

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Representative(s) Alexander offered the following:

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13 **Amendment (with title amendment)**

14 Remove from the bill: Everything after the enacting clause

15

16 and insert in lieu thereof:

17 Section 1. Subsection (1) of section 163.3174 is
18 amended to read:

19 163.3174 Local planning agency.--

20 (1) The governing body of each local government,
 21 individually or in combination as provided in s. 163.3171,
 22 shall designate and by ordinance establish a "local planning
 23 agency," unless the agency is otherwise established by law.
 24 Notwithstanding any special act to the contrary, no later than
 25 January 1, 2002, each local planning agencies shall include a
 26 representative of the district school board as a member of the
 27 local planning agency. The governing body may designate
 28 itself as the local planning agency pursuant to this
 29 subsection with the addition of a school board representative.
 30 The governing body shall notify the state land planning agency
 31 of the establishment of its local planning agency. All local

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1 planning agencies shall provide opportunities for involvement
2 by ~~district school boards and~~ applicable community college
3 boards, which may be accomplished by formal representation,
4 membership on technical advisory committees, or other
5 appropriate means. The local planning agency shall prepare the
6 comprehensive plan or plan amendment after hearings to be held
7 after public notice and shall make recommendations to the
8 governing body regarding the adoption or amendment of the
9 plan. The agency may be a local planning commission, the
10 planning department of the local government, or other
11 instrumentality, including a countywide planning entity
12 established by special act or a council of local government
13 officials created pursuant to s. 163.02, provided the
14 composition of the council is fairly representative of all the
15 governing bodies in the county or planning area; however:

16 Section 2. Paragraphs (a) and (h) of Subsection (6)
17 and subsection (11) of section 163.3177 is amended, and
18 subsection (12) is repealed:

19 163.3177 Required and optional elements of
20 comprehensive plan; studies and surveys.--

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

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

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

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1 future land use element must clearly identify the land use
2 categories in which public schools are an allowable use. When
3 delineating the land use categories in which public schools
4 are an allowable use, a local government shall include in the
5 categories sufficient land proximate to residential
6 development to meet the projected needs for schools in
7 coordination with public school boards and may establish
8 differing criteria for schools of different type or size. Each
9 local government shall include lands contiguous to existing
10 school sites, to the maximum extent possible, within the land
11 use categories in which public schools are an allowable use.
12 All comprehensive plans must comply with the school siting
13 requirements of this paragraph no later than October 1, 1999.
14 The failure by a local government to comply with these school
15 siting requirements by October 1, 1999, will result in the
16 prohibition of the local government's ability to amend the
17 local comprehensive plan, except for plan amendments described
18 in s. 163.3187(1)(b), until the school siting requirements are
19 met. ~~An amendment~~ Amendments proposed by a local government
20 for purposes of identifying the land use categories in which
21 public schools are an allowable use or for adopting or
22 amending the school siting maps pursuant to s. 163.31776(6)
23 are ~~is~~ exempt from the limitation on the frequency of plan
24 amendments contained in s. 163.3187. The future land use
25 element shall include criteria which encourage the location of
26 schools proximate to urban residential areas to the extent
27 possible and shall require that the local government seek to
28 collocate public facilities, such as parks, libraries, and
29 community centers, with schools ~~to the extent possible~~ and to
30 encourage using elementary schools as focal points for
31 neighborhoods. For schools serving predominantly rural

1 counties, defined as a county with a population of less than
2 75,000, an agricultural land use category shall be eligible
3 for the location of public school facilities if the local
4 comprehensive plan contains school siting criteria, and the
5 location is consistent with such criteria.

6 5. Intergovernmental coordination between local
7 governments and the district school board shall be governed by
8 ss. 163.31776 and 163.31777 for local governments subject to
9 the requirements of those sections and is encouraged for local
10 governments exempt from such requirements.

11 (11)(a) The Legislature recognizes the need for
12 innovative planning and development strategies which will
13 address the anticipated demands of continued urbanization of
14 Florida's coastal and other environmentally sensitive areas,
15 and which will accommodate the development of less populated
16 regions of the state which seek economic development and which
17 have suitable land and water resources to accommodate growth
18 in an environmentally acceptable manner. The Legislature
19 further recognizes the substantial advantages of innovative
20 approaches to development which may better serve to protect
21 environmentally sensitive areas, maintain the economic
22 viability of agricultural and other predominantly rural land
23 uses, and provide for the cost-efficient delivery of public
24 facilities and services.

25 (b) It is the intent of the Legislature that the local
26 government comprehensive plans and plan amendments adopted
27 pursuant to the provisions of this part provide for a planning
28 process which allows for land use efficiencies within existing
29 urban areas and which also allows for the conversion of rural
30 lands to other uses, where appropriate and consistent with the
31 other provisions of this part and the affected local

1 comprehensive plans, through the application of innovative and
2 flexible planning and development strategies and creative land
3 use planning techniques, which may include, but not be limited
4 to, urban villages, new towns, satellite communities,
5 area-based allocations, clustering and open space provisions,
6 mixed-use development, and sector planning.

7 (c) It is the further intent of the Legislature that
8 local government comprehensive plans and implementing land
9 development regulations shall provide strategies which
10 maximize the use of existing facilities and services through
11 redevelopment, urban infill development, and other strategies
12 for urban revitalization.

13 (d)1. The department, in cooperation with the
14 Department of Agriculture and Consumer Services, shall provide
15 assistance to local governments in the implementation of this
16 paragraph and s. 9J-5.006(5)(1), Florida Administrative Code.
17 Implementation of those provisions shall include a process by
18 which the department may authorize up to five local
19 governments to designate all or portions of lands classified
20 in the future land use element as predominantly agricultural,
21 rural, open, open-rural, or a substantively equivalent land
22 use, as a rural land stewardship area within which planning
23 and economic incentives are applied to encourage the
24 implementation of innovative and flexible planning and
25 development strategies and creative land use planning
26 techniques, including those contained in Rule 9J-5.006(5)(1),
27 Florida Administrative Code.

28 2. The department shall encourage participation by
29 local governments of different sizes and rural
30 characteristics. It is the intent of the Legislature that
31 rural land stewardship areas be used to further the following

1 broad principles of rural sustainability: restoration and
2 maintenance of the economic value of rural land; control of
3 urban sprawl; identification and protection of ecosystems,
4 habitats, and natural resources; promotion of rural economic
5 activity; maintenance of the viability of Florida's
6 agricultural economy; and protection of the character of rural
7 areas of Florida.

8 3. A local government may apply to the department in
9 writing requesting consideration for authorization to
10 designate a rural land stewardship area and shall describe its
11 reasons for applying for the authorization with supporting
12 documentation regarding its compliance with criteria set forth
13 in this section.

14 4. In selecting a local government, the department
15 shall, by written agreement:

16 a. Ensure that the local government has expressed its
17 intent to designate a rural land stewardship area pursuant to
18 the provisions of this subsection and clarify that the rural
19 land stewardship area is intended.

20 b. Ensure that the local government has the financial
21 and administrative capabilities to implement a rural land
22 stewardship area.

23 5. The written agreement shall include the basis for
24 the authorization and provide criteria for evaluating the
25 success of the authorization including the extent the rural
26 land stewardship area enhances rural land values; control
27 urban sprawl; provides necessary open space for agriculture
28 and protection of the natural environment; promotes rural
29 economic activity; and maintains rural character and the
30 economic viability of agriculture. The department may
31 terminate the agreement at any time if it determines that the

1 local government is not meeting the terms of the agreement.

2 6. A rural land stewardship area shall be not less
3 than 50,000 acres and shall not exceed 400,000 acres in size,
4 shall be located outside of municipalities and established
5 urban growth boundaries, and shall be designated by plan
6 amendment. The plan amendment designating a rural land
7 stewardship area shall be subject to review by the Department
8 of Community Affairs pursuant to s. 163.3184, F.S., and shall
9 provide for the following:

10 a. Criteria for the designation of receiving areas
11 within rural land stewardship areas in which innovative
12 planning and development strategies may be applied. Criteria
13 shall at a minimum provide for the following: adequacy of
14 suitable land to accommodate development so as to avoid
15 conflict with environmentally sensitive areas, resources, and
16 habitats; compatibility between and transition from higher
17 density uses to lower intensity rural uses; the establishment
18 of receiving area service boundaries which provide for a
19 separation between receiving areas and other land uses within
20 the rural and stewardship are through limitations on the
21 extension of services; and connection of receiving areas with
22 the rest of the rural land stewardship area using rural design
23 and rural road corridors.

24 b. Goals, objectives, an policies setting forth the
25 innovative planning and development strategies to be applied
26 within rural land stewardship areas pursuant to the provisions
27 of this section.

28 c. A process for the implementation of innovative
29 planning and development strategies within the rural land
30 stewardship area, including those described in this subsection
31 and s. 9J-5.006(5)(1), Florida Administrative code, which

1 provide for a functional mix of land uses and which are
2 applied through the adoption by the local government of zoning
3 and land development regulations applicable to the rural land
4 stewardship area.

5 d. A process which encourages visioning pursuant to s.
6 163.3167(11) to ensure that innovative planning and
7 development strategies comply with the provisions of this
8 section.

9 e. The control of sprawl through the use of innovative
10 strategies and creative land use techniques consistent with
11 the provisions of this subsection and rural 9J-5.006(5)(1),
12 Florida Administrative Code.

13 7. A receiving area shall be designated by the
14 adoption of a land development regulation. Prior to the
15 designation of a receiving area, the local government shall
16 provide the Department of Community Affairs a period of 30
17 days in which to review a proposed receiving area for
18 consistency with the rural land stewardship area plan
19 amendment and to provide comments to the local government.

20 8. Upon the adoption of a plan amendment creating a
21 rural land stewardship area, the local government shall, by
22 ordinance, assign to the area a certain number of credits, to
23 be known as "transferable rural land use credits," which shall
24 not constitute a right to develop land, nor increase density
25 of land, except as provided by this section. The total amount
26 of transferrable rural land use credits assigned to the rural
27 land stewardship area must correspond to the 25-year or
28 greater projected population of the rural land stewardship
29 area. Transferable rural land use credits are subject to the
30 following limitations:

31 a. Transferable rural land use credits may only exist

1 within a rural land stewardship area.

2 b. Transferable rural land use credits may only be
3 used on lands designated as receiving areas and then solely
4 for the purpose of implementing innovative planning and
5 development strategies and creative land use planning
6 techniques adopted by the local government pursuant to this
7 section.

8 c. Transferable rural land use credits assigned to a
9 parcel of land within a rural land stewardship area shall
10 cease to exist if the parcel of land is removed from the rural
11 land stewardship area by plan amendment.

12 d. Neither the creation of the rural land stewardship
13 area by plan amendment nor the assignment of transferable
14 rural land use credits by the local government shall operate
15 to displace the underlying density of land uses assigned to a
16 parcel of land within the rural land stewardship area;
17 however, if transferable rural land use credits are
18 transferred from a parcel for use within a designated
19 receiving area, the underlying density assigned to the parcel
20 of land shall cease to exist.

21 e. The underlying density on each parcel of land
22 located within a rural land stewardship area shall not be
23 increased or decreased by the local government, except as a
24 result of the conveyance or use of transferable rural land use
25 credits, as long as the parcel remains within the rural land
26 stewardship area.

27 f. Transferable rural land use credits shall cease to
28 exist on a parcel of land where the underlying density
29 assigned to the parcel of land is utilized.

30 g. An increase in the density of use on a parcel of
31 land located within a designated receiving area may occur only

1 through the assignment or use of transferable rural land use
2 credits and shall not require a plan amendment.

3 h. A change in the density of land use on parcels
4 located within receiving areas shall be specified in a
5 development order which reflects the total number of
6 transferable rural land use credits assigned to the parcel of
7 land and the infrastructure and support services necessary to
8 provide for a functional mix of land uses corresponding to the
9 plan of development.

