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1 approved, increase residential density on the property that is  
2 the subject of the application, provided that nothing  
3 contained in this subsection shall prevent a local agency from  
4 granting voting status to the school board member.The  
5 governing body may designate itself as the local planning  
6 agency pursuant to this subsection with the addition of a  
7 nonvoting school board representative. The governing body  
8 shall notify the state land planning agency of the  
9 establishment of its local planning agency. All local planning  
10 agencies shall provide opportunities for involvement by  
11 ~~district school boards and~~ applicable community college  
12 boards, which may be accomplished by formal representation,  
13 membership on technical advisory committees, or other  
14 appropriate means. The local planning agency shall prepare the  
15 comprehensive plan or plan amendment after hearings to be held  
16 after public notice and shall make recommendations to the  
17 governing body regarding the adoption or amendment of the  
18 plan. The agency may be a local planning commission, the  
19 planning department of the local government, or other  
20 instrumentality, including a countywide planning entity  
21 established by special act or a council of local government  
22 officials created pursuant to s. 163.02, provided the  
23 composition of the council is fairly representative of all the  
24 governing bodies in the county or planning area; however:  
25 (a) If a joint planning entity is in existence on the  
26 effective date of this act which authorizes the governing  
27 bodies to adopt and enforce a land use plan effective  
28 throughout the joint planning area, that entity shall be the  
29 agency for those local governments until such time as the  
30 authority of the joint planning entity is modified by law.  
31 (b) In the case of chartered counties, the planning

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1 responsibility between the county and the several  
2 municipalities therein shall be as stipulated in the charter.

3 Section 2. Paragraph (a) of subsection (4), paragraphs  
4 (a), (c), and (h) of subsection (6) of section 163.3177,  
5 Florida Statutes, are amended to read:

6 163.3177 Required and optional elements of  
7 comprehensive plan; studies and surveys.--

8 (4)(a) Coordination of the local comprehensive plan  
9 with the comprehensive plans of adjacent municipalities, the  
10 county, adjacent counties, or the region; with the appropriate  
11 water management district's regional water supply plans  
12 adopted pursuant to s. 373.0361, or successor plans required  
13 by legislative directive;with adopted rules pertaining to  
14 designated areas of critical state concern; and with the state  
15 comprehensive plan shall be a major objective of the local  
16 comprehensive planning process. To that end, in the  
17 preparation of a comprehensive plan or element thereof, and in  
18 the comprehensive plan or element as adopted, the governing  
19 body shall include a specific policy statement indicating the  
20 relationship of the proposed development of the area to the  
21 comprehensive plans of adjacent municipalities, the county,  
22 adjacent counties, or the region and to the state  
23 comprehensive plan, as the case may require and as such  
24 adopted plans or plans in preparation may exist.

25 (6) In addition to the requirements of subsections  
26 (1)-(5), the comprehensive plan shall include the following  
27 elements:

28 (a) A future land use plan element designating  
29 proposed future general distribution, location, and extent of  
30 the uses of land for residential uses, commercial uses,  
31 industry, agriculture, recreation, conservation, education,

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1 public buildings and grounds, other public facilities, and  
2 other categories of the public and private uses of land. The  
3 future land use plan shall include standards to be followed in  
4 the control and distribution of population densities and  
5 building and structure intensities. The proposed  
6 distribution, location, and extent of the various categories  
7 of land use shall be shown on a land use map or map series  
8 which shall be supplemented by goals, policies, and measurable  
9 objectives. Each land use category shall be defined in terms  
10 of the types of uses included and specific standards for the  
11 density or intensity of use. The future land use plan shall  
12 be based upon surveys, studies, and data regarding the area,  
13 including the amount of land required to accommodate  
14 anticipated growth; the projected population of the area; the  
15 character of undeveloped land; the availability of ground  
16 water and surface water resources for present and future water  
17 supplies and the potential for development of alternative  
18 water supplies;the availability of public services; the need  
19 for redevelopment, including the renewal of blighted areas and  
20 the elimination of nonconforming uses which are inconsistent  
21 with the character of the community; and, in rural  
22 communities, the need for job creation, capital investment,  
23 and economic development that will strengthen and diversify  
24 the community's economy. The future land use plan may  
25 designate areas for future planned development use involving  
26 combinations of types of uses for which special regulations  
27 may be necessary to ensure development in accord with the  
28 principles and standards of the comprehensive plan and this  
29 act. In addition, for rural communities, the amount of land  
30 designated for future planned industrial use shall be based  
31 upon surveys and studies that reflect the need for job

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1 creation, capital investment, and the necessity to strengthen  
2 and diversify the local economies, and shall not be limited  
3 solely by the projected population of the rural community. The  
4 future land use plan of a county may also designate areas for  
5 possible future municipal incorporation. The land use maps or  
6 map series shall generally identify and depict historic  
7 district boundaries and shall designate historically  
8 significant properties meriting protection. The future land  
9 use element must clearly identify the land use categories in  
10 which public schools are an allowable use. When delineating  
11 the land use categories in which public schools are an  
12 allowable use, a local government shall include in the  
13 categories sufficient land proximate to residential  
14 development to meet the projected needs for schools in  
15 coordination with public school boards and may establish  
16 differing criteria for schools of different type or size.  
17 Each local government shall include lands contiguous to  
18 existing school sites, to the maximum extent possible, within  
19 the land use categories in which public schools are an  
20 allowable use. All comprehensive plans must comply with the  
21 school siting requirements of this paragraph no later than  
22 October 1, 1999. The failure by a local government to comply  
23 with these school siting requirements by October 1, 1999, will  
24 result in the prohibition of the local government's ability to  
25 amend the local comprehensive plan, except for plan amendments  
26 described in s. 163.3187(1)(b), until the school siting  
27 requirements are met. Amendments ~~An amendment~~ proposed by a  
28 local government for purposes of identifying the land use  
29 categories in which public schools are an allowable use or for  
30 adopting or amending the school-siting maps pursuant to s.  
31 163.31776(6) are is exempt from the limitation on the

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1 frequency of plan amendments contained in s. 163.3187. The  
2 future land use element shall include criteria that ~~which~~  
3 encourage the location of schools proximate to urban  
4 residential areas to the extent possible and shall require  
5 that the local government seek to collocate public facilities,  
6 such as parks, libraries, and community centers, with schools  
7 to the extent possible and to encourage the use of elementary  
8 schools as focal points for neighborhoods.

9 (c) A general sanitary sewer, solid waste, drainage,  
10 potable water, and natural groundwater aquifer recharge  
11 element correlated to principles and guidelines for future  
12 land use, indicating ways to provide for future potable water,  
13 drainage, sanitary sewer, solid waste, and aquifer recharge  
14 protection requirements for the area. The element may be a  
15 detailed engineering plan including a topographic map  
16 depicting areas of prime groundwater recharge. The element  
17 shall describe the problems and needs and the general  
18 facilities that will be required for solution of the problems  
19 and needs. The element shall also include a topographic map  
20 depicting any areas adopted by a regional water management  
21 district as prime groundwater recharge areas for the Floridan  
22 or Biscayne aquifers, pursuant to s. 373.0395. These areas  
23 shall be given special consideration when the local government  
24 is engaged in zoning or considering future land use for said  
25 designated areas. For areas served by septic tanks, soil  
26 surveys shall be provided which indicate the suitability of  
27 soils for septic tanks. By October 1, 2002, the element shall  
28 also include data and analysis, including, but not limited to,  
29 the appropriate water management district's regional water  
30 supply plan adopted pursuant to s. 373.0361, which evaluates  
31 the availability of potable water compared to population

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1 growth projected by the local government comprehensive plan.

2 (h)1. An intergovernmental coordination element  
3 showing relationships and stating principles and guidelines to  
4 be used in the accomplishment of coordination of the adopted  
5 comprehensive plan with the plans of school boards and other  
6 units of local government providing services but not having  
7 regulatory authority over the use of land, with the  
8 comprehensive plans of adjacent municipalities, the county,  
9 adjacent counties, or the region, and with the state  
10 comprehensive plan, as the case may require and as such  
11 adopted plans or plans in preparation may exist. This element  
12 of the local comprehensive plan shall demonstrate  
13 consideration of the particular effects of the local plan,  
14 when adopted, upon the development of adjacent municipalities,  
15 the county, adjacent counties, or the region, or upon the  
16 state comprehensive plan, as the case may require.

17 a. The intergovernmental coordination element shall  
18 provide for procedures to identify and implement joint  
19 planning areas, especially for the purpose of annexation,  
20 municipal incorporation, and joint infrastructure service  
21 areas.

22 b. The intergovernmental coordination element shall  
23 provide for recognition of campus master plans prepared  
24 pursuant to s. 240.155.

25 c. The intergovernmental coordination element may  
26 provide for a voluntary dispute resolution process as  
27 established pursuant to s. 186.509 for bringing to closure in  
28 a timely manner intergovernmental disputes. A local  
29 government may develop and use an alternative local dispute  
30 resolution process for this purpose.

31 2. The intergovernmental coordination element shall

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1 further state principles and guidelines to be used in the  
2 accomplishment of coordination of the adopted comprehensive  
3 plan with the plans of school boards and other units of local  
4 government providing facilities and services but not having  
5 regulatory authority over the use of land. In addition, the  
6 intergovernmental coordination element shall describe joint  
7 processes for collaborative planning and decisionmaking on  
8 population projections and public school siting, the location  
9 and extension of public facilities subject to concurrency, and  
10 siting facilities with countywide significance, including  
11 locally unwanted land uses whose nature and identity are  
12 established in an agreement. Within 1 year of adopting their  
13 intergovernmental coordination elements, each county, all the  
14 municipalities within that county, the district school board,  
15 and any unit of local government service providers in that  
16 county shall establish by interlocal or other formal agreement  
17 executed by all affected entities, the joint processes  
18 described in this subparagraph consistent with their adopted  
19 intergovernmental coordination elements.

20           3. To foster coordination between special districts  
21 and local general-purpose governments as local general-purpose  
22 governments implement local comprehensive plans, each  
23 independent special district must submit a public facilities  
24 report to the appropriate local government as required by s.  
25 189.415.

26           4. The state land planning agency shall establish a  
27 schedule for phased completion and transmittal of plan  
28 amendments to implement subparagraphs 1., 2., and 3. from all  
29 jurisdictions so as to accomplish their adoption by December  
30 31, 1999. A local government may complete and transmit its  
31 plan amendments to carry out these provisions prior to the



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1 scheduled date established by the state land planning agency.  
2 The plan amendments are exempt from the provisions of s.  
3 163.3187(1).

4 5. Intergovernmental coordination between local  
5 governments and the district school board shall be governed by  
6 ss. 163.31776 and 163.31777 for those local governments  
7 adopting a public educational facilities element pursuant to  
8 s. 163.31776.

9 Section 3. Section 163.31776, Florida Statutes, is  
10 created to read:

11 163.31776 Public educational facilities element.--

12 (1) The intent of the Legislature is to establish a  
13 systematic process for school boards and local governments to:

14 (a) Share information concerning the growth and  
15 development trends in their communities in order to forecast  
16 future enrollment and school needs;

17 (b) Cooperatively plan for the provision of  
18 educational facilities to meet the current and projected needs  
19 of the public education system population, including the needs  
20 placed on the public education system as a result of growth  
21 and development decisions by local government; and

22 (c) Cooperatively identify and meet the infrastructure  
23 needs of public schools to assure healthy school environments  
24 and safe school access.

25 (2) The Legislature finds that:

26 (a) Public schools are a linchpin to the vitality of  
27 our communities and play a significant role in thousands of  
28 individual housing decisions that result in community growth  
29 trends.

30 (b) Growth and development issues transcend the  
31 boundaries and responsibilities of individual units of

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1 government, and often no single unit of government can plan or  
2 implement policies to deal with these issues without affecting  
3 other units of government.

4 (3) A public educational facilities element shall be  
5 adopted in cooperation with the applicable school district by  
6 all local governments meeting the criteria identified in  
7 paragraph (a). The public educational facilities elements  
8 shall be transmitted no later than January 1, 2003, for those  
9 local governments initially meeting the criteria in paragraph  
10 (a).

11 (a) A local government must adopt a public educational  
12 facilities element if the local government is located in a  
13 county where:

14 1. The number of districtwide capital outlay  
15 full-time-equivalent students equals 80 percent or more of the  
16 most current year's school capacity and the projected 5-year  
17 student growth is 1,000 students or greater; or

18 2. The projected 5-year student growth rate is 10  
19 percent or greater.

20 (b)1. The Department of Education shall issue a report  
21 notifying the state land planning agency and each county and  
22 school district that meets the criteria in paragraph (a) on  
23 June 1 of each year. Local governments and school boards will  
24 have 18 months following notification within which to comply  
25 with the requirements of ss. 163.31776 and 163.31777.

26 2. By January 1, 2007, remaining local governments  
27 that have not been notified by June 1, 2005, that they have  
28 met the criteria in paragraph (a) shall adopt, in cooperation  
29 with the applicable school district, a limited public  
30 educational facilities element. The state land planning agency  
31 shall by rule specify the contents of the limited public

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1 educational facilities element. The rule specifying the  
2 contents of the limited public facilities element must  
3 incorporate the future land use element requirements of s.  
4 163.3177(6)(a), including school-siting requirements,  
5 requirements for intergovernmental coordination and interlocal  
6 agreements with school boards contained in s.  
7 163.3177(6)(h)1.-2., and requirements for evaluation and  
8 appraisal reports contained in s. 163.3191(2)(k). The agency  
9 rule must ensure effective planning with school boards, but  
10 recognize that the needs for school planning differ for those  
11 local governments that have lower population and  
12 student-population growth rates. The sanctions of subsection  
13 (9) apply to local governments that fail to adopt a limited  
14 public educational facilities element. Any local government  
15 that, after complying with this rule, reaches the criteria in  
16 paragraph (a) shall have 18 months within which to comply with  
17 subsections (4) and (5). Nothing in this subsection shall  
18 supersede the other requirements of this chapter.

19 (c) Each municipality shall adopt its own element or  
20 accept by resolution or ordinance the public educational  
21 facilities element adopted by the county which includes the  
22 municipality's area of authority as defined in s. 163.3171.  
23 However, a municipality is exempt from this requirement if it  
24 meets all the following criteria:

25 1. The municipality has issued development orders for  
26 fewer than 50 residential dwelling units during the last 5  
27 years or it has generated fewer than 25 additional public  
28 school students during the last 5 years;

29 2. The municipality has not annexed new land during  
30 the last 5 years in land use categories that permit  
31 residential uses that may affect school attendance rates;

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1           3. The municipality has no public schools located  
2 within its boundaries;

3           4. At least 80 percent of the developable land within  
4 the boundaries of the municipality has been built upon; and

5           5. The municipality has not adopted a land use  
6 amendment that increases residential density for more than 50  
7 residential units.

8  
9 Any municipality that is exempt shall notify the county and  
10 the school board of any planned annexation into residential or  
11 proposed residential areas or other change in condition and  
12 must comply with this subsection within 1 year following a  
13 change in conditions that renders the municipality no longer  
14 eligible for exemption or following the identification of a  
15 proposed public school in the school board's 5-year district  
16 facilities work program in the municipality's jurisdiction.

17           (4) No later than 6 months prior to the deadline for  
18 transmittal of a public educational facilities element, the  
19 county, the non-exempt municipalities, and the school board  
20 shall enter into an interlocal agreement that establishes a  
21 process for developing coordinated and consistent local  
22 government public educational facilities elements and a  
23 district educational facilities plan, including a process:

24           (a) By which each local government and the school  
25 district agree and base the local government comprehensive  
26 plan and educational facilities plan on uniform projections of  
27 the amount, type, and distribution of population growth and  
28 student enrollment;

29           (b) To coordinate and share information relating to  
30 existing and planned public school facilities and local  
31 government plans for development and redevelopment;

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1           (c) To ensure that school siting decisions by the  
 2 school board are consistent with the local comprehensive plan,  
 3 including appropriate circumstances and criteria under which a  
 4 school district may request an amendment to the comprehensive  
 5 plan for school siting and for early involvement by the local  
 6 government as the school board identifies potential school  
 7 sites;

8           (d) To coordinate and provide timely formal comments  
 9 during the development, adoption, and amendment of each local  
 10 government's public educational facilities element and the  
 11 educational facilities plan of the school district to ensure a  
 12 uniform countywide school facility planning system;

13           (e) For school district participation in the review of  
 14 comprehensive plan amendments and rezonings that increase  
 15 residential density and that are reasonably expected to have  
 16 an impact on public school facility demand pursuant to s.  
 17 163.31777. The interlocal agreement must specify how the  
 18 school board and local governments will develop the  
 19 methodology and criteria for determining whether school  
 20 facility capacity will be readily available at the time of  
 21 projected school impacts, and must specify uniform,  
 22 districtwide level-of-service standards for all public schools  
 23 of the same type and availability standards for public  
 24 schools. The interlocal agreement must ensure that consistent  
 25 criteria and capacity-determination methodologies including  
 26 student generation multipliers are adopted into the school  
 27 board's district educational facilities plan and the local  
 28 government's public educational facilities element. The  
 29 interlocal agreement must also set forth the process and  
 30 uniform methodology for determining proportionate-share  
 31 mitigation pursuant to s. 163.31777; and

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1           (f) For the resolution of disputes between the school  
2 district and local governments.

