

By the Committees on Governmental Operations, Community Affairs and Representatives Gay, Alexander, Albright and Goodlette

1 A bill to be entitled
2 An act relating to growth management; creating
3 s. 125.595, F.S.; providing for the right of
4 citizens to petition elected officials in
5 public or private; amending s. 163.2517, F.S.;
6 revising the financial incentives which a local
7 government may offer in an urban infill and
8 redevelopment area which relate to exemption
9 from local option sales surtaxes and waiver of
10 delinquent taxes or fees; providing that, in
11 order to be eligible for the exemption from
12 collecting local option sales surtaxes, a
13 business must submit an application under oath
14 to the local government, which must be approved
15 and submitted to the Department of Revenue;
16 amending s. 212.08, F.S.; specifying that the
17 authority of a local government to adopt
18 financial and local government incentives under
19 s. 163.2517, F.S., is not superseded by certain
20 provisions relating to sales tax exemptions;
21 amending s. 163.2523, F.S.; authorizing
22 transfer of unused funds between grant
23 categories under the Urban Infill and
24 Redevelopment Assistance Grant Program;
25 amending s. 163.3164, F.S.; clarifying the
26 definition of "development" under the Local
27 Government Comprehensive Planning and Land
28 Development Regulation Act; amending s.
29 163.3177, F.S.; providing that an agricultural
30 land use category may be eligible for the
31 location of public schools in a local

1 government comprehensive plan under certain
2 conditions; requiring preparation of an airport
3 master plan by each publicly owned and operated
4 airport and providing requirements with respect
5 thereto; providing for incorporation into the
6 local comprehensive plan; providing that
7 development or expansion of such airports
8 consistent with such plans is not a development
9 of regional impact; providing additional
10 legislative intent with respect to application
11 of chapter 9J-5, Florida Administrative Code,
12 by the agency; specifying lands that are
13 appropriate for innovative planning and
14 development strategies; requiring a report on a
15 program for implementing such strategies;
16 providing for coordination with the Grow Smart
17 Florida Study Commission; prohibiting reduction
18 in residential density on certain property
19 without the owner's consent until July 1, 2001;
20 amending s. 163.3180, F.S.; correcting a
21 reference; amending s. 163.3184, F.S.;
22 providing additional agencies to which a local
23 government must transmit a proposed
24 comprehensive plan or plan amendment; removing
25 provisions relating to transmittal of copies by
26 the state land planning agency; providing that
27 a local government may request review by the
28 state land planning agency at the time of
29 transmittal of an amendment; revising time
30 periods with respect to submission of comments
31 to the agency by other agencies, notice by the

1 agency of its intent to review, and issuance by
2 the agency of its report; providing for
3 priority review of certain amendments;
4 clarifying language; providing for compilation
5 and transmittal by the local government of a
6 list of persons who will receive an
7 informational statement concerning the agency's
8 notice of intent to find a plan or plan
9 amendment in compliance or not in compliance;
10 providing for rules; revising requirements
11 relating to publication by the agency of its
12 notice of intent; deleting a requirement that
13 the notice be sent to certain persons; amending
14 s. 163.3187, F.S.; revising requirements
15 relating to small scale development amendments
16 which are exempt from the limitation on the
17 frequency of amendments to a local
18 comprehensive plan; revising acreage
19 requirements; providing that certain amendments
20 that involve affordable housing in certain
21 areas of critical state concern are eligible
22 under certain circumstances; revising a
23 condition relating to residential land use;
24 removing a provision that allows a local
25 government to elect to have such amendments
26 subject to review under s. 163.3184(3)-(6),
27 F.S.; amending s. 163.3215, F.S.; revising
28 procedures for challenge of a development order
29 by an aggrieved or adversely affected party on
30 the basis of inconsistency with a local
31 comprehensive plan; providing for petition to

1 the circuit court for certiorari; providing for
2 mandatory mediation; removing a requirement
3 that a verified complaint be filed with the
4 local government prior to seeking judicial
5 review; amending s. 163.3245, F.S., relating to
6 optional sector plans; clarifying and
7 conforming language; creating s. 166.0498,
8 F.S.; providing for the right of citizens to
9 petition elected officials in public or
10 private; amending s. 166.231, F.S.; authorizing
11 application of the municipal public service tax
12 on water service to property in a development
13 of regional impact outside of municipal
14 boundaries under certain conditions; limiting
15 recovery if such tax is challenged; amending s.
16 380.04, F.S.; revising an exemption from the
17 definition of "development" under the Florida
18 Environmental Land and Water Management Act of
19 1972; amending s. 380.06, F.S., relating to
20 developments of regional impact; revising the
21 definition of an essentially built-out
22 development of regional impact with respect to
23 multiuse developments; providing for submission
24 of biennial, rather than annual, reports by the
25 developer; authorizing submission of a letter,
26 rather than a report, under certain
27 circumstances; providing for amendment of
28 development orders with respect to report
29 frequency; removing criteria relating to
30 petroleum storage facilities and waterports
31 from the list of criteria used to determine

1 existence of a substantial deviation; revising
2 the criterion relating to multiuse developments
3 of regional impact; providing that an extension
4 of the date of buildout of less than 7 years is
5 not a substantial deviation; revising
6 provisions relating to determination of whether
7 a change constitutes a substantial deviation
8 based on its percentage of the specified
9 numerical criteria; revising notice
10 requirements; providing that changes that are
11 less than specified numerical criteria need not
12 be submitted to the state land planning agency
13 and specifying the agency's right to appeal
14 with respect to such changes; deleting an
15 exemption from review by the regional planning
16 agency and state land planning agency for
17 certain changes; exempting petroleum storage
18 facilities from development-of-regional-impact
19 review under certain circumstances; providing
20 for maintenance of the exemption from
21 development-of-regional-impact review for
22 developments under s. 163.3245, F.S., relating
23 to optional sector plans, if said section is
24 repealed; exempting certain development or
25 expansion of airports from
26 development-of-regional-impact review under
27 certain circumstances; repealing s.
28 380.0651(3)(e), F.S., which provides the
29 statewide guidelines and standards for
30 development-of-regional-impact review for port
31 facilities; amending s. 380.0651, F.S.;

1 providing for vested rights, duties or
2 obligations, and pending applications with
3 respect to developments of regional impact;
4 authorizing certain abandonment; providing for
5 enforcement; amending ss. 163.06 and 189.415,
6 F.S.; correcting cross references, to conform;
7 creating the Grow Smart Florida Study
8 Commission; providing for appointment and
9 qualifications of members; providing the
10 commission's duties; requiring a report;
11 providing for severability; providing an
12 effective date.

13

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

15

16 Section 1. Section 125.595, Florida Statutes, is
17 created to read:

18 125.595 Right of citizens to petition elected
19 officials.--No citizen shall be denied his or her
20 constitutional right to petition any elected official in
21 public or private. This provision shall preempt any other
22 special act or general law to the contrary.

23

24 Section 2. Paragraph (j) of subsection (3) of section
163.2517, Florida Statutes, is amended to read:

25 163.2517 Designation of urban infill and redevelopment
26 area.--

27

28 (3) A local government seeking to designate a
29 geographic area within its jurisdiction as an urban infill and
30 redevelopment area shall prepare a plan that describes the
31 infill and redevelopment objectives of the local government
within the proposed area. In lieu of preparing a new plan, the

1 local government may demonstrate that an existing plan or
2 combination of plans associated with a community redevelopment
3 area, Florida Main Street program, Front Porch Florida
4 Community, sustainable community, enterprise zone, or
5 neighborhood improvement district includes the factors listed
6 in paragraphs (a)-(n), including a collaborative and holistic
7 community participation process, or amend such existing plans
8 to include these factors. The plan shall demonstrate the local
9 government and community's commitment to comprehensively
10 address the urban problems within the urban infill and
11 redevelopment area and identify activities and programs to
12 accomplish locally identified goals such as code enforcement;
13 improved educational opportunities; reduction in crime;
14 neighborhood revitalization and preservation; provision of
15 infrastructure needs, including mass transit and multimodal
16 linkages; and mixed-use planning to promote multifunctional
17 redevelopment to improve both the residential and commercial
18 quality of life in the area. The plan shall also:

19 (j) Identify and adopt a package of financial and
20 local government incentives which the local government will
21 offer for new development, expansion of existing development,
22 and redevelopment within the urban infill and redevelopment
23 area. Examples of such incentives include:

- 24 1. Waiver of license and permit fees.
- 25 2. Exemption of sales made in the urban infill and
26 redevelopment area from ~~Waiver of~~ local option sales surtaxes
27 imposed pursuant to s. 212.054 ~~taxes~~.
- 28 3. Waiver of delinquent local taxes or fees to promote
29 the return of property to productive use.
- 30 4. Expedited permitting.

31

1 5. Lower transportation impact fees for development
2 which encourages more use of public transit, pedestrian, and
3 bicycle modes of transportation.

4 6. Prioritization of infrastructure spending within
5 the urban infill and redevelopment area.

6 7. Local government absorption of developers'
7 concurrency costs.

8
9 In order to be authorized to recognize the exemption from
10 local option sales surtaxes pursuant to subparagraph 2., the
11 owner, lessee, or lessor of the new development, expanding
12 existing development, or redevelopment within the urban infill
13 and redevelopment area must file an application under oath
14 with the governing body having jurisdiction over the urban
15 infill and redevelopment area where the business is located.
16 The application must include the name and address of the
17 business claiming the exclusion from collecting local option
18 surtaxes; an address and assessment roll parcel number of the
19 urban infill and redevelopment area for which the exemption is
20 being sought; a description of the improvements made to
21 accomplish the new development, expanding development, or
22 redevelopment of the real property; a copy of the building
23 permit application or the building permit issued for the
24 development of the real property; a new application for a
25 certificate of registration with the Department of Revenue
26 with the address of the new development, expanding
27 development, or redevelopment; and the location of the
28 property. The local government must review and approve the
29 application and submit the completed application and
30 documentation along with a copy of the ordinance adopted
31 pursuant to subsection (5) to the Department of Revenue in

1 order for the business to become eligible to make sales exempt
2 from local option sales surtaxes in the urban infill and
3 redevelopment area.

4 Section 3. Subsection (13) of section 212.08, Florida
5 Statutes, is amended to read:

6 212.08 Sales, rental, use, consumption, distribution,
7 and storage tax; specified exemptions.--The sale at retail,
8 the rental, the use, the consumption, the distribution, and
9 the storage to be used or consumed in this state of the
10 following are hereby specifically exempt from the tax imposed
11 by this chapter.

12 (13) No transactions shall be exempt from the tax
13 imposed by this chapter except those expressly exempted
14 herein. All laws granting tax exemptions, to the extent they
15 may be inconsistent or in conflict with this chapter,
16 including, but not limited to, the following designated laws,
17 shall yield to and be superseded by the provisions of this
18 subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31,
19 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 258.14,
20 315.11, 348.65, 348.762, 349.13, 403.1834, 616.07, and 623.09,
21 and the following Laws of Florida, acts of the year indicated:
22 s. 31, chapter 30843, 1955; s. 19, chapter 30845, 1955; s. 12,
23 chapter 30927, 1955; s. 8, chapter 31179, 1955; s. 15, chapter
24 31263, 1955; s. 13, chapter 31343, 1955; s. 16, chapter
25 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-2261; s.
26 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11, chapter
27 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446; and
28 s. 10, chapter 67-1681. This subsection does not supersede the
29 authority of a local government to adopt financial and local
30 government incentives pursuant to s. 163.2517.