10 i. Land within a rural land stewardship area may be
11 removed from the rural land stewardship area through a plan
12 amendment.

13 j. Transferable rural land use credits may be assigned
14 at different ratios of credits per acre according to the land
15 use remaining following the transfer of credits, with the
16 highest number of credits per acre assigned to preserve
17 environmentally valuable land and a lesser number of credits
18 to be assigned to open space and agricultural land.

19 k. The use or conveyance of transferable rural land
20 use credits must be recorded in the public records of the
21 county in which the property is located as a covenant or
22 restrictive easement running with the land in favor of the
23 county and either the Department of Environmental Protection,
24 Department of Agriculture and Consumer Services, a water
25 management district, or a recognized statewide land trust.

26 9. Owners of land within rural land stewardship areas
27 should be provided incentives to enter into rural land
28 stewardship agreements, pursuant to existing law and rules
29 adopted thereto, with state agencies, water management
30 districts, and local governments to achieve mutually agreed
31 upon conservation objectives. Such incentives may include,

1 but not be limited to, the following:

2 a. Opportunity to accumulate transferable mitigation
3 credits.

4 b. Extended permit agreements.

5 c. Opportunities for recreational leases and
6 ecotourism.

7 d. Payment for specified land management services on
8 publicly owned land, or property under covenant or restricted
9 easement in favor of a public entity.

10 e. Option agreements for sale to government, in either
11 fee or easement, upon achievement of conservation objectives.

12 10. The department shall report to the Legislature on
13 an annual basis on the results of implementation of rural land
14 stewardship areas authorized by the department, including
15 successes and failures in achieving the intent of the
16 Legislature as expressed in this paragraph. It is further the
17 intent of the Legislature that the success of authorized rural
18 land stewardship areas be substantiated before implementation
19 occurs on a statewide basis.

20 (e)(d) The implementation of this subsection shall be
21 subject to the provisions of this chapter, chapters 186 and
22 187, and applicable agency rules.

23 (f)(e) The department is authorized to adopt rules as
24 required to ~~shall~~ implement the provisions of this subsection
25 by rule.

26 Section 3. Create new Section 163.31776:

27 163.31776 Public Educational Facilities Element.--

28 (1) The intent of the Legislature is:

29 (a) To establish a systematic process of sharing
30 information between school boards and local governments on the
31 growth and development trends in their communities in order to

1 forecast future enrollment and school needs;

2 (b) To establish a systematic process for school
3 boards and local governments to cooperatively plan for the
4 provision of educational facilities to meet the current and
5 projected needs of the public education system population,
6 including the needs placed on the public education system as a
7 result of growth and development decisions by local
8 government;

9 (c) To establish a systematic process for local
10 governments and school boards to cooperatively identify and
11 meet the infrastructure needs of public schools to assure
12 healthy school environments and safe school access;

13 (2) The Legislature finds that:

14 (a) Public schools are a linchpin to the vitality of
15 our communities and play a significant role in thousands of
16 individual housing decisions which result in community growth
17 trends;

18 (b) Growth and development issues transcend the
19 boundaries and responsibilities of individual units of
20 government, and often no single unit of government can plan or
21 implement policies to deal with these issues without affecting
22 other units of government.

23 (3) A public educational facilities element shall be
24 adopted in cooperation with the applicable school district by
25 all local governments meeting the criteria identified in
26 paragraph (a). All local governments are encouraged to adopt
27 a public educational facilities element regardless of whether
28 it meets the criteria of paragraph (a) or is exempted by
29 subparagraph (c). The public educational facilities elements
30 shall be transmitted no later than January 1, 2003, for those
31 local governments initially meeting the criteria in paragraph

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1 (a).

2 (a) A local government must adopt a public educational
3 facilities element if the local government is located in a
4 county where the districtwide number of actual public school
5 students:

6 1. are 80 percent or greater of the most current
7 year's school capacity and the projected five-year student
8 growth is 1,000 students or greater, or

9 2. the projected five-year student growth rate is 10
10 percent or greater.

11 (b) The Department of Education shall issue a report
12 notifying the state land planning agency and each county and
13 school district that meets the criteria in (a) on June 1 of
14 each year. Local governments and school boards will have 18
15 months following notification to comply with the requirements
16 of ss. 163.31776 and 163.31777.

17 (c) Each municipality shall adopt its own element or
18 adopt a plan amendment accepting the public educational
19 facilities element adopted by the county which includes the
20 municipality's area of authority as defined in s. 163.3171.
21 However, a municipality is exempt from this requirement if it
22 does not contain a public school within its jurisdiction or
23 none is scheduled in the five year district facilities work
24 program of the school board's education facilities plan
25 adopted pursuant to s. 235.185, and if the residents of the
26 municipality have generated less than 50 additional public
27 school students during the last five years.

28 Any municipality currently exempt shall notify the
29 county and the school board of any planned annexations into
30 residential or proposed residential areas or other change in
31 condition and shall comply with the provisions of this

1 subsection no later than one year following a change in
2 conditions which render the municipality no longer eligible
3 for exemption or the identification of a proposed public
4 school in the school board's five-year district facilities
5 work program in the municipality's jurisdiction.

6 (d) The Department of Education and the Department of
7 Community Affairs will submit a report to the Governor, the
8 President of the Senate, and Speaker of the House of
9 Representative by January 2003, that evaluates the criteria in
10 s. 163.31776(3)(a) and makes any recommendations for changes
11 to the criteria as needed to meet the intent of this part.

12 (4) No later than six months prior to the deadline for
13 transmittal of a public educational facilities element, the
14 county, the non-exempt municipalities, and the school board
15 shall enter into an interlocal agreement which establishes a
16 process to develop coordinated and consistent local government
17 public educational facilities elements and district education
18 facilities plan, including a process:

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

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

27 (c) To ensure school siting decisions by the school
28 board are consistent with the local comprehensive plan and
29 future land use maps, including appropriate circumstances and
30 criteria under which a school district may request an
31 amendment to the comprehensive plan for school siting, and for

1 early involvement by the local government as the school board
2 identifies potential school sites.

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

8 (e) For school district participation in the review of
9 comprehensive plan amendments and rezonings which increase
10 residential density and which are reasonably expected to have
11 an impact on public school facility demand pursuant to s.
12 163.31777. The interlocal agreement shall express how the
13 school board and local governments will develop the
14 methodology and the criteria for determining if school
15 facility capacity will not be reasonably available at the time
16 of projected school impacts, including uniform, districtwide
17 level-of service standards for all public schools of the same
18 type and availability standards for public schools. The
19 interlocal agreement shall ensure that consistent criteria and
20 capacity determination methodologies, including student
21 generation multipliers are adopted into the school board's
22 district education facilities plan and the local government's
23 public educational facilities element. The interlocal
24 agreement shall also set forth the process and uniform
25 methodology for determining proportionate share mitigation
26 pursuant to s. 163.31777; and,

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

29 (g) That determines the "true cost of school needs."
30 This analysis must provide the number of schools and the
31 funding needed to meet any current backlog and future needs

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1 based on uniform projections of population and student growth
2 and development trends. This analysis should also identify
3 how the current and future needs are funded.

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

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

13 (b) The need for and strategies for the provision of
14 adequate infrastructure necessary to support proposed schools,
15 including potable water, wastewater, drainage, and
16 transportation; and other actions needed to assure safe access
17 to schools, including sidewalks, bicycle paths, turn lanes and
18 signalization.

19 (c) Co-location of other public facilities such as
20 parks, libraries and community centers with public schools.

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

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

27 (f) A uniform methodology for consideration of the
28 existing and planned capacity of public schools when reviewing
29 comprehensive plan amendments and rezonings which would
30 increase residential development, and that are reasonably
31 expected to have an impact on the demand for public school

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1 facilities pursuant to s. 163.31777, with the review based on
2 uniform districtwide level-of service standards for all public
3 schools of the same type and availability standards for public
4 schools, and the financially feasible five-year district
5 facilities work program adopted by the school board pursuant
6 to s. 235.185. "Financially feasible" means that a capital
7 improvements programs will be financed for each year of the
8 planning period, without a deficit, based on projected
9 revenues from existing or committed revenue sources so that
10 the adopted level-of service standard will be achieved and
11 maintained throughout the planning period. Revenue sources
12 may include ad valorem taxes, state revenue distributions,
13 proceeds from the sale of bonds, sales tax proceeds, or other
14 general tax sources. Local-option revenue sources requiring
15 approval by a referendum of the electors shall be deemed an
16 existing or committed revenue source only after approval in
17 the required referendum. The current level and amount of
18 impact fees collected by a local government may be included in
19 the calculation of financial feasibility. However, new impact
20 fees or expansion of existing impact fees may not be adopted
21 until the statewide implementation of the uniform account
22 model occurs.

23 (g) A uniform methodology for determining school
24 capacity needs and proportionate share mitigation consistent
25 with the requirements of s. 163.31777(4) and the interlocal
26 agreement.

27 (h) The "true cost of school needs." This analysis
28 must provide the number of schools and the funding needed to
29 meet any current backlog and future needs based on local
30 governments' population and growth trends. This analysis
31 should also identify how the current and future needs are

1 funded.

2 (i) As part of the public education facilities
3 element, the school board shall provide its response to the
4 independent third-party financial management audit as required
5 by s. 235.185, as it relates to educational facility planning
6 and construction. The response shall be part of the data and
7 analysis needed to support the element.

8 (6) The future land use map series shall either
9 incorporate maps which are the result of a collaborative
10 process for identifying school sites and adopted in the
11 educational facilities plan promulgated by the school board
12 pursuant to s. 235.185 showing the locations of existing
13 public schools and the general locations of improvements to
14 existing schools or construction of new schools anticipated
15 over the five, ten and twenty year time periods, or such maps
16 shall be data and analysis in support of the future land use
17 map series. Maps indicating general locations of future
18 schools or school improvements shall not be deemed to
19 prescribe a land use on a particular parcel of land.

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

27 (8) The interlocal agreement must be entered into by
28 the county, the school board, and the non-exempt
29 municipalities within the county. If such parties cannot
30 reach agreement, the matter shall be resolved by binding
31 arbitration through the regional planning council. The

1 failure of such parties to enter an interlocal agreement
2 within 60 days of referral to binding arbitration shall result
3 in the prohibition of the local governments' ability to amend
4 the local comprehensive plan until the dispute is resolved.
5 The failure of a school board to provide the required plans,
6 information or to enter into the interlocal agreement under
7 this subsection shall subject the school board to sanctions
8 pursuant to s. 235.193(3). Any local government that has
9 executed an interlocal agreement to implement school
10 concurrency pursuant to the requirements of s. 163.3180 prior
11 to the effective date of this act shall not be required to
12 amend the public school element or any interlocal agreement to
13 conform with the provisions of this section, if such amendment
14 is ultimately determined to be in compliance.

15 Section 4. Create a new section 163.31777:

16 163.31777 Public School Capacity for Plan Amendments
17 and Rezonings.--

18 (1) Local governments shall consider public school
19 facilities when reviewing proposed comprehensive plan
20 amendments and rezonings that increase residential densities
21 and which are reasonably expected to have an impact on public
22 school facility demand.

23 (2) For each proposed comprehensive plan amendment or
24 rezoning, which increases residential densities and is
25 reasonably expected to have an impact on the demand for public
26 school facilities, the school board shall provide the local
27 government with a school capacity report based on the district
28 educational facilities plan adopted by the school board
29 pursuant to s. 235.185, which shall provide data and analysis
30 on the capacity and enrollment of affected schools based on
31 standards established by state or federal law or judicial

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1 orders, projected additional enrollment attributable to the
2 density increase from the amendment or rezoning, programmed
3 and financially feasible new public school facilities or
4 improvements for affected schools identified in the
5 educational facilities plan of the school board and the
6 expected date of availability of such facilities or
7 improvements, and available reasonable options for providing
8 public school facilities to students if the rezoning or
9 comprehensive plan amendment is approved. The options shall
10 include but not be limited to the school board's evaluation of
11 school schedule modification, school attendance zones
12 modification, school facility modification, and creation of
13 charter schools. The report shall be consistent with this
14 section, any adopted interlocal agreement and public
15 educational facilities element, and must be submitted no later
16 than three working days prior to the first public hearing by
17 the local government to consider the comprehensive plan
18 amendment or rezoning.

