

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 7, 1998 Revised: _____

Subject: Planning for Educational Facilities

| | <u>Analyst</u> | <u>Staff Director</u> | <u>Reference</u> | <u>Action</u> |
|----|----------------|-----------------------|------------------|---------------------|
| 1. | <u>Schmith</u> | <u>Yeatman</u> | <u>CA</u> | <u>Favorable/CS</u> |
| 2. | _____ | _____ | <u>WM</u> | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |

I. Summary:

Committee Substitute (CS) for SB 2474 implements the recommendations of the Public Schools Construction Study Commission on planning and siting of public schools, as well as the extension of concurrency requirements to public schools. The CS provides incentives and disincentives to promote cooperation between school boards and local governments in the siting of new public schools, clarifies the prerequisites for a local government to extend concurrency requirements to public schools, and sets the parameters for adoption school concurrency.

This CS substantially amends the following sections of the Florida Statutes: 163.3177, 163.3180, 163.3191, 235.185, 235.186, 235.19, 235.193, and 235.2155.

II. Present Situation:

School Planning and Siting

The Florida Statutes contain many provisions which both encourage and require cooperation between school boards and local governments for the planning and siting of public schools. Many of these are contained in Florida's growth management act, which is found at part II of ch. 163, F.S.

Section 163.3177(6), F.S., requires that future land use maps, which are part of a local government's comprehensive plan, include categories for public schools. The categories must include sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government must include lands contiguous to existing school sites, to the maximum extent possible within the land use categories in which public schools are an

allowable use. All comprehensive plans should have complied with these requirements by October 1, 1996.

The intergovernmental coordination element of the plan must show the relationship between the local government and school board plans and describe joint processes for collaborative planning and decision making on public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with county wide significance. Within 1 year of adopting their intergovernmental coordination elements, each county, all the municipalities within that county, and the district school board must establish the joint processes.

If a local government adopts a public buildings and related facilities element, as authorized by s. 163.3177(7), F.S., the element must show locations and arrangements of public schools, libraries and other public buildings. This plan element is also required to show particularly how it is proposed to effect coordination with governmental units, such as school boards, which have public development and service responsibilities, capabilities, and potential but do not have land development regulatory authority.

Other requirements for coordination are found in ch. 235, F.S., the Educational Facilities Act. Section 235.19, F.S., requires school boards to coordinate with the long-range or comprehensive plans of local, regional, and state governmental agencies prior to acquiring property for a new school.

Section 235.193, F.S., declares that it is the policy of the state to require coordination between school boards and local governments to ensure that plans for construction and opening of public schools are facilitated and coordinated in time and place with plans for residential development, concurrently with other necessary services. This section requires that a school board and the local governing body share and coordinate information related to existing and planned school facilities; proposals for development, redevelopment or additional development; and infrastructure required to support the public school facilities, concurrent with proposed development. To improve coordination, subsection (4) requires a school board to provide written notice to the local government at least 60 days prior to acquiring or leasing property that may be used for a new school. Upon receipt of said notice, the local government has 45 days to notify the school board whether the site proposed for acquisition or lease is consistent with the land use categories and policies of the comprehensive plan. This section further establishes a procedure whereby a school board may request a determination from the local government, as early in the design phase as possible, whether a proposed school is consistent with the comprehensive plan and land development regulations.

Section 235.194, F.S., requires that, beginning on October 1, 1995, each school board must annually submit to each local government within its jurisdiction, a general educational facilities report containing the details of existing schools, their locations and projected needs. The purpose of this requirement is to encourage communication and to support the coordination of the planning of public school facilities with local government comprehensive planning.

Despite all of these existing statutory requirements, Florida's school boards and local governments struggle with the siting of public school facilities. Numerous examples of contention over siting such facilities have come to the forefront of public opinion in recent years. City environmental officials clashed with school board officials over the siting of a Duval County school near a former landfill. See "School Site Dangerous, City Warns," *Fla. Times Union* B-1 (May 24, 1996). Numerous challenges to the siting of a new northeast high school in Leon County tied up the process for months during 1996-1997.