31

1 Section 4. Section 163.2523, Florida Statutes, is
2 amended to read:
3 163.2523 Grant program.--An Urban Infill and
4 Redevelopment Assistance Grant Program is created for local
5 governments. A local government may allocate grant money to
6 special districts, including community redevelopment agencies,
7 and nonprofit community development organizations to implement
8 projects consistent with an adopted urban infill and
9 redevelopment plan or plan employed in lieu thereof. Thirty
10 percent of the general revenue appropriated for this program
11 shall be available for planning grants to be used by local
12 governments for the development of an urban infill and
13 redevelopment plan, including community participation
14 processes for the plan. Sixty percent of the general revenue
15 appropriated for this program shall be available for
16 fifty/fifty matching grants for implementing urban infill and
17 redevelopment projects that further the objectives set forth
18 in the local government's adopted urban infill and
19 redevelopment plan or plan employed in lieu thereof. The
20 remaining 10 percent of the revenue must be used for outright
21 grants for implementing projects requiring an expenditure of
22 under \$50,000. If the volume of fundable applications under
23 any of the allocations specified in this section does not
24 fully obligate the amount of the allocation, the Department of
25 Community Affairs may transfer the unused balance to the
26 category having the highest dollar value of applications
27 eligible but unfunded. However, in no event may the percentage
28 of dollars allocated to outright grants for implementing
29 projects exceed 20 percent in any given fiscal year.Projects
30 that provide employment opportunities to clients of the WAGES
31 program and projects within urban infill and redevelopment

1 areas that include a community redevelopment area, Florida
2 Main Street program, Front Porch Florida Community,
3 sustainable community, enterprise zone, federal enterprise
4 zone, enterprise community, or neighborhood improvement
5 district must be given an elevated priority in the scoring of
6 competing grant applications. The Division of Housing and
7 Community Development of the Department of Community Affairs
8 shall administer the grant program. The Department of
9 Community Affairs shall adopt rules establishing grant review
10 criteria consistent with this section.

11 Section 5. Subsection (6) of section 163.3164, Florida
12 Statutes, is amended to read:

13 163.3164 Definitions.--As used in this act:

14 (6) "Development" has the meaning given it in s.
15 380.04. The following operations or uses shall not be taken
16 for the purpose of this act to involve "development":

17 (a) Work by a highway or road agency or railroad
18 company for the maintenance or improvement of a road or
19 railroad track, if the work is carried out on land within the
20 boundaries of the right-of-way.

21 (b) Work by any utility and other persons engaged in
22 the distribution or transmission of electricity, gas, or
23 water, for the purpose of inspecting, repairing, renewing, or
24 constructing on established rights-of-way any sewers, mains,
25 pipes, cables, utility tunnels, power lines, towers, poles,
26 tracks, or the like.

27 (c) Work for the maintenance, renewal, improvement, or
28 alteration of any structure, if the work affects only the
29 interior or the color of the structure or the decoration of
30 the exterior of the structure.

31

1 (d) The use of any structure or land devoted to
2 dwelling uses for any purpose customarily incidental to
3 enjoyment of the dwelling.

4 (e) The use of any land for the purpose of growing
5 plants, crops, trees, and other agricultural or forestry
6 products; raising livestock; or for other agricultural
7 purposes.

8 (f) A change in use of land or structure from a use
9 within a class specified in an ordinance or rule to another
10 use in the same class.

11 (g) A change in the ownership or form of ownership of
12 any parcel or structure.

13 (h) The creation or termination of rights of access,
14 riparian rights, easements, covenants concerning development
15 of land, or other rights in land.

16 Section 6. Paragraph (a) of subsection (6) of section
17 163.3177, Florida Statutes, is amended, paragraph (k) is added
18 to said subsection, and paragraph (i) of subsection (10) and
19 subsection (11) of said section are amended, to read:

20 163.3177 Required and optional elements of
21 comprehensive plan; studies and surveys.--

22 (6) In addition to the requirements of subsections
23 (1)-(5), the comprehensive plan shall include the following
24 elements:

25 (a) A future land use plan element designating
26 proposed future general distribution, location, and extent of
27 the uses of land for residential uses, commercial uses,
28 industry, agriculture, recreation, conservation, education,
29 public buildings and grounds, other public facilities, and
30 other categories of the public and private uses of land. The
31 future land use plan shall include standards to be followed in

1 the control and distribution of population densities and
2 building and structure intensities. The proposed
3 distribution, location, and extent of the various categories
4 of land use shall be shown on a land use map or map series
5 which shall be supplemented by goals, policies, and measurable
6 objectives. Each land use category shall be defined in terms
7 of the types of uses included and specific standards for the
8 density or intensity of use. The future land use plan shall
9 be based upon surveys, studies, and data regarding the area,
10 including the amount of land required to accommodate
11 anticipated growth; the projected population of the area; the
12 character of undeveloped land; the availability of public
13 services; the need for redevelopment, including the renewal of
14 blighted areas and the elimination of nonconforming uses which
15 are inconsistent with the character of the community; and, in
16 rural communities, the need for job creation, capital
17 investment, and economic development that will strengthen and
18 diversify the community's economy. The future land use plan
19 may designate areas for future planned development use
20 involving combinations of types of uses for which special
21 regulations may be necessary to ensure development in accord
22 with the principles and standards of the comprehensive plan
23 and this act. In addition, for rural communities, the amount
24 of land designated for future planned industrial use shall be
25 based upon surveys and studies that reflect the need for job
26 creation, capital investment, and the necessity to strengthen
27 and diversify the local economies, and shall not be limited
28 solely by the projected population of the rural community. The
29 future land use plan of a county may also designate areas for
30 possible future municipal incorporation. The land use maps or
31 map series shall generally identify and depict historic

1 district boundaries and shall designate historically
2 significant properties meriting protection. The future land
3 use element must clearly identify the land use categories in
4 which public schools are an allowable use. When delineating
5 the land use categories in which public schools are an
6 allowable use, a local government shall include in the
7 categories sufficient land proximate to residential
8 development to meet the projected needs for schools in
9 coordination with public school boards and may establish
10 differing criteria for schools of different type or size. Each
11 local government shall include lands contiguous to existing
12 school sites, to the maximum extent possible, within the land
13 use categories in which public schools are an allowable use.
14 All comprehensive plans must comply with the school siting
15 requirements of this paragraph no later than October 1, 1999.
16 The failure by a local government to comply with these school
17 siting requirements by October 1, 1999, will result in the
18 prohibition of the local government's ability to amend the
19 local comprehensive plan, except for plan amendments described
20 in s. 163.3187(1)(b), until the school siting requirements are
21 met. An amendment proposed by a local government for purposes
22 of identifying the land use categories in which public schools
23 are an allowable use is exempt from the limitation on the
24 frequency of plan amendments contained in s. 163.3187. The
25 future land use element shall include criteria which encourage
26 the location of schools proximate to urban residential areas
27 to the extent possible and shall require that the local
28 government seek to collocate public facilities, such as parks,
29 libraries, and community centers, with schools to the extent
30 possible. For schools serving predominantly rural areas, an
31 agricultural land use category may be eligible by plan

1 amendment for the location of public school facilities,
2 provided the local comprehensive plan contains school siting
3 criteria or the applicable land use category will be amended
4 through a comprehensive plan amendment.

5 (k) An airport master plan shall be prepared by each
6 publicly owned and operated airport licensed by the Department
7 of Transportation under chapter 330. The airport master plan
8 shall address airports, projected airport and aviation
9 development, and land use compatibility around airports, and
10 must be consistent with applicable requirements for airport
11 master plans issued by the Federal Aviation Administration
12 pursuant to the applicable Federal Aviation Administration's
13 Advisory Circulars and Airport Environmental Handbook and by
14 the Department of Transportation pursuant to s. 332.007(5) and
15 the Department of Transportation's Guidebook for Airport
16 Master Planning and Airport Compatible Land Use Guidance. In
17 addition, airport master plans shall meet the requirements of
18 this paragraph. The airport master plan component, and any
19 subsequent amendments to the airport master plan, shall be
20 incorporated into the transportation or traffic circulation
21 element of each affected local government comprehensive plan
22 by the adoption of a local government comprehensive plan
23 amendment. The appropriate municipality, county, or other
24 entity having responsibility for the operation of the airport
25 shall submit copies of an airport master plan which meets the
26 requirements of this paragraph to the affected local
27 government no later than July 1, 2001. The affected local
28 government shall incorporate the airport master plan into the
29 local government comprehensive plan no later than July 1,
30 2002. As used in this paragraph, "affected local government"
31 means any local government having jurisdiction under this act

1 over the area in which the airport is located. The Department
2 of Community Affairs, in conjunction with the Department of
3 Transportation, shall provide technical assistance and develop
4 supplemental guidelines to the Department of Transportation
5 and Federal Aviation Administration guidelines to be used in
6 developing airport master plans, consistent with state goals
7 and objectives related to airport planning. Such supplemental
8 guidelines shall address land use compatibility consistent
9 with chapter 333 regarding airport zoning, coordination of
10 regional transportation facilities through consistency with
11 the transportation element and any applicable metropolitan
12 planning organization long-range transportation plan that
13 provides priority to intermodal facilities for the efficient
14 use and operation of the airport, and the execution of any
15 necessary interlocal agreements for the purpose of the
16 provision of public facilities and services and maintenance of
17 level of service standards for facilities subject to
18 concurrency. Development or expansion of publicly owned or
19 operated airports meeting the requirements of this part shall
20 not be developments of regional impact where such
21 developments, expansions, projects, or facilities are
22 consistent with airport master plans that are approved by the
23 Federal Aviation Administration, the Department of
24 Transportation, and in compliance with this paragraph.

25 (10) The Legislature recognizes the importance and
26 significance of chapter 9J-5, Florida Administrative Code, the
27 Minimum Criteria for Review of Local Government Comprehensive
28 Plans and Determination of Compliance of the Department of
29 Community Affairs that will be used to determine compliance of
30 local comprehensive plans. The Legislature reserved unto
31 itself the right to review chapter 9J-5, Florida

1 Administrative Code, and to reject, modify, or take no action
2 relative to this rule. Therefore, pursuant to subsection (9),
3 the Legislature hereby has reviewed chapter 9J-5, Florida
4 Administrative Code, and expresses the following legislative
5 intent:

6 (i) Due to the varying complexities, sizes, growth
7 rates, and other factors associated with local governments in
8 Florida, the department shall take into account the factors
9 delineated in rule 9J-5.002(2), Florida Administrative Code,
10 as it provides assistance to local governments and applies the
11 rule in specific situations with regard to the detail of the
12 data and analysis, and the content of the goals, objectives,
13 policies, and other graphic or textual standards required. If
14 a local government has in place a comprehensive plan found in
15 compliance, the department shall take into account as it
16 applies chapter 9J-5, Florida Administrative Code, whether a
17 plan amendment constitutes substantial progress over existing
18 provisions in the local comprehensive plan regarding
19 consistency with chapter 9J-5, Florida Administrative Code.
20 The provisions of this paragraph are not intended to allow the
21 department to waive or vary any of the requirements of law.

22 (11)(a) The Legislature recognizes the need for
23 innovative planning and development strategies which will
24 address the anticipated demands of continued urbanization of
25 Florida's coastal and other environmentally sensitive areas,
26 and which will accommodate the development of less populated
27 regions of the state which seek economic development and which
28 have suitable land and water resources to accommodate growth
29 in an environmentally acceptable manner. The Legislature
30 further recognizes the substantial advantages of innovative
31 approaches to development which may better serve to protect

1 environmentally sensitive areas, maintain the economic
2 viability of agricultural and other predominantly rural land
3 uses, and provide for the cost-efficient delivery of public
4 facilities and services.

5 (b) It is the intent of the Legislature that the local
6 government comprehensive plans and plan amendments adopted
7 pursuant to the provisions of this part provide for a planning
8 process which allows for land use efficiencies within existing
9 urban areas and which also allows for the conversion of rural
10 lands to other uses, where appropriate and consistent with the
11 other provisions of this part and the affected local
12 comprehensive plans, through the application of innovative and
13 flexible planning and development strategies and creative land
14 use planning techniques, which may include, but not be limited
15 to, urban villages, new towns, satellite communities,
16 area-based allocations, clustering and open space provisions,
17 mixed-use development, and sector planning.