3           (5) The public educational facilities element must be  
4 based on data and analysis, including the interlocal agreement  
5 required by subsection (4), and on the educational facilities  
6 plan required by s. 235.185. Each local government public  
7 educational facilities element within a county must be  
8 consistent with the other elements and must address:

9           (a) The need for, strategies for, and commitments to  
10 addressing improvements to infrastructure, safety, and  
11 community conditions in areas proximate to existing public  
12 schools.

13           (b) The need for and strategies for providing adequate  
14 infrastructure necessary to support proposed schools,  
15 including potable water, wastewater, drainage, solid waste,  
16 transportation, and means by which to assure safe access to  
17 schools, including sidewalks, bicycle paths, turn lanes, and  
18 signalization.

19           (c) Colocation of other public facilities, such as  
20 parks, libraries, and community centers, in proximity to  
21 public schools.

22           (d) Location of schools proximate to residential areas  
23 and to complement patterns of development, including using  
24 elementary schools as focal points for neighborhoods.

25           (e) Use of public schools to serve as emergency  
26 shelters.

27           (f) Consideration of the existing and planned capacity  
28 of public schools when reviewing comprehensive plan amendments  
29 and rezonings that are likely to increase residential  
30 development and that are reasonably expected to have an impact  
31 on the demand for public school facilities pursuant to s.

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1 163.31777, with the review to be based on uniform,  
2 districtwide level-of-service standards for all public schools  
3 of the same type, availability standards for public schools,  
4 and the financially feasible 5-year district facilities work  
5 program adopted by the school board pursuant to s. 235.185.

6 (g) A uniform methodology for determining school  
7 capacity and proportionate-share mitigation consistent with  
8 the requirements of s. 163.31777(4) and the interlocal  
9 agreement.

10 (h) The response of the school board to the financial  
11 management and performance audit required by s. 235.185(2)(f).

12 (6) The future land-use map series must incorporate  
13 maps that are the result of a collaborative process for  
14 identifying school sites in the educational facilities plan  
15 adopted by the school board pursuant to s. 235.185 and must  
16 show the locations of existing public schools and the general  
17 locations of improvements to existing schools or new schools  
18 anticipated over the 5-year, 10-year, and 20-year time  
19 periods, or such maps shall be data and analysis in support of  
20 the future land-use map series. Maps indicating general  
21 locations of future schools or school improvements should not  
22 prescribe a land use on a particular parcel of land.

23 (7) The process for adopting a public educational  
24 facilities element shall be as provided in s. 163.3184. The  
25 state land planning agency shall submit a copy of the proposed  
26 public school facilities element pursuant to the procedures  
27 outlined in s. 163.3184(4) to the Office of Educational  
28 Facilities of the Commissioner of Education for review and  
29 comment.

30 (8) In any proceeding to challenge the adoption of the  
31 public educational facilities element pursuant to s. 163.3184,

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1 the petitioner may also challenge the data and analysis used  
2 to support the processes set forth in the interlocal agreement  
3 executed pursuant to this section.

4 (9)(a) If the county, school board and nonexempt  
5 municipalities within the county cannot reach agreement  
6 regarding the interlocal agreement required by subsection (4),  
7 the parties shall seek mediation through the appropriate  
8 regional planning council or the state land planning agency.  
9 The bad-faith failure of any party to enter into an interlocal  
10 agreement within 60 days after referral to mediation shall  
11 result in the prohibition of that local government's ability  
12 to amend its comprehensive plan until the dispute is resolved.

13 (b) The failure by a local government to comply with  
14 the requirement to transmit and adopt a public educational  
15 facility element will result in the prohibition of the local  
16 government's ability to amend the local comprehensive plan  
17 until the public school facilities element is adopted.

18 (c) If a local government fails to comply with the  
19 requirements of this section to enter into the interlocal  
20 agreement or to transmit a public educational facilities  
21 element by the required date, or if the Administration  
22 Commission finds that the public educational facilities  
23 element is not in compliance, the local government shall be  
24 subject to sanctions imposed by the Administration Commission  
25 pursuant to s. 163.3184(11).

26 (d) The failure of a school board to provide the  
27 required plans or information or to enter into the interlocal  
28 agreement under this section shall subject the school board to  
29 sanctions pursuant to s. 235.193(3).

30 (e) A local government or school board's bad-faith  
31 failure to enter into the interlocal agreement does not



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1 subject another local government or school board to sanctions.

2 (10) Any local government that has executed an  
3 interlocal agreement for the purpose of adopting public school  
4 concurrency before the effective date of this act is not  
5 required to amend the public school element or any interlocal  
6 agreement to conform with the provisions of this section or s.  
7 163.31777 if such amendment is ultimately determined to be in  
8 compliance.

9 Section 4. Section 163.31777, Florida Statutes, is  
10 created to read:

11 163.31777 Public school capacity for plan amendments  
12 and rezonings.--

13 (1) Local governments shall consider public school  
14 facilities when reviewing proposed comprehensive plan  
15 amendments and rezonings that increase residential densities  
16 and that are reasonably expected to have an impact on the  
17 demand for public school facilities.

18 (2) For each proposed comprehensive plan amendment or  
19 rezoning that increases residential densities and is  
20 reasonably expected to have an impact on the demand for public  
21 school facilities, the school board shall provide the local  
22 government with a school-capacity report based on the district  
23 educational facilities plan adopted by the school board  
24 pursuant to s. 235.185, which must provide data and analysis  
25 on the capacity and enrollment of affected schools based on  
26 standards established by state or federal law or judicial  
27 orders, projected additional enrollment attributable to the  
28 density increase resulting from the amendment or rezoning,  
29 programmed and financially feasible new public school  
30 facilities or improvements for affected schools identified in  
31 the educational facilities plan of the school board and the

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1 expected date of availability of such facilities or  
2 improvements, and available reasonable options for providing  
3 public school facilities to students if the rezoning or  
4 comprehensive plan amendment is approved. The options must  
5 include, but need not be limited to, the school board's  
6 evaluation of school schedule modification, school attendance  
7 zones modification, school facility modification, and the  
8 creation of charter schools. The report must be consistent  
9 with this section, any adopted interlocal agreement and public  
10 educational facilities element, and must be submitted no later  
11 than 3 working days before the first public hearing by the  
12 local government to consider the comprehensive plan amendment  
13 or rezoning.

14 (3) The local government shall deny a request for a  
15 comprehensive plan amendment or rezoning which would increase  
16 the density of residential development allowed on the property  
17 subject to the amendment or rezoning and is reasonably  
18 expected to have an increased impact on the demand for public  
19 school facilities, if the school facility capacity will not be  
20 reasonably available at the time of projected school impacts  
21 as determined by the methodology established in the public  
22 educational facilities element. However, the application for a  
23 comprehensive plan amendment or a rezoning may be approved if  
24 the applicant executes a legally binding commitment to provide  
25 mitigation proportionate to the demand for public school  
26 facilities to be created by actual development of the  
27 property, including, but not limited to, the options described  
28 in subsection (4).

29 (4)(a) Options for proportionate-share mitigation of  
30 public school facility impacts from actual development of  
31 property subject to a plan amendment or rezoning that

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1 increases residential density shall be established in the  
2 educational facilities plan and the public educational  
3 facilities element. Appropriate mitigation options include the  
4 contribution of land; the construction, expansion, or payment  
5 for land acquisition or construction of a public school  
6 facility; or the creation of mitigation banking based on the  
7 construction of a public school facility in exchange for the  
8 right to sell capacity credits. Such options must include  
9 execution by the applicant and the local government of a  
10 binding development agreement pursuant to ss.  
11 163.3220-163.3243 which constitutes a legally binding  
12 commitment to pay proportionate-share mitigation for the  
13 additional residential units approved by the local government  
14 in a development order and actually developed on the property,  
15 taking into account residential density allowed on the  
16 property prior to the plan amendment or rezoning that  
17 increased overall residential density. The district school  
18 board may be a party to such an agreement. As a condition of  
19 its entry into such a development agreement, the local  
20 government may require the landowner to agree to continuing  
21 renewal of the agreement upon its expiration.

22 (b) If the educational facilities plan and the public  
23 educational facilities element authorize a contribution of  
24 land; the construction, expansion, or payment for land  
25 acquisition; or the construction or expansion of a public  
26 school facility, or a portion thereof, as proportionate-share  
27 mitigation, the local government shall credit such a  
28 contribution, construction, expansion, or payment toward any  
29 other impact fee or exaction imposed by local ordinance for  
30 the same need, on a dollar-for-dollar basis at fair market  
31 value.

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1           (c) Any proportionate-share mitigation must be  
2 directed by the school board toward a school capacity  
3 improvement that is identified in the financially feasible  
4 5-year district work plan and that will be provided in  
5 accordance with a binding developers agreement.

6           (5) Subsections (3) and (4) shall not take effect  
7 within a jurisdiction until:

8           (a) The local governments and the school board have  
9 entered into an interlocal agreement pursuant to ss. 163.31776  
10 and 235.193;

11           (b) The local government has adopted a public  
12 education facilities element required under s. 163.31776 and  
13 the element has been found in compliance;

14           (c) The school board has revised its district  
15 education facilities plan to comply with s. 235.185; and

16           (d) One of the following revenue sources is levied or  
17 committed for the purpose of funding public educational  
18 facilities consistent with the public educational facilities  
19 plan and interlocal agreement adopted pursuant to s.  
20 163.31776, and the district educational facilities plan  
21 pursuant to s. 235.185:

22           1. The half-cent school capital outlay surtax  
23 authorized by s. 212.055(6); or

24           2. An amount of broad-based revenue from state or  
25 local sources is committed to the implementation of the  
26 financially feasible work program adopted by the school board  
27 pursuant to s. 235.185.

28           (6) Under limited circumstances dealing with  
29 educational facilities, countervailing planning and public  
30 policy goals may come into conflict with the requirements of  
31 subsections (3) and (4). Often the unintended results directly

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1 conflict with the goals and policies of the state  
2 comprehensive plan and the intent of this part. Therefore, a  
3 local government may grant an exception from the requirements  
4 of subsections (3) and (4) if the proposed development is  
5 otherwise consistent with the adopted local government  
6 comprehensive plan and is a project located within an area  
7 designated in the comprehensive plan for:

- 8 (a) Urban infill development;
- 9 (b) Urban redevelopment;
- 10 (c) Downtown revitalization; or
- 11 (d) Urban infill and redevelopment under s. 163.2517.
- 12 (7) This section does not prohibit a local government  
13 from using its home-rule powers to deny a comprehensive plan  
14 amendment or from rezoning.

15 Section 5. Subsection (4) of section 163.3180, Florida  
16 Statutes, is amended to read:

17 163.3180 Concurrency.--

18 (4)(a) The concurrency requirement as implemented in  
19 local comprehensive plans applies to state and other public  
20 facilities and development to the same extent that it applies  
21 to all other facilities and development, as provided by law.

22 (b) The concurrency requirement as implemented in  
23 local comprehensive plans does not apply to public transit  
24 facilities. For the purposes of this paragraph, public  
25 transit facilities include transit stations and terminals,  
26 transit station parking, park-and-ride lots, intermodal public  
27 transit connection or transfer facilities, and fixed bus,  
28 guideway, and rail stations. As used in this paragraph, the  
29 terms "terminals" and "transit facilities" do not include  
30 airports or seaports or commercial or residential development  
31 constructed in conjunction with a public transit facility.

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1           (c) The concurrency requirement as implemented in  
2 local government comprehensive plans may be waived by a local  
3 government for urban infill and redevelopment areas designated  
4 pursuant to s. 163.2517 if such a waiver does not endanger  
5 public health or safety as defined by the local government in  
6 its local government comprehensive plan.

7           Section 6. Subsections (1), (3), (4), and (6) of  
8 section 163.3184, Florida Statutes, are amended to read:

9           163.3184 Process for adoption of comprehensive plan or  
10 plan amendment.--

11           (1) DEFINITIONS.--As used in this section, the term:

12           (a) "Affected person" includes the affected local  
13 government; persons owning property, residing, or owning or  
14 operating a business within the boundaries of the local  
15 government whose plan is the subject of the review; owners of  
16 real property abutting real property that is the subject of a  
17 proposed change to a future land use map;and adjoining local  
18 governments that can demonstrate that the plan or plan  
19 amendment will produce substantial impacts on the increased  
20 need for publicly funded infrastructure or substantial impacts  
21 on areas designated for protection or special treatment within  
22 their jurisdiction. Each person, other than an adjoining local  
23 government, in order to qualify under this definition, shall  
24 also have submitted oral or written comments, recommendations,  
25 or objections to the local government during the period of  
26 time beginning with the transmittal hearing for the plan or  
27 plan amendment and ending with the adoption of the plan or  
28 plan amendment.

29           (b) "In compliance" means consistent with the  
30 requirements of ss. 163.3177, 163.31776, 163.3178, 163.3180,  
31 163.3191, and 163.3245, with the state comprehensive plan,

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1 with the appropriate strategic regional policy plan, and with  
2 chapter 9J-5, Florida Administrative Code, where such rule is  
3 not inconsistent with this part and with the principles for  
4 guiding development in designated areas of critical state  
5 concern.

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 the  
26 transmittal 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

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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).



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1           (4) INTERGOVERNMENTAL REVIEW.--~~The if review of a~~  
2 ~~proposed comprehensive plan amendment is requested or~~  
3 ~~otherwise initiated pursuant to subsection (6), the state land~~  
4 ~~planning agency within 5 working days of determining that such~~  
5 ~~a review will be conducted shall transmit a copy of the~~  
6 ~~proposed plan amendment to various government agencies, as~~  
7 ~~appropriate, for response or comment, including, but not~~  
8 ~~limited to, the Department of Environmental Protection, the~~  
9 ~~Department of Transportation, the water management district,~~  
10 ~~and the regional planning council, and, in the case of~~  
11 ~~municipal plans, to the county land planning agency. 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. If the plan or plan~~  
16 ~~amendment includes or relates to the public school facilities~~  
17 ~~element required by s. 163.31776, the state land planning~~  
18 ~~agency shall submit a copy to the Office of Educational~~  
19 ~~Facilities of the Commissioner of Education for review and~~  
20 ~~comment.~~The appropriate regional planning council shall also  
21 provide its written comments to the state land planning agency  
22 within 30 days after receipt by the state land planning agency  
23 of the complete proposed plan amendment and shall specify any  
24 objections, recommendations for modifications, and comments of  
25 any other regional agencies to which the regional planning  
26 council may have referred the proposed plan amendment. Written  
27 comments submitted by the public within 30 days after notice  
28 of transmittal by the local government of the proposed plan  
29 amendment will be considered as if submitted by governmental  
30 agencies. All written agency and public comments must be made  
31 part of the file maintained under subsection (2).

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

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

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

22           (c) The state land planning agency shall establish by  
23 rule a schedule for receipt of comments from the various  
24 government agencies, as well as written public comments,  
25 pursuant to subsection (4). If the state land planning agency  
26 elects to review the amendment or the agency is required to  
27 review the amendment as specified in paragraph (a), the agency  
28 shall issue a report giving its objections, recommendations,  
29 and comments regarding the proposed amendment within 60 days  
30 after receipt of the complete proposed amendment by the state  
31 land planning agency. ~~The state land planning agency shall~~

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

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1 planning agency.

2 Section 7. Effective October 1, 2001, subsections (7),  
3 (8), and (15) and paragraph (d) of subsection (16) of section  
4 163.3184, Florida Statutes, as amended by this act, are  
5 amended to read:

6 163.3184 Process for adoption of comprehensive plan or  
7 plan amendment.--

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

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1 agency's procedural rules within 10 working days after  
2 adoption. The local governing body shall also transmit a copy  
3 of the adopted comprehensive plan or plan amendment to the  
4 regional planning agency and to any other unit of local  
5 government or governmental agency in the state that has filed  
6 a written request with the governing body for a copy of the  
7 plan or plan amendment.