School Concurrency

The concurrency requirement of the growth management act is a growth management tool designed to accommodate development by ensuring that adequate facilities are available as growth occurs. The "cornerstone" of the concurrency requirement is the concept that development should be coordinated with capital improvements planning to ensure that the necessary public facilities are available with, or within a reasonable time of, the impacts of new development. Under the requirements for local comprehensive plans, each local government must adopt levels of service (LOS) standards for certain types of public services and facilities. See s. 163.3180, F.S. Generally, these LOS standards apply to sanitary sewer, solid waste, drainage, potable water, parks and recreation, roads and mass transit. Pursuant to s. 163.3180(2)(c), F.S., the local government must ensure that transportation facilities needed to serve new development are in place or under actual construction within three years after issuance of the certificate of occupancy. The intent is to keep new development from significantly reducing the adopted LOS by increasing the capacity of the infrastructure to meet the demands of new development.

Since 1985, local governments have had the option to extend concurrency requirements to include public schools. However, subsection 163.3180(1)(b), F.S., sets forth minimum criteria which must be included in any local government school concurrency program. Until 1995, this section required that, before a local government extended the concurrency requirement to public schools, it first conduct a study to determine how the requirement would be met and shared by all affected parties. However, this section was expanded by the Legislature in 1995, after the state's experience with the first local government to adopt school concurrency -- the City of Coral Springs. See s. 12, ch. 95-341, Laws of Florida. The current statute includes two new criteria, in addition to the study requirement:

- ▶ The local government must adopt LOS standards for public schools with the agreement of the school board. Public school LOSs must be adopted as a part of the capital improvements element in the comprehensive plan, which must contain a financially feasible public school capital facilities program established in conjunction with the school board that will provide educational facilities at an adequate LOS necessary to implement the adopted plan; and
- ▶ The local government must satisfy the intergovernmental coordination requirement set forth in s. 163.3177(6)(h)2., F.S. As discussed above this section requires the local government to adopt principles and guidelines to accomplish coordination of the plan with the plans of the school board, to describe joint processes for collaborative planning and decisionmaking for

public school siting, and within 1 year of adoption of the plan, enter into interlocal agreements with the county, municipalities and school boards to establish those joint processes.

Since the adoption of school concurrency by the City of Coral Springs, several local governments, including Orange, Broward and Palm Beach Counties, have begun considering or planning to follow suit. See "Orange Plan: Link Schools to Growth," *Orlando Sentinel* D-1 (November 2, 1996); "Cities May Get Say in School Crowding," *Ft. Lauderdale Sun Sentinel* (January 2, 1996); "Give Voters the Chance to Un-crowd the Schools," *Palm Beach Post* (September 11, 1997). Many parents, teachers and planners hailed school concurrency as the only tool left to fix school crowding. Opponents criticized it as another way to extract fees from the construction industry. See "Builders Beware," *Florida Trend* 11 (August, 1996). The differing factions came to a head over the adoption of school concurrency by Broward County in September 1996.

Broward County amended its comprehensive plan to adopt school concurrency on September 11, 1996. The amendments included a new Public School Facilities Element and changes to the Capital Improvements and Intergovernmental Coordination Elements, as well as the Future Land Use Element. The Department of Community Affairs (DCA) found those amendments not "in compliance" on November 11, 1996, but after remedial action was taken by the county, DCA published a new notice finding the amendments "in compliance" on November 24, 1996. Several parties, including the Florida Homebuilders Association, Florida Association of Realtors, Building Industry Association of South Florida, and the Economic Development Council of Broward, Inc., challenged those amendments, and the Broward County School Board later intervened. The formal hearing in the case was scheduled for the week of June 2, 1997, following the 1997 Legislative Session.

The issues to be decided in the Broward County case included whether the adopted capital facilities program was financially feasible, whether the adopted LOS standards were adequate, and whether the county had satisfied the intergovernmental coordination requirements set forth in s. 163.3177(6)(h)2., F.S. The legal and factual questions of the case are complicated and this analysis does not provide an appropriate forum for in-depth discussion of those issues. The opinion of the administrative law judge is available. See *Economic Development Council of Broward, Inc. v. Department of Community Affairs*, DOAH Case No. 96-6138GM (October 8, 1997).

