other than answering the phone and business related use of typical office equipment shall require minor change approval by the planning and zoning board.
- (c) The following are uses which shall be prohibited as home occupations:
- (1) Mechanical, paint and body repair, and/or detailing services upon any motor vehicles and trailers, including, but not limited to, automobiles, trucks, motor homes, buses, tractors, heavy equipment, mobile homes, and travel trailers;
 - (2) Beauty salons and barber shops;
 - (3) Health salons, gyms, dance studios, aerobic exercise studios, massages;
 - (4) Limousine service;
 - (5) Medical or dental office;
 - (6) Palm reading, fortune telling;
 - (7) Private clubs;
 - (8) Retail sales and services from site;
 - (9) Tow truck services or other trucking services;
 - (10) Veterinary office and related services (including care, grooming, or boarding).
 - (11) Similar uses not strictly in compliance with this section, the Code of Ordinances, or the Vero Beach Comprehensive Plan.
- (d) Procedurally, a request for a home occupation permit shall be made to the planning and development department. If the planning and development director determines that a proposed home occupation does not comply with the criteria of this section, the Code of Ordinances or the Vero Beach Comprehensive Plan, then the home occupation application shall be denied. Further, if it is determined by the planning and development director that an existing home occupation has grown in intensity to a point where it is no longer in compliance with the criteria

of this section, the Code of Ordinances or the Vero Beach Comprehensive Plan, then the home occupational permit shall not be renewed and the home occupation shall cease.

- (e) All persons possessing a home occupation permit at the effective date of this section shall be phased into the annual process upon expiration of their current permit. Any home occupation permit issued after the effective date of this section shall expire on September 30, 2004, and be renewable for October 1 through September 30 for all successive years. The city shall not automatically renew each home occupation permit previously granted, but shall scrutinize all applications, either original or renewal, to ensure that permitted home occupations are in compliance with this section. In the event there is any violation of the preceding conditions, a home occupation permit shall be revoked by the city manager, subject to appeal pursuant to section 2-203 of the Code of Ordinances of the City of Vero Beach. Should that home occupation be continued without benefit of a home occupation permit, the matter shall be brought immediately to the code enforcement board for enforcement action.
- (f) Once such home occupation permit is issued to an applicant, it cannot be transferred to another person through the sale, leasing or rental of the premises on which the home occupation is located; except that, in the case of the applicant's death, the surviving spouse or child residing at the same address desires to continue the home occupation, written notice shall be given to the planning and development department and the permit may be transferred. Such home occupation permit shall not be used by the applicant for any premises other than that for which it was granted.

To ensure the home occupation accessory use regulations are in compliance with the F.S. 559.955, the following changes are required to Sec. 64.13, Home occupations:

- Any use permitted in the City may be allowed as a home-based business.
- Home-based business may be allowed up to two employees who do not reside at the dwelling unit.
- Home-based business may be operated anywhere on the premises, except for retail transaction which could be limited to the residential dwelling.
- Sign requirements shall be "content neutral" and the same rules that apply to all residential property shall apply to properties with home-based businesses.
- Add standards to ensure any changes to the property maintain the residential character.
- Regulations related to vehicles and trailers will have to be same as the rules that apply to all properties in residential zoning districts (see attached regulations in Sec.74-82).
- Regulations related to outdoor storage of equipment will have to be same as the rules that apply to all properties in residential zoning districts (see attached Sec.74-83).
- Regulations related to noise, vibration, heat, smoke, dust, glare, fumes or noxious odors will have to be same as the rules that apply to all properties in residential zoning districts.
- Regulations related to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquid will have to be same as the rules that apply to all properties in residential zoning districts.

Staff is requesting a discussion on the required changes to Sec. 64.13, Home occupations, to comply with HB 403 and F.S. 559.955.

Select Year: 2021

The 2021 Florida Statutes

Title XXXIIIREGULATION OF TRADE, COMMERCE, INVESTMENTS,
AND SOLICITATIONSChapter 559REGULATION OF TRADE, COMMERCE, AND
INVESTMENTS, GENERALLY[View Entire
Chapter](#)**559.955 Home-based businesses; local government restrictions.—**

(1) Local governments may not enact or enforce any ordinance, regulation, or policy or take any action to license or otherwise regulate a home-based business in violation of this section.

(2) A home-based business that operates from a residential property as provided in subsection (3):

(a) May operate in an area zoned for residential use.

(b) May not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government's jurisdiction, except as otherwise provided in this section.

(c) Is only subject to applicable business taxes under chapter 205 in the county and municipality in which the home-based business is located.

(3) For purposes of this section, a business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following criteria:

(a) The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.

(b) Parking related to the business activities of the home-based business complies with local zoning requirements and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Local governments may regulate the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street or neighboring property. For purposes of this paragraph, the term "heavy equipment" means commercial, industrial, or agricultural vehicles, equipment, or machinery.

(c) As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.

(d) The activities of the home-based business are secondary to the property's use as a residential dwelling.

(e) The business activities comply with any relevant local or state regulations with respect to signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. Any local regulations on a business with respect to noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors may not be more stringent than those that apply to a residence where no business is conducted.

(f) All business activities comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids. Any local regulations on a business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted.

(4) Any adversely affected current or prospective home-based business owner may challenge any local government action in violation of this section. The prevailing party in a challenge may recover reasonable attorney fees and costs incurred in challenging or defending the action, including reasonable appellate attorney fees and costs.

(5) The application of this section does not supersede:

(a) Any current or future declaration or declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration or declaration of covenant adopted pursuant to chapter 720.

(b) Local laws, ordinances, or regulations related to transient public lodging establishments, as defined in s. 509.013(4)(a)1., that are not otherwise preempted under chapter 509.

History.—s. 1, ch. 2021-202.

DIVISION 3. - RESIDENTIAL RESTRICTIONS

Sec. 74-81. - Definitions.

The definitions used for the various motor vehicles and trailers in F.S. chs. 316 and 320, if not defined in this section, shall apply to this division. The following words are defined as follows:

Bus means any motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and any motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. A vehicle built as a bus but remodeled for use as a motor home shall not be considered a bus if it does not exceed the dimensions for a travel trailer.

Industrial equipment means farm tractors and implements, bulldozers, drag lines, cranes, derricks, and heavy earth-moving equipment normally used in farming, excavation or heavy construction activities.

Mobile home means a structure, transportable in one or more sections, which is eight body feet or more in width and which is built on an integral chassis, and designed to be used as a dwelling when connected to the required utilities, and which contains plumbing, heating, air conditioning, and electrical systems.