8 (8) NOTICE OF INTENT.--

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

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

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

25 (b) During the time period provided for in this  
26 subsection, the state land planning agency shall issue,  
27 through a senior administrator or the secretary, as specified  
28 in the agency's procedural rules, a notice of intent to find  
29 that the plan or plan amendment is in compliance or not in  
30 compliance. A notice of intent shall be issued by publication  
31 in the manner provided by this paragraph and by mailing a copy

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1 ~~to the local government and to persons who request notice.~~  
2 ~~The required advertisement shall be no less than 2 columns~~  
3 ~~wide by 10 inches long, and the headline in the advertisement~~  
4 ~~shall be in a type no smaller than 12 point.~~ The advertisement  
5 shall not be placed in that portion of the newspaper where  
6 legal notices and ~~classified advertisements~~ appear. The  
7 advertisement shall be published in a newspaper which meets  
8 the size and circulation requirements set forth in paragraph  
9 ~~(15)(e)(15)(c)~~ and which has been designated in writing by  
10 the affected local government at the time of transmittal of  
11 the amendment. Publication by the state land planning agency  
12 of a notice of intent in the newspaper designated by the local  
13 government shall be prima facie evidence of compliance with  
14 the publication requirements of this section.

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

30 (d) A local government that has an Internet site shall  
31 post a copy of the state land planning agency's notice of

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1 intent on that site within 5 days after receipt of the mailed  
2 copy of the agency's notice of intent.

3 (15) PUBLIC HEARINGS.--

4 (a) The procedure for transmittal of a complete  
5 proposed comprehensive plan or plan amendment pursuant to  
6 subsection (3) and for adoption of a comprehensive plan or  
7 plan amendment pursuant to subsection (7) shall be by  
8 affirmative vote of not less than a majority of the members of  
9 the governing body present at the hearing. The adoption of a  
10 comprehensive plan or plan amendment shall be by ordinance.  
11 For the purposes of transmitting or adopting a comprehensive  
12 plan or plan amendment, the notice requirements in chapters  
13 125 and 166 are superseded by this subsection, except as  
14 provided in this part.

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

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

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

26 (c) The local government shall provide a sign-in form  
27 at the transmittal hearing and at the adoption hearing for  
28 persons to provide their names and mailing addresses. The  
29 sign-in form must advise that any person providing the  
30 requested information will receive a courtesy informational  
31 statement concerning publications of the state land planning

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1 agency's notice of intent. The local government shall add to  
2 the sign-in form the name and address of any person who  
3 submits written comments concerning the proposed plan or plan  
4 amendment during the time period between the commencement of  
5 the transmittal hearing and the end of the adoption hearing.  
6 It is the responsibility of the person completing the form or  
7 providing written comments to accurately, completely, and  
8 legibly provide all information needed in order to receive the  
9 courtesy informational statement.

10 (d) The agency shall provide a model sign-in format  
11 for providing the list to the agency which may be used by the  
12 local government to satisfy the requirements of this  
13 subsection.

14 (e)~~(c)~~ If the proposed comprehensive plan or plan  
15 amendment changes the actual list of permitted, conditional,  
16 or prohibited uses within a future land use category or  
17 changes the actual future land use map designation of a parcel  
18 or parcels of land, the required advertisements shall be in  
19 the format prescribed by s. 125.66(4)(b)2. for a county or by  
20 s. 166.041(3)(c)2.b. for a municipality.

21 (16) COMPLIANCE AGREEMENTS.--

22 (d) A local government may adopt a plan amendment  
23 pursuant to a compliance agreement in accordance with the  
24 requirements of paragraph (15)(a). The plan amendment shall be  
25 exempt from the requirements of subsections (2)-(7). The  
26 local government shall hold a single adoption public hearing  
27 pursuant to the requirements of subparagraph (15)(b)2. and  
28 paragraph (15)(e)~~(15)(c)~~. Within 10 working days after  
29 adoption of a plan amendment, the local government shall  
30 transmit the amendment to the state land planning agency as  
31 specified in the agency's procedural rules, and shall submit



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1 one copy to the regional planning agency and to any other unit  
2 of local government or government agency in the state that has  
3 filed a written request with the governing body for a copy of  
4 the plan amendment, and one copy to any party to the  
5 proceeding under ss. 120.569 and 120.57 granted intervenor  
6 status.

7 Section 8. Paragraph (k) is added to subsection (1) of  
8 section 163.3187, Florida Statutes, to read:

9 163.3187 Amendment of adopted comprehensive plan.--

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

13 (k) A comprehensive plan amendment to adopt a public  
14 educational facilities element pursuant to s. 163.31776 and  
15 future land-use-map amendments for school siting may be  
16 approved notwithstanding statutory limits on the frequency of  
17 adopting plan amendments.

18 Section 9. Paragraph (k) of subsection (2) of section  
19 163.3191, Florida Statutes, is amended, and paragraph (1) is  
20 added to that subsection, to read:

21 163.3191 Evaluation and appraisal of comprehensive  
22 plan.--

23 (2) The report shall present an evaluation and  
24 assessment of the comprehensive plan and shall contain  
25 appropriate statements to update the comprehensive plan,  
26 including, but not limited to, words, maps, illustrations, or  
27 other media, related to:

28 (k) The coordination of the comprehensive plan with  
29 existing public schools and those identified in the applicable  
30 educational 5-year school district facilities plan work  
31 program adopted pursuant to s. 235.185. The assessment shall

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1 address, where relevant, the success or failure of the  
 2 coordination of the future land use map and associated planned  
 3 residential development with public schools and their  
 4 capacities, as well as the joint decisionmaking processes  
 5 engaged in by the local government and the school board in  
 6 regard to establishing appropriate population projections and  
 7 the planning and siting of public school facilities. If the  
 8 issues are not relevant, the local government shall  
 9 demonstrate that they are not relevant.

10 (1) If any of the jurisdiction of the local government  
 11 is located within the coastal high hazard area, an evaluation  
 12 of whether any past reduction in land use density impairs the  
 13 property rights of current residents when redevelopment  
 14 occurs, including, but not limited to, redevelopment following  
 15 a natural disaster. The local government must identify  
 16 strategies to address redevelopment feasibility and the  
 17 property rights of affected residents. These strategies may  
 18 include the authorization of redevelopment up to the actual  
 19 built density in existence on the property prior to the  
 20 natural disaster or redevelopment.

21 Section 10. The sum of \$500,000 is appropriated to the  
 22 Department of Community Affairs from the General Revenue Fund  
 23 to develop a uniform fiscal-impact-analysis model for  
 24 evaluating the cost of infrastructure to support development.

25 Section 11. Section 163.3215, Florida Statutes, is  
 26 amended to read:

27 163.3215 Standing to enforce local comprehensive plans  
 28 through development orders.--

29 (1) Any aggrieved or adversely affected party may  
 30 maintain an action for declaratory and injunctive or other  
 31 relief against any local government to challenge any decision

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1 of local government granting or denying an application for, or  
2 to prevent such local government from taking any action on a  
3 development order, as defined in s. 163.3164, which materially  
4 alters the use or density or intensity of use on a particular  
5 piece of property that is not consistent with the  
6 comprehensive plan adopted under this part. Such action shall  
7 be filed no later than 30 days following rendition of a  
8 development order or other written decision, or when all local  
9 administrative appeals, if any, are exhausted, whichever is  
10 later.

11 (2) "Aggrieved or adversely affected party" means any  
12 person or local government which will suffer an adverse effect  
13 to an interest protected or furthered by the local government  
14 comprehensive plan, including interests related to health and  
15 safety, police and fire protection service systems, densities  
16 or intensities of development, transportation facilities,  
17 health care facilities, equipment or services, or  
18 environmental or natural resources. The alleged adverse  
19 interest may be shared in common with other members of the  
20 community at large, but shall exceed in degree the general  
21 interest in community good shared by all persons. The term  
22 shall include the owner, developer or applicant for a  
23 development order.

24 ~~(3)(a) No suit may be maintained under this section~~  
25 ~~challenging the approval or denial of a zoning, rezoning,~~  
26 ~~planned unit development, variance, special exception,~~  
27 ~~conditional use, or other development order granted prior to~~  
28 ~~October 1, 1985, or applied for prior to July 1, 1985.~~

29 ~~(b) Suit under subsections (1) or (4) this section~~  
30 ~~shall be the sole action available to challenge the~~  
31 ~~consistency of a development order with a comprehensive plan~~

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1 adopted under this part. The local government that issues  
2 that development order shall be named as the respondent.  
3 (4) If a local government elects to adopt or has  
4 adopted an ordinance establishing, at a minimum, the  
5 requirements listed in this subsection, then the sole action  
6 for an aggrieved and adversely affected party to challenge  
7 consistency of a development order with the comprehensive plan  
8 shall be by a petition for certiorari filed in circuit court  
9 no later than 30 days following rendition of a development  
10 order or other written decision of the local government, or  
11 when all local administrative appeals, if any, are exhausted,  
12 whichever is later. An action for injunctive or other relief  
13 may be joined with the petition for certiorari. Principles of  
14 judicial or administrative res judicata and collateral  
15 estoppel shall apply to these proceedings. Minimum components  
16 of the local process shall be as follows:~~As a condition~~  
17 ~~precedent to the institution of an action pursuant to this~~  
18 ~~section, the complaining party shall first file a verified~~  
19 ~~complaint with the local government whose actions are~~  
20 ~~complained of setting forth the facts upon which the complaint~~  
21 ~~is based and the relief sought by the complaining party. The~~  
22 ~~verified complaint shall be filed no later than 30 days after~~  
23 ~~the alleged inconsistent action has been taken. The local~~  
24 ~~government receiving the complaint shall respond within 30~~  
25 ~~days after receipt of the complaint. Thereafter, the~~  
26 ~~complaining party may institute the action authorized in this~~  
27 ~~section. However, the action shall be instituted no later~~  
28 ~~than 30 days after the expiration of the 30-day period which~~  
29 ~~the local government has to take appropriate action. Failure~~  
30 ~~to comply with this subsection shall not bar an action for a~~  
31 ~~temporary restraining order to prevent immediate and~~

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1 ~~irreparable harm from the actions complained of.~~

2 (a) Notice by publication and by mailed notice to all  
3 abutting property owners within 10 days of the filing of an  
4 application for development review, provided that notice under  
5 this subsection shall not be required for an application for a  
6 building permit. The notice must delineate that aggrieved or  
7 adversely affected persons have the right to request a  
8 quasi-judicial hearing, that the request need not be a formal  
9 petition or complaint, how to initiate the quasi-judicial  
10 process and the time-frames for initiating the process. The  
11 local government shall include an opportunity for an  
12 alternative dispute resolution process and may include a stay  
13 of the formal quasi-judicial hearing for this purpose.

14 (b) A point of entry into the process consisting of a  
15 written preliminary decision, at a time and in a manner to be  
16 established in the local ordinance, with the time to request a  
17 quasi-judicial hearing running from the written preliminary  
18 decision; provided that the local government is not bound by  
19 the preliminary decision. A party may request a hearing to  
20 challenge or support a preliminary decision.

21 (c) An opportunity to participate in the process for  
22 an aggrieved or adversely affected party which provides a  
23 reasonable time to prepare and present a case for a  
24 quasi-judicial hearing.

25 (d) An opportunity for reasonable discovery prior to a  
26 quasi-judicial hearing.

27 (e) A quasi-judicial hearing before an independent  
28 special master who shall be an attorney with at least five  
29 years experience and who shall, at the conclusion of the  
30 hearing, recommend written findings of fact and conclusions of  
31 law.

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1           (f) At the quasi-judicial hearing all parties shall  
2 have the opportunity to respond, present evidence and argument  
3 on all issues involved that are related to the development  
4 order and to conduct cross-examination and submit rebuttal  
5 evidence. Public testimony must be allowed.

6           (g) The standard of review applied by the special  
7 master shall be strict scrutiny in accordance with Florida  
8 law.

9           (h) A duly noticed public hearing before the local  
10 government at which public testimony shall be allowed. At the  
11 hearing the local government shall be bound by the special  
12 master's findings of fact unless the findings of fact are not  
13 supported by competent substantial evidence. The governing  
14 body may modify the conclusions of law if it finds that the  
15 special master's application or interpretation of law is  
16 erroneous. The governing body may make reasonable  
17 interpretations of its comprehensive plan and land development  
18 regulations without regard to whether the special master's  
19 interpretation is labeled as a finding of fact or a conclusion  
20 of law. The local government's final decision shall be  
21 reduced to writing, including the findings of fact and  
22 conclusions of law, and shall not be considered rendered or  
23 final until officially date stamped by the city or county  
24 clerk.

25           (i) No ex parte communication relating to the merits  
26 of the matter under review shall be made to the special  
27 master. No ex parte communication relating to the merits of  
28 the matter under review shall be made to the governing body  
29 after a time to be established by the local ordinance, but no  
30 later than receipt of the recommended order by the governing  
31 body.

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1           (j) At the option of the local government this  
2 ordinance may require actions to challenge the consistency of  
3 a development order with land development regulations to be  
4 brought in the same proceeding.

5           (k) Authority by the special master to issue and  
6 enforce subpoenas and compel entry upon land.

7           (5) Venue in any cases brought under this section  
8 shall lie in the county or counties where the actions or  
9 inactions giving rise to the cause of action are alleged to  
10 have occurred.

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

26           (7) In any suit ~~action~~ under subsections (1) or (4)  
27 ~~this section~~, no settlement shall be entered into by the local  
28 government unless the terms of the settlement have been the  
29 subject of a public hearing after notice as required by this  
30 part.

31           (8) In any suit under this section, the Department of

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1 Legal Affairs may intervene to represent the interests of the  
2 state.

3 (9) Nothing in this section shall be construed to  
4 relieve the local government of its obligations to hold public  
5 hearings as required by law.

6 Section 12. Subsection (9) of section 163.3244,  
7 Florida Statutes, is amended to read:

8 163.3244 Sustainable communities demonstration  
9 project.--

10 (9) This section ~~is shall stand~~ repealed on June 30,  
11 ~~2002 2001, and shall be reviewed by the Legislature prior to~~  
12 ~~that date.~~

13 Section 13. Subsections (2) and (3) of section  
14 186.504, Florida Statutes, are amended to read:

15 186.504 Regional planning councils; creation;  
16 membership.--

17 (2) Membership on the regional planning council shall  
18 be as follows:

19 (a) Representatives appointed by each of the member  
20 counties in the geographic area covered by the regional  
21 planning council.

22 (b) Representatives from other member local  
23 general-purpose governments in the geographic area covered by  
24 the regional planning council.

25 (c) Representatives appointed by the Governor from the  
26 geographic area covered by the regional planning council,  
27 including an elected school board member from the geographic  
28 area covered by the regional planning council, to be nominated  
29 by the Florida School Board Association.

30 (3) Not less than two-thirds of the representatives  
31 serving as voting members on the governing bodies of such



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1 regional planning councils shall be elected officials of local  
2 general-purpose governments chosen by the cities and counties  
3 of the region, provided each county shall have at least one  
4 vote. The remaining one-third of the voting members on the  
5 governing board shall be appointed by the Governor, to include  
6 one elected school board member, subject to confirmation by  
7 the Senate, and shall reside in the region. No two appointees  
8 of the Governor shall have their places of residence in the  
9 same county until each county within the region is represented  
10 by a Governor's appointee to the governing board. Nothing  
11 contained in this section shall deny to local governing bodies  
12 or the Governor the option of appointing either locally  
13 elected officials or lay citizens provided at least two-thirds  
14 of the governing body of the regional planning council is  
15 composed of locally elected officials.

16 Section 14. Subsection (6) of section 212.055, Florida  
17 Statutes, is amended to read:

18 212.055 Discretionary sales surtaxes; legislative  
19 intent; authorization and use of proceeds.--It is the  
20 legislative intent that any authorization for imposition of a  
21 discretionary sales surtax shall be published in the Florida  
22 Statutes as a subsection of this section, irrespective of the  
23 duration of the levy. Each enactment shall specify the types  
24 of counties authorized to levy; the rate or rates which may be  
25 imposed; the maximum length of time the surtax may be imposed,  
26 if any; the procedure which must be followed to secure voter  
27 approval, if required; the purpose for which the proceeds may  
28 be expended; and such other requirements as the Legislature  
29 may provide. Taxable transactions and administrative  
30 procedures shall be as provided in s. 212.054.

31 (6) SCHOOL CAPITAL OUTLAY SURTAX.--

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1           (a) The school board in each county may levy, pursuant  
2 to resolution conditioned to take effect only upon approval by  
3 a majority vote of the electors of the county voting in a  
4 referendum, a discretionary sales surtax at a rate that may  
5 not exceed 0.5 percent.

