

1 A bill to be entitled
2 An act relating to alternative mobility funding
3 systems; amending s. 163.3164, F.S.; providing
4 definitions related to alternative mobility funding
5 systems; amending s. 163.3180, F.S.; requiring a local
6 government to apply certain criteria provided in its
7 comprehensive plan to evaluate the appropriate levels
8 of service; requiring a local government to adopt a
9 mobility plan under certain circumstances; creating s.
10 163.31803, F.S.; providing legislative intent;
11 requiring a local government adopting a mobility plan
12 to evaluate appropriate levels of service and
13 potential impacts of development by using the elements
14 of its comprehensive plan; requiring a local
15 government that adopts a mobility plan to incorporate
16 the mobility plan and mobility fee schedule into its
17 comprehensive plan; specifying procedures for adopting
18 a mobility plan or a mobility fee schedule; requiring
19 mobility fees to meet certain requirements; specifying
20 criteria that must be met in adopting a mobility plan;
21 prohibiting a transportation impact fee under
22 specified conditions; prohibiting mobility fees, fee
23 updates, or fee increases from relying solely on motor
24 vehicle capacity; requiring certain mobility fees to
25 be updated within a specified timeframe; specifying

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:

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 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:

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.

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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

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

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.