18 (c) Lands classified in the future land use plan
19 element as agricultural, rural, open, open/rural, or a
20 substantively equivalent land use shall also be deemed
21 appropriate for innovative planning and development strategies
22 described in paragraphs (a) and (b) which the department
23 recognizes as methods for discouraging urban sprawl consistent
24 with the provisions of the state comprehensive plan, regional
25 policy plans, and this part.

26 (d) The Department of Community Affairs, in
27 conjunction with the Department of Agriculture and Consumer
28 Services, shall, by no later than February 1, 2001, prepare
29 and submit to the Governor, the Speaker of the House of
30 Representatives, and the President of the Senate a report on a
31 program of planning incentives, economic incentives, and other

1 measures as may be necessary to facilitate the timely
2 implementation of innovative planning and development
3 strategies described in paragraphs (a), (b), and (c) while
4 protecting environmentally sensitive areas, maintaining the
5 economic viability of agriculture and other predominantly
6 rural land uses, and providing for the cost-efficient delivery
7 of public facilities and services. Such incentives and other
8 measures shall address the following:

9 1. "Smart growth" strategies within rural areas which
10 proactively address both the pressures of population growth
11 and the substantial need for rural economic development.

12 2. The importance of maintaining rural land values as
13 the cornerstone of maintaining a viable rural economy.

14 3. Expression of the contents of paragraphs (a), (b),
15 and (c) in the form of practical and easily understood
16 planning guidelines.

17 4. A rural lands stewardship program under which the
18 owners of rural property are encouraged to convey development
19 rights in exchange for smart growth development credits which
20 are transferable within rural areas in which innovative
21 development and strategies are applied as part of a pattern of
22 land use which protects environmentally sensitive areas,
23 maintains the economic viability of agriculture and other
24 predominantly rural land uses, and provides for the
25 cost-efficient delivery of public facilities and services.

26 5. Strategies and incentives to reward best management
27 practices for agricultural activities consistent with the
28 conservation and protection of environmentally sensitive areas
29 and sound water management practices.

30 6. The coordination of state transportation
31 facilities, including roadways, railways, and port and airport

1 facilities, to provide for the transportation of agricultural
2 products and supplies.
3
4 It is intent of the Legislature that the program described in
5 this paragraph be created in a careful and considered manner,
6 and accordingly there shall be no reduction in residential
7 density, without the property owner's consent, on property
8 classified as agricultural, rural, open, open/rural, or a
9 substantially equivalent land use until July 1, 2001, in order
10 to provide for this study process and legislative
11 consideration thereof. The Department of Community Affairs and
12 the Department of Agriculture and Consumer Services shall
13 regularly report their progress on these issues to the Grow
14 Smart Florida Study Commission, cooperate and lend assistance
15 to the commission, and coordinate their final reporting to the
16 Legislature to the greatest extent possible.

17 (e)~~(e)~~ It is the further intent of the Legislature
18 that local government comprehensive plans and implementing
19 land development regulations shall provide strategies which
20 maximize the use of existing facilities and services through
21 redevelopment, urban infill development, and other strategies
22 for urban revitalization.

23 (f)~~(d)~~ The implementation of this subsection shall be
24 subject to the provisions of this chapter, chapters 186 and
25 187, and applicable agency rules.

26 (g)~~(e)~~ The department shall implement the provisions
27 of this subsection by rule.

28 Section 7. Paragraph (a) of subsection (12) of section
29 163.3180, Florida Statutes, is amended to read:

30 163.3180 Concurrency.--
31

1 (12) When authorized by a local comprehensive plan, a
2 multiuse development of regional impact may satisfy the
3 transportation concurrency requirements of the local
4 comprehensive plan, the local government's concurrency
5 management system, and s. 380.06 by payment of a
6 proportionate-share contribution for local and regionally
7 significant traffic impacts, if:
8 (a) The development of regional impact meets or
9 exceeds the guidelines and standards of s. 380.0651(3)(h)~~(i)~~
10 and rule 28-24.032(2), Florida Administrative Code, and
11 includes a residential component that contains at least 100
12 residential dwelling units or 15 percent of the applicable
13 residential guideline and standard, whichever is greater;
14
15 The proportionate-share contribution may be applied to any
16 transportation facility to satisfy the provisions of this
17 subsection and the local comprehensive plan, but, for the
18 purposes of this subsection, the amount of the
19 proportionate-share contribution shall be calculated based
20 upon the cumulative number of trips from the proposed
21 development expected to reach roadways during the peak hour
22 from the complete buildout of a stage or phase being approved,
23 divided by the change in the peak hour maximum service volume
24 of roadways resulting from construction of an improvement
25 necessary to maintain the adopted level of service, multiplied
26 by the construction cost, at the time of developer payment, of
27 the improvement necessary to maintain the adopted level of
28 service. For purposes of this subsection, "construction cost"
29 includes all associated costs of the improvement.
30
31

1 Section 8. Subsections (3), (4), (6), (7), (8), and
2 (15) and paragraph (d) of subsection (16) of section 163.3184,
3 Florida Statutes, are amended to read:

4 163.3184 Process for adoption of comprehensive plan or
5 plan amendment.--

6 (3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR
7 AMENDMENT.--

8 (a) Each local governing body shall transmit the
9 complete proposed comprehensive plan or plan amendment to the
10 state land planning agency, the appropriate regional planning
11 council and water management district, the Department of
12 Environmental Protection, the Department of State, and the
13 Department of Transportation, and, in the case of municipal
14 plans, to the appropriate county, and, in the case of county
15 plans, to the Fish and Wildlife Conservation Commission and
16 the Department of Agriculture and Consumer Services,
17 immediately following a public hearing pursuant to subsection
18 (15) as specified in the state land planning agency's
19 procedural rules. The local governing body shall also transmit
20 a copy of the complete proposed comprehensive plan or plan
21 amendment to any other unit of local government or government
22 agency in the state that has filed a written request with the
23 governing body for the plan or plan amendment. The local
24 government may request a review by the state land planning
25 agency pursuant to subsection (6) at the time of transmittal
26 of an amendment.

27 (b) A local governing body shall not transmit portions
28 of a plan or plan amendment unless it has previously provided
29 to all state agencies designated by the state land planning
30 agency a complete copy of its adopted comprehensive plan
31 pursuant to subsection (7) and as specified in the agency's

1 procedural rules. In the case of comprehensive plan
2 amendments, the local governing body shall transmit to the
3 state land planning agency, the appropriate regional planning
4 council and water management district, the Department of
5 Environmental Protection, the Department of State, and the
6 Department of Transportation, and, in the case of municipal
7 plans, to the appropriate county, and, in the case of county
8 plans, to the Fish and Wildlife Conservation Commission and
9 the Department of Agriculture and Consumer Services, the
10 materials specified in the state land planning agency's
11 procedural rules and, in cases in which the plan amendment is
12 a result of an evaluation and appraisal report adopted
13 pursuant to s. 163.3191, a copy of the evaluation and
14 appraisal report. Local governing bodies shall consolidate all
15 proposed plan amendments into a single submission for each of
16 the two plan amendment adoption dates during the calendar year
17 pursuant to s. 163.3187.

18 (c) A local government may adopt a proposed plan
19 amendment previously transmitted pursuant to this subsection,
20 unless review is requested or otherwise initiated pursuant to
21 subsection (6).

22 (d) In cases in which a local government transmits
23 multiple individual amendments that can be clearly and legally
24 separated and distinguished for the purpose of determining
25 whether to review the proposed amendment, and the state land
26 planning agency elects to review several or a portion of the
27 amendments and the local government chooses to immediately
28 adopt the remaining amendments not reviewed, the amendments
29 immediately adopted and any reviewed amendments that the local
30 government subsequently adopts together constitute one
31 amendment cycle in accordance with s. 163.3187(1).

1 (4) INTERGOVERNMENTAL REVIEW.--~~If review of a proposed~~
2 ~~comprehensive plan amendment is requested or otherwise~~
3 ~~initiated pursuant to subsection (6), the state land planning~~
4 ~~agency within 5 working days of determining that such a review~~
5 ~~will be conducted shall transmit a copy of the proposed plan~~
6 ~~amendment to various government agencies, as appropriate, for~~
7 ~~response or comment, including, but not limited to, the~~
8 ~~Department of Environmental Protection, the Department of~~
9 ~~Transportation, the water management district, and the~~
10 ~~regional planning council, and, in the case of municipal~~
11 ~~plans, to the county land planning agency.~~The ~~These~~
12 governmental agencies specified in paragraph (3)(a) shall
13 provide comments to the state land planning agency within 30
14 days after receipt by the state land planning agency of the
15 complete proposed plan amendment. The appropriate regional
16 planning council shall also provide its written comments to
17 the state land planning agency within 30 days after receipt by
18 the state land planning agency of the complete proposed plan
19 amendment and shall specify any objections, recommendations
20 for modifications, and comments of any other regional agencies
21 to which the regional planning council may have referred the
22 proposed plan amendment. Written comments submitted by the
23 public within 30 days after notice of transmittal by the local
24 government of the proposed plan amendment will be considered
25 as if submitted by governmental agencies. All written agency
26 and public comments must be made part of the file maintained
27 under subsection (2).

28 (6) STATE LAND PLANNING AGENCY REVIEW.--

29 (a) The state land planning agency shall review a
30 proposed plan amendment upon request of a regional planning
31 council, affected person, or local government transmitting the

1 plan amendment. The request from the regional planning council
2 or affected person must be if the request is received within
3 30 days after transmittal of the proposed plan amendment
4 pursuant to subsection (3). ~~The agency shall issue a report of~~
5 ~~its objections, recommendations, and comments regarding the~~
6 ~~proposed plan amendment.~~A regional planning council or
7 affected person requesting a review shall do so by submitting
8 a written request to the agency with a notice of the request
9 to the local government and any other person who has requested
10 notice.

11 (b) The state land planning agency may review any
12 proposed plan amendment regardless of whether a request for
13 review has been made, if the agency gives notice to the local
14 government, and any other person who has requested notice, of
15 its intention to conduct such a review within 35 ~~30~~ days of
16 receipt by the state land planning agency ~~transmittal~~ of the
17 complete proposed plan amendment pursuant to subsection (3).

18 (c) The state land planning agency shall establish by
19 rule a schedule for receipt of comments from the various
20 government agencies, as well as written public comments,
21 pursuant to subsection (4). If the state land planning agency
22 elects to review the amendment or the agency is required to
23 review the amendment as specified in paragraph (a), the agency
24 shall issue a report of its objections, recommendations, and
25 comments regarding the proposed amendment within 60 days of
26 receipt of the complete proposed amendment by the state land
27 planning agency. Proposed comprehensive plan amendments from
28 small counties or rural communities for the purpose of job
29 creation, economic development, or strengthening and
30 diversifying the economy shall receive priority review by the
31 state land planning agency.~~The state land planning agency~~

1 ~~shall have 30 days to review comments from the various~~
2 ~~government agencies along with a local government's~~
3 ~~comprehensive plan or plan amendment. During that period, the~~
4 ~~state land planning agency shall transmit in writing its~~
5 ~~comments to the local government along with any objections and~~
6 ~~any recommendations for modifications.~~When a federal, state,
7 or regional agency has implemented a permitting program, the
8 state land planning agency shall not require a local
9 government to duplicate or exceed that permitting program in
10 its comprehensive plan or to implement such a permitting
11 program in its land development regulations. Nothing
12 contained herein shall prohibit the state land planning agency
13 in conducting its review of local plans or plan amendments
14 from making objections, recommendations, and comments or
15 making compliance determinations regarding densities and
16 intensities consistent with the provisions of this part. In
17 preparing its comments, the state land planning agency shall
18 only base its considerations on written, and not oral,
19 comments, from any source.