6           (b) The resolution shall include a statement that  
7 provides a brief and general description of the school capital  
8 outlay projects to be funded by the surtax. If applicable, the  
9 resolution must state that the district school board has been  
10 recognized by the State Board of Education as having a Florida  
11 Frugal Schools Program. The statement shall conform to the  
12 requirements of s. 101.161 and shall be placed on the ballot  
13 by the governing body of the county. The following question  
14 shall be placed on the ballot:

15  
16                   ....FOR THE                                   ....CENTS TAX  
17                   ....AGAINST THE                                   ....CENTS TAX  
18

19           (c) As an alternative method of levying the  
20 discretionary sales surtax, the district school board may  
21 levy, pursuant to resolution adopted by a supermajority of the  
22 members of the school board, a discretionary sales surtax at a  
23 rate not to exceed 0.5 percent where the following conditions  
24 are met:

25           1. The district school board and local governments in  
26 the county where the school district is located have adopted  
27 the interlocal agreement and public educational facilities  
28 element required by s. 163.31776;

29           2. The district school board has adopted a district  
30 educational facilities plan pursuant to s. 235.185; and

31           3. The district school board has been recognized by

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1 the State Board of Education as having a Florida Frugal School  
2 Program pursuant to s. 235.2197 and complies with s.  
3 235.2197(2)(b) and (c).

4  
5 For purposes of this paragraph, the term "supermajority vote"  
6 means an affirmative vote of a majority of the membership of  
7 the school board plus one.

8       ~~(d)(c)~~ The resolution providing for the imposition of  
9 the surtax shall set forth a plan for use of the surtax  
10 proceeds for fixed capital expenditures or fixed capital costs  
11 associated with the construction, reconstruction, or  
12 improvement of school facilities and campuses which have a  
13 useful life expectancy of 5 or more years, and any land  
14 acquisition, land improvement, design, and engineering costs  
15 related thereto. Additionally, the plan shall include the  
16 costs of retrofitting and providing for technology  
17 implementation, including hardware and software, for the  
18 various sites within the school district. Surtax revenues may  
19 be used for the purpose of servicing bond indebtedness to  
20 finance projects authorized by this subsection, and any  
21 interest accrued thereto may be held in trust to finance such  
22 projects. Neither the proceeds of the surtax nor any interest  
23 accrued thereto shall be used for operational expenses. If the  
24 district school board has been recognized by the State Board  
25 of Education as having a Florida Frugal Schools Program, the  
26 district's plan for use of the surtax proceeds must be  
27 consistent with this subsection and with uses assured under  
28 the Florida Frugal Schools Program.

29       ~~(e)(d)~~ Any school board imposing the surtax shall  
30 implement a freeze on noncapital local school property taxes,  
31 at the millage rate imposed in the year prior to the

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1 implementation of the surtax, for a period of at least 3 years  
2 from the date of imposition of the surtax. This provision  
3 shall not apply to existing debt service or required state  
4 taxes.

5 (f)~~(e)~~ Surtax revenues collected by the Department of  
6 Revenue pursuant to this subsection shall be distributed to  
7 the school board imposing the surtax in accordance with law.

8 Section 15. Section 235.002, Florida Statutes, is  
9 amended to read:

10 235.002 Intent.--

11 (1) The intent of the Legislature is to:

12 ~~(a) To provide each student in the public education~~  
13 ~~system the availability of an educational environment~~  
14 ~~appropriate to his or her educational needs which is~~  
15 ~~substantially equal to that available to any similar student,~~  
16 ~~notwithstanding geographic differences and varying local~~  
17 ~~economic factors, and to provide facilities for the Florida~~  
18 ~~School for the Deaf and the Blind and other educational~~  
19 ~~institutions and agencies as may be defined by law.~~

20 (a)~~(b)~~ To Encourage the use of innovative designs,  
21 construction techniques, and financing mechanisms in building  
22 educational facilities for the purposes ~~purpose~~ of reducing  
23 costs to the taxpayer, creating a more satisfactory  
24 educational environment, ~~and~~ reducing the amount of time  
25 necessary for design and construction to fill unmet needs, and  
26 permitting the on-site and off-site improvements required by  
27 law.

28 (b)~~(c)~~ To Provide a systematic mechanism whereby  
29 educational facilities construction plans can meet the current  
30 and projected needs of the public education system population  
31 as quickly as possible by building uniform, sound educational

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1 environments and to provide a sound base for planning for  
2 educational facilities needs.

3 ~~(c)(d) To Provide proper legislative support for as~~  
4 ~~wide a range of fiscally sound financing methodologies as~~  
5 ~~possible for the delivery of educational facilities and, where~~  
6 ~~appropriate, for their construction, operation, and~~  
7 ~~maintenance.~~

8 (d) Establish a systematic process of sharing  
9 information between school boards and local governments on the  
10 growth and development trends in their communities in order to  
11 forecast future enrollment and school needs.

12 (e) Establish a systematic process by which school  
13 boards and local governments can cooperatively plan for the  
14 provision of educational facilities to meet the current and  
15 projected needs of the public education system, including the  
16 needs placed on the public education system as a result of  
17 growth and development decisions by local governments.

18 (f) Establish a systematic process by which local  
19 governments and school boards can cooperatively identify and  
20 meet the infrastructure needs of public schools.

21 (2) The Legislature finds and declares that:

22 (a) Public schools are a linchpin to the vitality of  
23 our communities and play a significant role in the thousands  
24 of individual housing decisions that result in community  
25 growth trends.

26 ~~(b)(a)~~ Growth and development issues transcend the  
27 boundaries and responsibilities of individual units of  
28 government, and often no single unit of government can plan or  
29 implement policies to deal with these issues without affecting  
30 other units of government.

31 ~~(c)(b)~~ The effective and efficient provision of public

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1 educational facilities and services enhances ~~is essential to~~  
2 ~~preserving and enhancing~~ the quality of life of the people of  
3 this state.

4 (d)~~(e)~~ The provision of educational facilities often  
5 impacts community infrastructure and services. Assuring  
6 coordinated and cooperative provision of such facilities and  
7 associated infrastructure and services is in the best interest  
8 of the state.

9 Section 16. Section 235.15, Florida Statutes, is  
10 amended to read:

11 235.15 Educational plant survey; localized need  
12 assessment; PECO project funding.--

13 (1) At least every 5 years, each board, including the  
14 Board of Regents, shall arrange for an educational plant  
15 survey, to aid in formulating plans for housing the  
16 educational program and student population, faculty,  
17 administrators, staff, and auxiliary and ancillary services of  
18 the district or campus, including consideration of the local  
19 comprehensive plan. The Division of Workforce Development  
20 shall document the need for additional career and adult  
21 education programs and the continuation of existing programs  
22 before facility construction or renovation related to career  
23 or adult education may be included in the educational plant  
24 survey of a school district or community college that delivers  
25 career or adult education programs. Information used by the  
26 Division of Workforce Development to establish facility needs  
27 must include, but need not be limited to, labor market data,  
28 needs analysis, and information submitted by the school  
29 district or community college.

30 (a) Survey preparation and required data.--Each survey  
31 shall be conducted by the board or an agency employed by the

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1 board. Surveys shall be reviewed and approved by the board,  
2 and a file copy shall be submitted to the Office of  
3 Educational Facilities of the Commissioner of Education. The  
4 survey report shall include at least an inventory of existing  
5 educational and ancillary plants; recommendations for existing  
6 educational and ancillary plants, including safe access  
7 facilities; recommendations for new educational or ancillary  
8 plants, including the general location of each in coordination  
9 with the land use plan and safe access facilities; campus  
10 master plan update and detail for community colleges; the  
11 utilization of school plants based on an extended school day  
12 or year-round operation; and such other information as may be  
13 required by the rules of the State Board of Education. This  
14 report may be amended, if conditions warrant, at the request  
15 of the board or commissioner.

16 (b) Required need assessment criteria for district,  
17 community college, and state university plant surveys.--~~Each~~  
18 ~~Educational plant surveys survey completed after December 31,~~  
19 ~~1997,~~ must use uniform data sources and criteria specified in  
20 this paragraph. ~~Each educational plant survey completed after~~  
21 ~~June 30, 1995, and before January 1, 1998, must be revised, if~~  
22 ~~necessary, to comply with this paragraph.~~ Each revised  
23 educational plant survey and each new educational plant survey  
24 supersedes previous surveys.

25 1. The school district's survey must be submitted as a  
26 part of the district educational facilities plan defined in s.  
27 235.185. ~~Each school district's educational plant survey must~~  
28 ~~reflect the capacity of existing satisfactory facilities as~~  
29 ~~reported in the Florida Inventory of School Houses.~~  
30 ~~Projections of facility space needs may not exceed the norm~~  
31 ~~space and occupant design criteria established by the State~~

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1 ~~Requirements for Educational Facilities. Existing and~~  
2 ~~projected capital outlay full-time equivalent student~~  
3 ~~enrollment must be consistent with data prepared by the~~  
4 ~~department and must include all enrollment used in the~~  
5 ~~calculation of the distribution formula in s. 235.435(3). All~~  
6 ~~satisfactory relocatable classrooms, including those owned,~~  
7 ~~lease-purchased, or leased by the school district, shall be~~  
8 ~~included in the school district inventory of gross capacity of~~  
9 ~~facilities and must be counted at actual student capacity for~~  
10 ~~purposes of the inventory. For future needs determination,~~  
11 ~~student capacity shall not be assigned to any relocatable~~  
12 ~~classroom that is scheduled for elimination or replacement~~  
13 ~~with a permanent educational facility in the adopted 5-year~~  
14 ~~educational plant survey and in the district facilities work~~  
15 ~~program adopted under s. 235.185. Those relocatables clearly~~  
16 ~~identified and scheduled for replacement in a school board~~  
17 ~~adopted financially feasible 5-year district facilities work~~  
18 ~~program shall be counted at zero capacity at the time the work~~  
19 ~~program is adopted and approved by the school board. However,~~  
20 ~~if the district facilities work program is changed or altered~~  
21 ~~and the relocatables are not replaced as scheduled in the work~~  
22 ~~program, they must then be reentered into the system for~~  
23 ~~counting at actual capacity. Relocatables may not be~~  
24 ~~perpetually added to the work program and continually extended~~  
25 ~~for purposes of circumventing the intent of this section. All~~  
26 ~~remaining relocatable classrooms, including those owned,~~  
27 ~~lease-purchased, or leased by the school district, shall be~~  
28 ~~counted at actual student capacity. The educational plant~~  
29 ~~survey shall identify the number of relocatable student~~  
30 ~~stations scheduled for replacement during the 5-year survey~~  
31 ~~period and the total dollar amount needed for that~~



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1 ~~replacement. All district educational plant surveys revised~~  
2 ~~after July 1, 1998, shall include information on leased space~~  
3 ~~used for conducting the district's instructional program, in~~  
4 ~~accordance with the recommendations of the department's report~~  
5 ~~authorized in s. 235.056. A definition of satisfactory~~  
6 ~~relocatable classrooms shall be established by rule of the~~  
7 ~~department.~~

8           2. Each survey of a special facility, joint-use  
9 facility, or cooperative vocational education facility must be  
10 based on capital outlay full-time equivalent student  
11 enrollment data prepared by the department for school  
12 districts, by the Division of Community Colleges for community  
13 colleges, and by the Board of Regents for state universities.  
14 A survey of space needs of a joint-use facility shall be based  
15 upon the respective space needs of the school districts,  
16 community colleges, and universities, as appropriate.  
17 Projections of a school district's facility space needs may  
18 not exceed the norm space and occupant design criteria  
19 established by the State Requirements for Educational  
20 Facilities.

21           3. Each community college's survey must reflect the  
22 capacity of existing facilities as specified in the inventory  
23 maintained by the Division of Community Colleges. Projections  
24 of facility space needs must comply with standards for  
25 determining space needs as specified by rule of the State  
26 Board of Education. The 5-year projection of capital outlay  
27 student enrollment must be consistent with the annual report  
28 of capital outlay full-time student enrollment prepared by the  
29 Division of Community Colleges.

30           4. Each state university's survey must reflect the  
31 capacity of existing facilities as specified in the inventory

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1 maintained and validated by the Board of Regents. Projections  
2 of facility space needs must be consistent with standards for  
3 determining space needs approved by the Board of Regents. The  
4 projected capital outlay full-time equivalent student  
5 enrollment must be consistent with the 5-year planned  
6 enrollment cycle for the State University System approved by  
7 the Board of Regents.

8           5. The district educational facilities plan  
9 ~~educational plant survey~~ of a school district and the  
10 educational plant survey of a community college, or state  
11 university may include space needs that deviate from approved  
12 standards for determining space needs if the deviation is  
13 justified by the district or institution and approved by the  
14 department or the Board of Regents, as appropriate, as  
15 necessary for the delivery of an approved educational program.

16           (c) Review and validation.--The Office of Educational  
17 Facilities of the Commissioner of Education ~~department~~ shall  
18 review and validate the surveys of school districts and  
19 community colleges and any amendments thereto for compliance  
20 with the requirements of this chapter and, ~~when required by~~  
21 ~~the State Constitution~~, shall recommend those in compliance  
22 for approval by the State Board of Education.

23           (2) Only the superintendent or the college president  
24 shall certify to the Office of Educational Facilities of the  
25 Commissioner of Education ~~department~~ a project's compliance  
26 with the requirements for expenditure of PECO funds prior to  
27 release of funds.

28           (a) Upon request for release of PECO funds for  
29 planning purposes, certification must be made to the Office of  
30 Educational Facilities of the Commissioner of Education  
31 ~~department~~ that the need for and location of the facility are

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1 in compliance with the board-approved survey recommendations,  
 2 ~~and that~~ the project meets the definition of a PECO project  
 3 and the limiting criteria for expenditures of PECO funding,  
 4 and the plan is consistent with the local government  
 5 comprehensive plan.

6 (b) Upon request for release of construction funds,  
 7 certification must be made to the Office of Educational  
 8 Facilities of the Commissioner of Education ~~department~~ that  
 9 the need and location of the facility are in compliance with  
 10 the board-approved survey recommendations, that the project  
 11 meets the definition of a PECO project and the limiting  
 12 criteria for expenditures of PECO funding, and that the  
 13 construction documents meet the requirements of the State  
 14 Uniform Building Code for Educational Facilities Construction  
 15 or other applicable codes as authorized in this chapter.

16 Section 17. Subsection (3) of section 235.175, Florida  
 17 Statutes, is amended to read:

18 235.175 SMART schools; Classrooms First; legislative  
 19 purpose.--

20 (3) SCHOOL DISTRICT EDUCATIONAL FACILITIES PLAN WORK  
 21 ~~PROGRAMS~~.--It is the purpose of the Legislature to create s.  
 22 235.185, requiring each school district annually to adopt an  
 23 educational facilities plan that provides an integrated  
 24 long-range facilities plan, including the survey of projected  
 25 needs and the a district facilities 5-year work program. The  
 26 purpose of the educational facilities plan ~~district facilities~~  
 27 ~~work program~~ is to keep the school board, local governments,  
 28 and the public fully informed as to whether the district is  
 29 using sound policies and practices that meet the essential  
 30 needs of students and that warrant public confidence in  
 31 district operations. The educational facilities plan ~~district~~

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1 ~~facilities work program~~ will be monitored by the SMART Schools  
2 Clearinghouse, which will also apply performance standards  
3 pursuant to s. 235.218.

4 Section 18. Section 235.18, Florida Statutes, is  
5 amended to read:

6 235.18 Annual capital outlay budget.--Each board,  
7 including the Board of Regents, shall, each year, adopt a  
8 capital outlay budget for the ensuing year in order that the  
9 capital outlay needs of the board for the entire year may be  
10 well understood by the public. This capital outlay budget  
11 shall be a part of the annual budget and shall be based upon  
12 and in harmony with the educational plant and ancillary  
13 facilities plan. This budget shall designate the proposed  
14 capital outlay expenditures by project for the year from all  
15 fund sources. The board may not expend any funds on any  
16 project not included in the budget, as amended. Each district  
17 school board must prepare its tentative district education  
18 facilities plan ~~facilities work program~~ as required by s.  
19 235.185 before adopting the capital outlay budget.

20 Section 19. Section 235.185, Florida Statutes, is  
21 amended to read:

22 235.185 School district educational facilities plan  
23 ~~work program~~; definitions; preparation, adoption, and  
24 amendment; long-term work programs.--

25 (1) DEFINITIONS.--As used in this section, the term:

26 (a) "Adopted educational facilities plan" means the  
27 comprehensive planning document that is adopted annually by  
28 the district school board as provided in subsection (2) and  
29 that contains the educational plant survey.

30 ~~(a) "Adopted district facilities work program" means~~  
31 ~~the 5-year work program adopted by the district school board~~

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1 ~~as provided in subsection (3).~~

2 (b) ~~"Tentative~~ District facilities work program" means  
3 the 5-year listing of capital outlay projects, adopted by the  
4 district school board as provided in subparagraph (2)(a)2. and  
5 paragraph (2)(b) as part of the district educational  
6 facilities plan, which is required in order to:

7 1. ~~To~~ Properly maintain the educational plant and  
8 ancillary facilities of the district.

9 2. ~~To~~ Provide an adequate number of satisfactory  
10 student stations for the projected student enrollment of the  
11 district in K-12 programs in accordance with the goal in s.  
12 235.062.