19 (3) Within a jurisdiction, following the effective
20 date of an interlocal agreement between the local governments
21 and the school board entered into pursuant to s. 163.31776,
22 the determination that an adopted public education facilities
23 element required under s. 163.31776 is in compliance and is
24 financially feasible, and the revision by the school board of
25 its district education facilities plan to comply with s.
26 235.185, then the local government shall deny a comprehensive
27 plan amendment or rezoning request which would increase
28 residential development if the school facility capacity of the
29 district as a whole will not be reasonably available at the
30 time of projected school impacts as determined by the
31 methodology established in the public education facilities

1 element; however, the application for a comprehensive plan
2 amendment or rezoning shall not be disapproved based on lack
3 of school capacity if the applicant executes a legally binding
4 commitment to provide mitigation proportionate to the demand
5 for public school facilities to be created by actual
6 development of the property, including but not limited to the
7 options described in subsection (4).

8 (4)(a) Options for proportionate share mitigation of
9 public school facility impacts from actual development of
10 property subject to a plan amendment or rezoning that
11 increases residential density shall be established in the
12 educational facilities plan and the public educational
13 facilities element. Such options shall include execution by
14 the applicant and the local government of a binding
15 development agreement pursuant to ss 163.3220-163.3243 which
16 shall constitute a legally binding commitment to pay
17 proportionate share mitigation for the additional residential
18 units when approved by the local government in a development
19 order and actually developed on the property, but shall not
20 require payment pursuant to this section for residential
21 density allowed on the property prior to the plan amendment
22 or rezoning which increased overall residential density. The
23 district school board may be a party to such an agreement. As
24 a condition of its entry into such a development agreement,
25 the local government may require the landowner to agree to
26 continuing renewal of the agreement upon its expiration.

27 (b) If the educational facilities plan and the public
28 educational facilities element authorize a contribution of
29 land or construction, expansion, or payment for land
30 acquisition or construction or expansion of a public school
31 facility, or a portion thereof, as proportionate share

1 mitigation, the local government shall credit such a
2 contribution, construction, expansion or payment toward any
3 other impact fee or exaction imposed by local ordinance for
4 the same need, on a dollar-for-dollar basis at fair market
5 value.

6 (c) Any proportionate share mitigation shall be
7 directed by the school board toward a school capacity
8 improvement within the affected area which is identified in
9 the financially feasible five year district work plan.

10 (5) Nothing in this section prohibits a local
11 government from using its home rule powers to deny a
12 comprehensive plan amendment or rezoning.

13 Section 5. Paragraphs (a) and (b) of subsection (1),
14 and subsection (4) of section 163.3184 are amended to read:

15 Section 6. Section 163.3184 Process for adoption of
16 comprehensive plan or plan amendment.--

17 (1) DEFINITIONS.--As used in this section:

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

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1 time beginning with the transmittal hearing for the plan or
2 plan amendment and ending with the adoption of the plan or
3 plan amendment. (b) "In compliance" means consistent with the
4 requirements of ss. 163.3177, 163.31776, 163.3178, 163.3180,
5 163.3191, and 163.3245, with the state comprehensive plan,
6 with the appropriate strategic regional policy plan, and with
7 chapter 9J-5, Florida Administrative Code, where such rule is
8 not inconsistent with this part and with the principles for
9 guiding development in designated areas of critical state
10 concern.

11 (4) INTERGOVERNMENTAL REVIEW.--If review of a proposed
12 comprehensive plan amendment is requested or otherwise
13 initiated pursuant to subsection (6), the state land planning
14 agency within 5 working days of determining that such a review
15 will be conducted shall transmit a copy of the proposed plan
16 amendment to various government agencies, as appropriate, for
17 response or comment, including, but not limited to, the
18 Department of Environmental Protection, the Department of
19 Transportation, the water management district, and the
20 regional planning council, and, in the case of municipal
21 plans, to the county land planning agency. If the plan or
22 plan amendment includes or relates to the public educational
23 facilities element required by s.163.31776, the state land
24 planning agency shall submit a copy to the Office of
25 Educational Facilities of the Commissioner of Education for
26 review and comment.These governmental agencies shall provide
27 comments to the state land planning agency within 30 days
28 after receipt of the proposed plan amendment. The appropriate
29 regional planning council shall also provide its written
30 comments to the state land planning agency within 30 days
31 after receipt of the proposed plan amendment and shall specify

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1 any objections, recommendations for modifications, and
2 comments of any other regional agencies to which the regional
3 planning council may have referred the proposed plan
4 amendment. Written comments submitted by the public within 30
5 days after notice of transmittal by the local government of
6 the proposed plan amendment will be considered as if submitted
7 by governmental agencies. All written agency and public
8 comments must be made part of the file maintained under
9 subsection (2).

10 Section 7. Effective October 1, 2001, subsections (3),
11 (4), (6), (7), (8), and (15) and paragraph (d) of subsection
12 (16) of said section are amended, to read:

13 163.3184 Process for adoption of comprehensive plan or
14 plan amendment.--

15 (1) DEFINITIONS.--As used in this section:

16 (3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR
17 AMENDMENT.--

18 (a) Each local governing body shall transmit the
19 complete proposed comprehensive plan or plan amendment to the
20 state land planning agency, the appropriate regional planning
21 council and water management district, the Department of
22 Environmental Protection, the Department of State, and the
23 Department of Transportation, and, in the case of municipal
24 plans, to the appropriate county, and, in the case of county
25 plans, to the Fish and Wildlife Conservation Commission and
26 the Department of Agriculture and Consumer Services,
27 immediately following a public hearing pursuant to subsection
28 (15) as specified in the state land planning agency's
29 procedural rules. The local governing body shall also transmit
30 a copy of the complete proposed comprehensive plan or plan
31 amendment to any other unit of local government or government

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1 agency in the state that has filed a written request with the
2 governing body for the plan or plan amendment. The local
3 government may request a review by the state land planning
4 agency pursuant to subsection (6) at the time of transmittal
5 of an amendment.

6 (b) A local governing body shall not transmit portions
7 of a plan or plan amendment unless it has previously provided
8 to all state agencies designated by the state land planning
9 agency a complete copy of its adopted comprehensive plan
10 pursuant to subsection (7) and as specified in the agency's
11 procedural rules. In the case of comprehensive plan
12 amendments, the local governing body shall transmit to the
13 state land planning agency, the appropriate regional planning
14 council and water management district, the Department of
15 Environmental Protection, the Department of State, and the
16 Department of Transportation, and, in the case of municipal
17 plans, to the appropriate county, and, in the case of county
18 plans, to the Fish and Wildlife Conservation Commission and
19 the Department of Agriculture and Consumer Services, the
20 materials specified in the state land planning agency's
21 procedural rules and, in cases in which the plan amendment is
22 a result of an evaluation and appraisal report adopted
23 pursuant to s. 163.3191, a copy of the evaluation and
24 appraisal report. Local governing bodies shall consolidate all
25 proposed plan amendments into a single submission for each of
26 the two plan amendment adoption dates during the calendar year
27 pursuant to s. 163.3187.

28 (c) A local government may adopt a proposed plan
29 amendment previously transmitted pursuant to this subsection,
30 unless review is requested or otherwise initiated pursuant to
31 subsection (6).

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1 (d) In cases in which a local government transmits
2 multiple individual amendments that can be clearly and legally
3 separated and distinguished for the purpose of determining
4 whether to review the proposed amendment, and the state land
5 planning agency elects to review several or a portion of the
6 amendments and the local government chooses to immediately
7 adopt the remaining amendments not reviewed, the amendments
8 immediately adopted and any reviewed amendments that the local
9 government subsequently adopts together constitute one
10 amendment cycle in accordance with s. 163.3187(1).

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

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1 proposed plan amendment. Written comments submitted by the
2 public within 30 days after notice of transmittal by the local
3 government of the proposed plan amendment will be considered
4 as if submitted by governmental agencies. All written agency
5 and public comments must be made part of the file maintained
6 under subsection (2).

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

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

21 (b) The state land planning agency may review any
22 proposed plan amendment regardless of whether a request for
23 review has been made, if the agency gives notice to the local
24 government, and any other person who has requested notice, of
25 its intention to conduct such a review within 35 30 days after
26 receipt by the state land planning agency of transmittal of
27 the complete proposed plan amendment ~~pursuant to subsection~~
28 ~~(3).~~

29 (c) The state land planning agency shall establish by
30 rule a schedule for receipt of comments from the various
31 government agencies, as well as written public comments,

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1 pursuant to subsection (4). If the state land planning agency
2 elects to review the amendment or the agency is required to
3 review the amendment as specified in paragraph (a), the agency
4 shall issue a report of its objections, recommendations, and
5 comments regarding the proposed amendment within 60 days after
6 receipt of the complete proposed amendment by the state land
7 planning agency. Proposed comprehensive plan amendments from
8 small counties or rural communities for the purpose of job
9 creation, economic development, or strengthening and
10 diversifying the economy shall receive priority review by the
11 state land planning agency.~~The state land planning agency~~
12 ~~shall have 30 days to review comments from the various~~
13 ~~government agencies along with a local government's~~
14 ~~comprehensive plan or plan amendment. During that period, the~~
15 ~~state land planning agency shall transmit in writing its~~
16 ~~comments to the local government along with any objections and~~
17 ~~any recommendations for modifications.~~When a federal, state,
18 or regional agency has implemented a permitting program, the
19 state land planning agency shall not require a local
20 government to duplicate or exceed that permitting program in
21 its comprehensive plan or to implement such a permitting
22 program in its land development regulations. Nothing
23 contained herein shall prohibit the state land planning agency
24 in conducting its review of local plans or plan amendments
25 from making objections, recommendations, and comments or
26 making compliance determinations regarding densities and
27 intensities consistent with the provisions of this part. In
28 preparing its comments, the state land planning agency shall
29 only base its considerations on written, and not oral,
30 comments, from any source.

31 (d) The state land planning agency review shall

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1 identify all written communications with the agency regarding
2 the proposed plan amendment. If the state land planning agency
3 does not issue such a review, it shall identify in writing to
4 the local government all written communications received 30
5 days after transmittal. The written identification must
6 include a list of all documents received or generated by the
7 agency, which list must be of sufficient specificity to enable
8 the documents to be identified and copies requested, if
9 desired, and the name of the person to be contacted to request
10 copies of any identified document. The list of documents must
11 be made a part of the public records of the state land
12 planning agency.

13 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF
14 PLAN OR AMENDMENTS AND TRANSMITTAL.--

15 (a) The local government shall review the written
16 comments submitted to it by the state land planning agency,
17 and any other person, agency, or government. Any comments,
18 recommendations, or objections and any reply to them shall be
19 public documents, a part of the permanent record in the
20 matter, and admissible in any proceeding in which the
21 comprehensive plan or plan amendment may be at issue. The
22 local government, upon receipt of written comments from the
23 state land planning agency, shall have 120 days to adopt or
24 adopt with changes the proposed comprehensive plan or s.
25 163.3191 plan amendments. In the case of comprehensive plan
26 amendments other than those proposed pursuant to s. 163.3191,
27 the local government shall have 60 days to adopt the
28 amendment, adopt the amendment with changes, or determine that
29 it will not adopt the amendment. The adoption of the proposed
30 plan or plan amendment or the determination not to adopt a
31 plan amendment, other than a plan amendment proposed pursuant

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1 to s. 163.3191, shall be made in the course of a public
2 hearing pursuant to subsection (15). The local government
3 shall transmit the complete adopted comprehensive plan or
4 ~~adopted~~ plan amendment to the state land planning agency as
5 specified in the agency's procedural rules within 10 working
6 days after adoption, including the names and addresses of
7 persons compiled pursuant to paragraph (15)(c). The local
8 governing body shall also transmit a copy of the adopted
9 comprehensive plan or plan amendment to the regional planning
10 agency and to any other unit of local government or
11 governmental agency in the state that has filed a written
12 request with the governing body for a copy of the plan or plan
13 amendment.