20 (d) The state land planning agency review shall
21 identify all written communications with the agency regarding
22 the proposed plan amendment. If the state land planning agency
23 does not issue such a review, it shall identify in writing to
24 the local government all written communications received 30
25 days after transmittal. The written identification must
26 include a list of all documents received or generated by the
27 agency, which list must be of sufficient specificity to enable
28 the documents to be identified and copies requested, if
29 desired, and the name of the person to be contacted to request
30 copies of any identified document. The list of documents must
31

1 be made a part of the public records of the state land
2 planning agency.

3 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF
4 PLAN OR AMENDMENTS AND TRANSMITTAL.--The local government
5 shall review the written comments submitted to it by the state
6 land planning agency, and any other person, agency, or
7 government. Any comments, recommendations, or objections and
8 any reply to them shall be public documents, a part of the
9 permanent record in the matter, and admissible in any
10 proceeding in which the comprehensive plan or plan amendment
11 may be at issue. The local government, upon receipt of
12 written comments from the state land planning agency, shall
13 have 120 days to adopt or adopt with changes the proposed
14 comprehensive plan or s. 163.3191 plan amendments. In the
15 case of comprehensive plan amendments other than those
16 proposed pursuant to s. 163.3191, the local government shall
17 have 60 days to adopt the amendment, adopt the amendment with
18 changes, or determine that it will not adopt the amendment.
19 The adoption of the proposed plan or plan amendment or the
20 determination not to adopt a plan amendment, other than a plan
21 amendment proposed pursuant to s. 163.3191, shall be made in
22 the course of a public hearing pursuant to subsection (15).
23 The local government shall transmit the complete adopted
24 comprehensive plan or ~~adopted~~ plan amendment to the state land
25 planning agency as specified in the agency's procedural rules
26 within 10 working days after adoption, including the names and
27 addresses of persons compiled pursuant to paragraph (15)(c).
28 The local governing body shall also transmit a copy of the
29 adopted comprehensive plan or plan amendment to the regional
30 planning agency and to any other unit of local government or
31 governmental agency in the state that has filed a written

1 request with the governing body for a copy of the plan or plan
2 amendment.

3 (8) NOTICE OF INTENT.--

4 (a) Except as provided in s. 163.3187(3), the state
5 land planning agency, upon receipt of a local government's
6 complete adopted comprehensive plan or plan amendment, shall
7 have 45 days for review and to determine if the plan or plan
8 amendment is in compliance with this act, unless the amendment
9 is the result of a compliance agreement entered into under
10 subsection (16), in which case the time period for review and
11 determination shall be 30 days. If review was not conducted
12 under subsection (6), the agency's determination must be based
13 upon the plan amendment as adopted. If review was conducted
14 under subsection (6), the agency's determination of compliance
15 must be based only upon one or both of the following:

16 1. The state land planning agency's written comments
17 to the local government pursuant to subsection (6); or

18 2. Any changes made by the local government to the
19 comprehensive plan or plan amendment as adopted.

20 (b) During the time period provided for in this
21 subsection, the state land planning agency shall issue,
22 through a senior administrator or the secretary, as specified
23 in the agency's procedural rules, a notice of intent to find
24 that the plan or plan amendment is in compliance or not in
25 compliance. A notice of intent shall be issued by publication
26 in the manner provided by this paragraph and by mailing a copy
27 to the local government ~~and to persons who request notice.~~
28 ~~The required advertisement shall be no less than 2 columns~~
29 ~~wide by 10 inches long, and the headline in the advertisement~~
30 ~~shall be in a type no smaller than 12 point.~~The advertisement
31 shall ~~not~~ be placed in that portion of the newspaper where

1 legal notices ~~and classified advertisements~~ appear. The
2 advertisement shall be published in a newspaper which meets
3 the size and circulation requirements set forth in paragraph
4 (15)(d)~~(e)~~ and which has been designated in writing by the
5 affected local government at the time of transmittal of the
6 amendment. Publication by the state land planning agency of a
7 notice of intent in the newspaper designated by the local
8 government shall be prima facie evidence of compliance with
9 the publication requirements of this section.

10 (c) The state land planning agency shall post a copy
11 of the notice of intent on the agency's Internet site. The
12 agency shall, no later than the date the notice of intent is
13 transmitted to the newspaper, mail a courtesy informational
14 statement to the persons whose names and mailing addresses
15 were compiled pursuant to paragraph (15)(c). The informational
16 statement shall include the identity of the newspaper in which
17 the notice of intent will appear, the approximate date of
18 publication of the notice of intent, the ordinance number of
19 the plan or plan amendment, and a statement that the
20 informational statement is provided as a courtesy to the
21 person and that affected persons have 21 days from the actual
22 date of publication of the notice to file a petition. The
23 informational statement shall be sent by regular mail and
24 shall not affect the timeframes in subsections (9) and (10).

25 (15) PUBLIC HEARINGS.--

26 (a) The procedure for transmittal of a complete
27 proposed comprehensive plan or plan amendment pursuant to
28 subsection (3) and for adoption of a comprehensive plan or
29 plan amendment pursuant to subsection (7) shall be by
30 affirmative vote of not less than a majority of the members of
31 the governing body present at the hearing. The adoption of a

1 comprehensive plan or plan amendment shall be by ordinance.
2 For the purposes of transmitting or adopting a comprehensive
3 plan or plan amendment, the notice requirements in chapters
4 125 and 166 are superseded by this subsection, except as
5 provided in this part.

6 (b) The local governing body shall hold at least two
7 advertised public hearings on the proposed comprehensive plan
8 or plan amendment as follows:

9 1. The first public hearing shall be held at the
10 transmittal stage pursuant to subsection (3). It shall be
11 held on a weekday at least 7 days after the day that the first
12 advertisement is published.

13 2. The second public hearing shall be held at the
14 adoption stage pursuant to subsection (7). It shall be held
15 on a weekday at least 5 days after the day that the second
16 advertisement is published.

17 (c) The local government shall provide a sign-in form
18 at the transmittal hearing and at the adoption hearing for
19 persons to provide their name and mailing address. The sign-in
20 form shall state that any person providing the requested
21 information will receive a courtesy informational statement
22 concerning publication of the state land planning agency's
23 notice of intent. The local government shall add to the
24 sign-in form the name and address of any person who submits
25 written comments concerning the proposed plan or plan
26 amendment during the time period between the commencement of
27 the transmittal hearing and the end of the adoption hearing.
28 It shall be the responsibility of the person completing the
29 form or providing written comments to accurately, completely,
30 and legibly provide all information required to receive the
31 courtesy informational statement. The agency shall adopt rules

1 to provide a model sign-in form and the format for providing
2 the list to the agency.

3 (d)~~(e)~~ If the proposed comprehensive plan or plan
4 amendment changes the actual list of permitted, conditional,
5 or prohibited uses within a future land use category or
6 changes the actual future land use map designation of a parcel
7 or parcels of land, the required advertisements shall be in
8 the format prescribed by s. 125.66(4)(b)2. for a county or by
9 s. 166.041(3)(c)2.b. for a municipality.

10 (16) COMPLIANCE AGREEMENTS.--

11 (d) A local government may adopt a plan amendment
12 pursuant to a compliance agreement in accordance with the
13 requirements of paragraph (15)(a). The plan amendment shall be
14 exempt from the requirements of subsections (2) through (7).
15 The local government shall hold a single adoption public
16 hearing pursuant to the requirements of subparagraph (15)(b)2.
17 and paragraph (15)(d)~~(e)~~. Within 10 working days after
18 adoption of a plan amendment, the local government shall
19 transmit the amendment to the state land planning agency as
20 specified in the agency's procedural rules, and shall submit
21 one copy to the regional planning agency and to any other unit
22 of local government or government agency in the state that has
23 filed a written request with the governing body for a copy of
24 the plan amendment, and one copy to any party to the
25 proceeding under ss. 120.569 and 120.57 granted intervenor
26 status.

27 Section 9. Paragraph (c) of subsection (1) of section
28 163.3187, Florida Statutes, is amended to read:

29 163.3187 Amendment of adopted comprehensive plan.--
30
31

1 (1) Amendments to comprehensive plans adopted pursuant
2 to this part may be made not more than two times during any
3 calendar year, except:

4 (c) Any local government comprehensive plan amendments
5 directly related to proposed small scale development
6 activities may be approved without regard to statutory limits
7 on the frequency of consideration of amendments to the local
8 comprehensive plan. A small scale development amendment may
9 be adopted only under the following conditions:

10 1. The proposed amendment involves a use of 10 acres
11 or fewer, except that a proposed amendment may involve a use
12 of 20 acres or fewer if located within an area designated in
13 the local comprehensive plan for urban infill, urban
14 redevelopment, or downtown revitalization as defined in s.
15 163.3164, urban infill and redevelopment areas designated
16 under s. 163.2517, transportation concurrency exception areas
17 approved pursuant to s. 163.3180(5), or regional activity
18 centers and urban central business districts approved pursuant
19 to s. 380.06(2)(e), and:

20 a. The cumulative annual effect of the acreage for all
21 small scale development amendments adopted by the local
22 government ~~does shall~~ not exceed:

23 (I) A maximum of 150 ~~120~~ acres in the ~~a~~ local
24 government ~~that contains areas specifically designated in the~~
25 ~~local comprehensive plan for urban infill, urban~~
26 ~~redevelopment, or downtown revitalization as defined in s.~~
27 ~~163.3164, urban infill and redevelopment areas designated~~
28 ~~under s. 163.2517, transportation concurrency exception areas~~
29 ~~approved pursuant to s. 163.3180(5), or regional activity~~
30 ~~centers and urban central business districts approved pursuant~~
31 ~~to s. 380.06(2)(e); however, amendments under this paragraph~~

1 ~~may be applied to no more than 60 acres annually of property~~
2 ~~outside the designated areas listed in this~~
3 ~~sub-sub-subparagraph.~~

4 ~~(II) A maximum of 80 acres in a local government that~~
5 ~~does not contain any of the designated areas set forth in~~
6 ~~sub-sub-subparagraph (I).~~

7 (II)(III) A maximum of 200 ~~120~~ acres in a county
8 established pursuant to s. 9, Art. VIII of the Constitution of
9 1885, as preserved by s. 6(e), Art. VIII of the revised state
10 constitution.

11 b. The proposed amendment does not involve the same
12 property granted a change within the prior 12 months.

13 c. The proposed amendment does not involve the same
14 owner's property within 200 feet of property granted a change
15 within the prior 12 months.

16 d. The proposed amendment does not involve a text
17 change to the goals, policies, and objectives of the local
18 government's comprehensive plan, but only proposes a land use
19 change to the future land use map for a site-specific small
20 scale development activity.

21 e. The property that is the subject of the proposed
22 amendment is not located within an area of critical state
23 concern, unless the project subject to the proposed amendment
24 involves the construction of affordable housing units meeting
25 the criteria of s. 420.0004(3), and is located within an area
26 of critical state concern designated by s. 380.0552 or by the
27 Administration Commission pursuant to s. 380.05(1). Such
28 amendment is not subject to the density limitations of
29 sub-subparagraph f., and shall be reviewed by the state land
30 planning agency for consistency with the principles for
31 guiding development applicable to the area of critical state

1 concern where the property that is the subject of the
2 amendment is located, and shall not become effective until a
3 final order is issued under s. 380.05(6).