13 (c) "Tentative educational facilities plan" means the  
14 comprehensive planning document prepared annually by the  
15 district school board and submitted to the Office of  
16 Educational Facilities of the Commissioner of Education and  
17 the affected general-purpose local governments.

18 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL  
19 FACILITIES PLAN ~~WORK PROGRAM.~~--

20 (a) Annually, prior to the adoption of the district  
21 school budget, each school board shall prepare a tentative  
22 district educational facilities plan that includes long-range  
23 planning for facilities needs over 5-year, 10-year, and  
24 20-year periods. The plan must be developed in coordination  
25 with the general-purpose local governments and be consistent  
26 with the local government comprehensive plans. The school  
27 board's plan for provision of new schools must meet the needs  
28 of all growing communities in the district, ranging from small  
29 rural communities to large urban cities. The plan must include  
30 ~~work program that includes:~~

31 1. Projected student populations apportioned

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1 geographically at the local level. The projections must be  
2 based on information produced by the demographic, revenue, and  
3 education estimating conferences pursuant to s. 216.136, where  
4 available, as modified by the district based on development  
5 data and agreement with the local governments and the Office  
6 of Educational Facilities of the Commissioner of Education.  
7 The projections must be apportioned geographically with  
8 assistance from the local governments using local development  
9 trend data and the school district student enrollment data.

10 2. An inventory of existing school facilities. Any  
11 anticipated expansions or closures of existing school sites  
12 over the 5-year, 10-year, and 20-year periods must be  
13 identified. The inventory must include an assessment of areas  
14 proximate to existing schools and identification of the need  
15 for improvements to infrastructure, safety, including safe  
16 access routes, and conditions in the community. The plan must  
17 also provide a listing of major repairs and renovation  
18 projects anticipated over the period of the plan.

19 3. Projections of facilities space needs, which may  
20 not exceed the norm space and occupant design criteria  
21 established in the State Requirements for Educational  
22 Facilities.

23 4. Information on leased, loaned, and donated space  
24 and relocatables used for conducting the district's  
25 instructional programs.

26 5. The general location of public schools proposed to  
27 be constructed over the 5-year, 10-year, and 20-year time  
28 periods, including a listing of the proposed schools' site  
29 acreage needs and anticipated capacity and maps showing the  
30 general locations. The school board's identification of  
31 general locations of future school sites must be based on the

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1 school siting requirements of s. 163.3177(6)(a) and policies  
2 in the comprehensive plan which provide guidance for  
3 appropriate locations for school sites.

4 6. The identification of options deemed reasonable and  
5 approved by the school board which reduce the need for  
6 additional permanent student stations. Such options may  
7 include, but need not be limited to:

8 a. Acceptable capacity;

9 b. Redistricting;

10 c. Busing;

11 d. Year-round schools; and

12 e. Charter schools.

13 7. The criteria and method, jointly determined by the  
14 local government and the school board, for determining the  
15 impact to public school capacity in response to a local  
16 government request for a report pursuant to s. 235.193(4).

17 (b) The plan must also include a financially feasible  
18 district facilities work program for a 5-year period. The work  
19 program must include:

20 1. A schedule of major repair and renovation projects  
21 necessary to maintain the educational facilities plant and  
22 ancillary facilities of the district.

23 2. A schedule of capital outlay projects necessary to  
24 ensure the availability of satisfactory student stations for  
25 the projected student enrollment in K-12 programs. This  
26 schedule shall consider:

27 a. The locations, capacities, and planned utilization  
28 rates of current educational facilities of the district. The  
29 capacity of existing satisfactory facilities, as reported in  
30 the Florida Inventory of School Houses must be compared to the  
31 capital outlay full-time-equivalent student enrollment as

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1 determined by the department including all enrollment used in  
2 the calculation of the distribution formula in s. 235.435(3).

3       b. The proposed locations of planned facilities,  
4 whether those locations are consistent with the comprehensive  
5 plans of all affected local governments, and recommendations  
6 for infrastructure and other improvements to land adjacent to  
7 existing facilities. The provisions of ss. 235.19 and  
8 235.193(6), (7), and (8) must be addressed for new facilities  
9 planned within the first 3 years of the work plan, as  
10 appropriate.

11       c. Plans for the use and location of relocatable  
12 facilities, leased facilities, and charter school facilities.

13       d. Plans for multitrack scheduling, grade level  
14 organization, block scheduling, or other alternatives that  
15 reduce the need for additional permanent student stations.

16       e. Information concerning average class size and  
17 utilization rate by grade level within the district which that  
18 will result if the tentative district facilities work program  
19 is fully implemented. ~~The average shall not include~~  
20 ~~exceptional student education classes or prekindergarten~~  
21 ~~classes.~~

22       f. The number and percentage of district students  
23 planned to be educated in relocatable facilities during each  
24 year of the tentative district facilities work program. For  
25 determining future needs, student capacity may not be assigned  
26 to any relocatable classroom that is scheduled for elimination  
27 or replacement with a permanent educational facility in the  
28 current year of the adopted district educational facilities  
29 plan and in the district facilities work program adopted under  
30 this section. Those relocatable classrooms clearly identified  
31 and scheduled for replacement in a school-board-adopted,



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1 financially feasible, 5-year district facilities work program  
2 shall be counted at zero capacity at the time the work program  
3 is adopted and approved by the school board. However, if the  
4 district facilities work program is changed and the  
5 relocatable classrooms are not replaced as scheduled in the  
6 work program, the classrooms must be reentered into the system  
7 and be counted at actual capacity. Relocatable classrooms may  
8 not be perpetually added to the work program or continually  
9 extended for purposes of circumventing this section. All  
10 relocatable classrooms not identified and scheduled for  
11 replacement, including those owned, lease-purchased, or leased  
12 by the school district, must be counted at actual student  
13 capacity. The district educational facilities plan must  
14 identify the number of relocatable student stations scheduled  
15 for replacement during the 5-year survey period and the total  
16 dollar amount needed for that replacement.

17 g. Plans for the closure of any school, including  
18 plans for disposition of the facility or usage of facility  
19 space, and anticipated revenues.

20 h. Projects for which capital outlay and debt service  
21 funds accruing under s. 9(d), Art. XII of the State  
22 Constitution are to be used shall be identified separately in  
23 priority order on a project priority list within the district  
24 facilities work program.

25 3. The projected cost for each project identified in  
26 the ~~tentative~~ district facilities work program. For proposed  
27 projects for new student stations, a schedule shall be  
28 prepared comparing the planned cost and square footage for  
29 each new student station, by elementary, middle, and high  
30 school levels, to the low, average, and high cost of  
31 facilities constructed throughout the state during the most

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1 recent fiscal year for which data is available from the  
2 Department of Education.

3 4. A schedule of estimated capital outlay revenues  
4 from each currently approved source which is estimated to be  
5 available for expenditure on the projects included in the  
6 ~~tentative~~ district facilities work program.

7 5. A schedule indicating which projects included in  
8 the ~~tentative~~ district facilities work program will be funded  
9 from current revenues projected in subparagraph 4.

10 6. A schedule of options for the generation of  
11 additional revenues by the district for expenditure on  
12 projects identified in the ~~tentative~~ district facilities work  
13 program which are not funded under subparagraph 5. Additional  
14 anticipated revenues may include effort index grants, SIT  
15 Program awards, and Classrooms First funds.

16 ~~(c)(b)~~ To the extent available, the tentative district  
17 educational facilities plan ~~work program~~ shall be based on  
18 information produced by the demographic, revenue, and  
19 education estimating conferences pursuant to s. 216.136.

20 ~~(d)(c)~~ Provision shall be made for public comment  
21 concerning the tentative district educational facilities plan  
22 ~~work program~~.

23 (e) The district school board shall coordinate with  
24 each affected local government to ensure consistency between  
25 the tentative district educational facilities plan and the  
26 local government comprehensive plans of the affected local  
27 governments during the development of the tentative district  
28 educational facilities plan.

29 (f) Commencing on October 1, 2001, and not less than  
30 once every 5 years thereafter, the district school board shall  
31 contract with a qualified, independent third party to conduct

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1 a financial management and performance audit of the  
2 educational planning and construction activities of the  
3 district. An audit conducted by the Auditor General satisfies  
4 this requirement.

5 (3) SUBMITTAL OF TENTATIVE DISTRICT EDUCATIONAL  
6 FACILITIES PLAN TO LOCAL GOVERNMENT.--The district school  
7 board shall submit a copy of its tentative district  
8 educational facilities plan to all affected local governments  
9 prior to adoption by the board. The affected local governments  
10 shall review the tentative district educational facilities  
11 plan and comment to the district school board on the  
12 consistency of the plan with the local comprehensive plan,  
13 whether a comprehensive plan amendment will be necessary for  
14 any proposed educational facility, and whether the local  
15 government supports a necessary comprehensive plan amendment.  
16 If the local government does not support a comprehensive plan  
17 amendment for a proposed educational facility, the matter  
18 shall be resolved pursuant to the interlocal agreement  
19 required by ss. 163.31776(4) and 235.193(2). The process for  
20 the submittal and review shall be detailed in the interlocal  
21 agreement required pursuant to ss. 163.31776(4) and  
22 235.193(2).

23 (4)~~(3)~~ ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN  
24 ~~WORK PROGRAM~~.--Annually, the district school board shall  
25 consider and adopt the tentative district educational  
26 facilities ~~plan work program~~ completed pursuant to subsection  
27 (2). Upon giving proper ~~public~~ notice to the public and local  
28 ~~governments~~ and opportunity for public comment, the district  
29 school board may amend the ~~plan program~~ to revise the priority  
30 of projects, to add or delete projects, to reflect the impact  
31 of change orders, or to reflect the approval of new revenue

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1 sources which may become available. The adopted district  
2 educational facilities plan work program shall:

3       (a) Be a complete, balanced, and financially feasible  
4 capital outlay financial plan for the district.

5       (b) Set forth the proposed commitments and planned  
6 expenditures of the district to address the educational  
7 facilities needs of its students and to adequately provide for  
8 the maintenance of the educational plant and ancillary  
9 facilities, including safe access ways from neighborhoods to  
10 schools.

11       ~~(5)(4)~~ EXECUTION OF ADOPTED DISTRICT EDUCATIONAL  
12 FACILITIES PLAN WORK PROGRAM.--The first year of the adopted  
13 district educational facilities plan work program shall  
14 constitute the capital outlay budget required in s. 235.18.  
15 The adopted district educational facilities plan work program  
16 shall include the information required in subparagraphs  
17 (2)(b)1., 2., and 3.(2)(a)1., 2., and 3., based upon projects  
18 actually funded in the program.

19       ~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.~~--In addition to  
20 ~~the adopted district facilities work program covering the~~  
21 ~~5-year work program, the district school board shall adopt~~  
22 ~~annually a 10-year and a 20-year work program which include~~  
23 ~~the information set forth in subsection (2), but based upon~~  
24 ~~enrollment projections and facility needs for the 10-year and~~  
25 ~~20-year periods. It is recognized that the projections in the~~  
26 ~~10-year and 20-year timeframes are tentative and should be~~  
27 ~~used only for general planning purposes.~~

28       Section 20. Section 235.188, Florida Statutes, is  
29 amended to read:

30       235.188 Full bonding required to participate in  
31 programs.--Any district with unused bonding capacity in its

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1 Capital Outlay and Debt Service Trust Fund allocation that  
 2 certifies in its district educational facilities plan work  
 3 ~~program~~ that it will not be able to meet all of its need for  
 4 new student stations within existing revenues must fully bond  
 5 its Capital Outlay and Debt Service Trust Fund allocation  
 6 before it may participate in Classrooms First, the School  
 7 Infrastructure Thrift (SIT) Program, or the Effort Index  
 8 Grants Program.

9 Section 21. Section 235.19, Florida Statutes, is  
 10 amended to read:

11 235.19 Site planning and selection.--

12 (1) If the school board and local government have  
 13 entered into an interlocal agreement pursuant to ss.  
 14 163.31776(4) and 235.193(2) and have developed a process to  
 15 ensure consistency between the local government comprehensive  
 16 plan and the school district educational facilities plan and a  
 17 method to coordinate decisionmaking and approved activities  
 18 relating to school planning and site selection, the provisions  
 19 of this section do not apply to such school board and local  
 20 government.

21 (2)~~(1)~~ Before acquiring property for sites, each board  
 22 shall determine the location of proposed educational centers  
 23 or campuses for the board. In making this determination, the  
 24 board shall consider existing and anticipated site needs and  
 25 the most economical and practicable locations of sites. The  
 26 board shall coordinate with the long-range or comprehensive  
 27 plans of local, regional, and state governmental agencies to  
 28 assure the consistency ~~compatibility~~ of such plans ~~with site~~  
 29 ~~planning~~. Boards are encouraged to locate schools proximate to  
 30 urban residential areas to the extent possible, and shall seek  
 31 to collocate schools with other public facilities, such as

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1 parks, libraries, and community centers, to the extent  
2 possible and to encourage using elementary schools as focal  
3 points for neighborhoods.

4 ~~(3)(2)~~ Each new site selected must be adequate in size  
5 to meet the educational needs of the students to be served on  
6 that site by the original educational facility or future  
7 expansions of the facility through renovation or the addition  
8 of relocatables. ~~The Commissioner of Education shall prescribe~~  
9 ~~by rule recommended sizes for new sites according to~~  
10 ~~categories of students to be housed and other appropriate~~  
11 ~~factors determined by the commissioner. Less than recommended~~  
12 ~~site sizes are allowed if the board, by a two-thirds majority,~~  
13 ~~recommends such a site and finds that it can provide an~~  
14 ~~appropriate and equitable educational program on the site.~~

15 ~~(4)(3)~~ Sites recommended for purchase, or purchased,  
16 in accordance with chapter 230 or chapter 240 must meet  
17 standards prescribed therein and such supplementary standards  
18 as the school board commissioner prescribes to promote the  
19 educational interests of the students. Each site must be well  
20 drained and suitable for outdoor educational purposes as  
21 appropriate for the educational program or colocated with  
22 facilities to serve this purpose. As provided in s. 333.03,  
23 the site must not be located within any path of flight  
24 approach of any airport. Insofar as is practicable, the site  
25 must not adjoin a right-of-way of any railroad or through  
26 highway and must not be adjacent to any factory or other  
27 property from which noise, odors, or other disturbances, or at  
28 which conditions, would be likely to interfere with the  
29 educational program. To the extent practicable, sites must be  
30 chosen that will provide safe access from neighborhoods to  
31 schools.

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1           (5)~~(4)~~ It shall be the responsibility of the board to  
2 provide adequate notice to appropriate municipal, county,  
3 regional, and state governmental agencies for requested  
4 traffic control and safety devices so they can be installed  
5 and operating prior to the first day of classes or to satisfy  
6 itself that every reasonable effort has been made in  
7 sufficient time to secure the installation and operation of  
8 such necessary devices prior to the first day of classes. It  
9 shall also be the responsibility of the board to review  
10 annually traffic control and safety device needs and to  
11 request all necessary changes indicated by such review.

12           (6)~~(5)~~ Each board may request county and municipal  
13 governments to construct and maintain sidewalks and bicycle  
14 trails within a 2-mile radius of each educational facility  
15 within the jurisdiction of the local government. When a board  
16 discovers or is aware of an existing hazard on or near a  
17 public sidewalk, street, or highway within a 2-mile radius of  
18 a school site and the hazard endangers the life or threatens  
19 the health or safety of students who walk, ride bicycles, or  
20 are transported regularly between their homes and the school  
21 in which they are enrolled, the board shall, within 24 hours  
22 after discovering or becoming aware of the hazard, excluding  
23 Saturdays, Sundays, and legal holidays, report such hazard to  
24 the governmental entity within the jurisdiction of which the  
25 hazard is located. Within 5 days after receiving notification  
26 by the board, excluding Saturdays, Sundays, and legal  
27 holidays, the governmental entity shall investigate the  
28 hazardous condition and either correct it or provide such  
29 precautions as are practicable to safeguard students until the  
30 hazard can be permanently corrected. However, if the  
31 governmental entity that has jurisdiction determines upon

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1 investigation that it is impracticable to correct the hazard,  
2 or if the entity determines that the reported condition does  
3 not endanger the life or threaten the health or safety of  
4 students, the entity shall, within 5 days after notification  
5 by the board, excluding Saturdays, Sundays, and legal  
6 holidays, inform the board in writing of its reasons for not  
7 correcting the condition. The governmental entity, to the  
8 extent allowed by law, shall indemnify the board from any  
9 liability with respect to accidents or injuries, if any,  
10 arising out of the hazardous condition.