14 (b) A local government that has adopted a
15 comprehensive plan amendment to which no timely written
16 objection from the state land planning agency, any agency, any
17 government, or any person has been received may submit the
18 comprehensive plan amendment and a certification to the state
19 land planning agency within 10 days after adoption of the
20 comprehensive plan amendment. This certification must certify
21 that the adopted comprehensive plan amendment did not differ
22 from the proposed comprehensive plan amendment submitted
23 pursuant to subsection (3), and that no timely objections were
24 received.

25 (8) NOTICE OF INTENT.--

26 (a) Except as provided in s. 163.3187(3), the state
27 land planning agency, upon receipt of a local government's
28 complete adopted comprehensive plan or plan amendment, shall
29 have 45 days for review and to determine if the plan or plan
30 amendment is in compliance with this act, unless the amendment
31 is the result of a compliance agreement entered into under

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1 subsection (16), in which case the time period for review and
2 determination shall be 30 days. If review was not conducted
3 under subsection (6), the agency's determination must be based
4 upon the plan amendment as adopted. If review was conducted
5 under subsection (6), the agency's determination of compliance
6 must be based only upon one or both of the following:

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

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

11 (b) During the time period provided for in this
12 subsection, the state land planning agency shall issue,
13 through a senior administrator or the secretary, as specified
14 in the agency's procedural rules, a notice of intent to find
15 that the plan or plan amendment is in compliance or not in
16 compliance. A notice of intent shall be issued by publication
17 in the manner provided by this paragraph and by mailing a copy
18 to the local government ~~and to persons who request notice.~~

19 ~~The required advertisement shall be no less than 2 columns~~
20 ~~wide by 10 inches long, and the headline in the advertisement~~
21 ~~shall be in a type no smaller than 12 point.~~The advertisement
22 shall ~~not~~ be placed in that portion of the newspaper where
23 legal notices ~~and classified advertisements~~ appear. The
24 advertisement shall be published in a newspaper which meets
25 the size and circulation requirements set forth in paragraph
26 (15)(e)(c) and which has been designated in writing by the
27 affected local government at the time of transmittal of the
28 amendment. Publication by the state land planning agency of a
29 notice of intent in the newspaper designated by the local
30 government shall be prima facie evidence of compliance with
31 the publication requirements of this section.

1 (c) Notwithstanding the provisions of this subsection,
2 within 20 days after receipt of an accurate certification
3 submitted pursuant to paragraph (7)(b), the state land
4 planning agency shall issue a notice of intent to find the the
5 plan amendment in compliance without further review.

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

21 (e) A local government that has an Internet site shall
22 post a copy of the state land planning agency's notice of
23 intent on its Internet site within 5 days after receipt of the
24 mailed copy of the agency's notice of intent.

25 (15) PUBLIC HEARINGS.--

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

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

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

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

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

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

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1 (d) The agency shall provide a model sign-in form and
2 the format for providing the list to the agency which may be
3 used by the local government to satisfy the requirements of
4 this paragraph by August 1, 2001.

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

12 (16) COMPLIANCE AGREEMENTS.--

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

29 Section 8. Paragraph (c) of subsection (1) of section
30 163.3187, Florida Statutes, is amended and new paragraph (h)
31 of subsection (1) of said section is created to read:

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1 163.3187 Amendment of adopted comprehensive plan.--

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

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

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

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

24 (I) A maximum of 150 ~~±20~~ acres in a local government
25 that contains areas specifically designated in the local
26 comprehensive plan for urban infill, urban redevelopment, or
27 downtown revitalization as defined in s. 163.3164, urban
28 infill and redevelopment areas designated under s. 163.2517,
29 transportation concurrency exception areas approved pursuant
30 to s. 163.3180(5), or regional activity centers and urban
31 central business districts approved pursuant to s.

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1 380.06(2)(e); however, amendments under this paragraph may be
2 applied to no more than 60 acres annually of property outside
3 the designated areas listed in this sub-sub-subparagraph.

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

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

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

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

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

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

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1 concern where the amendment is located and shall not become
2 effective until a final order is issued under s. 380.05(6).
3 f. ~~If~~ The proposed amendment does not involve ~~involves~~
4 a residential land use within the coastal high-hazard area
5 ~~with, the residential land use has a density exceeding of 10~~
6 ~~units or less per acre, except that this limitation does not~~
7 ~~apply to small scale amendments described in~~
8 ~~sub-sub-subparagraph a.(I) that are designated in the local~~
9 ~~comprehensive plan for urban infill, urban redevelopment, or~~
10 ~~downtown revitalization as defined in s. 163.3164, urban~~
11 ~~infill and redevelopment areas designated under s. 163.2517,~~
12 ~~transportation concurrency exception areas approved pursuant~~
13 ~~to s. 163.3180(5), or regional activity centers and urban~~
14 ~~central business districts approved pursuant to s.~~
15 ~~380.06(2)(e).~~
16 2.a. A local government that proposes to consider a
17 plan amendment pursuant to this paragraph is not required to
18 comply with the procedures and public notice requirements of
19 s. 163.3184(15)(e)~~(e)~~ for such plan amendments if the local
20 government complies with the provisions in s. 125.66(4)(a) for
21 a county or in s. 166.041(3)(c) for a municipality. If a
22 request for a plan amendment under this paragraph is initiated
23 by other than the local government, public notice is required.
24 b. The local government shall send copies of the
25 notice and amendment to the state land planning agency, the
26 regional planning council, and any other person or entity
27 requesting a copy. This information shall also include a
28 statement identifying any property subject to the amendment
29 that is located within a coastal high hazard area as
30 identified in the local comprehensive plan.
31 3. Small scale development amendments adopted pursuant

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

6 (h) A comprehensive plan amendment to adopt a public
7 educational facilities element pursuant to s. 163.31776, and
8 future land use map amendments for school siting may be
9 approved without regard to statutory limits on the frequency
10 of adoption of plan amendments.

11 Section 9. Paragraph (k) of subsection (2) of section
12 163.3191, Florida Statutes, is amended to read:

13 (2) The report shall present an evaluation and
14 assessment of the comprehensive plan and shall contain
15 appropriate statements to update the comprehensive plan,
16 including, but not limited to, words, maps, illustrations, or
17 other media, related to:

18 (k) The coordination of the comprehensive plan with
19 existing public schools and those identified in the applicable
20 educational 5-year school district facilities plan work
21 program adopted pursuant to ss. 235.185. The assessment shall
22 address, where relevant, the success or failure of the
23 coordination of the future land use map and associated planned
24 residential development with public schools and their
25 capacities, as well as the joint decisionmaking processes
26 engaged in by the local government and the school board in
27 regard to establishing appropriate population projections and
28 the planning and siting of public school facilities. If the
29 issues are not relevant, the local government shall
30 demonstrate that they are not relevant.

31 Section 10. Section 163.3198 is created to read:

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1 163.3198 Development of a uniform fiscal impact
2 analysis model for evaluating the cost of infrastructure to
3 support development.--

4 (1) The Legislature finds that the quality of growth
5 in Florida could benefit greatly by the adoption of a uniform
6 fiscal impact analysis tool that could be used by local
7 governments to determine the costs and benefits of new
8 development. To facilitate informed decisionmaking and
9 accountability by local governments, the analysis model would
10 itemize and calculate the costs and fiscal impacts of
11 infrastructure needs created by proposed development, as well
12 as the anticipated revenues utilized for infrastructure
13 associated with the project. It is intended that the model be
14 a minimum base model for implementation by all local
15 governments. Local governments shall not be required to
16 implement the model until the Legislature approves such
17 implementation, nor shall local governments be prevented from
18 utilizing other fiscal or economic analysis tools before or
19 after adoption of the uniform fiscal analysis model. The
20 Legislature intends that the analysis will provide local
21 government decisionmakers with a clearer understanding of the
22 fiscal impact of the new development on the community and its
23 resources.

24 (2)(a) To oversee the development of a fiscal analysis
25 model by the state land planning agency, there is created a
26 commission consisting of nine members. The Governor, the
27 President of the Senate, and the Speaker of the House of
28 Representatives shall each appoint three members to the
29 commission, and the Governor shall designate one of his
30 appointees as chair. Appointments must be made by July 1,
31 2001, and each appointing authority shall consider ethnic and

1 gender balance when making appointments. The members of the
2 commission must have technical or practical expertise to bring
3 to bear on the design or implementation of the model. The
4 commission shall include representatives of municipalities,
5 counties, school boards, the development community, and public
6 interest groups.

7 (b) The commission shall have the responsibility to:

8 1. Direct the state land planning agency, and others,
9 in developing a fiscal analysis model.

10 2. Select one or more models to test through six pilot
11 projects conducted in six regionally diverse local government
12 jurisdictions selected by the commission.

13 3. Make changes to the models during the testing
14 period as needed.

15 4. Report to the Governor and the Legislature with
16 implementation recommendations.

17 (c) Each member may receive per diem and expenses for
18 travel, as provided in s. 112.061, while carrying out the
19 official business of the commission.

20 (d) The commission is assigned, for administrative
21 purposes, to the Department of Community Affairs.

22 (e) The commission shall meet at the call of the chair
23 and shall be dissolved upon the submittal of the report and
24 recommendations required by subsection (6).

25 (3)(a) The state land planning agency, as directed by
26 the commission, shall develop one or more fiscal analysis
27 models for determining the estimated costs and revenues of
28 proposed development. The analysis provided by the model
29 shall be a tool for government decisionmaking, shall not
30 constitute an automatic approval or disapproval of new
31 development, and shall apply to all public and private

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1 projects and all land use categories. The model or models
2 selected for field testing shall be approved by the
3 commission.

4 (b) The model shall be capable of estimating the
5 capital, operating, and maintenance expenses and revenues for
6 infrastructure needs created by new development based on the
7 type, scale, and location of various land uses. For the
8 purposes of developing the model, estimated costs shall
9 include those associated with provision of school facilities,
10 transportation facilities, water supply, sewer, stormwater,
11 public safety, and solid waste services, and publicly provided
12 telecommunications services. Estimated revenues shall include
13 all revenues attributable to the proposed development which
14 are utilized to construct, operate, or maintain such
15 facilities and services. The model may be developed with
16 capabilities of estimating other costs and benefits directly
17 related to new development, including economic costs and
18 benefits. The Legislature recognizes the potential
19 limitations of such models in fairly quantifying important
20 quality of life issues such as the intangible benefits and
21 costs associated with development, including, but not limited
22 to, overall impact on community character, housing costs,
23 compatibility, and impacts on natural and historic resources,
24 and therefore affirms its intention that the model not be used
25 as the only determinate of the acceptability of new
26 development. In order to develop a model for testing through
27 pilot projects, the Legislature directs the commission to
28 focus on the infrastructure costs expressly identified in this
29 paragraph. The commission may authorize a local government
30 selected to conduct a pilot project to apply the fiscal
31 analysis model being tested to a public facility or service

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1 other than those identified in this paragraph; however,
2 appropriately related revenues and benefits must also be
3 considered.

4 (c) The model shall be capable of identifying
5 infrastructure deficits or backlogs, and costs associated with
6 addressing such needs.