4 f. ~~If~~ The proposed amendment does not involve ~~involves~~
5 a residential land use within the coastal high hazard area
6 ~~with, the residential land use has a density exceeding of 10~~
7 ~~units or less per acre., except that this limitation does not~~
8 ~~apply to small scale amendments described in~~
9 ~~sub-sub-subparagraph a.(I) that are designated in the local~~
10 ~~comprehensive plan for urban infill, urban redevelopment, or~~
11 ~~downtown revitalization as defined in s. 163.3164, urban~~
12 ~~infill and redevelopment areas designated under s. 163.2517,~~
13 ~~transportation concurrency exception areas approved pursuant~~
14 ~~to s. 163.3180(5), or regional activity centers and urban~~
15 ~~central business districts approved pursuant to s.~~
16 ~~380.06(2)(e).~~

17 2.a. A local government that proposes to consider a
18 plan amendment pursuant to this paragraph is not required to
19 comply with the procedures and public notice requirements of
20 s. 163.3184(15)~~(d)(c)~~for such plan amendments if the local
21 government complies with the provisions in s. 125.66(4)(a) for
22 a county or in s. 166.041(3)(c) for a municipality. If a
23 request for a plan amendment under this paragraph is initiated
24 by other than the local government, public notice is required.

25 b. The local government shall send copies of the
26 notice and amendment to the state land planning agency, the
27 regional planning council, and any other person or entity
28 requesting a copy. This information shall also include a
29 statement identifying any property subject to the amendment
30 that is located within a coastal high hazard area as
31 identified in the local comprehensive plan.

1 3. Small scale development amendments adopted pursuant
2 to this paragraph require only one public hearing before the
3 governing board, which shall be an adoption hearing as
4 described in s. 163.3184(7), and are not subject to the
5 requirements of s. 163.3184(3)-(6) ~~unless the local government~~
6 ~~elects to have them subject to those requirements.~~

7 Section 10. Section 163.3215, Florida Statutes, is
8 amended to read:

9 163.3215 Standing to enforce local comprehensive plans
10 through development orders.--

11 (1) Any aggrieved or adversely affected party may
12 petition the circuit court for judicial review of ~~maintain an~~
13 ~~action for injunctive or other relief against any local~~
14 ~~government to prevent such local government from taking any~~
15 ~~action on a development order, as defined in s. 163.3164,~~
16 which materially alters the use or density or intensity of use
17 on a particular piece of property, to challenge the local
18 government determination that the development order ~~that~~ is
19 not consistent with the comprehensive plan adopted under this
20 part. If there is prior published notice of the local
21 government's intent to act on an application for a development
22 order and the local government provides a point of entry into
23 a quasi-judicial proceeding, review in the circuit court shall
24 be limited to a petition for certiorari filed no later than 30
25 days following rendition of a development order or other
26 written decision.

27 (2) "Aggrieved or adversely affected party" means any
28 person or local government which will suffer an adverse effect
29 to an interest protected or furthered by the local government
30 comprehensive plan, including interests related to health and
31 safety, police and fire protection service systems, densities

1 or intensities of development, transportation facilities,
2 health care facilities, equipment or services, or
3 environmental or natural resources. The alleged adverse
4 interest may be shared in common with other members of the
5 community at large, but shall exceed in degree the general
6 interest in community good shared by all persons.

7 (3)(a) No suit may be maintained under this section
8 challenging the approval or denial of a zoning, rezoning,
9 planned unit development, variance, special exception,
10 conditional use, or other development order granted prior to
11 October 1, 1985, or applied for prior to July 1, 1985.

12 (b) Review pursuant to ~~Suit under~~ this section shall
13 be the sole remedy ~~action~~ available to challenge the
14 consistency of any ~~a~~ development order with a comprehensive
15 plan adopted under this part. The local government that issued
16 the development order and the applicant for the development
17 order shall be named as respondents in any proceeding pursuant
18 to this section.

19 (4) Upon the filing of a petition for judicial review
20 under subsection (1), the case shall be stayed for 30 days so
21 that the matter can be subject to mandatory mediation. Within
22 10 days after the filing of the petition, the parties shall
23 notify the court of the selection of an agreed-upon mediator
24 who meets the requirements of s. 70.51(2)(c). The parties
25 shall bear equally all costs of the mediation. The time
26 periods provided in this subsection may be extended only upon
27 mutual agreement of the parties, in writing. ~~As a condition~~
28 ~~precedent to the institution of an action pursuant to this~~
29 ~~section, the complaining party shall first file a verified~~
30 ~~complaint with the local government whose actions are~~
31 ~~complained of setting forth the facts upon which the complaint~~

1 ~~is based and the relief sought by the complaining party. The~~
2 ~~verified complaint shall be filed no later than 30 days after~~
3 ~~the alleged inconsistent action has been taken. The local~~
4 ~~government receiving the complaint shall respond within 30~~
5 ~~days after receipt of the complaint. Thereafter, the~~
6 ~~complaining party may institute the action authorized in this~~
7 ~~section. However, the action shall be instituted no later~~
8 ~~than 30 days after the expiration of the 30-day period which~~
9 ~~the local government has to take appropriate action. Failure~~
10 ~~to comply with this subsection shall not bar an action for a~~
11 ~~temporary restraining order to prevent immediate and~~
12 ~~irreparable harm from the actions complained of.~~

13 (5) Venue in any cases brought under this section
14 shall lie in the county or counties where the actions or
15 inactions giving rise to the cause of action are alleged to
16 have occurred.

17 (6) The signature of an attorney or party constitutes
18 a certificate that he or she has read the pleading, motion, or
19 other paper and that, to the best of his or her knowledge,
20 information, and belief formed after reasonable inquiry, it is
21 not interposed for any improper purpose, such as to harass or
22 to cause unnecessary delay or for economic advantage,
23 competitive reasons or frivolous purposes or needless increase
24 in the cost of litigation. If a pleading, motion, or other
25 paper is signed in violation of these requirements, the court,
26 upon motion or its own initiative, shall impose upon the
27 person who signed it, a represented party, or both, an
28 appropriate sanction, which may include an order to pay to the
29 other party or parties the amount of reasonable expenses
30 incurred because of the filing of the pleading, motion, or
31 other paper, including a reasonable attorney's fee.

1 (7) In any action under this section, no settlement
2 shall be entered into by the local government unless the terms
3 of the settlement have been the subject of a public hearing
4 after notice as required by this part.

5 (8) In any suit under this section, the Department of
6 Legal Affairs may intervene to represent the interests of the
7 state.

8 Section 11. Section 163.3245, Florida Statutes, is
9 amended to read:

10 163.3245 Optional sector plans.--

11 (1) In recognition of the benefits of conceptual
12 long-range planning for the buildout of an area, and detailed
13 planning for specific areas, as a demonstration project, the
14 requirements of s. 380.06 may be addressed as identified by
15 this section for up to five local governments or combinations
16 of local governments which adopt into the comprehensive plan
17 an optional sector plan in accordance with this section. This
18 section is intended to further the intent of s. 163.3177(11),
19 which supports innovative and flexible planning and
20 development strategies, and the purposes of this part, and
21 part I of chapter 380, and to avoid duplication of effort in
22 terms of the level of data and analysis required for a
23 development of regional impact, while ensuring the adequate
24 mitigation of impacts to applicable regional resources and
25 facilities, including those within the jurisdiction of other
26 local governments, as would otherwise be provided. Optional
27 sector plans are intended for substantial geographic areas
28 including at least 5,000 acres of one or more local
29 governmental jurisdictions and are to emphasize urban form and
30 protection of regionally significant resources and facilities.
31 The state land planning agency may approve optional sector

1 plans of less than 5,000 acres based on local circumstances if
2 it is determined that the plan would further the purposes of
3 this part and part I of chapter 380. Preparation of an
4 optional sector plan is authorized by agreement between the
5 state land planning agency and the applicable local
6 governments under s. 163.3171(4). An optional sector plan may
7 be adopted through one or more comprehensive plan amendments
8 under s. 163.3184. However, an optional sector plan may not be
9 authorized in an area of critical state concern.

10 (2) The state land planning agency may enter into an
11 agreement to authorize preparation of an optional sector plan
12 upon the request of one or more local governments based on
13 consideration of problems and opportunities presented by
14 existing development trends; the effectiveness of current
15 comprehensive plan provisions; the potential to further the
16 state comprehensive plan, applicable strategic regional policy
17 plans, this part, and part I of chapter 380; and those factors
18 identified by s. 163.3177(10)(i). The applicable regional
19 planning council shall conduct a scoping meeting with affected
20 local governments and those agencies identified in s.
21 163.3184(3)(a)~~(4)~~ before execution of the agreement authorized
22 by this section. The purpose of this meeting is to assist the
23 state land planning agency and the local government in the
24 identification of the relevant planning issues to be addressed
25 and the data and resources available to assist in the
26 preparation of subsequent plan amendments. The regional
27 planning council shall make written recommendations to the
28 state land planning agency and affected local governments,
29 including whether an optional ~~a sustainable~~ sector plan would
30 be appropriate. The agreement must define the geographic area
31 to be subject to the sector plan, the planning issues that

1 will be emphasized, requirements for intergovernmental
2 coordination to address extrajurisdictional impacts,
3 supporting application materials including data and analysis,
4 and procedures for public participation. An agreement may
5 address previously adopted sector plans that are consistent
6 with the standards in this section. Before executing an
7 agreement under this subsection, the local government shall
8 hold a duly noticed public workshop to review and explain to
9 the public the optional sector planning process and the terms
10 and conditions of the proposed agreement. The local government
11 shall hold a duly noticed public hearing on whether to execute
12 the agreement. All meetings between the department and the
13 local government must be open to the public.

14 (3) Optional sector planning encompasses two levels:
15 adoption under s. 163.3184 of a conceptual long-term buildout
16 overlay to the comprehensive plan, having no immediate effect
17 on the issuance of development orders or the applicability of
18 s. 380.06, and adoption under s. 163.3184 of detailed specific
19 area plans that implement the conceptual long-term buildout
20 overlay and authorize issuance of development orders, and
21 within which s. 380.06 is waived. Until such time as a
22 detailed specific area plan is adopted, the underlying future
23 land use designations apply.

24 (a) In addition to the other requirements of this
25 chapter, a conceptual long-term buildout overlay must include:

26 1. A long-range conceptual framework map that at a
27 minimum identifies anticipated areas of urban, agricultural,
28 rural, and conservation land use.

29 2. Identification of regionally significant public
30 facilities consistent with chapter 9J-2, Florida
31 Administrative Code, irrespective of local governmental

1 jurisdiction necessary to support buildout of the anticipated
2 future land uses.

3 3. Identification of regionally significant natural
4 resources consistent with chapter 9J-2, Florida Administrative
5 Code.

6 4. Principles and guidelines that address the urban
7 form and interrelationships of anticipated future land uses
8 and a discussion, at the applicant's option, of the extent, if
9 any, to which the plan will address restoring key ecosystems,
10 achieving a more clean, healthy environment, limiting urban
11 sprawl, protecting wildlife and natural areas, advancing the
12 efficient use of land and other resources, and creating
13 quality communities and jobs.

14 5. Identification of general procedures to ensure
15 intergovernmental coordination to address extrajurisdictional
16 impacts from the long-range conceptual framework map.

17 (b) In addition to the other requirements of this
18 chapter, including those in paragraph (a), the detailed
19 specific area plans must include:

20 1. An area of adequate size to accommodate a level of
21 development which achieves a functional relationship between a
22 full range of land uses within the area and to encompass at
23 least 1,000 acres. The state land planning agency may approve
24 detailed specific area plans of less than 1,000 acres based on
25 local circumstances if it is determined that the plan furthers
26 the purposes of this part and part I of chapter 380.

27 2. Detailed identification and analysis of the
28 distribution, extent, and location of future land uses.

29 3. Detailed identification of regionally significant
30 public facilities, including public facilities outside the
31 jurisdiction of the host local government, anticipated impacts

1 of future land uses on those facilities, and required
2 improvements to maintain adopted level of service standards
3 consistent with chapter 9J-2, Florida Administrative Code.

4 4. Public facilities necessary for the short term,
5 including developer contributions in a financially feasible
6 5-year capital improvement schedule of the affected local
7 government.