11 Section 22. Section 235.193, Florida Statutes, is  
12 amended to read:

13 235.193 Coordination of planning with local governing  
14 bodies.--

15 (1) It is the policy of this state to require the  
16 coordination of planning between boards and local governing  
17 bodies to ensure that plans for the construction and opening  
18 of public educational facilities are facilitated and  
19 coordinated in time and place with plans for residential  
20 development, concurrently with other necessary services. Such  
21 planning shall include the integration of the educational  
22 facilities plan ~~plant survey~~ and applicable policies and  
23 procedures of a board with the local comprehensive plan and  
24 land development regulations of local governments ~~governing~~  
25 ~~bodies~~. The planning must include the consideration of  
26 allowing students to attend the school located nearest their  
27 homes when a new housing development is constructed near a  
28 county boundary and it is more feasible to transport the  
29 students a short distance to an existing facility in an  
30 adjacent county than to construct a new facility or transport  
31 students longer distances in their county of residence. The



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1 planning must also consider the effects of the location of  
2 public education facilities, including the feasibility of  
3 keeping central city facilities viable, in order to encourage  
4 central city redevelopment and the efficient use of  
5 infrastructure and to discourage uncontrolled urban sprawl. In  
6 addition, all parties to the planning process must consult  
7 with state and local road departments to assist in  
8 implementing the Safe Paths to Schools program administered by  
9 the Department of Transportation.

10 (2) No later than 6 months prior to the transmittal of  
11 a public educational facilities element by general purpose  
12 local governments meeting the criteria of s. 163.31776(3), the  
13 school district, the county, and the non-exempt municipalities  
14 shall enter into an interlocal agreement that establishes a  
15 process for developing coordinated and consistent local  
16 government public educational facilities elements and a  
17 district educational facilities plan, including a process:

18 (a) By which each local government and the school  
19 district agree and base the local government comprehensive  
20 plan and educational facilities plan on uniform projections of  
21 the amount, type, and distribution of population growth and  
22 student enrollment.

23 (b) To coordinate and share information relating to  
24 existing and planned public school facilities and local  
25 government plans for development and redevelopment.

26 (c) To ensure that school-siting decisions by the  
27 school board are consistent with the local comprehensive plan,  
28 including appropriate circumstances and criteria under which a  
29 school district may request an amendment to the comprehensive  
30 plan for school siting, and to ensure early involvement by the  
31 local government as the school board identifies potential

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1 school sites.

2 (d) To coordinate and provide timely formal comments  
3 during the development, adoption, and amendment of each local  
4 government's public educational facilities element and the  
5 educational facilities plan of the school district to ensure a  
6 uniform, countywide school facility planning system.

7 (e) For school-district participation in the review of  
8 comprehensive plan amendments and rezonings that increase  
9 residential density and that are reasonably expected to have  
10 an impact on public school facility demand pursuant to s.  
11 163.31777. The interlocal agreement must specify how the  
12 school board and local governments will develop the  
13 methodology and the criteria for determining whether school  
14 facility capacity will be reasonably available at the time of  
15 projected school impacts, including uniform, districtwide  
16 level-of-service standards for all public schools of the same  
17 type and availability standards for public schools. The  
18 interlocal agreement shall ensure that consistent criteria and  
19 capacity-determination methodologies including student  
20 generation multipliers are adopted into the school board's  
21 district educational facilities plan and the local  
22 government's public educational facilities element. The  
23 interlocal agreement shall also set forth the process and  
24 uniform methodology for determining proportionate-share  
25 mitigation pursuant to s. 163.31777.

26 (f) For the resolution of disputes between the school  
27 district and local governments.

28  
29 Any school board entering into an interlocal agreement for the  
30 purpose of adopting public school concurrency prior to the  
31 effective date of this act is not required to amend the

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1 interlocal agreement to conform to the provisions of this  
2 subsection if the comprehensive plan amendment adopting public  
3 school concurrency is ultimately determined to be in  
4 compliance.

5 (3) Failure to enter into an interlocal agreement as  
6 required by s. 235.193(2) shall result in the withholding of  
7 funds for school construction available pursuant to ss.  
8 235.187, 235.216, 235.2195, and 235.42 and a prohibition from  
9 siting schools. Before the Office of Educational Facilities of  
10 the Commissioner of Education may withhold any funds, the  
11 office shall provide the school board with a notice of intent  
12 to withhold funds, which the school board may appeal under  
13 chapter 120. The office shall withhold funds when a final  
14 order is issued finding that the school board has failed to  
15 enter into an interlocal agreement that meets the requirements  
16 of this section.

17 (4) The school board shall report to the local  
18 government on school capacity when the local government  
19 notifies the school board that it is reviewing an application  
20 for a comprehensive plan amendment or a rezoning that seeks to  
21 increase residential density. The report must provide data and  
22 analysis as required by s. 163.31777(2) for the local  
23 government's review of the proposed plan amendment or  
24 rezoning.

25 (5)~~(2)~~ A school board and the local governing body  
26 must share and coordinate information related to existing and  
27 planned public school facilities; proposals for development,  
28 redevelopment, or additional development; and infrastructure  
29 required to support the public school facilities, concurrent  
30 with proposed development. A school board shall use  
31 information produced by the demographic, revenue, and

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1 education estimating conferences pursuant to s. 216.136  
2 ~~Department of Education enrollment projections~~ when preparing  
3 the ~~5-year~~ district educational facilities plan work program  
4 pursuant to s. 235.185, as modified and agreed to by the local  
5 governments and the Office of Educational Facilities of the  
6 Commissioner of Education, in and a school board shall  
7 ~~affirmatively demonstrate in the educational facilities report~~  
8 consideration of local governments' population projections, to  
9 ensure that the district educational facilities plan 5-year  
10 ~~work program~~ not only reflects enrollment projections but also  
11 considers applicable municipal and county growth and  
12 development projections. The projections shall be apportioned  
13 geographically with assistance from the local governments  
14 using local government trend data and the school district  
15 student enrollment data. A school board is precluded from  
16 siting a new school in a jurisdiction where the school board  
17 has failed to provide the annual educational facilities plan  
18 ~~report~~ for the prior year required pursuant to s. 235.185 s.  
19 ~~235.194~~ unless the failure is corrected.

20 ~~(6)(3)~~ The location of public educational facilities  
21 shall be consistent with the comprehensive plan of the  
22 appropriate local governing body developed under part II of  
23 chapter 163 and consistent with the plan's implementing land  
24 development regulations, ~~to the extent that the regulations~~  
25 ~~are not in conflict with or the subject regulated is not~~  
26 ~~specifically addressed by this chapter or the State Uniform~~  
27 ~~Building Code, unless mutually agreed by the local government~~  
28 ~~and the board.~~

29 ~~(7)(4)~~ To improve coordination relative to potential  
30 educational facility sites, a board shall provide written  
31 notice to the local government that has regulatory authority

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1 over the use of the land at least 120 ~~60~~ days prior to  
2 acquiring or leasing property that may be used for a new  
3 public educational facility. The local government, upon  
4 receipt of this notice, shall notify the board within 45 days  
5 if the site proposed for acquisition or lease is consistent  
6 with the land use categories and policies of the local  
7 government's comprehensive plan. This preliminary notice does  
8 not constitute the local government's determination of  
9 consistency pursuant to subsection (8) ~~(5)~~.

10 (8) ~~(5)~~ As early in the design phase as feasible, but  
11 at least before commencing construction of a new public  
12 educational facility, the local governing body that regulates  
13 the use of land shall determine, in writing within 90 days  
14 after receiving the necessary information and a school board's  
15 request for a determination, whether a proposed public  
16 educational facility is consistent with the local  
17 comprehensive plan and consistent with local land development  
18 regulations, to the extent that the regulations are not in  
19 conflict with or the subject regulated is not specifically  
20 addressed by this chapter or the State Uniform Building Code,  
21 unless mutually agreed. If the determination is affirmative,  
22 school construction may proceed and further local government  
23 approvals are not required, except as provided in this  
24 section. Failure of the local governing body to make a  
25 determination in writing within 90 days after a school board's  
26 request for a determination of consistency shall be considered  
27 an approval of the school board's application.

28 (9) ~~(6)~~ A local governing body may not deny the site  
29 applicant based on adequacy of the site plan as it relates  
30 solely to the needs of the school. If the site is consistent  
31 with the comprehensive plan's ~~future~~ land use policies and

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1 categories in which public schools are identified as allowable  
2 uses, the local government may not deny the application but it  
3 may impose reasonable development standards and conditions in  
4 accordance with s. 235.34(1) and consider the site plan and  
5 its adequacy as it relates to environmental concerns, health,  
6 safety and welfare, and effects on adjacent property.  
7 Standards and conditions may not be imposed which conflict  
8 with those established in this chapter or the State Uniform  
9 Building Code, unless mutually agreed.

10 (10)(7) This section does not prohibit a local  
11 governing body and district school board from agreeing and  
12 establishing an alternative process for reviewing a proposed  
13 educational facility and site plan, and offsite impacts  
14 pursuant to an interlocal agreement adopted in accordance with  
15 this section.

16 (11)(8) Existing schools shall be considered  
17 consistent with the applicable local government comprehensive  
18 plan adopted under part II of chapter 163. ~~The collocation of~~  
19 ~~a new proposed public educational facility with an existing~~  
20 ~~public educational facility, or the expansion of an existing~~  
21 ~~public educational facility is not inconsistent with the local~~  
22 ~~comprehensive plan, if the site is consistent with the~~  
23 ~~comprehensive plan's future land use policies and categories~~  
24 ~~in which public schools are identified as allowable uses, and~~  
25 ~~levels of service adopted by the local government for any~~  
26 ~~facilities affected by the proposed location for the new~~  
27 ~~facility are maintained.~~ If a board submits an application to  
28 expand an existing school site, the local governing body may  
29 impose reasonable development standards and conditions on the  
30 expansion only, and in a manner consistent with s. 235.34(1).  
31 Standards and conditions may not be imposed which conflict

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1 with those established in this chapter or the State Uniform  
2 Building Code, unless mutually agreed. Local government review  
3 or approval is not required for:

4 (a) The placement of temporary or portable classroom  
5 facilities; or

6 (b) Proposed renovation or construction on existing  
7 school sites, with the exception of construction that changes  
8 the primary use of a facility, includes stadiums, or results  
9 in a greater than 5 percent increase in student capacity, or  
10 as mutually agreed.

11 Section 23. Section 235.194, Florida Statutes, is  
12 repealed.

13 Section 24. Section 235.218, Florida Statutes, is  
14 amended to read:

15 235.218 School district educational facilities plan  
16 ~~work program~~ performance and productivity standards;  
17 development; measurement; application.--

18 (1) The SMART Schools Clearinghouse shall develop and  
19 adopt measures for evaluating the performance and productivity  
20 of school district educational facilities plans ~~work programs~~.  
21 The measures may be both quantitative and qualitative and  
22 must, to the maximum extent practical, assess those factors  
23 that are within the districts' control. The measures must, at  
24 a minimum, assess performance in the following areas:

25 (a) Frugal production of high-quality projects.

26 (b) Efficient finance and administration.

27 (c) Optimal school and classroom size and utilization  
28 rate.

29 (d) Safety.

30 (e) Core facility space needs and cost-effective  
31 capacity improvements that consider demographic projections.

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1           (f) Level of district local effort.

2           (2) The clearinghouse shall establish annual  
3 performance objectives and standards that can be used to  
4 evaluate district performance and productivity.

5           (3) The clearinghouse shall conduct ongoing  
6 evaluations of district educational facilities program  
7 performance and productivity, using the measures adopted under  
8 this section. If, using these measures, the clearinghouse  
9 finds that a district failed to perform satisfactorily, the  
10 clearinghouse must recommend to the district school board  
11 actions to be taken to improve the district's performance.

12           Section 25. Section 235.321, Florida Statutes, is  
13 amended to read:

14           235.321 Changes in construction requirements after  
15 award of contract.--The board may, at its option and by  
16 written policy duly adopted and entered in its official  
17 minutes, authorize the superintendent or president or other  
18 designated individual to approve change orders in the name of  
19 the board for preestablished amounts. Approvals shall be for  
20 the purpose of expediting the work in progress and shall be  
21 reported to the board and entered in its official minutes. For  
22 accountability, the school district shall monitor and report  
23 the impact of change orders on its district educational  
24 facilities plan ~~work program~~ pursuant to s. 235.185.

25           Section 26. Paragraph (d) of subsection (5) of section  
26 236.25, Florida Statutes, is amended, and subsection (6) is  
27 added to that section, to read:

28           236.25 District school tax.--

29           (5)

30           (d) Notwithstanding any other provision of this  
31 subsection, if through its adopted educational facilities plan



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1 ~~work program~~ a district has clearly identified the need for an  
2 ancillary plant, has provided opportunity for public input as  
3 to the relative value of the ancillary plant versus an  
4 educational plant, and has obtained public approval, the  
5 district may use revenue generated by the millage levy  
6 authorized by subsection (2) for the acquisition,  
7 construction, renovation, remodeling, maintenance, or repair  
8 of an ancillary plant.

9  
10 A district that violates these expenditure restrictions shall  
11 have an equal dollar reduction in funds appropriated to the  
12 district under s. 236.081 in the fiscal year following the  
13 audit citation. The expenditure restrictions do not apply to  
14 any school district that certifies to the Commissioner of  
15 Education that all of the district's instructional space needs  
16 for the next 5 years can be met from capital outlay sources  
17 that the district reasonably expects to receive during the  
18 next 5 years or from alternative scheduling or construction,  
19 leasing, rezoning, or technological methodologies that exhibit  
20 sound management.

21 (6) In addition to the maximum millage levied under  
22 this section and the General Appropriations Act, a school  
23 district may levy, by local referendum or in a general  
24 election, additional millage for school operational purposes  
25 up to an amount that, when combined with nonvoted millage  
26 levied under this section, does not exceed the 10-mill limit  
27 established in s. 9(b), Art. VII of the State Constitution.  
28 Any such levy shall be for a maximum of 4 years and shall be  
29 counted as part of the 10-mill limit established in s. 9(b),  
30 Art. VII of the State Constitution. Millage elections  
31 conducted under the authority granted pursuant to this section

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1 are subject to ss. 236.31 and 236.32. Funds generated by such  
2 additional millage do not become a part of the calculation of  
3 the Florida Education Finance Program total potential funds in  
4 2001-2002 or any subsequent year and must not be incorporated  
5 in the calculation of any hold-harmless or other component of  
6 the Florida Education Finance Program formula in any year.

7 Section 27. Section 236.31, Florida Statutes, is  
8 amended to read:

9 236.31 District millage elections.--

10 (1) The school board, pursuant to resolution adopted  
11 at a regular meeting, shall direct the county commissioners to  
12 call an election at which the electors within the school  
13 districts may approve an ad valorem tax millage as authorized  
14 in s. 9, Art. VII of the State Constitution. Such election may  
15 be held at any time, except that not more than one such  
16 election shall be held during any 12-month period. Any  
17 millage so authorized shall be levied for a period not in  
18 excess of 2 years or until changed by another millage  
19 election, whichever is the earlier. In the event any such  
20 election is invalidated by a court of competent jurisdiction,  
21 such invalidated election shall be considered not to have been  
22 held.

23 (2) The school board, pursuant to resolution adopted  
24 at a regular meeting, shall direct the county commissioners to  
25 call an election at which the electors within the school  
26 district may approve an ad valorem tax millage as authorized  
27 under s. 236.25(6). Such election may be held at any time,  
28 except that not more than one such election shall be held  
29 during any 12-month period. Any millage so authorized shall be  
30 levied for a period not in excess of 4 years or until changed  
31 by another millage election, whichever is earlier. If any such

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1 election is invalidated by a court of competent jurisdiction,  
2 such invalidated election shall be considered not to have been  
3 held.

4 Section 28. Section 236.32, Florida Statutes, is  
5 amended to read:

6 (Substantial rewording of section. See  
7 s. 236.32, F.S., for present text.)

8 236.32 Procedures for holding and conducting school  
9 district millage elections.--

10 (1) HOLDING ELECTIONS.--All school district millage  
11 elections shall be held and conducted in the manner prescribed  
12 by law for holding general elections, except as provided in  
13 this chapter.

14 (2) FORM OF BALLOT.--

15 (a) The school board may propose a single millage or  
16 two millages, with one for operating expenses and another for  
17 a local capital improvement reserve fund. When two millage  
18 figures are proposed, each millage must be voted on  
19 separately.

20 (b) The school board shall provide the wording of the  
21 substance of the measure and the ballot title in the  
22 resolution calling for the election. The wording of the  
23 ballot must conform to the provisions of s. 101.161.

24 (3) QUALIFICATION OF ELECTORS.--All qualified electors  
25 of the school district are entitled to vote in the election to  
26 set the school tax district millage levy.

27 (4) RESULTS OF ELECTION.--When the school board  
28 proposes one tax levy for operating expenses and another for  
29 the local capital improvement reserve fund, the results shall  
30 be considered separately. The tax levy shall be levied only  
31 in case a majority of the electors participating in the

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1 election vote in favor of the proposed special millage.