Motorcycles means any motor vehicle with a motor rated in excess of 1½ brake horsepower having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Owner means a person, other than a lienholder, having a possessory interest in or title to a watercraft.

Plot means the lot on which a residence is located and any abutting vacant lot which is in the control of the occupant of the residence abutting the vacant lot by virtue of ownership or lease of the abutting vacant lot.

Recreational vehicles means vehicles primarily designed as temporary living quarters for recreational, camping, or travel use, which either have their own motor power or are mounted on or drawn by another vehicle. As defined as follows, the basic entities are:

- (1) *Travel trailer*: A vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It is of a body width of no more than eight feet and a body length of no more than 35 feet and is factory-equipped for the road.
- (2) *Camping trailer*: A vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
- (3) *Truck camper*: A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use.
- (4) *Motor home*: A vehicular unit, built on a self-propelled motor vehicle chassis, primarily designated to provide temporary living quarters for recreational, camping, or travel use.
- (5) *Fifth wheel recreation trailer*: A vehicular portable unit mounted on wheels of such size or weight as not to require special highway movement permits. It is primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use and designed to be connected for towing through the use of a fifth-wheel device.
- (6) *Park trailer*: A transportable unit of a body width not exceeding eight feet and length not exceeding 35 feet, which unit does not require special highway movement permits when moved by a motorized vehicle. A park trailer is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to

utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface to the exterior walls of at the level of maximum dimensions and including any bay window that extends to the floor line, does not exceed 400 square feet. The length of a park trailer means the distance from the exterior of the front of body (nearest to the drawbar and coupline mechanism) to the exterior of the rear of the body (at the opposite end of the body) including any protrusions.

Residential districts means all R-1AA, R-1A, R-1, RM-8, RM-10, RM-10/12 and RM-13 districts as established and designated upon the zoning district map of the city.

Semitrailer means any two-wheeled vehicle coupled to or drawn by any motor vehicle.

Trailer means all four-wheel vehicles or larger coupled to or drawn by a motor vehicle.

Truck means any motor vehicle designed or used principally for carrying things other than passengers and includes a motor vehicle to which has been added a cabinet box, platform, rack, or other equipment for the purpose of carrying merchandise other than the person or effects of the passengers.

Truck tractor means any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than part of the weight of the vehicle and load so drawn.

Watercraft means any apparatus intended to transport one or more passengers over, across or under water, including, but not limited to: canoes, kayaks, bass boats, john boats, ski boats, motor boats, sailboats, airboats, paddle boats, pontoon boats, jet skis, and other personal watercraft.

Watercraft trailer means a trailer which is being used for or is designed for use in carrying watercraft.

(Code 1982, § 36.17; Ord. No. 84-26, § 1, 10-16-1984; Ord. 85-06, § 1, 3-5-1985; Ord. No. 00-06, § 2, 7-18-2000)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 74-82. - Vehicles restrictions on private property.

- (a) Buses, mobile homes, trailers, trucks over 5,000 pounds, and truck tractors shall not be parked on private property, in residential districts, for more than one time in any one day and not to exceed one hour except in a closed garage and except for those vehicles directly related to a use for which a conditional use has been granted in a residential area. This prohibition shall not apply to temporary parking of such vehicles on private property where the vehicle is being used in construction under a valid, displayed building permit, a delivery or service call, or a moving van operation. Overhaul, maintenance, or repair of such vehicles in residential districts is prohibited except for emergency repair to comply with section 74-85.
- (b) The occupation of any motor vehicle, as defined in F.S. § 316.003, mobile home or recreational vehicle as living quarters is prohibited within the corporate limits of the city, except in duly licensed mobile home parks, or unless otherwise permitted within the zoning district pursuant to an approved site plan.
- (c) A watercraft placed on private property when the watercraft is not in use on a body of water and any watercraft trailer with or without a watercraft that is placed on private property shall be considered stored for the purposes of this section, except when the watercraft trailer is temporarily parked at a watercraft launching facility. Watercrafts and watercraft trailers may be stored on a residentially zoned property (enumerated in section 74-81) improved by a single-family residential dwelling subject to the following conditions:
 - (1) The property shall be improved by a permitted single-family dwelling that is used for a conforming use.
 - (2) The combination of a watercraft and watercraft trailer shall be owned by legal occupants of the single-family dwelling.
 - (3) A watercraft and trailer combination, a watercraft trailer or a watercraft without a watercraft trailer shall not be

stored in a required front yard.

- (4) A watercraft and trailer combination, a watercraft trailer, or a watercraft shall be stored a minimum of two feet from side and rear property lines, and a minimum of three feet from any residential structure.
 - (5) A maximum of two watercraft and trailer combinations may be stored on any residential property.
 - (6) A watercraft clearly intended to be stored on a watercraft trailer shall be stored on a watercraft trailer and shall be considered one watercraft and trailer combination.
 - (7) A watercraft clearly intended to be transported without use of a watercraft trailer may be stored without a watercraft trailer and shall be considered a watercraft and trailer combination.
 - (8) A watercraft trailer not currently bearing a watercraft shall be considered a watercraft and trailer combination.
 - (9) All stored watercraft shall be seaworthy and licensed at all times.
 - (10) All stored watercraft trailers shall be roadworthy and licensed at all times.
 - (11) The ground around any stored watercraft or watercraft trailer shall be maintained to present a neat and orderly appearance at all times. Further, grass shall be maintained to a height that does not exceed 12 inches.
 - (12) Use of a watercraft for commercial or residential purposes shall not occur while the watercraft is being stored.
 - (13) Routine maintenance and care of the watercraft and watercraft trailer may occur while the watercraft and watercraft trailer are being stored.
 - (14) The maximum length of any stored watercraft shall be 32 feet measured as per the manufacturer's specifications for the watercraft.
 - (15) Temporary storage of watercraft by house guests of the occupants of a dwelling unit are exempt from the provisions of this section provided that the temporary storage of a watercraft shall not exceed a two-week period in any calendar year, measured from the time the watercraft is first stored until the time the watercraft is permanently removed from the property.
- (d) In residential districts, no motor vehicle, as defined in F.S. § 320.01, shall be parked or stored in the required front yard setback except on a designated driveway or other improved surface approved pursuant to part III, land development regulations of this Code. The front yard setback shall be as defined and specified by zoning district in title VI, zoning ordinance of this Code. The provisions of this subsection shall not apply to motor vehicles parked for a period of 72 hours or less for occasional social gatherings that do not occur more than once per calendar month.

(Code 1982, § 36.18; Ord. No. 84-26, § 1, 10-16-1984; Ord. No. 87-65, § 1, 10-6-1987; Ord. No. 00-06, § 3, 7-18-2000; Ord. No. 2013-15, § 2, 9-3-2013)

Sec. 74-83. - Industrial equipment restrictions on public and private property.