The 1997 Legislature took two actions in response to growing concern over the extension of concurrency to public schools, public outrage over school crowding issues, and increasing publicity of school siting controversies across the state. These two actions were accomplished in the passage of proviso language in Specific Appropriation 1628 of the General Appropriations Act and House Bill 2121.

Specific Appropriation 1628

In a proviso to specific appropriation 1628 of the 1997-98 General Appropriations Act, the Legislature created the Public Schools Construction Study Commission to study in detail and recommend appropriate reforms relating to the planning and siting of public schools, and related to school concurrency. The commission is to consist of 17 members, 7 appointed by the Governor, and 5 each appointed by the Senate and the House of Representatives. The commission's report and recommendations were to be submitted by January 1, 1998.

House Bill 2121

The 1997 Legislature also passed HB 2121 which temporarily prohibited any local government from extending concurrency requirements to apply to public schools through July 1, 1998, if the local government had not done so by May 1, 1997. This section of the bill states that the temporary suspension is in order to implement the proviso language of specific appropriation 1628. The exception from the suspension recognized the Broward County situation and allowed all cities in Broward to go forward with their own concurrency amendments.

HB 2121 also created the School Infrastructure Thrift, or SIT, Program Act, within the Department of Education. The SIT program is now codified at s. 235.2155, F.S.

The purposes of the SIT program are:

- ▶ Facilitate cost savings by school districts relating to facilities construction;
- ▶ Provide incentives for school districts to maximize funds for construction and related costs;
and
- ▶ Provide a funding mechanism for new instructional facility construction.

SIT program funds will be appropriated annually as determined by the Legislature. To implement the program for the 1997-98 fiscal year, \$50,000,000 was provided in line item 46A of the 1997-1998 General Appropriations Act. Undisbursed balances will not revert. The legislative intent is to continue funding the SIT program through frugal governmental operations and agency savings.

Participation in the SIT program is by local option of the school board. The funds were made available as of July 1, 1997, and can be accessed for projects commenced after this date or for projects already underway as of this date. All projects for which the funds are used must comply with the maximum square foot cost requirements in the newly created s. 235.216, F.S. By December 30, a participating district must submit to the commissioner an annual report. The first report will be due in 1997. The annual reports should contain supporting data, information demonstrating compliance with the frugal construction guidelines in s. 235.216, F.S., and any proposal for spending SIT funds on new projects during the following fiscal year.

After examining the data, proposals and compliance information from the school districts, the commissioner will, by February 1, make recommendations, ranked in order of priority, to the Legislature for SIT program awards for the following fiscal year.

If a school district received SIT funds before December 30, 1997, but failed to meet compliance requirements, the district may not receive an award the next year and must return the unused or unencumbered funds with interest; the money will then be returned to the SIT Program. SIT funds may only be used for construction of a new instructional facility and related costs. For each new project of a district that meets the criteria, the commissioner may award up to 20 percent of the total project cost from SIT funds. If there is not enough money to fully fund the 20 percent for all eligible and qualified projects, the funding may be for less than the 20 percent.

The commissioner's criteria for SIT program evaluation and recommendation must be based on soundness of proposal, school district need, and balance of funds in SIT program.

House Bill 17-A

During Special Session A, the 1997 Legislature amended the SIT Program to provide that it is an incentive program designed to reward school districts for savings realized through functional, frugal construction and for savings realized through operation of charter schools in non-school district facilities. The legislature also established a recognition program to provide an annual SMART school of the year recognition award to the district that builds the highest quality functional, frugal school. SMART stands for Soundly Made, Accountable, Reasonable, and Thrifty. Through HB 17-A, the legislature amended s. 235.216, F.S., to provide for district's eligibility for SIT program awards, and created s. 235.217, F.S., to establish the SMART Schools Clearinghouse to assist local school districts in accessing SIT funds. The clearinghouse has the express authority to prioritize school district SIT Program awards and effort index grants based upon a review of the district facilities work programs and proposed construction projects.