2 Section 29. Paragraph (e) of subsection (2),  
3 subsection (12), paragraph (c) of subsection (15), and  
4 subsections (18) and (19) of section 380.06, Florida Statutes,  
5 are amended to read:

6 380.06 Developments of regional impact.--

7 (2) STATEWIDE GUIDELINES AND STANDARDS.--

8 (e) With respect to residential, hotel, motel, office,  
9 and retail developments, the applicable guidelines and  
10 standards shall be increased by 50 percent in urban central  
11 business districts and regional activity centers of  
12 jurisdictions whose local comprehensive plans are in  
13 compliance with part II of chapter 163. With respect to  
14 multiuse developments, the applicable guidelines and standards  
15 shall be increased by 100 percent in urban central business  
16 districts and regional activity centers of jurisdictions whose  
17 local comprehensive plans are in compliance with part II of  
18 chapter 163, if one land use of the multiuse development is  
19 residential and amounts to not less than 35 percent of the  
20 jurisdiction's applicable residential threshold. With respect  
21 to resort or convention hotel developments, the applicable  
22 guidelines and standards shall be increased by 150 percent in  
23 urban central business districts and regional activity centers  
24 of jurisdictions whose local comprehensive plans are in  
25 compliance with part II of chapter 163 and where the increase  
26 is specifically for a proposed resort or convention hotel  
27 located in a county with a population greater than 500,000 and  
28 the local government specifically designates that the proposed  
29 resort or convention hotel development will serve an existing  
30 convention center of more than 250,000 gross square feet built  
31 prior to July 1, 1992. The applicable guidelines and standards

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1 shall be increased by 150 percent for development in any area  
2 designated by the Governor as a rural area of critical  
3 economic concern pursuant to s. 288.0656 during the effective  
4 period of the designation.~~The Administration Commission, upon~~  
5 ~~the recommendation of the state land planning agency, shall~~  
6 ~~implement this paragraph by rule no later than December 1,~~  
7 ~~1993. The increased guidelines and standards authorized by~~  
8 ~~this paragraph shall not be implemented until the~~  
9 ~~effectiveness of the rule which, among other things, shall set~~  
10 ~~forth the pertinent characteristics of urban central business~~  
11 ~~districts and regional activity centers.~~

12 (12) REGIONAL REPORTS.--

13 (a) Within 50 days after receipt of the notice of  
14 public hearing required in paragraph (11)(c), the regional  
15 planning agency, if one has been designated for the area  
16 including the local government, shall prepare and submit to  
17 the local government a report and recommendations on the  
18 regional impact of the proposed development. In preparing its  
19 report and recommendations, the regional planning agency shall  
20 identify regional issues based upon the following review  
21 criteria and make recommendations to the local government on  
22 these regional issues, specifically considering whether, and  
23 the extent to which:

24 1. The development will have a favorable or  
25 unfavorable impact on state or regional resources or  
26 facilities identified in the applicable state or regional  
27 plans. For the purposes of this subsection, "applicable state  
28 plan" means the state comprehensive plan. For the purposes of  
29 this subsection, "applicable regional plan" means an adopted  
30 comprehensive regional policy plan until the adoption of a  
31 strategic regional policy plan pursuant to s. 186.508, and

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1 thereafter means an adopted strategic regional policy plan.

2           2. The development will significantly impact adjacent  
3 jurisdictions. At the request of the appropriate local  
4 government, regional planning agencies may also review and  
5 comment upon issues that affect only the requesting local  
6 government.

7           3. As one of the issues considered in the review in  
8 subparagraphs 1. and 2., the development will favorably or  
9 adversely affect the ability of people to find adequate  
10 housing reasonably accessible to their places of employment.  
11 The determination should take into account information on  
12 factors that are relevant to the availability of reasonably  
13 accessible adequate housing. Adequate housing means housing  
14 that is available for occupancy and that is not substandard.

15           (b) At the request of the regional planning agency,  
16 other appropriate agencies shall review the proposed  
17 development and shall prepare reports and recommendations on  
18 issues that are clearly within the jurisdiction of those  
19 agencies. Such agency reports shall become part of the  
20 regional planning agency report; however, the regional  
21 planning agency may attach dissenting views. When water  
22 management district and Department of Environmental Protection  
23 permits have been issued pursuant to chapter 373 or chapter  
24 403, the regional planning council may comment on the regional  
25 implications of the permits but may not offer conflicting  
26 recommendations.

27           (c) The regional planning agency shall afford the  
28 developer or any substantially affected party reasonable  
29 opportunity to present evidence to the regional planning  
30 agency head relating to the proposed regional agency report  
31 and recommendations.

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1           (d) Where the location of a proposed development  
2 involves land within the boundaries of multiple regional  
3 planning councils, the state land planning agency shall  
4 designate a lead regional planning council. The lead regional  
5 planning council shall prepare the regional report.

6           (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

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

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

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

29           4. Shall specify the requirements for the biennial  
30 ~~annual~~ report designated under subsection (18), including the  
31 date of submission, parties to whom the report is submitted,

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1 and contents of the report, based upon the rules adopted by  
2 the state land planning agency. Such rules shall specify the  
3 scope of any additional local requirements that may be  
4 necessary for the report.

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

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

9 (18) BIENNIAL ANNUAL REPORTS.--The developer shall  
10 submit a biennial ~~an annual~~ report on the development of  
11 regional impact to the local government, the regional planning  
12 agency, the state land planning agency, and all affected  
13 permit agencies in alternate years on the date specified in  
14 the development order, unless the development order by its  
15 terms requires more frequent monitoring. If the annual report  
16 is not received, the regional planning agency or the state  
17 land planning agency shall notify the local government. If  
18 the local government does not receive the biennial ~~annual~~  
19 report or receives notification that the regional planning  
20 agency or the state land planning agency has not received the  
21 report, the local government shall request in writing that the  
22 developer submit the report within 30 days. The failure to  
23 submit the report after 30 days shall result in the temporary  
24 suspension of the development order by the local government.  
25 If no additional development pursuant to the development order  
26 has occurred since the submission of the previous report, a  
27 letter from the developer stating that no development has  
28 occurred satisfies the requirement for a report. Development  
29 orders that require annual reports may be amended to require  
30 biennial reports at the option of the local government.

31 (19) SUBSTANTIAL DEVIATIONS.--



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1           (a) Any proposed change to a previously approved  
2 development which creates a reasonable likelihood of  
3 additional regional impact, or any type of regional impact  
4 created by the change not previously reviewed by the regional  
5 planning agency, shall constitute a substantial deviation and  
6 shall cause the development to be subject to further  
7 development-of-regional-impact review. There are a variety of  
8 reasons why a developer may wish to propose changes to an  
9 approved development of regional impact, including changed  
10 market conditions. The procedures set forth in this  
11 subsection are for that purpose.

12           (b) Any proposed change to a previously approved  
13 development of regional impact or development order condition  
14 which, either individually or cumulatively with other changes,  
15 exceeds any of the following criteria shall constitute a  
16 substantial deviation and shall cause the development to be  
17 subject to further development-of-regional-impact review  
18 without the necessity for a finding of same by the local  
19 government:

20           1. An increase in the number of parking spaces at an  
21 attraction or recreational facility by 5 percent or 300  
22 spaces, whichever is greater, or an increase in the number of  
23 spectators that may be accommodated at such a facility by 5  
24 percent or 1,000 spectators, whichever is greater.

25           2. A new runway, a new terminal facility, a 25-percent  
26 lengthening of an existing runway, or a 25-percent increase in  
27 the number of gates of an existing terminal, but only if the  
28 increase adds at least three additional gates. However, if an  
29 airport is located in two counties, a 10-percent lengthening  
30 of an existing runway or a 20-percent increase in the number  
31 of gates of an existing terminal is the applicable criteria.

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- 1           3. An increase in the number of hospital beds by 5  
2 percent or 60 beds, whichever is greater.
- 3           4. An increase in industrial development area by 5  
4 percent or 32 acres, whichever is greater.
- 5           5. An increase in the average annual acreage mined by  
6 5 percent or 10 acres, whichever is greater, or an increase in  
7 the average daily water consumption by a mining operation by 5  
8 percent or 300,000 gallons, whichever is greater. An increase  
9 in the size of the mine by 5 percent or 750 acres, whichever  
10 is less.
- 11          6. An increase in land area for office development by  
12 5 percent ~~or 6 acres, whichever is greater,~~ or an increase of  
13 gross floor area of office development by 5 percent or 60,000  
14 gross square feet, whichever is greater.
- 15          7. An increase in the storage capacity for chemical or  
16 petroleum storage facilities by 5 percent, 20,000 barrels, or  
17 7 million pounds, whichever is greater.
- 18          8. An increase of development at a waterport of wet  
19 storage for 20 watercraft, dry storage for 30 watercraft, or  
20 wet/dry storage for 60 watercraft in an area identified in the  
21 state marina siting plan as an appropriate site for additional  
22 waterport development or a 5-percent increase in watercraft  
23 storage capacity, whichever is greater.
- 24          9. An increase in the number of dwelling units by 5  
25 percent or 50 dwelling units, whichever is greater.
- 26          10. An increase in commercial development by ~~6 acres~~  
27 ~~of land area or by~~ 50,000 square feet of gross floor area, ~~or~~  
28 of parking spaces provided for customers for 300 cars or a  
29 5-percent increase of either ~~any~~ of these, whichever is  
30 greater.
- 31          11. An increase in hotel or motel facility units by 5

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1 percent or 75 units, whichever is greater.

2 12. An increase in a recreational vehicle park area by  
3 5 percent or 100 vehicle spaces, whichever is less.

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

6 14. A proposed increase to an approved multiuse  
7 development of regional impact where the sum of the increases  
8 of each land use as a percentage of the applicable substantial  
9 deviation criteria is equal to or exceeds 100 percent. The  
10 percentage of any decrease in the amount of open space shall  
11 be treated as an increase for purposes of determining when 100  
12 percent has been reached or exceeded.

13 15. A 15-percent increase in the number of external  
14 vehicle trips generated by the development above that which  
15 was projected during the original  
16 development-of-regional-impact review.

17 16. Any change which would result in development of  
18 any area which was specifically set aside in the application  
19 for development approval or in the development order for  
20 preservation or special protection of endangered or threatened  
21 plants or animals designated as endangered, threatened, or  
22 species of special concern and their habitat, primary dunes,  
23 or archaeological and historical sites designated as  
24 significant by the Division of Historical Resources of the  
25 Department of State. The further refinement of such areas by  
26 survey shall be considered under sub-subparagraph (e)5.b.

27  
28 The substantial deviation numerical standards in subparagraphs  
29 4., 6., 10., 14., excluding residential uses, and 15., are  
30 increased by 100 percent for a project certified under s.  
31 403.973 which creates jobs and meets criteria established by

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1 the Office of Tourism, Trade, and Economic Development as to  
2 its impact on an area's economy, employment, and prevailing  
3 wage and skill levels. The substantial deviation numerical  
4 standards in subparagraphs 4., 6., 9., 10., 11., and 14. are  
5 increased by 50 percent for a project located wholly within an  
6 urban infill and redevelopment area designated on the  
7 applicable adopted local comprehensive plan future land use  
8 map and not located within the coastal high hazard area.

9 (c) An extension of the date of buildout of a  
10 development, or any phase thereof, by 7 or more years shall be  
11 presumed to create a substantial deviation subject to further  
12 development-of-regional-impact review. An extension of the  
13 date of buildout, or any phase thereof, of 5 years or more but  
14 less than 7 years shall be presumed not to create a  
15 substantial deviation. These presumptions may be rebutted by  
16 clear and convincing evidence at the public hearing held by  
17 the local government. An extension of less than 5 years is  
18 not a substantial deviation. For the purpose of calculating  
19 when a buildout, phase, or termination date has been exceeded,  
20 the time shall be tolled during the pendency of administrative  
21 or judicial proceedings relating to development permits. Any  
22 extension of the buildout date of a project or a phase thereof  
23 shall automatically extend the commencement date of the  
24 project, the termination date of the development order, the  
25 expiration date of the development of regional impact, and the  
26 phases thereof by a like period of time.

27 (d) A change in the plan of development of an approved  
28 development of regional impact resulting from requirements  
29 imposed by the Department of Environmental Protection or any  
30 water management district created by s. 373.069 or any of  
31 their successor agencies or by any appropriate federal

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1 regulatory agency shall be submitted to the local government  
2 pursuant to this subsection. The change shall be presumed not  
3 to create a substantial deviation subject to further  
4 development-of-regional-impact review. The presumption may be  
5 rebutted by clear and convincing evidence at the public  
6 hearing held by the local government.

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

17 1.2. Except for a development order rendered pursuant  
18 to subsection (22) or subsection (25), a proposed change to a  
19 development order that individually or cumulatively with any  
20 previous change is less than ~~40 percent of~~ any numerical  
21 criterion contained in subparagraphs (b)1.-15. and does not  
22 exceed any other criterion, or that involves an extension of  
23 the buildout date of a development, or any phase thereof, of  
24 less than 5 years is not a substantial deviation, is not  
25 subject to the public hearing requirements of subparagraph  
26 (f)3., and is not subject to a determination pursuant to  
27 subparagraph (f)5. Notice of the proposed change shall be  
28 made to the regional planning council and the state land  
29 planning agency. Such notice shall include a description of  
30 previous individual changes made to the development, including  
31 changes previously approved by the local government, and shall

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- 1 include appropriate amendments to the development order.
- 2       2. The following changes, individually or cumulatively
- 3 with any previous changes, are not substantial deviations:
- 4       a. Changes in the name of the project, developer,
- 5 owner, or monitoring official.
- 6       b. Changes to a setback that do not affect noise
- 7 buffers, environmental protection or mitigation areas, or
- 8 archaeological or historical resources.
- 9       c. Changes to minimum lot sizes.
- 10       d. Changes in the configuration of internal roads that
- 11 do not affect external access points.
- 12       e. Changes to the building design or orientation that
- 13 stay approximately within the approved area designated for
- 14 such building and parking lot, and which do not affect
- 15 historical buildings designated as significant by the Division
- 16 of Historical Resources of the Department of State.
- 17       f. Changes to increase the acreage in the development,
- 18 provided that no development is proposed on the acreage to be
- 19 added.
- 20       g. Changes to eliminate an approved land use, provided
- 21 that there are no additional regional impacts.
- 22       h. Changes required to conform to permits approved by
- 23 any federal, state, or regional permitting agency, provided
- 24 that these changes do not create additional regional impacts.
- 25       i. Any other change which the state land planning
- 26 agency agrees in writing is similar in nature, impact, or
- 27 character to the changes enumerated in sub-subparagraphs a.-h.
- 28 and which does not create the likelihood of any additional
- 29 regional impact.

30

31 This subsection does not require a development order amendment

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1 for any change listed in sub-subparagraphs a.-i. unless such  
2 issue is addressed either in the existing development order or  
3 in the application for development approval, but, in the case  
4 of the application, only if, and in the manner in which, the  
5 application is incorporated in the development order.

6 3. Except for the change authorized by  
7 sub-subparagraph 2.f., any addition of land not previously  
8 reviewed or any change not specified in paragraph (b) or  
9 paragraph (c) shall be presumed to create a substantial  
10 deviation. This presumption may be rebutted by clear and  
11 convincing evidence.

12 4. Any submittal of a proposed change to a previously  
13 approved development shall include a description of individual  
14 changes previously made to the development, including changes  
15 previously approved by the local government. The local  
16 government shall consider the previous and current proposed  
17 changes in deciding whether such changes cumulatively  
18 constitute a substantial deviation requiring further  
19 development-of-regional-impact review.

20 5. The following changes to an approved development of  
21 regional impact shall be presumed to create a substantial  
22 deviation. Such presumption may be rebutted by clear and  
23 convincing evidence.

24 a. A change proposed for 15 percent or more of the  
25 acreage to a land use not previously approved in the  
26 development order. Changes of less than 15 percent shall be  
27 presumed not to create a substantial deviation.

28 b. Except for the types of uses listed in subparagraph  
29 (b)16., any change which would result in the development of  
30 any area which was specifically set aside in the application  
31 for development approval or in the development order for

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1 preservation, buffers, or special protection, including  
2 habitat for plant and animal species, archaeological and  
3 historical sites, dunes, and other special areas.

4 c. Notwithstanding any provision of paragraph (b) to  
5 the contrary, a proposed change consisting of simultaneous  
6 increases and decreases of at least two of the uses within an  
7 authorized multiuse development of regional impact which was  
8 originally approved with three or more uses specified in s.  
9 380.0651(3)(c), (d), (f), and (g) and residential use.

10 (f)1. The state land planning agency shall establish  
11 by rule standard forms for submittal of proposed changes to a  
12 previously approved development of regional impact which may  
13 require further development-of-regional-impact review. At a  
14 minimum, the standard form shall require the developer to  
15 provide the precise language that the developer proposes to  
16 delete or add as an amendment to the development order.