No person shall park, stop, store, or keep industrial equipment on any public right-of-way or plot within any residential district in the city at any time unless moving directly to or from or actually located at any excavation or construction site whereon construction, clearing, removal of debris, or other building or excavation activities are either currently underway or will commence within the next 24 hours exclusive of Saturdays, Sundays, and holidays under a valid, displayed building permit. Industrial equipment used in lot clearing, tree trimming or removal, lawn care, and related services are under the restrictions of this section; however, a building permit may be not required under all circumstances and nothing in this section is intended to require a building permit where none is otherwise required.

(Code 1982, § 36.19; Ord. No. 84-26, § 1, 10-16-1984)

Sec. 74-84. - Vehicle restriction on public thoroughfares.

Buses, mobile homes, trailers, trucks over 5,000 pounds, truck tractors, semitrailers, recreational vehicles, boats, and boat trailers shall not be parked in residential districts on any public right-of-way for more than two hours in any one day, and shall not be parked on any public right-of-way, in residential districts, in the same block more than one time in any one day. This prohibition shall not apply to temporary parking in connection with construction under a valid, displayed building permit, delivery, or service call, or a moving van operation.

(Code 1982, § 36.20; Ord. No. 84-26, § 1, 10-16-1984)

Sec. 74-85. - Disabled vehicle.

The restrictions of this division shall not apply to motor vehicles that become disabled; provided that any such disabled motor vehicle is removed from the residential district within 24 hours of becoming disabled by wrecker towing if necessary.

(Code 1982, § 36.21; Ord. No. 84-26, § 1, 10-16-1984)

Sec. 74-86. - Determination of classification.

If there is a question as to the proper classification of a specific vehicle, the body description and classification on the motor vehicle certificate of title shall be prima facie evidence of the classification.

(Code 1982, § 36.22; Ord. No. 84-26, § 1, 10-16-1984)

Sec. 74-87. - Provision cumulative; more restrictive requirement to apply.

This division is primarily for the purpose of protecting residential zoning. Therefore, any ordinances of this city or laws of this state providing for the regulation of motor vehicles are in addition to this division and wherever any provision of some other ordinance or applicable statute, whether primarily for the regulation of motor vehicles or for purposes of zoning, imposes more stringent requirements than are required by the provisions of this division then the more stringent requirements shall apply.

(Code 1982, § 36.23; Ord. No. 84-26, § 1, 10-16-1984)

Secs. 74-88—74-100. - Reserved.



Impact Fees

From: Douglas J. Sale <dsale@handfirm.com>

Sent: Saturday, February 5, 2022 12:50 PM

To: Kevin D. Obos <kobos@handfirm.com>

Cc: David Cruz <DCruz@flcities.com>; Amy E. Myers <amyers@handfirm.com>; Cole Davis <cdavis@handfirm.com>; Hayward Dykes <hdykes@handfirm.com>

Subject: Impact Fee Credits - Issue, Analysis, Opinion, and Need for Glitch Bill if Issue Keep Popping Up.

David, if you hear of others raising the issue and it becomes a problem, I'd be happy to help if I can. Thanks again for being on tap. Best, Doug.

Kevin, you have said that our client, the City of Callaway, has a developer of a subdivision who is installing customary water distribution mains and wastewater collection gravity lines which he will transfer to the City. The problem is that he is talking about requesting a credit for these facilities against future water and sewer impact fees to be charged houses when building permits are issued. such credits are transferable, potentially to the new lot owners or spec builders. He argues that the transferred facilities will be a "contribution" within the meaning of 163.31801(5)(a) for which credit must be given. However, the next section of that statute, (5)(b), defines certain facilities which if contributed to not generate a credit. The issue is whether a local government must now give a subdivision developer impact fee credits for giving the government the water mains, gravity lines, force mains, and lift stations within the subdivision in exchange for the government accepting maintenance responsibility. In sum, my opinion is no, but I do think the statute could be more artfully worded and if the issue starts arising elsewhere it should be amended.

The pertinent subsections and my reasoning follow:

(5)(a) Notwithstanding any charter provision, comprehensive plan policy, ordinance, development order, development permit, or resolution, the local government or special district must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of exaction, related to public facilities or infrastructure, including land dedication, site planning and design, or construction. Any contribution must be applied on a dollar-for-dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made.

(b) If a local government or special district does not charge and collect an impact fee for the general category or class of public facilities or infrastructure contributed, a credit may not be applied under paragraph (a).

From a strict construction of the statute on its face, the answer is unfortunately not crystal clear. Under subsection (5)(b) no credit is due if the "local government does not charge and collect an impact fee for the general category or class of public facilities or infrastructure contributed." So the facial answer turns upon whether the "category or class of public facilities or infrastructure" here is water or sewer systems on the one hand in which case credit must be given because the city does charge impact fees for connection to those systems, or water mains and gravity lines on the other hand in which case no credit must be given because the city does not charge an impact fee to a developer

installing and transferring to the city those mains and lines. There is no basis within the four corners of the statute to answer the question of how narrowly the legislature intended the “category or class of public facilities or infrastructure” to be construed. The legislations Bill Analysis (CS/CS/CS/HB 337 (2021) is of no help. It does not mention the withholding of credit for a contribution of infrastructure for which no impact fee is charged. Regarding the credit itself, the Bill Analysis vaguely states only that credit must be given for “any contribution related to the improvement of public facilities or infrastructure towards impacts on the same type of public facilities for which the contribution was made.” That sentence is silly broad.

However, history, common sense, and stepping back for a different perspective do provide an answer. The obvious purpose of mandating a credit is to prevent a local government from double-dipping for the same contribution. Just as obviously, the exclusion of a credit for contributions for which no impact fee is charged is designed to prevent the opposite extreme of the government losing impact fees needed to keep up with growth. The legislative intent to preserve equitable impact fee collections is stated clearly in the beginning of the Act. From that common sense perspective, since no impact fees are charged for the transfer and acceptance of water mains and wastewater gravity lines, lift stations and force mains, no credit should be given.

Additional support for this result flows from the fact that a developer’s transfer of the subject facilities is not an exaction. Just the opposite, it is a voluntary transfer of facilities in exchange for the government assuming responsibility to maintain those facilities in the future for the benefit of the developer’s effort to sell lots. Pure *assumit* or contract.