The Public Schools Construction Study Commission

The Public Schools Construction Study Commission held 7 meetings around the state between August and November of 1997. The commission heard considerable public testimony on issues pertaining to school planning and siting as well as school concurrency. The commission issued its final report on December 30, 1997, which contained the following separate recommendations on school planning and siting, and school concurrency issues:

School Planning and Siting

- ▶ The Legislature should reward coordinated and integrated long-range planning by school boards and local governments, and it should provide enforcement mechanisms for failure to comply with statutory coordination requirements. The commission concluded that a lack of incentives and disincentives for coordination is a major factor for the failure of some local governments and school boards to implement existing coordination requirements.

- ▶ The legislature should require that the annual update of each school district's 5-year district facilities work program include student enrollment projections for 10-year and 20-year timeframes, even though the projections would only be tentative. School districts should use Department of Education (DOE) enrollment projections when preparing these work programs, and to demonstrate consideration of population projections in local government comprehensive plans.
- ▶ The legislature should utilize the evaluation and appraisal report (EAR) process to require local governments to assess and evaluate the coordination of their local plans with the applicable 5-year school district facilities work plan. Failure to comply should result in a prohibition against amending its plan.
- ▶ The legislature should require each local government that has not complied with the existing requirement to identify land use categories in which public schools are an allowable use, to do so by October 1, 1999, or through the next EAR update, whichever comes first, and should provide funding for technical assistance to local governments.
- ▶ The legislature should reward school districts for savings realized by coordinating and cooperating with local governments in the planning and siting of public schools. Further, school districts which have not provided their annual educational facilities report for the prior year should be prohibited from siting a new school in that jurisdiction.
- ▶ DCA should be directed to prepare a model public school facilities element for local comprehensive plans, and other forms of technical assistance should be provided with funding through the DOE. DCA and DOE should initiate cross-training for employees of local governments and school boards.
- ▶ The legislature should require that school boards seek to locate schools within urban residential areas to the greatest extent possible, and to collocate schools with other public facilities such as parks, libraries and community centers. The legislature should take other steps to encourage the location of schools within urban residential areas and the utilization of schools for multiple purposes.

School Concurrency

- ▶ The legislature should address unanswered policy questions regarding school concurrency now, in order to minimize the prospect for delays, controversy, and litigation in communities which may consider at a later date whether to impose school concurrency.
- ▶ Local governments should retain authority to impose school concurrency on an optional basis within clearly defined parameters. However, the legislature should require that a local government imposing school concurrency adopt a public school facilities element as part of its comprehensive plan, instead of performing a preliminary feasibility study.

- ▶ School concurrency, where implemented, should be established throughout the geographic area of a county, with LOS standards that apply to all schools of the same type throughout that school district. The Legislature should encourage local governments to adopt a districtwide service area for applying school concurrency to each specific residential development, but it should continue to allow local governments to utilize less-than-districtwide service areas, such as school attendance zones, subject to statutory guidelines.
- ▶ The legislature should clarify that a public school capital facilities program must meet the financially feasibility standards that apply to capital programs for other forms of concurrency under existing law. Because school concurrency is an exercise of the police power to further the public welfare, the legislature should establish an availability standard for school concurrency comparable to the availability standards for other public facilities and services subject to concurrency.
- ▶ The legislature should retain the current requirement that all municipalities in a county, and the county and school board, enter into an interlocal agreement on planning, population projections, and school siting as a prerequisite for school concurrency. However, an exception should be provided for a municipality with a de minimis impact.
- ▶ DCA should propose minimum criteria for school concurrency and for the interlocal agreement on planning, population projections, and school siting for enactment into law during the 1998 session.

DCA Public Schools Construction Working Group

To implement this final recommendation, Governor Chiles recommended that the DCA convene a working group representing all affected stakeholders to address these remaining issues. The DCA Public School Construction Working Group was formed and held duly noticed regular meetings on February 4, February 10 and February 18, 1998. The working group distributed its Final Report and Consensus Text on March 9, 1998, which outlines the criteria which should be included in a public schools element adopted to support a school concurrency program, and required guidelines and criteria for Interlocal Agreements.