7 (d) As part of its development of a fiscal analysis
8 model, and as directed by the commission, the state land
9 planning agency shall develop a format by which the local
10 government shall report to its citizens, at least annually,
11 the cumulative fiscal impact of its local planning decisions.

12 (4) One or more fiscal analysis models shall be tested
13 in the field to evaluate their technical validity and
14 practical usefulness and the financial feasibility of local
15 government implementation. The field tests shall be conducted
16 as demonstration projects in six regionally diverse local
17 government jurisdictions, which may include
18 multi-jurisdictional local planning agencies.

19 (5) Data, findings, and feedback from the field tests
20 shall be presented to the commission at least every 3 months
21 following the initiation of each demonstration project. Based
22 on the feedback provided by the state land planning agency and
23 the local government partner of a demonstration project, the
24 commission may require the state land planning agency to
25 adjust or modify one or more models, including consideration
26 of appropriate thresholds and exemptions, and conduct
27 additional field testing if necessary.

28 (6) No later than February 1, 2003, the commission
29 shall transmit to the Governor, the President of the Senate,
30 and the Speaker of the House of Representatives a report
31 detailing the results of the demonstration projects. The

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1 commission shall report its recommendations for statewide
2 implementation of a uniform fiscal analysis model. Any
3 recommendation to implement the model must be based on the
4 commission's determination that the model is technically
5 valid, financially feasible for local government
6 implementation, and practically useful for implementation as a
7 uniform fiscal analysis model. Should the commission determine
8 that a uniform fiscal analysis model is not technically valid,
9 financially feasible for local government implementation, and
10 practically useful for implementation as a uniform fiscal
11 analysis model, it shall recommend that the model or its
12 application be modified or not implemented. The report shall
13 also include recommendations for changes to any existing
14 growth management laws and policies necessary to implement the
15 model; recommendations for repealing existing growth
16 management laws, such as concurrency, that may no longer be
17 relevant or effective once the model is implemented;
18 recommendations for state technical and financial assistance
19 to help local governments in the implementation of the uniform
20 fiscal analysis model; recommendations addressing state and
21 local sources of additional infrastructure funding; and
22 recommendations for incentives to local governments to
23 encourage identification of areas in which infrastructure
24 development will be encouraged.

25 Section 11. There is appropriated to the Department of
26 Community Affairs from the General Revenue Fund \$500,000 to
27 implement s. 163.3198, Florida Statutes.

28 Section 12. Subsection (6) of Section 163.3202,
29 Florida Statutes, is created to read:

30 (6)(a) The legislature finds that electric utilities
31 have a statutory duty pursuant to this chapter to provide

1 reasonably sufficient, adequate, and efficient service. The
2 legislature further finds that electric substations are an
3 indispensable component of the grid system by which electric
4 utilities deliver reliable electric service to all public and
5 private persons as required by law. The legislature further
6 finds that electric utility substations are essential services
7 for the public health, safety and welfare and therefore are in
8 the public interest.

9 (b) Nothing in this part shall prohibit a local
10 government from adopting land development regulations which
11 establish reasonable standards for setbacks, buffering, and
12 landscaping for a substation to be operated by an electric
13 utility. Compliance with any such adopted standards shall
14 render a substation compatible with adjacent land uses.

15 (c) Notwithstanding any other law, after an electric
16 utility demonstrates by competent substantial evidence that it
17 meets all criteria for approval of an application for a
18 development permit for the location, construction, and
19 operation of a substation, the local government may not deny
20 the application on grounds of incompatibility with adjacent
21 land uses or adverse impacts on property values without clear
22 and convincing competent evidence.

23 Section 13. Section 163.3215, Florida Statutes, is
24 amended to read:

25 163.3215 Standing to enforce local comprehensive plans
26 through development orders.--

27 (1) Any aggrieved or adversely affected party may
28 maintain an action for declaratory and injunctive or other
29 relief against any local government to challenge any decision
30 of local government granting or denying an application for, or
31 to prevent such local government from taking any action on a

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

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

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

27 ~~(b) Suit under subsections (1) or (4) this section~~
28 shall be the sole action available to challenge the
29 consistency of a development order with a comprehensive plan
30 adopted under this part. The local government that issues
31 that development order shall be named as the respondent.

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

31 (a) Notice by publication and by mailed notice to all

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

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

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

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

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

30 (f) At the quasi-judicial hearing all parties shall
31 have the opportunity to respond, present evidence and argument

1 on all issues involved that are related to the development
2 order and to conduct cross-examination and submit rebuttal
3 evidence.

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

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

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

30 (j) At the option of the local government this
31 ordinance may require actions to challenge the consistency of

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1 a development order with land development regulations to be
2 brought in the same proceeding.

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

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

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

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

29 (8) In any suit under this section, the Department of
30 Legal Affairs may intervene to represent the interests of the
31 state.

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

4 Section 14. Paragraph (a) of subsection (1) of section
5 235.002, Florida Statutes, is repealed and subsequent
6 paragraphs are amended and a new paragraph (a) of subsection
7 (2) is created and subsequent paragraphs are renumbered and
8 amended as follows:

9 235.002 Intent.--

10 (1) The intent of the Legislature is:

11 ~~(b)~~(a) To encourage the use of innovative designs,
12 construction techniques, and financing mechanisms in building
13 educational facilities for the purpose of reducing costs to
14 the taxpayer, creating a more satisfactory educational
15 environment, and reducing the amount of time necessary for
16 design, permitting of on- and off-site improvements required
17 by law, and construction to fill unmet needs.

18 ~~(c)~~(b) To provide a systematic mechanism whereby
19 educational facilities construction plans can meet the current
20 and projected needs of the public education system population
21 as quickly as possible by building uniform, sound educational
22 environments and to provide a sound base for planning for
23 educational facilities needs.

24 ~~(d)~~(c) To provide ~~proper legislative support for as~~
25 ~~wide a range of~~ fiscally sound financing methodologies ~~as~~
26 ~~possible for the delivery of~~ educational facilities ~~and, where~~
27 ~~appropriate, for their construction, operation, and~~
28 ~~maintenance.~~

29 (d) To establish a systematic process of sharing
30 information between school boards and local governments on the
31 growth and development trends in their communities in order to

1 forecast future enrollment and school needs;

2 (e) To establish a systematic process for school
3 boards and local governments to cooperatively plan for the
4 provision of educational facilities to meet the current and
5 projected needs of the public education system population,
6 including the needs placed on the public education system as a
7 result of growth and development decisions by local
8 government;

9 (f) To establish a systematic process for local
10 governments and school boards to cooperatively identify and
11 meet the infrastructure needs of public schools;

12 (2) The Legislature finds ~~and declares~~ that:

13 (a) Public schools are a linchpin to the vitality of
14 our communities and play a significant role in the thousands
15 of individual housing decisions which result in community
16 growth trends;

17 ~~(a)~~(b) Growth and development issues transcend the
18 boundaries and responsibilities of individual units of
19 government, and often no single unit of government can plan or
20 implement policies to deal with these issues without affecting
21 other units of government.

22 ~~(b)~~(c) The effective and efficient provision of
23 public educational facilities and services ~~is essential to~~
24 ~~preserving and enhancing~~ enhances the quality of life of the
25 people of this state.

26 ~~(c)~~(d) The provision of educational facilities often
27 impacts community infrastructure and services. Assuring
28 coordinated and cooperative provision of such facilities and
29 associated infrastructure and services is in the best interest
30 of the state.

31 (e) The location of schools must follow future land

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1 use maps and may not be used to control growth, rather the
2 location of schools should correspond with local government
3 growth trends.

4 Section 15. Section 235.15 is amended as follows:

5 235.15 Educational plant survey; localized need
6 assessment; PECO project funding.--

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

24 (a) Survey preparation and required data.--Each survey
25 shall be conducted by the board or an agency employed by the
26 board. Surveys shall be reviewed and approved by the board,
27 and a file copy shall be submitted to the Office of
28 Educational Facilities of the Commissioner of Education. The
29 survey report shall include at least an inventory of existing
30 educational and ancillary plants; recommendations for existing
31 educational and ancillary plants, including safe access

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1 facilities; recommendations for new educational or ancillary
2 plants, including the general location of each in coordination
3 with the land use plan; campus master plan update and detail
4 for community colleges; the utilization of school plants based
5 on an extended school day or year-round operation; and such
6 other information as may be required by the rules of the State
7 Board of Education. This report may be amended, if conditions
8 warrant, at the request of the board or commissioner.

9 (b) Required need assessment criteria for district,
10 community college, and state university plant surveys.--~~Each~~
11 ~~educational plant surveys completed after December 31, 1997,~~
12 must use uniform data sources and criteria specified in this
13 paragraph. ~~Each educational plant survey completed after June~~
14 ~~30, 1995, and before January 1, 1998, must be revised, if~~
15 ~~necessary, to comply with this paragraph.~~Each revised
16 educational plant survey and each new educational plant survey
17 supersedes previous surveys.

18 1. The school district's survey is to be submitted as
19 a part of the District Education Facilities Plan in s.
20 235.185.~~Each school district's educational plant survey must~~
21 ~~reflect the capacity of existing satisfactory facilities as~~
22 ~~reported in the Florida Inventory of School Houses.~~
23 ~~Projections of facility space needs may not exceed the norm~~
24 ~~space and occupant design criteria established by the State~~
25 ~~Requirements for Educational Facilities. Existing and~~
26 ~~projected capital outlay full-time equivalent student~~
27 ~~enrollment must be consistent with data prepared by the~~
28 ~~department and must include all enrollment used in the~~
29 ~~calculation of the distribution formula in ss. 235.435(3). All~~
30 ~~satisfactory relocatable classrooms, including those owned,~~
31 ~~lease-purchased, or leased by the school district, shall be~~

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1 ~~included in the school district inventory of gross capacity of~~
2 ~~facilities and must be counted at actual student capacity for~~
3 ~~purposes of the inventory. For future needs determination,~~
4 ~~student capacity shall not be assigned to any relocatable~~
5 ~~classroom that is scheduled for elimination or replacement~~
6 ~~with a permanent educational facility in the adopted 5-year~~
7 ~~educational plant survey and in the district facilities work~~
8 ~~program adopted under ss. 235.185. Those relocatables clearly~~
9 ~~identified and scheduled for replacement in a school board~~
10 ~~adopted financially feasible 5-year district facilities work~~
11 ~~program shall be counted at zero capacity at the time the work~~
12 ~~program is adopted and approved by the school board. However,~~
13 ~~if the district facilities work program is changed or altered~~
14 ~~and the relocatables are not replaced as scheduled in the work~~
15 ~~program, they must then be reentered into the system for~~
16 ~~counting at actual capacity. Relocatables may not be~~
17 ~~perpetually added to the work program and continually extended~~
18 ~~for purposes of circumventing the intent of this section. All~~
19 ~~remaining relocatable classrooms, including those owned,~~
20 ~~lease-purchased, or leased by the school district, shall be~~
21 ~~counted at actual student capacity. The educational plant~~
22 ~~survey shall identify the number of relocatable student~~
23 ~~stations scheduled for replacement during the 5-year survey~~
24 ~~period and the total dollar amount needed for that~~
25 ~~replacement. All district educational plant surveys revised~~
26 ~~after July 1, 1998, shall include information on leased space~~
27 ~~used for conducting the district's instructional program, in~~
28 ~~accordance with the recommendations of the department's report~~
29 ~~authorized in ss. 235.056. A definition of satisfactory~~
30 ~~relocatable classrooms shall be established by rule of the~~
31 ~~department.~~

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

14 3. Each community college's survey must reflect the
15 capacity of existing facilities as specified in the inventory
16 maintained by the Division of Community Colleges. Projections
17 of facility space needs must comply with standards for
18 determining space needs as specified by rule of the State
19 Board of Education. The 5-year projection of capital outlay
20 student enrollment must be consistent with the annual report
21 of capital outlay full-time student enrollment prepared by the
22 Division of Community Colleges.