Hopefully the notion of our client’s developer will not expand to other developers. If it does, one potential fix might me to add contract language to the credit exception in subsection 5(b):

(b) If a local government or special district does not charge and collect an impact fee for the general category or class of public facilities or infrastructure contributed, or if the facilities are transferred to the local government or special district in exchange for valuable consideration, a credit may not be applied under paragraph (a).

Good luck!



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Residential Infill Zoning

1 A bill to be entitled
2 An act relating to local government land development
3 actions; amending ss. 125.022 and 166.033, F.S.;
4 specifying the deficiencies which a county or
5 municipality, respectively, may provide comments on
6 regarding applications for development permits or
7 development orders; amending s. 163.3202, F.S.;
8 requiring local governments to adopt residential
9 infill development standards by a specified date;
10 providing a description of the term "residential
11 infill development"; providing guidelines to be used
12 by certain local governments in developing residential
13 infill development standards; requiring certain local
14 governments to adopt guidelines to be used by
15 applicants seeking areas to be designated as a
16 residential infill development; prohibiting a local
17 government from approving deficient applications;
18 prohibiting a local government from denying
19 applications if the applicant has complied with the
20 regulations; authorizing the process for applicants to
21 appeal application denials; providing timeframes for a
22 local government to issue a final decision; requiring
23 local governments to amend their development
24 regulations and comprehensive plans to incorporate
25 residential infill developments as zoning

26 | classifications; amending s. 553.792, F.S.; specifying
27 | the deficiencies over which a local government may
28 | provide comments or request information on regarding
29 | applications for building permits; providing an
30 | effective date.

31 |
32 | Be It Enacted by the Legislature of the State of Florida:
33 |

34 | Section 1. Subsection (1) of section 125.022, Florida
35 | Statutes, is amended to read:

36 | 125.022 Development permits and orders.—

37 | (1) (a) Within 30 days after receiving an application for
38 | approval of a development permit or development order, a county
39 | must review the application for completeness and issue a letter
40 | indicating that all required information is submitted or
41 | specifying with particularity any areas that are deficient. If
42 | the application is deficient, the applicant has 30 days to
43 | address the deficiencies by submitting the required additional
44 | information.

45 | (b) Once the applicant has provided responses concerning
46 | the areas that were deficient, the county may only provide
47 | additional comments on the deficiencies that are directly
48 | related to the deficiencies that were identified during the
49 | first review period or that directly address the responses given
50 | by the applicant. The county may also make additional comments

51 as a result of new information submitted by the applicant.

52 (c) Within 120 days after the county has deemed the
 53 application complete, or 180 days for applications that require
 54 final action through a quasi-judicial hearing or a public
 55 hearing, the county must approve, approve with conditions, or
 56 deny the application for a development permit or development
 57 order. Both parties may agree to a reasonable request for an
 58 extension of time, particularly in the event of a force majeure
 59 or other extraordinary circumstance. An approval, approval with
 60 conditions, or denial of the application for a development
 61 permit or development order must include written findings
 62 supporting the county's decision. The timeframes contained in
 63 this subsection do not apply in an area of critical state
 64 concern, as designated in s. 380.0552.

65 Section 2. Subsection (1) of section 166.033, Florida
 66 Statutes, is amended to read:

67 166.033 Development permits and orders.—

68 (1)(a) Within 30 days after receiving an application for
 69 approval of a development permit or development order, a
 70 municipality must review the application for completeness and
 71 issue a letter indicating that all required information is
 72 submitted or specifying with particularity any areas that are
 73 deficient. If the application is deficient, the applicant has 30
 74 days to address the deficiencies by submitting the required
 75 additional information.

76 (b) Once the applicant has provided responses concerning
 77 the areas that were deficient, the municipality may only provide
 78 additional comments on the deficiencies that are directly
 79 related to the deficiencies that were identified during the
 80 first review period or that directly address the responses given
 81 by the applicant. The municipality may also make additional
 82 comments as a result of new information submitted by the
 83 applicant.

84 (c) Within 120 days after the municipality has deemed the
 85 application complete, or 180 days for applications that require
 86 final action through a quasi-judicial hearing or a public
 87 hearing, the municipality must approve, approve with conditions,
 88 or deny the application for a development permit or development
 89 order. Both parties may agree to a reasonable request for an
 90 extension of time, particularly in the event of a force majeure
 91 or other extraordinary circumstance. An approval, approval with
 92 conditions, or denial of the application for a development
 93 permit or development order must include written findings
 94 supporting the municipality's decision. The timeframes contained
 95 in this subsection do not apply in an area of critical state
 96 concern, as designated in s. 380.0552 or chapter 28-36, Florida
 97 Administrative Code.

98 Section 3. Subsection (7) is added to section 163.3202,
 99 Florida Statutes, to read:

100 163.3202 Land development regulations.—

101 (7) To ensure a uniform process for new development, each
102 local government with \$10 million or more in total revenue must
103 adopt residential infill development standards in its land use
104 regulations by January 1, 2023, and each local government with
105 \$10 million or more in total revenue after July 1, 2022, must
106 adopt residential infill development standards in its land use
107 regulations within 18 months after reaching the \$10 million
108 revenue threshold. The residential infill development standards
109 must be considered in local decisionmaking. A local government
110 may adopt its own residential infill development standards or
111 may use the guidelines set forth in paragraphs (b) and (c) in
112 developing its standards. All residential infill development
113 standards must provide that a residential infill development
114 project that is located within an area that has a basin
115 management action plan adopted under s. 403.067 must comply with
116 the water quality standards established in the basin management
117 action plan.

118 (a) A residential infill development is an important
119 component and useful mechanism for a local government to promote
120 redevelopment and revitalization. A residential infill
121 development is not intended to promote the premature subdivision
122 of land which exceeds the average densities of the immediate
123 vicinity and produces excessively smaller lots than those found
124 on surrounding parcels, but should consider the current land
125 development patterns within the immediate vicinity. Residential

126 infill developments are intended to aid in the revitalization of
127 existing communities by encouraging consistent and compatible
128 redevelopment and to promote reinvestment in established
129 neighborhoods and cure blighted parcels. For purposes of this
130 subsection, a residential infill development is an area
131 consisting of a development or subdivision of land designated as
132 such by a local government wherein the dimensional requirements
133 of the land use district are relaxed and the local government
134 review process is expedited.

135 (b) Local governments must use the following guidelines in
136 developing the residential infill development standards:

137 1. The size of the land development or subdivision may be
138 below the minimum dimensional requirements of the land use
139 category in which it is located.

140 2. A residential infill development may not exceed the
141 maximum allowable density established by the local government's
142 comprehensive plan.

143 3. A residential infill development area must be located
144 in an area with a defined development pattern.

145 4. A residential infill development area must be located
146 within one or more residential suburban or residential low land
147 use districts.