8 5. Detailed analysis and identification of specific
9 measures to assure the protection of regionally significant
10 natural resources and other important resources both within
11 and outside the host jurisdiction, including those regionally
12 significant resources identified in chapter 9J-2, Florida
13 Administrative Code.

14 6. Principles and guidelines that address the urban
15 form and interrelationships of anticipated future land uses
16 and a discussion, at the applicant's option, of the extent, if
17 any, to which the plan will address restoring key ecosystems,
18 achieving a more clean, healthy environment, limiting urban
19 sprawl, protecting wildlife and natural areas, advancing the
20 efficient use of land and other resources, and creating
21 quality communities and jobs.

22 7. Identification of specific procedures to ensure
23 intergovernmental coordination to address extrajurisdictional
24 impacts of the detailed specific area plan.

25 (c) This subsection may not be construed to prevent
26 preparation and approval of the optional sector plan and
27 detailed specific area plan concurrently or in the same
28 submission.

29 (4) The host local government shall submit a
30 monitoring report to the state land planning agency and
31 applicable regional planning council on an annual basis after

1 adoption of a detailed specific area plan. The annual
2 monitoring report must provide summarized information on
3 development orders issued, development that has occurred,
4 public facility improvements made, and public facility
5 improvements anticipated over the upcoming 5 years.

6 (5) When a plan amendment adopting a detailed specific
7 area plan has become effective under ss. 163.3184 and
8 163.3189(2), the provisions of s. 380.06 do not apply to
9 development within the geographic area of the detailed
10 specific area plan. Should this section be repealed, any
11 approved development within a detailed specific area plan
12 shall maintain its exemption from s. 380.06. However, any
13 development-of-regional-impact development order that is
14 vested from the detailed specific area plan may be enforced
15 under s. 380.11.

16 (a) The local government adopting the detailed
17 specific area plan is primarily responsible for monitoring and
18 enforcing the detailed specific area plan. Local governments
19 shall not issue any permits or approvals or provide any
20 extensions of services to development that are not consistent
21 with the detailed specific ~~sector~~ area plan.

22 (b) If the state land planning agency has reason to
23 believe that a violation of any detailed specific area plan,
24 or of any agreement entered into under this section, has
25 occurred or is about to occur, it may institute an
26 administrative or judicial proceeding to prevent, abate, or
27 control the conditions or activity creating the violation,
28 using the procedures in s. 380.11.

29 (c) In instituting an administrative or judicial
30 proceeding involving an optional sector plan or detailed
31 specific area plan, including a proceeding pursuant to

1 paragraph (b), the complaining party shall comply with the
2 requirements of s. 163.3215(4), (5), (6), and (7).

3 (6) Beginning December 1, 1999, and each year
4 thereafter, the department shall provide a status report to
5 the Legislative Committee on Intergovernmental Relations
6 regarding each optional sector plan authorized under this
7 section.

8 (7) This section may not be construed to abrogate the
9 rights of any person under this chapter.

10 Section 12. Section 166.0498, Florida Statutes, is
11 created to read:

12 166.0498 Right of citizens to petition elected
13 officials.--No citizen shall be denied his or her
14 constitutional right to petition any elected official in
15 public or private. This provision shall preempt any other
16 special act or general law to the contrary.

17 Section 13. Subsection (1) of section 166.231, Florida
18 Statutes, is amended to read:

19 166.231 Municipalities; public service tax.--

20 (1)(a) A municipality may levy a tax on the purchase
21 of electricity, metered natural gas, liquefied petroleum gas
22 either metered or bottled, manufactured gas either metered or
23 bottled, and water service. Except for those municipalities to
24 which paragraph (c) applies,the tax shall be levied only upon
25 purchases within the municipality and shall not exceed 10
26 percent of the payments received by the seller of the taxable
27 item from the purchaser for the purchase of such service.
28 Municipalities imposing a tax on the purchase of cable
29 television service as of May 4, 1977, may continue to levy
30 such tax to the extent necessary to meet all obligations to or
31 for the benefit of holders of bonds or certificates which were

1 issued prior to May 4, 1977. Purchase of electricity means
2 the purchase of electric power by a person who will consume it
3 within the municipality.

4 (b) The tax imposed by paragraph (a) shall not be
5 applied against any fuel adjustment charge, and such charge
6 shall be separately stated on each bill. The term "fuel
7 adjustment charge" means all increases in the cost of utility
8 services to the ultimate consumer resulting from an increase
9 in the cost of fuel to the utility subsequent to October 1,
10 1973.

11 (c) The tax imposed by paragraph (a) on water service
12 may be applied outside municipal boundaries to property
13 included in a development of regional impact approved pursuant
14 to s. 380.06, if agreed to in writing by the developer of such
15 property and the municipality prior to March 31, 2000. If a
16 tax levied pursuant to this paragraph is challenged, recovery,
17 if any, shall be limited to moneys paid into an escrow account
18 of the clerk of the court subsequent to such challenge.

19 Section 14. Paragraph (b) of subsection (3) of section
20 380.04, Florida Statutes, is amended to read:

21 380.04 Definition of development.--

22 (3) The following operations or uses shall not be
23 taken for the purpose of this chapter to involve "development"
24 as defined in this section:

25 (b) Work by any utility and other persons engaged in
26 the distribution or transmission of electricity, gas, or
27 water, for the purpose of inspecting, repairing, renewing, or
28 constructing on established rights-of-way any sewers, mains,
29 pipes, cables, utility tunnels, power lines, towers, poles,
30 tracks, or the like.

31

1 Section 15. Paragraph (d) of subsection (2),
2 paragraphs (c) and (g) of subsection (15), and subsections
3 (18) and (19) of section 380.06, Florida Statutes, are
4 amended, and paragraphs (i), (j), and (k) are added to
5 subsection (24) of said section, to read:
6 380.06 Developments of regional impact.--
7 (2) STATEWIDE GUIDELINES AND STANDARDS.--
8 (d) The guidelines and standards shall be applied as
9 follows:
10 1. Fixed thresholds.--
11 a. A development that is at or below 80 percent of all
12 numerical thresholds in the guidelines and standards shall not
13 be required to undergo development-of-regional-impact review.
14 b. A development that is at or above 120 percent of
15 any numerical threshold shall be required to undergo
16 development-of-regional-impact review.
17 c. Projects certified under s. 403.973 which create at
18 least 100 jobs and meet the criteria of the Office of Tourism,
19 Trade, and Economic Development as to their impact on an
20 area's economy, employment, and prevailing wage and skill
21 levels that are at or below 100 percent of the numerical
22 thresholds for industrial plants, industrial parks,
23 distribution, warehousing or wholesaling facilities, office
24 development or multiuse projects other than residential, as
25 described in s. 380.0651(3)(c), (d), and (h)~~(i)~~, are not
26 required to undergo development-of-regional-impact review.
27 2. Rebuttable presumptions.--
28 a. It shall be presumed that a development that is
29 between 80 and 100 percent of a numerical threshold shall not
30 be required to undergo development-of-regional-impact review.
31

1 b. It shall be presumed that a development that is at
2 100 percent or between 100 and 120 percent of a numerical
3 threshold shall be required to undergo
4 development-of-regional-impact review.

5 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

6 (c) The development order shall include findings of
7 fact and conclusions of law consistent with subsections (13)
8 and (14). The development order:

9 1. Shall specify the monitoring procedures and the
10 local official responsible for assuring compliance by the
11 developer with the development order.

12 2. Shall establish compliance dates for the
13 development order, including a deadline for commencing
14 physical development and for compliance with conditions of
15 approval or phasing requirements, and shall include a
16 termination date that reasonably reflects the time required to
17 complete the development.

18 3. Shall establish a date until which the local
19 government agrees that the approved development of regional
20 impact shall not be subject to downzoning, unit density
21 reduction, or intensity reduction, unless the local government
22 can demonstrate that substantial changes in the conditions
23 underlying the approval of the development order have occurred
24 or the development order was based on substantially inaccurate
25 information provided by the developer or that the change is
26 clearly established by local government to be essential to the
27 public health, safety, or welfare.

28 4. Shall specify the requirements for the biennial
29 ~~annual~~ report designated under subsection (18), including the
30 date of submission, parties to whom the report is submitted,
31 and contents of the report, based upon the rules adopted by

1 the state land planning agency. Such rules shall specify the
2 scope of any additional local requirements that may be
3 necessary for the report.

4 5. May specify the types of changes to the development
5 which shall require submission for a substantial deviation
6 determination under subsection (19).

7 6. Shall include a legal description of the property.

8 (g) A local government shall not issue permits for
9 development subsequent to the termination date or expiration
10 date contained in the development order unless:

11 1. The proposed development has been evaluated
12 cumulatively with existing development under the substantial
13 deviation provisions of subsection (19) subsequent to the
14 termination or expiration date;

15 2. The proposed development is consistent with an
16 abandonment of development order that has been issued in
17 accordance with the provisions of subsection (26); or

18 3. The project has been determined to be an
19 essentially built-out development of regional impact through
20 an agreement executed by the developer, the state land
21 planning agency, and the local government, in accordance with
22 s. 380.032, which will establish the terms and conditions
23 under which the development may be continued. If the project
24 is determined to be essentially built-out, development may
25 proceed pursuant to the s. 380.032 agreement after the
26 termination or expiration date contained in the development
27 order without further development-of-regional-impact review
28 subject to the local government comprehensive plan and land
29 development regulations or subject to a modified
30 development-of-regional-impact analysis. As used in this
31

1 paragraph, an "essentially built-out" development of regional
2 impact means:

3 a. The development is in compliance with all
4 applicable terms and conditions of the development order
5 except the built-out date; and

6 b.(I) The amount of development that remains to be
7 built is less than the substantial deviation threshold
8 specified in paragraph (19)(b) for each individual land use
9 category, or, for a multiuse development, the sum total of all
10 unbuilt land uses as a percentage of the applicable
11 substantial deviation threshold is equal to or less than 150
12 ~~100~~ percent; or

13 (II) The state land planning agency and the local
14 government have agreed in writing that the amount of
15 development to be built does not create the likelihood of any
16 additional regional impact not previously reviewed.

17 (18) BIENNIAL ~~ANNUAL~~ REPORTS.--The developer shall
18 submit a biennial ~~an annual~~ report on the development of
19 regional impact to the local government, the regional planning
20 agency, the state land planning agency, and all affected
21 permit agencies in alternate years on the date specified in
22 the development order, unless the development order by its
23 terms requires more frequent monitoring. If the ~~annual~~ report
24 is not received, the regional planning agency or the state
25 land planning agency shall notify the local government. If
26 the local government does not receive the ~~annual~~ report or
27 receives notification that the regional planning agency or the
28 state land planning agency has not received the report, the
29 local government shall request in writing that the developer
30 submit the report within 30 days. The failure to submit the
31 report after 30 days shall result in the temporary suspension

1 of the development order by the local government. If no
2 additional development pursuant to the development order has
3 occurred since the submission of the previous report, then a
4 letter from the developer stating that no development has
5 occurred will satisfy the requirement for a report.
6 Development orders which require annual reports may be amended
7 to require biennial reports at the option of the local
8 government.

9 (19) SUBSTANTIAL DEVIATIONS.--

10 (a) Any proposed change to a previously approved
11 development which creates a reasonable likelihood of
12 additional regional impact, or any type of regional impact
13 created by the change not previously reviewed by the regional
14 planning agency, shall constitute a substantial deviation and
15 shall cause the development to be subject to further
16 development-of-regional-impact review. There are a variety of
17 reasons why a developer may wish to propose changes to an
18 approved development of regional impact, including changed
19 market conditions. The procedures set forth in this
20 subsection are for that purpose.