III. Effect of Proposed Changes:

The Preamble provides the following legislative findings and recognitions:

- ▶ There is a need to ensure that local school districts have adequate funds to finance educational facilities as Florida continues to grow;
- ▶ The state has an interest in school concurrency because public education is a state responsibility and because of the state role in administering growth management;

- ▶ The state policy on school concurrency is incomplete;
- ▶ Local governments should retain the authority to impose school concurrency on a local option basis within clearly defined parameters;
- ▶ The Legislature intends to minimize conflict and litigation in local governments which choose to impose school concurrency; and
- ▶ School concurrency, where implemented, should improve the state's educational system and advance the state's integrated planning and growth management system.

Section 1 amends s. 163.3177, F.S., which sets forth the minimum criteria for required and optional elements of a local government's comprehensive plan. The CS extends the deadline from October 1, 1996 to October 1, 1999, or the deadline for the local government's EAR, whichever is earlier, for local governments to comply with all requirements of this paragraph, including the requirement to delineate future land use categories in which public schools are an allowable use. The CS includes, as a penalty for failure to comply, that the local government will not be able to amend its comprehensive plan until it does comply, with the exception of amendments set forth in s. 163.3187(6), F.S. Further, the CS requires that the future land use element include criteria to encourage the location of schools proximate to urban residential areas and require that the local government seek to collocate public facilities, such as parks, libraries and community centers, with schools to the extent possible.

Section 1 also creates a new subsection (12) in s. 163.3177, F.S., describing a public school facilities element and its required contents, when adopted to implement a school concurrency program. The element must meet the following criteria:

- ▶ Be based upon data and analysis that address how levels of service will be met and achieved. Minimum data and analysis include the 5-year school district facilities work plan, the educational plant survey and an existing educational and ancillary plant map, information on existing development and development anticipated for the next 5 years and the long-term planning period, and an analysis of the problems and opportunities for existing schools and schools anticipated for the future.
- ▶ Contain one or more adopted goals establishing the long-term end toward which public school programs and activities are ultimately directed.
- ▶ Contain one or more adopted objectives for each goal, which set specific, measurable, intermediate ends that are achievable and mark progress toward the goal.
- ▶ Contain one or more adopted policies for each objective which establish the way in which programs and activities will be conducted to achieve an identified goal.

- ▶ Provide objectives and policies which address items such as the procedures for an annual update process, school site selection, and school permitting; provision of supporting infrastructure; location of future school sites to serve as community focal points; measures to ensure compatibility with surrounding land uses; coordination with adjacent local governments and school districts on emergency preparedness issues; and coordination of the future land use map.
- ▶ Include a future conditions map depicting the anticipated location of educational and ancillary plants.
- ▶ Include reciprocal requirements for the future land use and intergovernmental coordination elements.

Section 2 amends s. 163.3180, F.S., by deleting the existing prerequisites and criteria for extending concurrency requirements to public schools, and establishing that school concurrency, if imposed by local option, must be established on a districtwide basis and must include all public schools in the district. The CS requires all local governments within a county to adopt and transmit the necessary plan amendments and interlocal agreement, and transmit those to the department for compliance review. School concurrency will not become effective in a county until all local governments have complied with these requirements, unless a municipality is excepted pursuant to paragraph (f). The following requirements apply to school concurrency:

- ▶ Adopt a public school facilities element, which meets the requirements of s. 163.3177(12), F.S., in order to implement school concurrency. This criteria replaces the current statutory requirement that the local government conduct a study prior to implementing school concurrency. The CS requires that all public school facilities elements within the same county be consistent with each other.
- ▶ Include LOS standards, jointly developed with the school board and adopted into the capital improvements element of the local comprehensive plan, which apply districtwide to all schools of the same type.
- ▶ Local governments are encouraged to adopt districtwide service areas; however, for those local governments which choose to apply concurrency on a less-than-districtwide basis, they must demonstrate that school capacity has been utilized to the greatest extent possible, and must identify the standards for establishing those service area boundaries. The CS allows an exception from the LOS standard where the needed capacity exists in a contiguous service area, even if the LOS standard cannot be met in the service area in which the development application is made. This exception provides a further incentive to apply concurrency on a districtwide basis.
- ▶ Adopt appropriate amendments to the capital improvements element to set forth a financially feasible public school capital facilities program, established in conjunction with the school board, which demonstrates how the adopted LOS will be achieved and maintained. The CS

clarifies that the capital facilities program must meet all the financial feasibility standards of the growth management act and rule 9J-5, F.A.C.

- ▶ Comply with the availability standard that public facilities needed to serve new development be in place or under actual construction *no sooner than 3 years* after issuance of the local development order for residential construction. The language of this section is intended to prevent the availability standard from being required within the first 3 years after construction. However, the phrase “no sooner than 3 years” does not provide a deadline by which those facilities must be available. This language renders the availability standard essentially meaningless.
- ▶ Comply with all the intergovernmental coordination requirements of existing law, including the interlocal agreement requirement. However, the CS carves out an exception from the requirement that all municipalities in the county sign the interlocal agreement for a municipality which has no significant impact on school attendance. Criteria, all of which must be met, for a municipality to be determined to have no significant impact on school attendance include:
 - ▶ The municipality has issued fewer than 50 development orders for residential dwelling units during the preceding 5 years, or has generated fewer than 25 additional public school students during the preceding 5 years;
 - ▶ The municipality has not annexed any new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates;
 - ▶ The municipality has no public schools located within its boundaries; and
 - ▶ At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

At the time of its EAR a municipality must reevaluate whether it meets all of the criteria, and if it does not, it must adopt appropriate school concurrency goals, objectives and policies and enter into an interlocal agreement with the county and the school board to fully participate in the school concurrency system.

- ▶ Execute an interlocal agreement which satisfies the requirements of s. 163.3177(6)(h)1. and 2., F.S., and which acknowledges both the school board’s constitutional and statutory obligations and the land use authority of local governments. Additionally, the interlocal agreement must meet the following requirements:
 - ▶ Establish mechanisms for coordinating the development, adoption and amendment of each local government’s public school facilities element with each other and the plans of the school board.

- ▶ Establish a process for coordinating projections of the amount, type and distribution of population growth, public school facilities, and infrastructure.
- ▶ Establish a process for developing criteria to locate schools proximate to urban residential areas and to collocate schools with other public facilities.
- ▶ Specify uniform, districtwide LOS standards for public schools and the process for modifying the adopted LOS standards.
- ▶ Establish a process for the preparation, amendment and joint approval by each local government and the school district of a public school capital facilities program that is financially feasible, and a process and schedule for incorporating that program into the local comprehensive plans on an annual basis.
- ▶ Define the geographic application of school concurrency. Specific criteria are required if concurrency is to be applied on a less than districtwide basis.
- ▶ Provide for the compliance evaluation of development applications; an opportunity for the school board to review and comment on the effect of plan amendments and rezonings; and monitoring and evaluation of the school concurrency system.
- ▶ Include provisions relating to termination, suspension and amendment of the agreement. The agreement must provide that if it is terminated or suspended, the application of school concurrency must also be terminated or suspended.

Finally, this section is amended to require DCA to adopt by rule, by October 1, 1998, minimum criteria for the review and compliance determination of a public school facilities element adopted by a local government to implement school concurrency.

Section 3 amends s. 163.3191, F.S., to require that the local government's EAR assess the coordination of the comprehensive plan with the existing and recommended public schools as identified in the applicable 5-year school district facilities work program. The assessment must include coordination of the future land use map and associated planned residential units with existing and recommended schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board.

Section 4 amends s. 235.185, F.S., to require that the school district facilities work program include a 10-year and a 20-year, in addition to a 5-year, work program. The programs must include the same information required for the 5-year work program, but should be based upon enrollment projections and facility needs for the 10-year and 20-year periods. The CS recognizes that these projections will be tentative and should only be used for general planning purposes.