148 5. A residential infill development area must be located
149 in an area with sufficient services to avoid future public
150 service deficiencies. A local government, in reviewing an

151 application for a residential infill development, shall consider
152 the availability of schools, public water, public sewer, road
153 capacities, law enforcement protection, fire protection,
154 emergency medical service, and reasonable proximity to public
155 parks.

156 6. A residential infill development may be allowed on a
157 parcel that is adjacent to similar development.

158 7. Lots within a residential infill development must be at
159 least as large as the average lot size in the immediate
160 vicinity.

161 8. Building setbacks may be greater than or equal to the
162 average building setback found on abutting parcels. Building
163 setbacks may also be consistent with the dimensional
164 requirements of the land use district as specified in the local
165 government's land development code.

166 9. If a residential infill development abuts a roadway
167 stub-out, the new roadways built must connect to the roadway
168 stub-out.

169 10. Stormwater retention facilities within a residential
170 infill development may not be constructed to degrade or
171 adversely affect the existing character of the immediate
172 vicinity.

173 11. A residential infill development may not be larger
174 than 120 acres. Developments shall not be phased or
175 incrementally expanded with the intent to circumvent the acreage

176 limit.

177 12. Building types within the residential infill
178 development may only include types that exist on any parcel in
179 the immediate vicinity, but may not include mobile homes.

180 (c) Each local government must adopt guidelines to be used
181 by applicants seeking designations as residential infill
182 developments. The guidelines must provide procedures for the
183 review of applications. The guidelines must require that the
184 applicant:

185 1. Consider whether the residential infill development
186 recognizes the surrounding pattern of development and whether
187 the residential infill development is contrary to the density
188 and dimensional requirements of land tracts that abut the
189 development.

190 2. Consider the surrounding pattern of development,
191 including existing road layout, densities, lot sizes, and
192 setbacks of parcels and developments that abut the subject site.

193 3. Confirm the following in the designation application:

194 a. The residential infill development connects or will
195 connect to central water and sewer.

196 b. Law enforcement for the local government jurisdiction
197 has no objection to the residential infill development.

198 c. The average response time of the local government fire
199 and emergency medical services and the area of the residential
200 infill development is within the average response times.

201 d. At least one park or playground is located within 2
202 miles of the residential infill development.

203 e. The schools serving the area of the residential infill
204 development have sufficient capacity for the residential infill
205 development or concurrency provisions have been made to ensure
206 adequate capacity.

207 f. The roads within the residential infill development
208 will be constructed to conform with the existing roadway network
209 found in the immediate vicinity. New roads will be required to
210 connect to stub-outs that were originally constructed to connect
211 new development with existing developments.

212 g. The sidewalks within the residential infill development
213 will be installed along one side of collector and arterial roads
214 when existing sidewalk infrastructure is located within 100 feet
215 of the development.

216 h. Minimum lot sizes will be determined by the average lot
217 size of parcels in the immediate vicinity or at least 5,500
218 square feet, whichever is greater.

219 i. Infill development will be either determined by the
220 dimensional requirements established for the land use district
221 in which the site is located or determined by the average
222 setback and height of existing structures on parcels in the
223 immediate vicinity.

224 (d)1. A local government may not approve a deficient
225 application as a residential infill development. Where

226 deficiencies exist, the applicant bears the burden to prove the
227 benefits of the residential infill development outweigh the
228 deficiencies in services.

229 2. A local government may not deny an applicant's request
230 for designation as a residential infill development if the
231 applicant has complied with the development standards of this
232 subsection.

233 (e) An applicant may appeal a denial of an application
234 through an administrative appeal. The local government must
235 render a decision within 30 days after receiving the
236 administrative appeal. If the local government fails to issue a
237 final decision within 30 days, the application is deemed
238 approved.

239 (f) Each local government must amend its development
240 regulations to include residential infill development as a
241 zoning classification and must incorporate it as an appropriate
242 land use classification under the local government comprehensive
243 plan.

244 Section 4. Paragraph (a) of subsection (1) of section
245 553.792, Florida Statutes, is amended and paragraph (c) is added
246 to subsection (2) of that section, to read:

247 553.792 Building permit application to local government.—

248 (1)(a) Within 10 days after ~~of~~ an applicant submits
249 ~~submitting~~ an application to the local government, the local
250 government shall advise the applicant what information, if any,

251 is needed to deem the application properly completed in
252 compliance with the filing requirements published by the local
253 government. If the local government does not provide written
254 notice that the applicant has not submitted the properly
255 completed application, the application shall be automatically
256 deemed properly completed and accepted. Within 45 days after
257 receiving a completed application, a local government must
258 notify an applicant if additional information is required for
259 the local government to determine the sufficiency of the
260 application, and shall specify the additional information that
261 is required. However, the local government may only request more
262 information on the additional information provided to the local
263 government by the applicant and may not make new comments on the
264 original application. The applicant must submit the additional
265 information to the local government or request that the local
266 government act without the additional information. While the
267 applicant responds to the request for additional information,
268 the 120-day period described in this subsection is tolled. Both
269 parties may agree to a reasonable request for an extension of
270 time, particularly in the event of a force majeure or other
271 extraordinary circumstance. The local government must approve,
272 approve with conditions, or deny the application within 120 days
273 after ~~following~~ receipt of a completed application.

274 (2)

275 (c) Notwithstanding any local ordinance that may otherwise

276 apply to the contrary, if an applicant provides additional
277 information based on deficiencies identified by the local
278 government in the application, the local government may only
279 provide additional comments that are directly related to the
280 deficiencies that were identified during the first review period
281 or that directly address the responses given by the applicant.
282 The local government may also make additional comments as a
283 result of new information submitted by the applicant.

284 Section 5. This act shall take effect July 1, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 739 Local Government Land Development Actions
SPONSOR(S): Local Administration & Veterans Affairs Subcommittee, Borrero
TIED BILLS: **IDEN./SIM. BILLS:** SB 1248

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	18 Y, 0 N, As CS	Darden	Miller
2) Commerce Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Community Planning Act (Act) governs how local governments create and adopt their local comprehensive plans. The provisions of the Act are implemented at the local level by land development regulations, such as zoning and other housing-related ordinances, adopted by each county and municipality to be consistent with and to implement their adopted comprehensive plans. A development permit is any official action of a local government that effectively authorizes the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances. A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.

The bill prohibits local governments that have noted a deficiency in an application for a development order, development permit, or building permit, from requesting additional information from the applicant beyond information on the noted deficiency or new issues raised by the applicant. This provision applies to building permit applications even if a local government ordinance would otherwise allow additional requests for information.