23 4. Each state university's survey must reflect the
24 capacity of existing facilities as specified in the inventory
25 maintained and validated by the Board of Regents. Projections
26 of facility space needs must be consistent with standards for
27 determining space needs approved by the Board of Regents. The
28 projected capital outlay full-time equivalent student
29 enrollment must be consistent with the 5-year planned
30 enrollment cycle for the State University System approved by
31 the Board of Regents.

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1 5. The ~~educational plant survey~~ district education
2 facilities plan of a school district, and the educational
3 plant survey of a community college, or state university may
4 include space needs that deviate from approved standards for
5 determining space needs if the deviation is justified by the
6 district or institution and approved by the department or the
7 Board of Regents, as appropriate, as necessary for the
8 delivery of an approved educational program.

9 (c) Review and validation.--The Office of Educational
10 Facilities of the Commissioner of Education ~~department~~ shall
11 review and validate the education facilities plans of school
12 districts and the surveys of school districts and community
13 colleges and any amendments thereto for compliance with the
14 requirements of this chapter and, ~~when required by the State~~
15 ~~Constitution~~, shall recommend those in compliance for approval
16 by the State Board of Education.

17 (2) Only the superintendent or the college president
18 shall certify to the Office of Educational Facilities of the
19 Commissioner of Education ~~department~~ a project's compliance
20 with the requirements for expenditure of PECO funds prior to
21 release of funds.

22 (a) Upon request for release of PECO funds for
23 planning purposes, certification must be made to the Office of
24 Educational Facilities of the Commissioner of Education
25 ~~department~~ that the need and location of the facility are in
26 compliance with the board-approved education facilities plan
27 or survey recommendations, and that the project meets the
28 definition of a PECO project and the limiting criteria for
29 expenditures of PECO funding and that the plan is consistent
30 with the local government comprehensive plan.

31 (b) Upon request for release of construction funds,

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1 certification must be made to the Office of Educational
2 Facilities of the Commissioner of Education ~~department~~ that
3 the need and location of the facility are in compliance with
4 the board-approved education facilities plan or survey
5 recommendations, that the project meets the definition of a
6 PECO project and the limiting criteria for expenditures of
7 PECO funding, ~~and~~ that the construction documents meet the
8 requirements of the State Uniform Building Code for
9 Educational Facilities Construction or other applicable codes
10 as authorized in this chapter, and that the site is consistent
11 with the local government comprehensive plan.

12 Section 16. Paragraphs (3) and (4) of section 235.175,
13 and sections 235.18 and .185 are amended as follows:

14 235.175 SMART schools; Classrooms First; legislative
15 purpose.--

16 (3) SCHOOL DISTRICT EDUCATION FACILITIES PLAN WORK
17 ~~PROGRAMS~~.--It is the purpose of the Legislature to create ss.
18 235.185, requiring each school district annually to adopt an
19 education facilities plan that provides an integrated
20 long-range facilities plan, including the survey of projected
21 needs and the five-year work program. ~~a district facilities~~
22 ~~5-year work program.~~ The purpose of the ~~district facilities~~
23 ~~work program~~ education facilities plan is to keep the school
24 board, local governments and the public fully informed as to
25 whether the district is using sound policies and practices
26 that meet the essential needs of students and that warrant
27 public confidence in district operations. The ~~district~~
28 ~~facilities work program~~ education facilities plan will be
29 monitored by the SMART Schools Clearinghouse, which will also
30 apply performance standards pursuant to ss. 235.218.

31 (4) SMART SCHOOLS CLEARINGHOUSE.--It is the purpose of

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1 the Legislature to create ss. 235.217, establishing the SMART
2 Schools Clearinghouse to assist the school districts in
3 building SMART schools utilizing functional and frugal
4 practices. The SMART Schools Clearinghouse must review
5 district facilities work programs and projects and identify
6 districts qualified for incentive funding available through
7 School Infrastructure Thrift Program awards; identify
8 opportunities to maximize design and construction savings;
9 develop school district facilities work program performance
10 standards; and provide for review and recommendations to the
11 Governor, the Legislature, and the State Board of Education.

12 Section 17. Section 235.18 is amended to read:

13 235.18 Annual capital outlay budget.--

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

27 Section 18. Section 235.185 is amended to read:

28 235.185 School district education facilities plan ~~work~~
29 ~~program~~; definitions; preparation, adoption, and amendment;
30 long-term work programs.--

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

1 (a) "Adopted education facilities plan" means the
2 comprehensive planning document adopted annually by the
3 district school board as provided in subsection (2) and
4 contains the education plant survey.

5 (b) "District facilities work program" means the
6 5-year listing of capital outlay projects, adopted by the
7 district school board as provided in subsection (2)(a)2. and
8 (2)(b) as part of the district education facilities plan,
9 required:

10 1. To properly repair and maintain the educational
11 plant and ancillary facilities of the district.

12 2. To provide an adequate number of satisfactory
13 student stations for the projected student enrollment of the
14 district in K-12 programs in accordance with the goal in s.
15 235.061.

16 (c) "Tentative education facilities plan" means the
17 comprehensive planning document prepared annually by the
18 district school board and submitted to the Office of
19 Educational Facilities of the Commissioner of Education and
20 the affected general purpose local governments.

21 (d) "Financially feasible" means that a capital
22 improvements programs will be financed for each year of the
23 planning period, without a deficit, based on projected
24 revenues from existing or committed revenue sources authorized
25 by general or special law so that the adopted level-of service
26 standard will be achieved and maintained throughout the
27 planning period. Revenue sources may include ad valorem
28 taxes, state revenue distributions, proceeds from the sale of
29 bonds, sales tax proceeds, or other general tax sources.
30 Local-option revenue sources requiring approval by a
31 referendum of the electors shall be deemed an existing or

1 committed revenue source only after approval in the required
2 referendum.

3 ~~(a) "Adopted district facilities work program" means~~
4 ~~the 5-year work program adopted by the district school board~~
5 ~~as provided in subsection (3).~~

6 ~~(b) "Tentative district facilities work program" means~~
7 ~~the 5-year listing of capital outlay projects required:~~

8 ~~1. To properly maintain the educational plant and~~
9 ~~ancillary facilities of the district.~~

10 ~~2. To provide an adequate number of satisfactory~~
11 ~~student stations for the projected student enrollment of the~~
12 ~~district in K-12 programs in accordance with the goal in ss.~~
13 ~~235.062.~~

14 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATION
15 FACILITIES PLAN WORK PROGRAM.--

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

27 1. Projected student populations apportioned
28 geographically at the local level. For the 5-year, 10-year,
29 and 20-year planning periods projections shall be based on
30 information produced by the demographic, revenue and education
31 estimating conferences pursuant to s. 216.136, where

1 available, as modified by the district based on local
2 governments and the Office of Educational Facilities of the
3 Commissioner of Education. The projections shall be
4 apportioned geographically with assistance from the local
5 governments using local development trend data, the
6 comprehensive plan, and the school district student enrollment
7 data from all communities. There must be a reasonable
8 distribution to all local governments in a county, regardless
9 of the local government's size.

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

19 3. Each school district's education facilities plan
20 shall include:

21 a. projections of facilities space needs which may not
22 exceed the norm space and occupant design criteria established
23 in the State Requirements for Educational Facilities.

24 b. information on leased, loaned, and donated space
25 and relocatables used for conducting the district's
26 instructional programs.

27 4. General location of public schools proposed to be
28 constructed over the 5, 10, and 20 year time periods,
29 including a listing of the proposed schools' site acreage
30 needs and anticipated capacity and maps showing the general
31 location. The school boards identification of general

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

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

- 9 a. acceptable capacity
- 10 b. redistricting,
- 11 c. busing,
- 12 d. year round schools, and
- 13 e. charter schools.

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

18 (b) The plan shall also include a financially feasible
19 district facilities work program for a five-year period. The
20 work program shall include:

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

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

28 a. The locations, capacities, and planned utilization
29 rates of current educational facilities of the district.

30 b. The proposed locations of planned facilities,
31 whether those locations are consistent with the comprehensive

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1 plans of all affected local governments and recommendations
2 for infrastructure and other improvements to land adjacent to
3 existing facilities. The provisions of ss. 235.19 and
4 235.193((6), (7) and (8) shall be addressed for new facilities
5 planned within the first three years of the work plan, as
6 appropriate.

7 c. Plans for the use and location of relocatable
8 facilities, leased facilities, and charter school facilities.

9 d. Plans for multitrack scheduling, grade level
10 organization, block scheduling, or other alternatives that
11 reduce the need for additional permanent student stations.

12 e. Information concerning average class size and
13 utilization rate by grade level within the district that will
14 result if the tentative district facilities work program is
15 fully implemented. ~~The average shall not include exceptional~~
16 ~~student education classes or prekindergarten classes.~~

17 f. The number and percentage of district students
18 planned to be educated in relocatable facilities during each
19 year of the tentative district facilities work program. For
20 future needs determination, student capacity shall not be
21 assigned to any relocatable classroom that is scheduled for
22 elimination or replacement with a permanent educational
23 facility in the current year of the adopted district education
24 facilities plan and in the district facilities work program
25 adopted under ss. 235.185. Those relocatables clearly
26 identified and scheduled for replacement in a school board
27 adopted, financially feasible, five-year district facilities
28 work program shall be counted at zero capacity at the time the
29 work program is adopted and approved by the school board.
30 However, if the district facilities work program is changed or
31 altered and the relocatables are not replaced as scheduled in

1 the work program, they must then be reentered into the system
2 for counting at actual capacity. Relocatables may not be
3 perpetually added to the work program and continually extended
4 for purposes of circumventing the intent of this section. All
5 relocatable classrooms not identified and scheduled for
6 replacement, including those owned, lease- purchased, or
7 leased by the school district, shall be counted at actual
8 student capacity. The district education facilities plan shall
9 identify the number of relocatable student stations scheduled
10 for replacement during the five- year survey period and the
11 total dollar amount needed for that replacement.

12 g. Plans for the closure of any school, including
13 plans for disposition of the facility or usage of facility
14 space, and anticipated revenues.

15 h. Projects for which Capital Outlay and Debt Service
16 funds, accruing under Section 9(d), Article XIII of the State
17 Constitution are to be used, shall be identified separately in
18 priority order as a Project Priority List (PPL) within the
19 district facilities work program.

20 3. The projected cost for each project identified in
21 the ~~tentative~~ district facilities work program. For proposed
22 projects for new student stations, a schedule shall be
23 prepared comparing the planned cost and square footage for
24 each new student station, by elementary, middle, and high
25 school levels, to the low, average, and high cost of
26 facilities constructed throughout the state during the most
27 recent fiscal year for which data is available from the
28 Department of Education.

29 4. A schedule of estimated capital outlay revenues
30 from each currently approved source which is estimated to be
31 available for expenditure on the projects included in the

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1 ~~tentative~~ district facilities work program.

2 5. A schedule indicating which projects included in
3 the ~~tentative~~ district facilities work program will be funded
4 from current revenues projected in subparagraph ~~4~~ 3.

5 6. A schedule of options for the generation of
6 additional revenues by the district for expenditure on
7 projects identified in the ~~tentative~~ district facilities work
8 program which are not funded under subparagraph ~~4.5-~~
9 Additional anticipated revenues may include effort index
10 grants, SIT Program awards, and Classrooms First funds.

11 (b) To the extent available, the tentative district
12 education facilities plan ~~work program~~ shall be based on
13 information produced by the demographic, revenue, and
14 education estimating conferences pursuant to ss. 216.136.

15 (c) Provision shall be made for public comment
16 concerning the tentative district education facilities plan
17 ~~work program~~.

18 (d) The district school board shall coordinate with
19 each affected local government to ensure consistency between
20 the tentative district education facilities plan and the local
21 government comprehensive plans of the affected local
22 governments during the development of the tentative district
23 education facilities plan.