21 (b) Any proposed change to a previously approved
22 development of regional impact or development order condition
23 which, either individually or cumulatively with other changes,
24 exceeds any of the following criteria shall constitute a
25 substantial deviation and shall cause the development to be
26 subject to further development-of-regional-impact review
27 without the necessity for a finding of same by the local
28 government:

29 1. An increase in the number of parking spaces at an
30 attraction or recreational facility by 5 percent or 300
31 spaces, whichever is greater, or an increase in the number of

- 1 spectators that may be accommodated at such a facility by 5
2 percent or 1,000 spectators, whichever is greater.
- 3 2. A new runway, a new terminal facility, a 25-percent
4 lengthening of an existing runway, or a 25-percent increase in
5 the number of gates of an existing terminal, but only if the
6 increase adds at least three additional gates. However, if an
7 airport is located in two counties, a 10-percent lengthening
8 of an existing runway or a 20-percent increase in the number
9 of gates of an existing terminal is the applicable criteria.
- 10 3. An increase in the number of hospital beds by 5
11 percent or 60 beds, whichever is greater.
- 12 4. An increase in industrial development area by 5
13 percent or 32 acres, whichever is greater.
- 14 5. An increase in the average annual acreage mined by
15 5 percent or 10 acres, whichever is greater, or an increase in
16 the average daily water consumption by a mining operation by 5
17 percent or 300,000 gallons, whichever is greater. An increase
18 in the size of the mine by 5 percent or 750 acres, whichever
19 is less.
- 20 6. An increase in land area for office development by
21 5 percent or 6 acres, whichever is greater, or an increase of
22 gross floor area of office development by 5 percent or 60,000
23 gross square feet, whichever is greater.
- 24 7. An increase in the storage capacity for chemical ~~or~~
25 ~~petroleum~~ storage facilities by 5 percent, 20,000 barrels, or
26 7 million pounds, whichever is greater.
- 27 ~~8. An increase of development at a waterport of wet~~
28 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
29 ~~wet/dry storage for 60 watercraft in an area identified in the~~
30 ~~state marina siting plan as an appropriate site for additional~~
31

1 ~~waterport development or a 5-percent increase in watercraft~~
2 ~~storage capacity, whichever is greater.~~

3 8.9. An increase in the number of dwelling units by 5
4 percent or 50 dwelling units, whichever is greater.

5 9.10. An increase in commercial development by 6 acres
6 of land area or by 50,000 square feet of gross floor area, or
7 of parking spaces provided for customers for 300 cars or a
8 5-percent increase of any of these, whichever is greater.

9 10.11. An increase in hotel or motel facility units by
10 5 percent or 75 units, whichever is greater.

11 11.12. An increase in a recreational vehicle park area
12 by 5 percent or 100 vehicle spaces, whichever is less.

13 12.13. A decrease in the area set aside for open space
14 of 5 percent or 20 acres, whichever is less.

15 13.14. A proposed increase to an approved multiuse
16 development of regional impact where the sum of the increases
17 of each land use as a percentage of the applicable substantial
18 deviation criteria is equal to or exceeds 150 ~~100~~ percent. The
19 percentage of any decrease in the amount of open space shall
20 be treated as an increase for purposes of determining when 150
21 ~~100~~ percent has been reached or exceeded.

22 14.15. A 15-percent increase in the number of external
23 vehicle trips generated by the development above that which
24 was projected during the original
25 development-of-regional-impact review.

26 15.16. Any change which would result in development of
27 any area which was specifically set aside in the application
28 for development approval or in the development order for
29 preservation or special protection of endangered or threatened
30 plants or animals designated as endangered, threatened, or
31 species of special concern and their habitat, primary dunes,

1 or archaeological and historical sites designated as
2 significant by the Division of Historical Resources of the
3 Department of State. The further refinement of such areas by
4 survey shall be considered under sub-subparagraph (e)5.b.

5
6 The substantial deviation numerical standards in subparagraphs
7 4., 6., 9., and 13.10., ~~14.~~, excluding residential uses, and
8 14.15., are increased by 100 percent for a project certified
9 under s. 403.973 which creates jobs and meets criteria
10 established by the Office of Tourism, Trade, and Economic
11 Development as to its impact on an area's economy, employment,
12 and prevailing wage and skill levels. The substantial
13 deviation numerical standards in subparagraphs 4., 6., 8., 9.,
14 10., and 13.9., ~~10.~~, ~~11.~~, and ~~14.~~ are increased by 50 percent
15 for a project located wholly within an urban infill and
16 redevelopment area designated on the applicable adopted local
17 comprehensive plan future land use map and not located within
18 the coastal high hazard area.

19 (c) An extension of the date of buildout of a
20 development, or any phase thereof, by 7 or more years shall be
21 presumed to create a substantial deviation subject to further
22 development-of-regional-impact review. An extension of the
23 date of buildout, or any phase thereof, of ~~5 years or more but~~
24 ~~less than 7 years shall be presumed not to create a~~
25 ~~substantial deviation. These presumptions may be rebutted by~~
26 ~~clear and convincing evidence at the public hearing held by~~
27 ~~the local government. An extension of less than 7 5 years is~~
28 not a substantial deviation. For the purpose of calculating
29 when a buildout, phase, or termination date has been exceeded,
30 the time shall be tolled during the pendency of administrative
31 or judicial proceedings relating to development permits. Any

1 extension of the buildout date of a project or a phase thereof
2 shall automatically extend the commencement date of the
3 project, the termination date of the development order, the
4 expiration date of the development of regional impact, and the
5 phases thereof by a like period of time.

6 (d) A change in the plan of development of an approved
7 development of regional impact resulting from requirements
8 imposed by the Department of Environmental Protection or any
9 water management district created by s. 373.069 or any of
10 their successor agencies or by any appropriate federal
11 regulatory agency shall be submitted to the local government
12 pursuant to this subsection. The change shall be presumed not
13 to create a substantial deviation subject to further
14 development-of-regional-impact review. The presumption may be
15 rebutted by clear and convincing evidence at the public
16 hearing held by the local government.

17 (e)1. A proposed change which, either individually or,
18 if there were previous changes, cumulatively with those
19 changes, is equal to or exceeds 40 percent of the any
20 numerical criterion in subparagraph (b)14.~~subparagraphs~~
21 ~~(b)1.-15.~~, but which does not exceed such criterion, shall be
22 presumed not to create a substantial deviation subject to
23 further development-of-regional-impact review. The
24 presumption may be rebutted by clear and convincing evidence
25 at the public hearing held by the local government pursuant to
26 subparagraph (f)5.

27 2. Except for a development order rendered pursuant to
28 subsection (22) or subsection (25), a proposed change to a
29 development order that individually or cumulatively with any
30 previous change is less than ~~40 percent of~~ any numerical
31 criterion contained in subparagraphs (b)1.-13.15.and does not

1 exceed any other criterion is not a substantial deviation, ~~or~~
2 ~~that involves an extension of the buildout date of a~~
3 ~~development, or any phase thereof, of less than 5 years~~ is not
4 subject to the public hearing requirements of subparagraph
5 (f)3., and is not subject to a determination pursuant to
6 subparagraph (f)5. Notice of the proposed change shall be
7 made to the local government and the regional planning council
8 ~~and the state land planning agency~~. Such notice shall include
9 a description of previous individual changes made to the
10 development, including changes previously approved by the
11 local government, and shall include appropriate amendments to
12 the development order. The following changes, individually or
13 cumulatively with any previous changes, are not substantial
14 deviations:
15 a. Changes in the name of the project, developer,
16 owner, or monitoring official.
17 b. Changes to a setback that do not affect noise
18 buffers, environmental protection or mitigation areas, or
19 archaeological or historical resources.
20 c. Changes to minimum lot sizes.
21 d. Changes in the configuration of internal roads that
22 do not affect external access points.
23 e. Changes to the building design or orientation that
24 stay approximately within the approved area designated for
25 such building and parking lot, and which do not affect
26 historical buildings designated as significant by the Division
27 of Historical Resources of the Department of State.
28 f. Changes to increase the acreage in the development,
29 provided that no development is proposed on the acreage to be
30 added.
31

1 g. Changes to eliminate an approved land use, provided
2 that there are no additional regional impacts.

3 h. Changes required to conform to permits approved by
4 any federal, state, or regional permitting agency, provided
5 that these changes do not create additional regional impacts.

6 i. Any other change which the state land planning
7 agency agrees in writing is similar in nature, impact, or
8 character to the changes enumerated in sub-subparagraphs a.-h.
9 and which does not create the likelihood of any additional
10 regional impact.

11
12 This subsection does not require a development order amendment
13 for any change listed in sub-subparagraphs a.-i. unless such
14 issue is addressed either in the existing development order or
15 in the application for development approval, but, in the case
16 of the application, only if, and in the manner in which, the
17 application is incorporated in the development order.

18 3. Except for the change authorized by
19 sub-subparagraph 2.f., any addition of land not previously
20 reviewed or any change not specified in paragraph (b) or
21 paragraph (c) shall be presumed to create a substantial
22 deviation. This presumption may be rebutted by clear and
23 convincing evidence.

24 4. Any submittal of a proposed change to a previously
25 approved development shall include a description of individual
26 changes previously made to the development, including changes
27 previously approved by the local government. The local
28 government shall consider the previous and current proposed
29 changes in deciding whether such changes cumulatively
30 constitute a substantial deviation requiring further
31 development-of-regional-impact review.

1 5. The following changes to an approved development of
2 regional impact shall be presumed to create a substantial
3 deviation. Such presumption may be rebutted by clear and
4 convincing evidence.

5 a. A change proposed for 15 percent or more of the
6 acreage to a land use not previously approved in the
7 development order. Changes of less than 15 percent shall be
8 presumed not to create a substantial deviation.

9 b. Except for the types of uses listed in subparagraph
10 (b)~~15.16~~, any change which would result in the development of
11 any area which was specifically set aside in the application
12 for development approval or in the development order for
13 preservation, buffers, or special protection, including
14 habitat for plant and animal species, archaeological and
15 historical sites, dunes, and other special areas.

16 c. Notwithstanding any provision of paragraph (b) to
17 the contrary, a proposed change consisting of simultaneous
18 increases and decreases of at least two of the uses within an
19 authorized multiuse development of regional impact which was
20 originally approved with three or more uses specified in s.
21 380.0651(3)(c), (d), (e), and (f), ~~and (g)~~ and residential
22 use.

23 (f)1. The state land planning agency shall establish
24 by rule standard forms for submittal of proposed changes to a
25 previously approved development of regional impact which may
26 require further development-of-regional-impact review. At a
27 minimum, the standard form shall require the developer to
28 provide the precise language that the developer proposes to
29 delete or add as an amendment to the development order.

30 2. The developer shall submit, simultaneously, to the
31 local government, the regional planning agency, and the state

1 land planning agency the request for approval of a proposed
2 change. Those changes described in subparagraph (e)2. do not
3 need to be submitted to the state land planning agency;
4 however, if the proposed change does not qualify under
5 subparagraph (e)2., the local government or the regional
6 planning agency shall request that the state land planning
7 agency review the proposed change.

8 3. No sooner than 30 days but no later than 45 days
9 after submittal by the developer to the local government, the
10 state land planning agency, and the appropriate regional
11 planning agency, the local government shall give 15 days'
12 notice and schedule a public hearing to consider the change
13 that the developer asserts does not create a substantial
14 deviation. This public hearing shall be held within 90 days
15 after submittal of the proposed changes, unless that time is
16 extended by the developer.

17 4. The appropriate regional planning agency or the
18 state land planning agency shall review the proposed change
19 and, no later than 45 days after submittal by the developer of
20 the proposed change, unless that time is extended by the
21 developer, and prior to the public hearing at which the
22 proposed change is to be considered, shall advise the local
23 government in writing whether it objects to the proposed
24 change, shall specify the reasons for its objection, if any,
25 and shall provide a copy to the developer. ~~A change which is~~
26 ~~subject to the substantial deviation criteria specified in~~
27 ~~sub-subparagraph (e)5.c. shall not be subject to this~~
28 ~~requirement.~~

29 5. At the public hearing, the local government shall
30 determine whether the proposed change requires further
31 development-of-regional-impact review. The provisions of

1 paragraphs (a) and (e), the thresholds set forth in paragraph
2 (b), and the presumptions set forth in paragraphs (c) and (d)
3 and subparagraphs (e)1. and 3. shall be applicable in
4 determining whether further development-of-regional-impact
5 review is required.