The bill requires each local government with total revenues of \$10 million or more to adopt to adopt residential infill development (RID) standards in its local land use regulations by January 1, 2023. The standards must include a list of guidelines for determining whether a development qualifies as a RID, guidelines to assist an applicant in determining if an area qualifies as a RID, and requires the applicant consider certain factors. A local government may not approve an application for a RID if it contains any deficiencies, but must approve any request for a RID that shows compliance with the general intent and development standards of this provision. Denials of an application for a RID are appealed to the local government planning commission. The bill requires each local government to amend its development regulations to include residential infill development as a zoning classification and incorporate the classification as an appropriate land use classification under the local government's comprehensive plan.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Community Planning Act

Adopted in 1985, the Local Government Comprehensive Planning and Land Development Regulation Act,¹ also known as Florida's Growth Management Act, was significantly revised in 2011, becoming the Community Planning Act (Act).² The Community Planning Act governs how local governments create and adopt their local comprehensive plans.

Local comprehensive plans must include principles, guidelines, standards, and strategies for the orderly and balanced future land development of the area and reflect community commitments to implement the plan. The intent of the Act is that local governments manage growth through comprehensive land use plans that facilitate adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing, and other requirements and services.³ A housing element is required as part of every comprehensive plan. Among other things, the housing element must address "the creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction."⁴

Municipalities established after the effective date of the Act must adopt a comprehensive plan within three years after the date of incorporation.⁵ The county comprehensive plan controls until a municipal comprehensive plan is adopted.⁶

The comprehensive plan is implemented via land development regulations. Each county and municipality must adopt and enforce land development regulations, such as zoning or other housing-related ordinances, that are consistent with and implement their adopted comprehensive plan.⁷

Land Development Regulations

Land development regulations are the method by which local governments implement their comprehensive plan. Within one year of adoption or revision of its comprehensive plan, a county or municipality must adopt or amend their land development regulations to ensure they are consistent with and implement the plan.⁸

Local land development regulations must contain specific and detailed provisions for implementing the adopted comprehensive plan, and shall, at a minimum:

- Regulate the subdivision of land;
- Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space;
- Provide for protection of potable water wellfields;
- Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management;
- Ensure the protection of environmentally sensitive lands designated in the comprehensive plan;
- Regulate signage;

¹ See ch. 85-55, s. 1, Laws of Fla.

² See ch. 2011-139, s. 17, Laws of Fla. See also s. 163.3161(1), F.S. The Act is codified as ch. 163, part II, F.S.

³ S. 163.3161(4), F.S.

⁴ S. 163.3177(6)(f)1.g., F.S.

⁵ S. 163.3167(3), F.S.

⁶ *Id.*

⁷ S. 163.3202, F.S.

⁸ S. 163.3202(1), F.S.

- Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177, F.S. and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development;⁹
- Ensure safe and convenient onsite traffic flow, considering needed vehicle parking;
- Maintain the existing density of residential properties or recreational vehicle parks, if the properties are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure, as determined by a local governing authority, and are not located within a coastal high-hazard area under s. 163.3178, F.S.; and
- Incorporate preexisting development orders identified pursuant to s. 163.3167(3), F.S.¹⁰

Local governments are encouraged to use “innovative land development regulations,” such as transfers of development rights, incentive and inclusionary zoning, planned unit development, impact fees, and performance zoning.¹¹ All land development regulations must be combined and compiled into a single land development code for the jurisdiction. A general zoning code is not required if the local government’s adopted land development regulations comply with statute.¹²

The Department of Economic Opportunity (DEO), as the state land planning agency, is responsible for adopting rules for review and schedules for adoption of land development regulations.¹³ DEO may review land development regulations if there are reasonable grounds to believe a local government has not adopted one or more required land development regulations.¹⁴ DEO must provide written notice to the local government within 30 days stating whether the local government has adopted the required regulations.

Development Orders and Permits

Under the Community Planning Act, a development permit is any official action of a local government that has the effect of permitting the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances.¹⁵ A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.¹⁶

Within 30 days of receiving an application for a development permit or development order, a county or municipality must review the application and issue a letter to the applicant indicating that the application is complete or specifying the deficiencies.¹⁷ If the county or municipality identifies deficiencies, the applicant has 30 days to submit the required additional information.¹⁸

If a county or municipality requests additional information from the applicant and the applicant provides the information within 30 days of receiving the request, the county or municipality must:

- Review the additional information and issue a letter to the applicant indicating that the application is complete or specifying the remaining deficiencies within 30 days of receiving the information, if the request is the county or municipality’s first request;
- Review the additional information and issue a letter to the applicant indicating that the application is complete or specifying the remaining deficiencies within 10 days of receiving the information, if the request is the county or municipality’s second request; and
- Deem the application complete within 10 days of receiving the information or proceed to process the application for approval or denial unless the applicant waived the county or

⁹ A local government may not issue a development order or permit that results in a reduction in the level of services for the affected public facilities below the level of services provided in the local government’s comprehensive plan.

¹⁰ S. 163.3202(2), F.S.

¹¹ S. 163.3202(3), F.S.

¹² *Id.*

¹³ S. 163.3202(6), F.S.

¹⁴ S. 163.3202(4), F.S.

¹⁵ S. 163.3164(16), F.S.

¹⁶ See ss. 125.022, 163.3164(15), and 166.033, F.S.

¹⁷ Ss. 125.022(1) and (2), and 166.033 (1) and (2), F.S.

¹⁸ *Id.*

municipality's time limitations in writing, if the request is the county or municipality's third request.¹⁹

Before a third request for information, the applicant must be offered a meeting to attempt to resolve outstanding issues.²⁰ If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the applicant may request the county or municipality proceed to process the application for approval or denial.²¹ If denied, the county or municipality is required to give written notice to the applicant and must provide reference to the applicable legal authority for the denial of the permit.²²

When reviewing an application for a development permit or development order, not including building permit applications, a county or municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.²³

Once an application is deemed complete, a county or municipality must approve, approve with conditions, or deny the application within 120 days or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing.²⁴

Building Permit Applications

Local governments are required to review certain building permit applications within a specified time period after receiving the application.²⁵ These permit types include, but are not limited to, construction or installation of an accessory structure, installation of an alarm system, a nonresidential building less than 25,000 square feet, electric, plumbing, mechanical, or roofing systems, master building permits, or the construction of single-family residential buildings.²⁶

When a local government receives an application for a building permit, except for master building permits, and single-family residential buildings, the local government must:²⁷

- Inform the applicant within 10 days of receiving the application what additional information, if any, is needed to complete the application;²⁸
- Notify the applicant within 45 days of the application being deemed complete if additional information is necessary to determine the sufficiency of the application;²⁹ and
- Approve, approve with conditions, or deny the application within 120 days following receipt of the completed application.³⁰

These time limitations do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.³¹

Local governments are required to reduce the permit fee for any building permit application by 10 percent of the original permit fee for each business day that a local government fails to meet the time

¹⁹ Ss. 125.022(2)(b)-(d) and 166.033(2)(b)-(d), F.S.