24 (e) Commencing on October 1, 2001, and not less than
25 once every five years thereafter, the district school board
26 shall contract with a qualified, independent third party to
27 conduct a financial management and performance audit of the
28 educational planning and construction activities of the
29 district, and to make a determination as to whether the plan
30 is financially feasible. The response of the school board to
31 the audit shall be included in the public education facilities

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1 element adopted pursuant to s. 163.31776. An audit conducted
2 by the Auditor General satisfies this requirement.

3 (3) Submittal of tentative district education
4 facilities plan to local government. The district school board
5 shall submit a copy of its tentative district education
6 facilities plan to all affected local governments prior to
7 adoption by the board. The affected local governments shall
8 review the tentative district education facilities plan and
9 comment to the district school board on the consistency of the
10 plan with the local comprehensive plan, whether a
11 comprehensive plan amendment will be necessary for any
12 proposed educational facility, and whether the local
13 government supports a necessary comprehensive plan amendment.
14 If the local government does not support a comprehensive plan
15 amendment for a proposed educational facility, the matter
16 shall be resolved pursuant to the interlocal agreement
17 required by ss. 163.31776(4) and 235.193(2). The process for
18 the submittal and review shall be detailed in the interlocal
19 agreement required pursuant to ss. 163.31776(4) and
20 235.193(2). Where the school board and the local government
21 have not entered into an interlocal agreement pursuant to ss.
22 163.31776(4) and 235.193(2), the school board and the local
23 government must determine a mutually acceptable process for
24 submittal and review of the tentative district education
25 facilities plan. Disputes between the school board and the
26 local government, in instances where the school board and the
27 local government have not entered into an interlocal agreement
28 pursuant to 163.31776(4) and 235.193(2), shall be addressed
29 pursuant to s. 163.3181.

30 (4)~~(3)~~ ADOPTED DISTRICT EDUCATION FACILITIES PLAN
31 WORK PROGRAM.--Annually, the district school board shall

1 consider and adopt the tentative district education facilities
2 plan ~~work program~~ completed pursuant to subsection (2). Upon
3 giving proper ~~public~~ notice to the public and local
4 governments and opportunity for public comment, the district
5 school board may amend the plan ~~program~~ to revise the priority
6 of projects, to add or delete projects, to reflect the impact
7 of change orders, or to reflect the approval of new revenue
8 sources which may become available. The adopted district
9 facilities work program shall include a 5-year facilities work
10 program which:

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

13 (b) Set forth the proposed commitments and planned
14 expenditures of the district to address the educational
15 facilities needs of its students and to adequately provide for
16 the maintenance of the educational plant and ancillary
17 facilities, including safe access ways from neighborhoods to
18 schools.

19 ~~(5)(4)~~ EXECUTION OF ADOPTED DISTRICT FACILITIES WORK
20 PROGRAM.--The first year of the adopted district education
21 facilities plan ~~work program~~ shall constitute the capital
22 outlay budget required in ss. 235.18. The adopted district
23 facilities work program shall include the information required
24 in subparagraphs (2)(b) 1., 2., and 3., based upon projects
25 actually funded in the program.

26 ~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.--In addition to~~
27 ~~the adopted district facilities work program covering the~~
28 ~~5-year work program, the district school board shall adopt~~
29 ~~annually a 10-year and a 20-year work program which is include~~
30 ~~the information set forth in subsection (2), but based upon~~
31 ~~enrollment projections and facility needs for the 10-year and~~

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1 ~~20-year periods. It is recognized that the projections in the~~
2 ~~10-year and 20-year timeframes are tentative and should be~~
3 ~~used only for general planning purposes.~~

4 Section 19. Section 235.188, Florida Statutes, is
5 amended to read:

6 235.188 Full bonding required to participate in
7 programs.--

8 Any district with unused bonding capacity in its
9 Capital Outlay and Debt Service Trust Fund allocation that
10 certifies in its district education facilities plan work
11 ~~program~~ that it will not be able to meet all of its need for
12 new student stations within existing revenues must fully bond
13 its Capital Outlay and Debt Service Trust Fund allocation
14 before it may participate in Classrooms First, the School
15 Infrastructure Thrift (SIT) Program, or the Effort Index
16 Grants Program.

17 Section 20. Section 235.19 is amended as follows:

18 235.19 Site planning and selection.--

19 (1) If the school board and local government have
20 entered into an interlocal agreement pursuant to ss.
21 163.31776(4) and 235.193(2) and have developed a process to
22 ensure consistency between the local government comprehensive
23 plan and the school district education facilities plan and a
24 method to coordinate decision making and approval activities
25 relating to school planning and site selection, the provisions
26 of this section are superseded by the interlocal agreement and
27 the plans of the local government and the school board.

28 ~~(1)~~(2) Before acquiring property for sites, each
29 board shall determine the location of proposed educational
30 centers or campuses for the board. In making this
31 determination, the board shall consider existing and

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1 anticipated site needs and the most economical and practicable
2 locations of sites. The board shall coordinate with the
3 long-range or comprehensive plans of local, regional, and
4 state governmental agencies to assure the ~~compatibility~~
5 consistency of such plans ~~with site planning~~. Boards are
6 encouraged to locate schools proximate to urban residential
7 areas to the extent possible, and shall seek to collocate
8 schools with other public facilities, such as parks,
9 libraries, and community centers, to the extent possible, and
10 to encourage using elementary schools as focal points for
11 neighborhoods.

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

23 ~~(3)(4)~~ (4) Sites recommended for purchase, or purchased,
24 in accordance with chapter 230 or chapter 240 must meet
25 standards prescribed therein and such supplementary standards
26 as the school board commissioner prescribes to promote the
27 educational interests of the students. Each site must be well
28 drained and either suitable for outdoor educational purposes
29 as appropriate for the educational program or co-located with
30 facilities to serve this purpose. As provided in ss. 333.03,
31 the site must not be located within any path of flight

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1 approach of any airport. Insofar as is practicable, the site
2 must not adjoin a right-of-way of any railroad or through
3 highway and must not be adjacent to any factory or other
4 property from which noise, odors, or other disturbances, or at
5 which conditions, would be likely to interfere with the
6 educational program. To the extent practicable, sites must be
7 chosen that will provide safe access from neighborhoods to
8 schools.

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

20 ~~(5)~~(6) Each board may request county and municipal
21 governments to construct and maintain sidewalks and bicycle
22 trails within a 2-mile radius of each educational facility
23 within the jurisdiction of the local government. When a board
24 discovers or is aware of an existing hazard on or near a
25 public sidewalk, street, or highway within a 2-mile radius of
26 a school site and the hazard endangers the life or threatens
27 the health or safety of students who walk, ride bicycles, or
28 are transported regularly between their homes and the school
29 in which they are enrolled, the board shall, within 24 hours
30 after discovering or becoming aware of the hazard, excluding
31 Saturdays, Sundays, and legal holidays, report such hazard to

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1 the governmental entity within the jurisdiction of which the
2 hazard is located. Within 5 days after receiving notification
3 by the board, excluding Saturdays, Sundays, and legal
4 holidays, the governmental entity shall investigate the
5 hazardous condition and either correct it or provide such
6 precautions as are practicable to safeguard students until the
7 hazard can be permanently corrected. However, if the
8 governmental entity that has jurisdiction determines upon
9 investigation that it is impracticable to correct the hazard,
10 or if the entity determines that the reported condition does
11 not endanger the life or threaten the health or safety of
12 students, the entity shall, within 5 days after notification
13 by the board, excluding Saturdays, Sundays, and legal
14 holidays, inform the board in writing of its reasons for not
15 correcting the condition. The governmental entity, to the
16 extent allowed by law, shall indemnify the board from any
17 liability with respect to accidents or injuries, if any,
18 arising out of the hazardous condition.

19 Section 21. Section 235.193 is amended as follows:

20 235.193 Coordination of planning with local governing
21 bodies.--

22 (1) It is the policy of this state to require the
23 coordination of planning between boards and local governing
24 bodies to ensure that plans for the construction and opening
25 of public educational facilities are facilitated and
26 coordinated in time and place with plans for residential
27 development, concurrently with other necessary services. Such
28 planning shall include the integration of the education
29 facilities plan ~~educational plant survey~~ and applicable
30 policies and procedures of a board with the local
31 comprehensive plan and land development regulations of local

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1 ~~governments.governing bodies.~~ The planning must include the
2 consideration of allowing students to attend the school
3 located nearest their homes when a new housing development is
4 constructed near a county boundary and it is more feasible to
5 transport the students a short distance to an existing
6 facility in an adjacent county than to construct a new
7 facility or transport students longer distances in their
8 county of residence. The planning must also consider the
9 effects of the location of public education facilities,
10 including the feasibility of keeping central city facilities
11 viable, in order to encourage central city redevelopment and
12 the efficient use of infrastructure and to discourage
13 uncontrolled urban sprawl. In addition, all parties to the
14 planning process must consult with state and local road
15 departments to assist in implementing the Safe Paths to
16 Schools program administered by the Florida Department of
17 Transportation.

18 (2) No later than six months prior to the transmittal
19 of a public educational facilities element by general purpose
20 local governments meeting the criteria of s. 163.31776(3),~~No~~
21 ~~later than six months prior to the deadline established by the~~
22 ~~state land planning agency pursuant to s. 163.31776(3) for the~~
23 ~~transmittal of a public educational facilities element by~~
24 ~~general purpose local governments,~~the school district, the
25 county and the non-exempt municipalities shall enter into an
26 interlocal agreement which establishes a process to develop
27 coordinated and consistent local government public educational
28 facilities elements and district education facilities plan,
29 including a process:

30 (a) By which each local government and the school
31 district agree and base their plans on local government

1 projections based on professionally accepted methodology of
2 the amount, type, and distribution of population growth and
3 student enrollment.

4 (b) To coordinate and share information relating to
5 existing and planned public school facilities and local
6 government plans for development and redevelopment.

7 (c) To ensure school siting decisions by the school
8 board are consistent with the local comprehensive plan and
9 future land use maps, including appropriate circumstances and
10 criteria under which a school district may request an
11 amendment to the comprehensive plan for school siting, and for
12 early involvement by the local government as the school board
13 identifies potential school sites.

14 (d) To coordinate and provide formal timely comments
15 during the development, adoption, and amendment of each local
16 government's public educational facilities element and the
17 education facilities plan of the school district to ensure a
18 uniform countywide school facility planning system.

19 (e) For school district participation in the review of
20 comprehensive plan amendments and rezonings which increase
21 residential density and which are reasonably expected to have
22 an impact on public school facility demand pursuant to s.
23 163.31777. The interlocal agreement shall express how the
24 school board and local governments will develop the
25 methodology and the criteria for determining if school
26 facility capacity will not be reasonably available at the time
27 of projected school impacts, including uniform, districtwide
28 level-of service standards for all public schools of the same
29 type and availability standards for public schools. The
30 interlocal agreement shall ensure that consistent criteria and
31 capacity determination methodologies including student

1 generation multipliers, are adopted into the school board's
2 district education facilities plan and the local government's
3 public educational facilities element. The interlocal
4 agreement shall also set forth the process and uniform
5 methodology for determining proportionate share mitigation
6 pursuant to s. 163.31777; and,

7 (f) For the resolution of disputes between the school
8 district and local governments.

9 (g) That determines the "true cost of school needs."
10 This analysis must provide the number of schools and the
11 funding needed to meet any current backlog and future needs
12 based on local governments' population and growth trends.
13 This analysis should also identify how the current and future
14 needs are funded.

15 (h) Any school board entering into an interlocal
16 agreement for the purpose of adopting public school
17 concurrency prior to the effective date of this act is not
18 required to amend the interlocal agreement to conform to the
19 provisions of this paragraph if the comprehensive plan
20 amendment adopting public school concurrency is ultimately
21 determined to be in compliance.