Section 5 amends s. 235.186, F.S., to add new criteria to be considered in the calculation of effort index grants for distribution of capital outlay expenditures to school districts. The following types of expenditures are added to the calculation:

- ▶ Expenditures for long-term lease agreements between the district and the local government.
- ▶ Expenditures for collocation of public school facilities with local government facilities, including expenditures avoided as a result of collocation.
- ▶ Expenditures for joint use of public school facilities with local government facilities, including expenditures avoided as a result of joint use.

The addition of these categories of expenditures is intended to reward districts for coordinating with the local government on school siting and planning. Further, this section is amended to include a new criteria which may be considered by the state clearinghouse in awarding effort index grants to school districts if legislative appropriations are insufficient to fund all eligible grants. The new criteria is whether the local government has adopted either an optional public school facilities element, or a public school facilities element pursuant to s. 163.3177, F.S., to implement a school concurrency system. Again, the addition of this criteria is intended to reward the district for coordination with the local government.

Section 6 amends s. 235.19, F.S., relating to school planning and siting, to encourage school boards to locate schools proximate to urban residential areas, and require boards to collocate schools with other public facilities, such as parks, libraries and community centers, to the extent possible. This language is similar to and conforms with language added to s. 163.3177, F.S., in section 1 of the CS.

Section 7 amends s. 235.193, F.S., to require that school boards use DOE's enrollment projections when preparing the 5-year district facilities work program, and that the school board must demonstrate that it considered the local government's population projections to ensure that the 5-year work program not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. This section is further amended to prohibit a school board from locating a new school in a jurisdiction in which the school board has failed to provide the annual educational facilities report for the prior year. However, the prohibition is lifted when the school board submits the report. This change provides a disincentive for failure to comply with an existing statutory requirement for coordination.

Section 8 amends s. 235.2155, F.S., the SIT program established by the 1997 Legislature, as amended by ch. 97-384, Laws of Florida. The purposes of the program are expanded to include rewarding districts for the following:

- ▶ Savings realized through capital outlay expenditure avoided by the district's use of long-term lease agreements with local governments;

- ▶ Savings realized through the capital outlay expenditure avoided by the district’s collocation of educational facilities with compatible local government facilities; and
- ▶ Savings realized through the capital outlay expenditure avoided by the district’s joint use of facilities with local governments.

In evaluating requests for awards of SIT funds, the SMART Schools Clearinghouse is authorized to consider evidence of coordination and cooperation by school boards with local governments in the planning and siting of educational facilities, and whether the school board has submitted to the local government the required educational facilities report. In prioritizing its recommendations for awards of SIT funds, the clearinghouse must favorably consider school districts in which local governments have adopted either an optional public school facilities element, or a public school facilities element, pursuant to s. 163.3177(12), F.S., as required to implement a school concurrency system. This change may have the unintended consequence of encouraging local governments to adopt an additional element in their comprehensive plans for which there is no guidance in the statute.

Finally, this section is amended to clarify that SIT funds may be used to pay “required offsite infrastructure needs that are generated by the development of educational facilities.” This appears to be consistent with s. 235.34, F.S., which authorizes school boards to pay their proportionate share of offsite infrastructure improvements to meet the needs of a new or expanded public educational facility.

Section 9 provides that, until DCA has adopted by rule minimum criteria for a public school facilities element, the minimum criteria Final Report and Consensus Text by the DCA Public School Construction Working Group, dated March 9, 1998, should be utilized by DCA in conducting a compliance review of an adopted school concurrency system. This section stands repealed when the minimum criteria have been adopted and are in effect.

Section 10 provides an effective date of July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Because the CS extends a deadline for a current mandate, and creates new requirements for local government comprehensive plans only if they choose to implement school concurrency, the provisions of s. 18, Art. VII are not applicable.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Qualified school districts may receive awards from the SIT program if they comply with statutory requirements to coordinate with local governments in the planning and siting of educational facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.