²⁰ Ss. 125.022(2)(d) and 166.033(2)(d), F.S.

²¹ Ss. 125.022(2)(e) and 166.033(2)(e), F.S.

²² Ss. 125.022(3) and 166.033(3), F.S.

²³ Ss. 125.022(2)(a) and 166.033(2)(a), F.S.

²⁴ Ss. 125.022(1) and 166.033(1), F.S.

²⁵ S. 553.792, F.S.

²⁶ S. 553.792(2), F.S.

²⁷ S. 553.792(1), F.S.

²⁸ If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.

²⁹ If additional information is needed the local government must specify what additional information is necessary.

The applicant may submit the additional information to the local government or request that the local government act on the application without the additional information.

³⁰ This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

³¹ S. 553.792(2), F.S.

period required for building permit application approval by statute or local ordinance.³² This requirement does not apply if the local government and the applicant have agreed to an extension of time to process the permit.

Growth Policy Act

Enacted in 1999, the Growth Policy Act (GPA)³³ encourages state and local governments to work with private sector entities to promote and sustain urban cores by encouraging infill development and redevelopment.³⁴ The GPA allows local governments to designate areas within their jurisdiction as “urban infill and redevelopment areas” for the purpose of targeting economic development, job creation, housing, transportation, crime prevention, neighborhood revitalization and preservation, and land use incentives.³⁵ Each urban infill and redevelopment area must:

- Have access to public services such as water and wastewater, transportation, schools, and recreation (or be scheduled to have access to these services in the local government’s adopted five-year schedule of capital improvements)
- Suffer from pervasive poverty, unemployment, and general distress as defined by s. 290.0058, F.S.;
- Have a proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete that is higher than the average for the local government;
- Have a majority of its area with one quarter of a mile of a transit stop; and
- Either include or be adjacent to a community redevelopment area, brownfield, enterprise zone, or Main Street programs, or have been designed by state or federal government as an urban redevelopment, revitalization, or infill area under empowerment zone, enterprise community, or brownfield showcase community programs or similar programs.³⁶

Local governments are encouraged to work with community partners, such as neighborhood groups, financial institutions, religious organizations, businesses, schools, and residents, to design and implement an urban infill and redevelopment plan.³⁷ The plan must demonstrate the local government and community’s commitment to comprehensively address the problems within the urban infill and redevelopment area and identify activities and programs to accomplish locally identified goals to improve both the residential and commercial quality of life in the area.³⁸ The plan may be a new plan drafted for the area, or use an existing plan (or combination of plans) developed for a community redevelopment area, Florida Main Street program area, Front Porch Florida Community, sustainable community, enterprise zone, or neighborhood improvement district. Each plan must:

- Contain a map of the area;
- Confirm the area is within an area designated for urban uses in the local government’s comprehensive plan;
- Identify, map, and provide a framework for coordinating infill and redevelopment programs with other revitalization programs (such as enterprise zones, community redevelopment agencies, brownfield areas, downtown redevelopment districts, neighborhood improvement districts, and historic preservation districts);
- Include a memorandum of understanding between the district school board and the local government regarding public school facilities located within area to identify how the school board will prioritize enhancing public school facilities and programs in the area (including the reuse of existing buildings for schools within the area);
- State the community preservation and revitalization goals and projects for each neighborhood in the area and discuss how those goals and projects may be implemented;
- Identify how the local government and community-based organizations intend to implement affordable housing programs, including, but not limited to, economic and community development programs administered by federal and state agencies, within the area;

³² S. 553.792(1)(b), (2)(b), F.S.

³³ Ss. 163.2511-163.2520, F.S.

³⁴ S. 163.2511, F.S.

³⁵ S. 163.2517(1), F.S.

³⁶ S. 163.2514(2), F.S.

³⁷ S. 163.2517(2), F.S.

³⁸ S. 163.2517(3), F.S.

- Identify strategies for reducing crime;
- Provide guidelines for adopting land development regulations specific to the urban infill and redevelopment area which include, for example, setbacks and parking requirements appropriate for urban development.
- Identify and map any existing transportation concurrency exception areas and any relevant public transportation corridors designated by a metropolitan planning organization in its long-range transportation plans or by the local government in its comprehensive plan for which the local government seeks designation as a transportation concurrency exception area;
- Adopt a package of financial incentives to encourage new development, expansions of existing development, and redevelopment;
- Identify how activities and incentives will be coordinated and what administrative mechanisms the local government will use for the coordination;
- Identify how partnerships with the financial and business community will be developed;
- Identify the governance structure that the local government will use to involve community representatives in the implementation of the plan; and
- Identify performance measures to evaluate the success of the local government in implementing the plan.³⁹

The local government may adopt the selected plan by ordinance.⁴⁰ If the plan is adopted, the local government must amend its comprehensive plan to delineate the boundaries of the urban infill and redevelopment area within the future land use element.⁴¹

A local government that has adopted a plan under the Growth Policy Act may use revenue bonds and tax increment financing in the same manner as community redevelopment agencies for the purposes of implementing the plan as well as exercise the powers of a neighborhood improvement district, including the authority to levy special assessments.⁴² These powers are lost if the combined amount of annual residential, commercial, and institutional development within the area does not increase by at least ten percent during the local government's seven-year comprehensive plan review cycle.⁴³

Effect of Proposed Changes

The bill provides that once a local government has noted deficiencies in an application for a development order, development permit, or building permit, the local government may only request additional information on the noted deficiency or new issues raised by the applicant and may not request additional information on the original application. This provision applies to building permit applications even if a local government ordinance would otherwise allow additional requests for information.

The bill requires each local government with \$10 million or more in total revenue to adopt residential infill development (RID) standards in its local land use regulations by January 1, 2023. If a local government's revenue exceeds \$10 million in any year after July 1, 2022, the local government is required to adopt standards with 18 months of reaching that threshold. The adopted standards must be considered in local land use decision making. Local governments may adopt their own RID standards or use the guidelines established by the bill, but in either case must provide that a RID project that is within an area that has a basin management action plan adopted pursuant to s. 403.067, F.S. must comply with the water quality standards established in such basin management action plan.