6 6. If the local government determines that the
7 proposed change does not require further
8 development-of-regional-impact review and is otherwise
9 approved, or if the proposed change is not subject to a
10 hearing and determination pursuant to subparagraphs 3. and 5.
11 and is otherwise approved, the local government shall issue an
12 amendment to the development order incorporating the approved
13 change and conditions of approval relating to the change. The
14 decision of the local government to approve, with or without
15 conditions, or to deny the proposed change that the developer
16 asserts does not require further review shall be subject to
17 the appeal provisions of s. 380.07. However, the state land
18 planning agency may not appeal the local government decision
19 if it did not comply with subparagraph 4., except for a change
20 to a development order made pursuant to subparagraph (e)2., if
21 the approved change is not consistent with this and other
22 provisions of this section.The state land planning agency may
23 not appeal a change to a development order made pursuant to
24 subparagraph (e)2. for developments of regional impact
25 approved after January 1, 1980, unless the change would result
26 in a significant impact to a regionally significant
27 archaeological, historical, or natural resource not previously
28 identified in the original development-of-regional-impact
29 review.

30 (g) If a proposed change requires further
31 development-of-regional-impact review pursuant to this

1 section, the review shall be conducted subject to the
2 following additional conditions:

3 1. The development-of-regional-impact review conducted
4 by the appropriate regional planning agency shall address only
5 those issues raised by the proposed change except as provided
6 in subparagraph 2.

7 2. The regional planning agency shall consider, and
8 the local government shall determine whether to approve,
9 approve with conditions, or deny the proposed change as it
10 relates to the entire development. If the local government
11 determines that the proposed change, as it relates to the
12 entire development, is unacceptable, the local government
13 shall deny the change.

14 3. If the local government determines that the
15 proposed change, as it relates to the entire development,
16 should be approved, any new conditions in the amendment to the
17 development order issued by the local government shall address
18 only those issues raised by the proposed change.

19 4. Development within the previously approved
20 development of regional impact may continue, as approved,
21 during the development-of-regional-impact review in those
22 portions of the development which are not affected by the
23 proposed change.

24 (h) When further development-of-regional-impact review
25 is required because a substantial deviation has been
26 determined or admitted by the developer, the amendment to the
27 development order issued by the local government shall be
28 consistent with the requirements of subsection (15) and shall
29 be subject to the hearing and appeal provisions of s. 380.07.
30 The state land planning agency or the appropriate regional
31 planning agency need not participate at the local hearing in

1 order to appeal a local government development order issued
2 pursuant to this paragraph.

3 (24) STATUTORY EXEMPTIONS.--

4 (i) Any proposed facility for the storage of any
5 petroleum product is exempt from the provisions of this
6 section, if such facility is consistent with a local
7 comprehensive plan that is in compliance with s. 163.3177 or
8 is consistent with a comprehensive port master plan that is in
9 compliance with s. 163.3178.

10 (j) Any development located within a detailed specific
11 area plan adopted pursuant to s. 163.3245 which is consistent
12 with the detailed specific area plan is exempt from the
13 provisions of this section. Should s. 163.3245 be repealed,
14 any approved development within a detailed specific area plan
15 shall maintain this exemption. However, any
16 development-of-regional-impact development order that is
17 vested from the detailed specific area plan may be enforced
18 under s. 380.11.

19 (k) Development or expansion of airports meeting the
20 airport master planning requirements of s. 163.3177(6)(j) and
21 (k) are exempt from development-of-regional-impact
22 requirements, including substantial deviation criteria
23 pursuant to subparagraph (19)(b)2. and statewide guidelines
24 and standards pursuant to s. 380.0651(3)(a), when such
25 development, expansions, projects, or facilities are
26 consistent with airport master plans that are in compliance
27 with the provisions of s. 163.3177(6)(j) and (k).

28 Section 16. Paragraph (e) of subsection (3) of section
29 380.0651, Florida Statutes, is repealed, and subsection (5) is
30 added to said section to read:

31 380.0651 Statewide guidelines and standards.--

1 (5)(a) Nothing contained in this section abridges or
2 modifies any vested or other right or any duty or obligation
3 pursuant to any development order or agreement which is
4 applicable to a development of regional impact on the
5 effective date of this act. An airport, marina, or petroleum
6 storage facility which has received a
7 development-of-regional-impact development order pursuant to
8 s. 380.06 prior to the creation of s. 380.06(24)(i) and (k)
9 and the repeal of s. 380.0651(3)(e) by this act shall continue
10 to be governed by the development-of-regional-impact
11 development order, and may complete development in reliance
12 upon and pursuant to the development order.

13 (b) An existing development-of-regional-impact
14 development order for an airport, marina, or petroleum storage
15 facility may be abandoned by the local government pursuant to
16 s. 380.06(26). An existing development-of-regional-impact
17 development order for an airport, marina, or petroleum storage
18 facility may be enforced by the local government as provided
19 by ss. 380.06(17) and 380.11.

20 (c) An airport, marina, or petroleum storage facility
21 with an application for development approval pending on the
22 effective date of this act, or a notification of proposed
23 change pending on the effective date of this act, may elect to
24 continue such review pursuant to s. 380.06.

25 Section 17. Paragraph (g) of subsection (3) of section
26 163.06, Florida Statutes, is amended to read:

27 163.06 Miami River Commission.--

28 (3) The policy committee shall have the following
29 powers and duties:

30
31

1 (g) Coordinate a joint planning area agreement between
2 the Department of Community Affairs, the city, and the county
3 under the provisions of s. 163.3177(11)(a), (b), and ~~(e)(c)~~.

4 Section 18. Subsection (4) of section 189.415, Florida
5 Statutes, is amended to read:

6 189.415 Special district public facilities report.--

7 (4) Those special districts building, improving, or
8 expanding public facilities addressed by a development order
9 issued to the developer pursuant to s. 380.06 may use the most
10 recent biennial ~~annual~~ report required by s. 380.06(15) and
11 (18) and submitted by the developer, to the extent the ~~annual~~
12 report provides the information required by subsection (2).

13 Section 19. (1) The Grow Smart Florida Study
14 Commission is created. The commission shall be composed of 25
15 voting members, 10 of whom are to be appointed by the
16 Governor, 7 of whom are to be appointed by the President of
17 the Senate, and 7 of whom are to be appointed by the Speaker
18 of the House of Representatives. In addition, the Secretary of
19 Community Affairs shall serve as a voting member of the
20 commission, and the secretary of the Department of
21 Environmental Protection, the Secretary of Transportation, the
22 Commissioner of Agriculture, and the executive director of the
23 Fish and Wildlife Conservation Commission shall serve as ex
24 officio nonvoting members of the commission. The Governor's
25 appointments must include two appointments from each of the
26 following groups of interests:

27 (a) Business interests, including, but not limited to,
28 development, lending institutions, real estate, marine
29 industries, and affordable housing.

30 (b) Environmental interests, including, but not
31 limited to, environmental justice groups, resource-based

1 conservation and outdoor conservation groups, and
2 environmental quality and conservation groups.

3 (c) Agricultural interests, including, but not limited
4 to, agricultural commodity groups, forestry and general farm
5 membership organizations, and agricultural financial
6 institutions.

7 (d) Local and regional governments, including, but not
8 limited to, municipalities, counties, special districts,
9 metropolitan planning organizations, local government
10 association foundations, and regional planning councils.

11 (e) Growth management and citizen groups, including,
12 but not limited to, planners, attorneys, engineers, citizen
13 activist groups, homeowner's groups, and architects.

14
15 The President of the Senate and the Speaker of the House of
16 Representatives shall each select one appointment from each of
17 the five categories listed in paragraphs (a)-(e) and shall
18 also appoint two members from their respective houses of the
19 Legislature to serve on the commission. The appointments must
20 be made by July 1, 2000, and the first meeting of the
21 commission shall be held no later than August 1, 2000. The
22 chair of the commission shall be elected by the majority of
23 the membership at its first meeting. Any vacancy occurring in
24 the membership of the commission shall be filled in the same
25 manner as the original appointment.

26 (2) The members of the commission are entitled to one
27 vote, and action of the commission is not binding unless taken
28 by a three-fifths vote of the members present. However, action
29 of the commission may be taken only at a meeting at which a
30 majority of the commission members are present.

31

1 (3) The commission shall review the operation and
2 implementation of Florida's growth management statutes,
3 including chapters 163, 186, 187, and 380, Florida Statutes,
4 and shall make recommendations for improving the system for
5 managing growth in the state. It may also establish and
6 appoint any necessary technical advisory committees, which may
7 include commission members and nonmembers. The commission
8 shall, to the extent practicable, specifically address and
9 make recommendations for improving the growth management
10 system with respect to the following issues:

11 (a) The respective roles and responsibilities of
12 state, regional, and local governmental entities in the
13 preparation, adoption, and compliance review of local
14 government comprehensive plans and plan amendments, including
15 decentralization.

16 (b) The role, responsibilities, and composition of
17 regional planning councils in addressing greater-than-local
18 issues and the relationship of metropolitan planning
19 organizations and their role in addressing local comprehensive
20 plans and regional transportation planning.

21 (c) The role and responsibilities of citizens in the
22 preparation, adoption, compliance review, and judicial or
23 administrative review of local government comprehensive plans
24 and plan amendments, and in the enforcement of adopted
25 comprehensive plans, land development regulations, and
26 development orders.

27 (d) Whether the development of regional impact program
28 should be replaced, repealed, or incorporated in whole or in
29 part into the local government comprehensive planning process.

30 (e) Improving mechanisms for and implementation of
31 intergovernmental coordination.

1 (f) Whether there is adequate protection for property
2 owners from local and state government land use decisions, and
3 what must be done to ensure that property rights are not
4 abridged.

5 (4) At least six public hearings must be held by the
6 commission in different regions of the state to solicit input
7 from the public on how they want the state, regional agencies,
8 and their municipalities and counties to manage growth.

9 (5) The commission shall, by February 1, 2001, provide
10 to the President of the Senate, the Speaker of the House of
11 Representatives, and the Governor a written report containing
12 specific recommendations, including legislative
13 recommendations, for addressing growth management in Florida
14 in the 21st century.

15 (6) Commission members and the members of any
16 technical advisory committees that are appointed shall not
17 receive remuneration for their services, but members other
18 than public officers and employees shall be entitled to be
19 reimbursed by the Department of Community Affairs for travel
20 or per diem expenses in accordance with chapter 112, Florida
21 Statutes. Public officers and employees shall be reimbursed by
22 their respective agencies in accordance with chapter 112,
23 Florida Statutes.

24 (7) An executive director shall be selected by the
25 Governor. The executive director shall report to the
26 commission. The Department of Community Affairs shall provide
27 other staff and consultants after consultation with the
28 commission. Funding for these expenses shall be provided
29 through the Department of Community Affairs. The commission
30 shall receive supplemental financial and other assistance from
31 other agencies under the Governor's direct supervision and

1 such additional assistance as is appropriate from the
2 Executive Office of the Governor.

3 (8) All agencies under the control of the Governor and
4 Cabinet are directed, and all other agencies are requested, to
5 render assistance to, and cooperate with, the commission.

6 (9) The commission shall continue in existence until
7 its objectives are achieved, but not later than February 1,
8 2001.

9 Section 20. If any provision of this act or the
10 application thereof to any person or circumstance is held
11 invalid, the invalidity shall not affect other provisions or
12 applications of the act which can be given effect without the
13 invalid provision or application, and to this end the
14 provisions of this act are declared severable.

15 Section 21. This act shall take effect upon becoming a
16 law.

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