17 2. The developer shall submit, simultaneously, to the  
18 local government, the regional planning agency, and the state  
19 land planning agency the request for approval of a proposed  
20 change.

21 3. No sooner than 30 days but no later than 45 days  
22 after submittal by the developer to the local government, the  
23 state land planning agency, and the appropriate regional  
24 planning agency, the local government shall give 15 days'  
25 notice and schedule a public hearing to consider the change  
26 that the developer asserts does not create a substantial  
27 deviation. This public hearing shall be held within 90 days  
28 after submittal of the proposed changes, unless that time is  
29 extended by the developer.

30 4. The appropriate regional planning agency or the  
31 state land planning agency shall review the proposed change



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1 and, no later than 45 days after submittal by the developer of  
2 the proposed change, unless that time is extended by the  
3 developer, and prior to the public hearing at which the  
4 proposed change is to be considered, shall advise the local  
5 government in writing whether it objects to the proposed  
6 change, shall specify the reasons for its objection, if any,  
7 and shall provide a copy to the developer. ~~A change which is~~  
8 ~~subject to the substantial deviation criteria specified in~~  
9 ~~sub-subparagraph (e)5.c. shall not be subject to this~~  
10 ~~requirement.~~

11           5. At the public hearing, the local government shall  
12 determine whether the proposed change requires further  
13 development-of-regional-impact review. The provisions of  
14 paragraphs (a) and (e), the thresholds set forth in paragraph  
15 (b), and the presumptions set forth in paragraphs (c) and (d)  
16 and subparagraph (e)3.~~subparagraphs (e)1. and 3.~~ shall be  
17 applicable in determining whether further  
18 development-of-regional-impact review is required.

19           6. If the local government determines that the  
20 proposed change does not require further  
21 development-of-regional-impact review and is otherwise  
22 approved, or if the proposed change is not subject to a  
23 hearing and determination pursuant to subparagraphs 3. and 5.  
24 and is otherwise approved, the local government shall issue an  
25 amendment to the development order incorporating the approved  
26 change and conditions of approval relating to the change. The  
27 decision of the local government to approve, with or without  
28 conditions, or to deny the proposed change that the developer  
29 asserts does not require further review shall be subject to  
30 the appeal provisions of s. 380.07. However, the state land  
31 planning agency may not appeal the local government decision

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1 if it did not comply with subparagraph 4. The state land  
2 planning agency may not appeal a change to a development order  
3 made pursuant to subparagraph (e)2. for developments of  
4 regional impact approved after January 1, 1980, unless the  
5 change would result in a significant impact to a regionally  
6 significant archaeological, historical, or natural resource  
7 not previously identified in the original  
8 development-of-regional-impact review.

9 (g) If a proposed change requires further  
10 development-of-regional-impact review pursuant to this  
11 section, the review shall be conducted subject to the  
12 following additional conditions:

13 1. The development-of-regional-impact review conducted  
14 by the appropriate regional planning agency shall address only  
15 those issues raised by the proposed change except as provided  
16 in subparagraph 2.

17 2. The regional planning agency shall consider, and  
18 the local government shall determine whether to approve,  
19 approve with conditions, or deny the proposed change as it  
20 relates to the entire development. If the local government  
21 determines that the proposed change, as it relates to the  
22 entire development, is unacceptable, the local government  
23 shall deny the change.

24 3. If the local government determines that the  
25 proposed change, as it relates to the entire development,  
26 should be approved, any new conditions in the amendment to the  
27 development order issued by the local government shall address  
28 only those issues raised by the proposed change.

29 4. Development within the previously approved  
30 development of regional impact may continue, as approved,  
31 during the development-of-regional-impact review in those

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1 portions of the development which are not affected by the  
2 proposed change.

3 (h) When further development-of-regional-impact review  
4 is required because a substantial deviation has been  
5 determined or admitted by the developer, the amendment to the  
6 development order issued by the local government shall be  
7 consistent with the requirements of subsection (15) and shall  
8 be subject to the hearing and appeal provisions of s. 380.07.  
9 The state land planning agency or the appropriate regional  
10 planning agency need not participate at the local hearing in  
11 order to appeal a local government development order issued  
12 pursuant to this paragraph.

13 Section 30. Paragraphs (d) and (f) of subsection (3)  
14 of section 380.0651, Florida Statutes, are amended to read:

15 380.0651 Statewide guidelines and standards.--

16 (3) The following statewide guidelines and standards  
17 shall be applied in the manner described in s. 380.06(2) to  
18 determine whether the following developments shall be required  
19 to undergo development-of-regional-impact review:

20 (d) Office development.--Any proposed office building  
21 or park operated under common ownership, development plan, or  
22 management that:

23 1. Encompasses 300,000 or more square feet of gross  
24 floor area; or

25 ~~2. Has a total site size of 30 or more acres; or~~

26 2.3. Encompasses more than 600,000 square feet of  
27 gross floor area in a county with a population greater than  
28 500,000 and only in a geographic area specifically designated  
29 as highly suitable for increased threshold intensity in the  
30 approved local comprehensive plan and in the strategic  
31 regional policy plan.

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1           (f) Retail and service development.--Any proposed  
2 retail, service, or wholesale business establishment or group  
3 of establishments which deals primarily with the general  
4 public onsite, operated under one common property ownership,  
5 development plan, or management that:

6           1. Encompasses more than 400,000 square feet of gross  
7 area; or

8           ~~2. Occupies more than 40 acres of land; or~~

9           ~~2.3.~~ Provides parking spaces for more than 2,500 cars.

10           Section 31. Requirement of interlocal service  
11 provision agreements.--

12           (1) By January 1, 2005, counties having a population  
13 over 100,000 shall negotiate and adopt a service-delivery  
14 interlocal agreement with all of the municipalities within the  
15 county, with those special districts providing a service  
16 listed in paragraph (a), and with the school district which:

17           (a) Identifies the current providers of the following  
18 services; education, sanitary sewer, public safety, solid  
19 waste, drainage, potable water, parks and recreation, and  
20 transportation facilities.

21           (b) Describes the existing organization of such  
22 services and the means of financing such services and  
23 designates the entities that will provide the services over  
24 the next 20 years, including any anticipated changes caused by  
25 annexation.

26           (c) Identifies any deficits in the provision of  
27 services and prescribes a 5-year capital outlay plan for the  
28 provision of deficit infrastructure.

29           (d) Identifies opportunities for the joint financing  
30 of capital outlay projects.

31           (e) Identifies any areas that the municipalities plan

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1 to annex within the next 5 years and establishes a plan for  
2 service delivery within the areas to be annexed or a process  
3 for resolving service-delivery issues associated with  
4 annexation.

5 (f) Provides specific procedures for amending the  
6 interlocal agreement.

7 (2) Each county and municipality shall submit a copy  
8 of its interlocal agreement to the Department of Community  
9 Affairs by February 15, 2005.

10 (3) The regional planning councils may provide  
11 technical assistance and dispute-resolution services to assist  
12 local governments in complying with this section.

13 Section 32. The sum of \$500,000 is appropriated from  
14 the General Revenue Fund to the Department of Community  
15 Affairs for the purpose of funding the Urban Infill and  
16 Redevelopment Assistance Grant Program established under  
17 section 163.2523, Florida Statutes, during the 2001-2002  
18 fiscal year.

19 Section 33. The Legislature finds that the integration  
20 of the growth-management system and the planning of public  
21 educational facilities is a matter of great public importance.

22 Section 34. (1) The Legislative Committee on  
23 Intergovernmental Relations is directed to conduct a study of  
24 the existing bonding capacity of counties, municipalities, and  
25 school boards. The study shall include, but is not limited to:  
26 possible methods of strengthening their credit ratings and  
27 interest rates; feasibility of increasing their borrowing  
28 capacity to the extent of their authorized millage or revenue;  
29 and more flexible use of bond proceeds, especially for small  
30 municipalities and counties.

31 (2) The Legislative Committee on Intergovernmental

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1 Relations is required to report its findings and  
2 recommendations to the Governor and Legislature by January 1,  
3 2002. The recommendations must specifically include proposed  
4 legislation, if applicable, for additional county,  
5 municipality, and school board bonding capacity.

6       Section 35. Any multicounty airport authority created  
7 as an independent special district which is subject to a  
8 development-of-regional-impact development order and which has  
9 conducted a noise study in accordance with 14 C.F.R. Part 150  
10 shall, in fiscal year 2002, establish a  
11 noise-mitigation-project fund in an amount of \$7.5 million,  
12 which shall be increased by another \$2.5 million in fiscal  
13 year 2004. The moneys in the project fund shall be segregated  
14 and expended by the airport authority by December 31, 2006, to  
15 the extent necessary to comply with development-order  
16 commitments to acquire property from or otherwise mitigate  
17 property owners adversely affected by the development of  
18 regional impact. If moneys are not expended for such purposes  
19 by December 31, 2006, the airport authority shall not  
20 thereafter amend its development-of-regional-impact  
21 development order or commence development of airport  
22 infrastructure improvements authorized by such development  
23 order until such funds are fully expended for such purposes.

24       Section 36. Subsection (1) of section 163.356, Florida  
25 Statutes, is amended to read:

26       163.356 Creation of community redevelopment agency.--

27       (1) Upon a finding of necessity as set forth in s.  
28 163.355, and upon a further finding that there is a need for a  
29 community redevelopment agency to function in the county or  
30 municipality to carry out the community redevelopment purposes  
31 of this part, any county or municipality may create a public

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1 body corporate and politic to be known as a "community  
2 redevelopment agency." A charter county having a population  
3 less than or equal to 1.6 million may create, by a vote of at  
4 least a majority plus one of the entire governing body of the  
5 charter county, more than one community redevelopment agency.  
6 Each such agency shall be constituted as a public  
7 instrumentality, and the exercise by a community redevelopment  
8 agency of the powers conferred by this part shall be deemed  
9 and held to be the performance of an essential public  
10 function. ~~The~~ Community redevelopment ~~agencies~~ ~~agency~~ of a  
11 county have ~~has~~ the power to function within the corporate  
12 limits of a municipality only as, if, and when the governing  
13 body of the municipality has by resolution concurred in the  
14 community redevelopment plan or plans proposed by the  
15 governing body of the county.

16 Section 37. Except as otherwise expressly provided in  
17 this act, this act shall take effect upon becoming a law.  
18  
19

20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 Delete everything before the enacting clause

23  
24 insert:

25 A bill to be entitled  
26 An act relating to growth management; amending  
27 s. 163.3174, F.S.; requiring that the  
28 membership of all local planning agencies or  
29 equivalent agencies that review comprehensive  
30 plan amendments and rezonings include a  
31 nonvoting representative of the district school

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1 board; amending s. 163.3177, F.S.; revising  
2 elements of comprehensive plans; requiring  
3 intergovernmental coordination between local  
4 governments and district school boards;  
5 creating s. 163.31776, F.S.; providing  
6 legislative intent and findings with respect to  
7 a public educational facilities element;  
8 providing a schedule for adoption by local  
9 governments; providing for certain  
10 municipalities to be exempt; requiring certain  
11 interlocal agreements; requiring that the  
12 public educational facilities element include  
13 certain provisions; providing requirements for  
14 future land-use maps; providing a process for  
15 adopting the element; prohibiting a local  
16 government that fails to adopt the required  
17 element from amending its local comprehensive  
18 plan; creating s. 163.31777, F.S.; requiring  
19 school boards to report to the local government  
20 on school capacity; requiring a local  
21 government to deny a plan amendment or a  
22 request for rezoning if school capacity is  
23 unavailable; authorizing certain mitigation  
24 agreements; providing prerequisites to this  
25 section's taking effect; providing for an  
26 exemption for certain urban infill areas;  
27 amending s. 163.3180, F.S.; revising provisions  
28 relating to concurrency; amending s. 163.3184,  
29 F.S.; revising definitions; revising provisions  
30 governing the process for adopting  
31 comprehensive plans and plan amendments;



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1 amending s. 163.3187, F.S.; authorizing the  
2 adoption of a public educational facilities  
3 element notwithstanding certain limitations;  
4 amending s. 163.3191, F.S., relating to  
5 evaluation and appraisal of comprehensive  
6 plans; conforming provisions to changes made by  
7 the act; providing an appropriation for the  
8 state land planning agency to develop a uniform  
9 fiscal-impact-analysis model for evaluating the  
10 cost of infrastructure to support development;  
11 amending s. 163.3215, F.S.; revising provisions  
12 governing the challenge of a development order  
13 by an aggrieved or adversely affected party on  
14 the basis of inconsistency with a local  
15 comprehensive plan; providing the relief that  
16 may be sought; providing that petition to the  
17 circuit court for certiorari is the sole action  
18 for such challenge if the local government has  
19 adopted an ordinance establishing a local  
20 development review process that includes  
21 specified minimum components; removing a  
22 requirement that a verified complaint be filed  
23 with the local government prior to seeking  
24 judicial review; amending s. 163.3244, F.S.;  
25 postponing the repeal of provisions governing  
26 the Sustainable Communities Demonstration  
27 Project; amending s. 186.504, F.S.; adding an  
28 elected school board member to the membership  
29 of each regional planning council; amending s.  
30 212.055, F.S.; providing for the levy of the  
31 school capital outlay surtax by a supermajority

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1           vote and requiring certain educational facility  
2           planning prior to the levy of the school  
3           capital outlay surtax; amending s. 235.002,  
4           F.S.; revising legislative intent with respect  
5           to building educational facilities; amending s.  
6           235.15, F.S.; revising requirements for  
7           educational plant surveys; revising  
8           requirements for review and validation of such  
9           surveys; amending s. 235.175, F.S.; requiring  
10          school districts to adopt education facilities  
11          plans; amending s. 235.18, F.S., relating to  
12          capital outlay budgets of school boards;  
13          conforming provisions to changes made by the  
14          act; amending s. 235.185, F.S.; requiring  
15          school district educational facilities plans;  
16          providing definitions; specifying projections  
17          and other information to be included in the  
18          plan; providing requirements for the work  
19          program; requiring district school boards to  
20          submit a tentative plan to the local  
21          government; providing for adopting and  
22          executing the plan; amending s. 235.188, F.S.;  
23          providing bonding requirements; amending s.  
24          235.19, F.S.; exempting certain school boards  
25          and local governments from requirements for  
26          site planning; revising requirements for school  
27          boards; amending s. 235.193, F.S.; requiring  
28          interlocal agreements with respect to public  
29          educational facilities elements and plans;  
30          providing that failure to enter into such  
31          agreements will result in the withholding of

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1 certain funds for school construction;  
2 providing requirements for preparing a district  
3 education facilities work plan; repealing s.  
4 235.194, F.S., relating to the general  
5 educational facilities report; amending s.  
6 235.218, F.S.; requiring the SMART Schools  
7 Clearinghouse to adopt measures for evaluating  
8 the school district educational facilities  
9 plans; amending s. 235.231, F.S.; providing for  
10 the school board to authorize certain change  
11 orders for its district education facilities  
12 plan; amending s. 236.25, F.S., relating to the  
13 district school tax; conforming provisions to  
14 changes made by the act; allowing a school  
15 district to levy by referendum additional  
16 millage for school operational purposes;  
17 amending s. 236.31, F.S.; authorizing school  
18 boards to direct the county commission to call  
19 an election for approval of an ad valorem tax  
20 millage; amending s. 236.32, F.S.;

21 substantially rewording the section and  
22 providing procedures for holding and conducting  
23 school district millage elections; amending s.  
24 380.06, F.S.; providing that certain standards  
25 must be increased for development in any area  
26 designated by the Governor as a rural area of  
27 critical economic concern; revising provisions  
28 governing substantial-deviation standards for  
29 developments of regional impact; providing for  
30 designation of a lead regional planning  
31 council; amending s. 380.0651, F.S.; revising

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1 standards for determining the necessity for a  
2 development-of-regional-impact review;  
3 requiring specified counties to adopt a  
4 service-delivery interlocal agreement with all  
5 municipalities and the school district and  
6 prescribing requirements for such agreements;  
7 providing an appropriation; providing a  
8 legislative finding that the act is a matter of  
9 great public importance; directing the  
10 Legislative Committee on Intergovernmental  
11 Relations to conduct a study of the bonding  
12 capacity of local governments and school  
13 boards; requiring multicounty airport  
14 authorities with development-of-regional-impact  
15 development orders to establish a  
16 noise-mitigation-project fund; providing for  
17 the expenditure of such funds; preventing the  
18 airport authority from amending its development  
19 order or commencing development until such  
20 funds are expended; amending s. 163.356, F.S.;  
21 allowing certain charter counties to create  
22 multiple community redevelopment agencies  
23 within the unincorporated county areas;  
24 providing effective dates.

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