The bill defines a RID as an area consisting of a development or subdivision of land designated by a local government where the dimensional requirements of the land use district are relaxed and the local government review process is expedited. The bill requires each local government to adopt the following guidelines as part of their standards:

³⁹ S. 163.2517(3)(a)-(n), F.S.

⁴⁰ S. 163.2517(5), F.S.

⁴¹ S. 163.2517(4), F.S.

⁴² Ss. 163.2520(1), (2), F.S.

⁴³ S. 163.2517(6)(a), F.S.

- The size of the land development or subdivision may be below the minimum dimensional requirements otherwise applicable for the land use category where it is located;
- The RID may not exceed the maximum allowable density established by the local government's comprehensive plan;
- The RID must be located in an area with a defined development pattern;
- A RID must be located within one or more residential suburban or low land use districts;
- A RID must be located within an area with sufficient services to avoid future public service deficiencies, including schools, public water and sewer, road capacities, law enforcement, fire, emergency medical services, and reasonable proximity to public parks;
- A RID must be on a parcel that is adjacent to similar development;
- Lots within a RID must be at least as large as the average lot size in the immediate vicinity;
- Building setbacks must at least equal to those on abutting parcels and be consistent with the dimensional requirements of the land use district specified in the local government's comprehensive plan;
- If a RID abuts a roadway stub-out, new roadways constructed in the RID must connect to the stub-out;
- Stormwater retention facilities within a RID may not be constructed to degrade or adversely affect the existing character of the immediate vicinity;
- A RID may not be larger than 120 acres and development may not be phased or incrementally expanded to circumvent the average limit; and
- Building types within the RID may only include types that exist on any parcel in the immediate vicinity (excluding mobile homes).

The bill also requires each local government to adopt guidelines to be used by applicants seeking to construct a RID. The guidelines require the applicant to:

- Consider the impact of the RID on the surrounding pattern of development and whether the RID is consistent with the density and dimensional requirements of adjoining land tracts;
- Consider the surrounding pattern of development; and
- Confirm certain types of concurrency in the designation application.

The bill states that a local government may not approve a deficient application for a RID. The bill states that the applicant is responsible for showing that the benefits of the development are sufficient to outweigh any deficiencies in services. The local government must approve any request for a RID that shows compliance with the development standards stated in the new statutory provision. Denials of an application for a RID are appealed to the local government planning commission.

The bill requires each local government to amend its development regulations to include residential infill development as a zoning classification and incorporate the classification as an appropriate land use classification under the local government's comprehensive plan.

B. SECTION DIRECTORY:

- Section 1: Amends s. 125.022, F.S., concerning development orders and permits issued by counties.
- Section 2: Amends s. 166.033, F.S., concerning development orders and permits issued by municipalities.
- Section 3: Amends s. 163.3202, F.S., requiring local governments to adopt residential infill development standards as part of their land development regulations.
- Section 4: Amends s. 553.792, F.S., concerning building permit applications to local governments.
- Section 5: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have a fiscal impact on local governments to the extent local governments must amend their comprehensive plans to incorporate residential infill development standards before January 1, 2023.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires counties and municipalities to adopt residential infill development standards in its land use regulations by January 1, 2023. However, an exemption may apply, as laws having an insignificant fiscal impact are exempt from the requirements of Art. VII, s. 18 of the Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Sections 1, 2, and 4 of the bill may result in delays in receiving permit approval, to the extent the provisions of the bill result in applicants needing to resubmit rejected permit applications that contain deficiencies that may have been corrected if the local government could have asked for additional information.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 7, 2022, the Local Administration & Veterans Affairs Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment revises the requirement for local governments to adopt RID standards to only apply to local governments with \$10 million or more in total

revenue, provides safeguards for water quality standards, and replaces the checklist in the bill as filed with a series of statements that the developer must confirm.

The analysis is drafted to the committee substitute as passed by the Local Administration & Veterans Affairs Subcommittee.



Key Dates



2022 - 2023 Key Legislative Dates

October

7 FLC Legislative Policy Committee Meetings (Round 2), Embassy Suites Lake Buena Vista South, Kissimmee, FL

November

8 Florida's General Election

30 – December 2 FLC Legislative Conference, Embassy Suites Lake Buena Vista South, Kissimmee, FL (Legislative Policy Committees meet December 1)

16-19 NLC City Summit, Kansas City, MO

March

7 Regular Legislative Session Convenes

26-28 NLC Congressional City Conference, Washington, D.C.

April

4-5 FLC Legislative Action Days, Tallahassee, FL

May

5 Last Day of Regular Legislative Session



Home Rule Hero Criteria

Do you want to become a **HOME RULE HERO?**

AS THE ADAGE GOES, "ALL POLITICS IS LOCAL." Successful advocacy starts at home, not in Tallahassee. No one – not even a professional lobbyist – can tell your community's story better than you. Your involvement helps the League's legislative team turn the abstract into concrete. It is essential to help legislators understand how their decisions may impact their communities back home.

The League appreciates the individual advocacy efforts undertaken by municipal officials throughout the state. Each year, there are some League members who make an extraordinary effort; people who stand out for their high level of participation and effectiveness. The Home Rule Hero Award was created to acknowledge and thank them for their efforts. Hundreds of municipal officials have been recognized as "Home Rule Heroes" since the award's inception in 2009, and we thank you!

Home Rule Hero Award recipients are selected by the League's legislative team following each legislative session.

For the award, the most important criteria are timely responses and actions to FLC's Legislative Alerts, and notifying FLC staff of communications with your legislators.

Other exceptional efforts are:

- Attending the Florida League of Cities' Legislative Action Days in Tallahassee and Legislative Conference.
- Testifying before a House or Senate committee on an FLC priority issue, when a call to action has been sent out.
- Participating in FLC's Monday Morning "Call-ins" during session and on FLC's pre-and post-legislative session webinars.
- Participating in FLC's Legislator "Key Contact" program.
- Meeting legislators in their districts or in Tallahassee.
- Responding to FLC requests for information and data about how proposed legislation will specifically impact your city (telling your city's "story").
- Speaking at local legislative delegation meetings to discuss FLC municipal issues.
- Setting up opportunities for legislators and their staff to attend a city council meeting or special event; tour a park, project or facility; and attend a local league meeting.
- Serving on a FLC legislative policy committee.
- Participating in a Federal Action Strike Team fly-in to Washington, D.C.
- During an election year, providing opportunities for candidates for legislative offices to learn about your city and its issues, and introducing candidates to key city stakeholders or those in your professional network.

For more information on these activities and ways to step up your advocacy game, please contact Allison Payne at apayne@flcities.com.





Notes