22 (3) Failure to enter into an interlocal agreement as
23 required by s. 235.193(2) shall result in the withholding of
24 funds for school construction available pursuant to ss.
25 235.187, 235.216, 235.2195, and 235.42 and a prohibition from
26 siting schools. Before the Office of Educational Facilities
27 of the Commissioner of Education can withhold any funds, the
28 Office shall provide the school board with a notice of intent
29 to withhold funds, which the school board may dispute pursuant
30 to the provisions of chapter 120. The Office shall withhold
31 funds when a final order is issued finding the school board

1 has failed to enter into an interlocal agreement which meets
2 the requirements of this subsection.

3 (4) The local school board shall provide the local
4 government a school capacity report when the local government
5 notifies the school board that it is reviewing an application
6 for a comprehensive plan amendment or a rezoning which seeks
7 to increase residential density. The report shall provide
8 data and analysis as required by s. 163.31777(2) for the local
9 government's review of such proposed plan amendment or
10 rezoning.

11 (5)(2) A school board and the local governing body
12 must share and coordinate information related to existing and
13 planned public school facilities; proposals for development,
14 redevelopment, or additional development; and infrastructure
15 required to support the public school facilities, concurrent
16 with proposed development. A school board shall use
17 information produced by the demographic, revenue and education
18 estimating conferences pursuant to s. 216.136 ~~Department of~~
19 ~~Education enrollment projections~~ when preparing the district
20 ~~education facilities plan 5-year district facilities work~~
21 ~~program~~ pursuant to ss. 235.185, as modified, and agreed to by
22 the local governments and the Office of Educational Facilities
23 of the Commissioner of Education, in ~~and a school board shall~~
24 ~~affirmatively demonstrate in the educational facilities report~~
25 consideration of local governments' population projections to
26 ensure that the district education facilities plan 5-year work
27 ~~program~~ not only reflects enrollment projections but also
28 considers applicable municipal and county growth and
29 development projections. The projections shall be apportioned
30 geographically with assistance from the local governments
31 using local development trend data and the school district

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1 student enrollment data from all communities. There must be a
2 reasonable, distribution to all local governments with a
3 county, regardless of the local government's size.A school
4 board is precluded from siting a new school in a jurisdiction
5 where the school board has failed to provide the annual
6 educational facilities plan~~report~~ for the prior year required
7 pursuant to ss. 235.185 ~~235.194~~ unless the failure is
8 corrected.

9 ~~(6)(3)~~ The location of public educational facilities
10 shall be consistent with the comprehensive plan of the
11 appropriate local governing body developed under part II of
12 chapter 163 and consistent with the plan's implementing land
13 development regulations, ~~to the extent that the regulations~~
14 ~~are not in conflict with or the subject regulated is not~~
15 ~~specifically addressed by this chapter or the State Uniform~~
16 ~~Building Code, unless mutually agreed by the local government~~
17 ~~and the board.~~

18 ~~(7)(4)~~ To improve coordination relative to potential
19 educational facility sites, a board shall provide written
20 notice to the local government that has regulatory authority
21 over the use of the land at least 120 ~~60~~ days prior to
22 acquiring or leasing property that may be used for a new
23 public educational facility. The local government, upon
24 receipt of this notice, shall notify the board within 45 days
25 if the site proposed for acquisition or lease is consistent
26 with the future land use element of the local government's
27 comprehensive plan. This preliminary notice does not
28 constitute the local government's determination of consistency
29 pursuant to subsection~~(5)~~(8).

30 ~~(8)(5)~~ As early in the design phase as feasible, but
31 at least before commencing construction of a new public

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1 educational facility, the local governing body that regulates
2 the use of land shall determine, in writing within 90 days
3 after receiving the necessary information and a school board's
4 request for a determination, whether a proposed public
5 educational facility is consistent with the local
6 comprehensive plan and consistent with local land development
7 regulations, to the extent that the regulations are not in
8 conflict with or the subject regulated is not specifically
9 addressed by this chapter or the State Uniform Building Code,
10 unless mutually agreed. If the determination is affirmative,
11 school construction may proceed and further local government
12 approvals are not required, except as provided in this
13 section. Failure of the local governing body to make a
14 determination in writing within 90 days after a school board's
15 request for a determination of consistency shall be considered
16 an approval of the school board's application.

17 (9)~~(6)~~ A local governing body may not deny the site
18 applicant based on adequacy of the site plan as it relates
19 solely to the needs of the school. If the site is consistent
20 with the comprehensive plan's ~~future land use~~, the local
21 government may not deny the application but it may impose
22 reasonable development standards and conditions in accordance
23 with ss. 235.34(1) and consider the site plan and its adequacy
24 as it relates to environmental concerns, health, safety and
25 welfare, and effects on adjacent property. Standards and
26 conditions may not be imposed which conflict with those
27 established in this chapter or the State Uniform Building
28 Code, unless mutually agreed.

29 (10)~~(7)~~ This section does not prohibit a local
30 governing body and district school board from agreeing and
31 establishing an alternative process for reviewing a proposed

1 educational facility and site plan, and offsite impacts
2 pursuant to an interlocal agreement adopted in accordance with
3 s. 235.193.

4 (11)(8) Existing schools shall be considered
5 consistent with the applicable local government comprehensive
6 plan adopted under part II of chapter 163. ~~The collocation of~~
7 ~~a new proposed public educational facility with an existing~~
8 ~~public educational facility, or the expansion of an existing~~
9 ~~public educational facility is not inconsistent with the local~~
10 ~~comprehensive plan, if the site is consistent with the~~
11 ~~comprehensive plan's future land use, and levels of service~~
12 ~~adopted by the local government for any facilities affected by~~
13 ~~the proposed location for the new facility are maintained. If~~
14 a board submits an application to expand an existing school
15 site, the local governing body may impose reasonable
16 development standards and conditions on the expansion only,
17 and in a manner consistent with ss. 235.34(1). Standards and
18 conditions may not be imposed which conflict with those
19 established in this chapter or the State Uniform Building
20 Code, unless mutually agreed. Local government review or
21 approval is not required for:

22 (a) The placement of temporary or portable classroom
23 facilities; or

24 (b) Proposed renovation or construction on existing
25 school sites, with the exception of construction that changes
26 the primary use of a facility, includes stadiums, or results
27 in a greater than 5 percent increase in student capacity, or
28 as mutually agreed.

29 Section 22. Section 235.194 is repealed.

30 Section 23. Section 235.218, Florida Statutes, is
31 amended to read:

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1 235.218 School district educational facilities plan
2 ~~work program~~ performance and productivity standards;
3 development; measurement; application.--

4 (1) The SMART Schools Clearinghouse shall develop and
5 adopt measures for evaluating the performance and productivity
6 of school district educational facilities plan ~~work program~~.
7 The measures may be both quantitative and qualitative and
8 must, to the maximum extent practical, assess those factors
9 that are within the districts' control. The measures must, at
10 a minimum, assess performance in the following areas:

- 11 (a) Frugal production of high-quality projects.
12 (b) Efficient finance and administration.
13 (c) Optimal school and classroom size and utilization
14 rate.
15 (d) Safety.
16 (e) Core facility space needs and cost-effective
17 capacity improvements that consider demographic projections,
18 land use patterns, and collocation and shared use with other
19 public facilities.

20 (f) Level of district local effort.

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

24 (3) The clearinghouse shall conduct ongoing
25 evaluations of district educational facilities program
26 performance and productivity, using the measures adopted under
27 this section. If, using these measures, the clearinghouse
28 finds that a district failed to perform satisfactorily, the
29 clearinghouse must recommend to the district school board
30 actions to be taken to improve the district's performance.

31 Section 24. Section 235.321, Florida Statutes is

1 amended to read:

2 235.321 Changes in construction requirements after
3 award of contract.--

4 The board may, at its option and by written policy duly
5 adopted and entered in its official minutes, authorize the
6 superintendent or president or other designated individual to
7 approve change orders in the name of the board for
8 preestablished amounts. Approvals shall be for the purpose of
9 expediting the work in progress and shall be reported to the
10 board and entered in its official minutes. For accountability,
11 the school district shall monitor and report the impact of
12 change orders on its district education facilities plan work
13 ~~program~~ pursuant to ss. 235.185.

14 Section 25. Paragraph (d) of subsection (5) of section
15 236.25, Florida Statutes, is amended to read:

16 236.25 District school tax.--

17 (5)

18 (d) Notwithstanding any other provision of this
19 subsection, if through its adopted education facilities plan
20 ~~work program~~ a district has clearly identified the need for an
21 ancillary plant, has provided opportunity for public input as
22 to the relative value of the ancillary plant versus an
23 educational plant, and has obtained public approval, the
24 district may use revenue generated by the millage levy
25 authorized by subsection (2) for the construction, renovation,
26 remodeling, maintenance, or repair of an ancillary plant.

27 A district that violates these expenditure restrictions
28 shall have an equal dollar reduction in funds appropriated to
29 the district under ss. 236.081 in the fiscal year following
30 the audit citation. The expenditure restrictions do not apply
31 to any school district that certifies to the Commissioner of

1 Education that all of the district's instructional space needs
2 for the next 5 years can be met from capital outlay sources
3 that the district reasonably expects to receive during the
4 next 5 years or from alternative scheduling or construction,
5 leasing, rezoning, or technological methodologies that exhibit
6 sound management.

7 Section 26. Section 380.04, Florida Statutes, is
8 amended to read:

9 380.04 Definition of development.--

10 (1) The term "development" means the carrying out of
11 any building activity or mining operation, the making of any
12 material change in the use or appearance of any structure or
13 land, or the dividing of land into three or more parcels.

14 (2) The following activities or uses shall be taken
15 for the purposes of this chapter to involve "development," as
16 defined in this section:

17 (a) A reconstruction, alteration of the size, or
18 material change in the external appearance of a structure on
19 land.

20 (b) A change in the intensity of use of land, such as
21 an increase in the number of dwelling units in a structure or
22 on land or a material increase in the number of businesses,
23 manufacturing establishments, offices, or dwelling units in a
24 structure or on land.

25 (c) Alteration of a shore or bank of a seacoast,
26 river, stream, lake, pond, or canal, including any "coastal
27 construction" as defined in s. 161.021.

28 (d) Commencement of drilling, except to obtain soil
29 samples, mining, or excavation on a parcel of land.

30 (e) Demolition of a structure.

31 (f) Clearing of land as an adjunct of construction.

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1 (g) Deposit of refuse, solid or liquid waste, or fill
2 on a parcel of land.

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

6 (a) Work by a highway or road agency or railroad
7 company for the maintenance or improvement of a road or
8 railroad track, if the work is carried out on land within the
9 boundaries of the right-of-way.

10 (b) Work by any utility and other persons engaged in
11 the distribution or transmission of gas, electricity, or
12 water, for the purpose of inspecting, repairing, renewing, or
13 constructing on or adjacent to established rights-of-way any
14 sewers, mains, pipes, cables, utility tunnels, power lines,
15 towers, poles, tracks, or the like.

16 (c) Work for the maintenance, renewal, improvement, or
17 alteration of any structure, if the work affects only the
18 interior or the color of the structure or the decoration of
19 the exterior of the structure.

20 (d) The use of any structure or land devoted to
21 dwelling uses for any purpose customarily incidental to
22 enjoyment of the dwelling.

23 (e) The use of any land for the purpose of growing
24 plants, crops, trees, and other agricultural or forestry
25 products; raising livestock; or for other agricultural
26 purposes.

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

30 (g) A change in the ownership or form of ownership of
31 any parcel or structure.

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1 (h) The creation or termination of rights of access,
2 riparian rights, easements, covenants concerning development
3 of land, or other rights in land.

4 (4) "Development," as designated in an ordinance,
5 rule, or development permit includes all other development
6 customarily associated with it unless otherwise specified.
7 When appropriate to the context, "development" refers to the
8 act of developing or to the result of development. Reference
9 to any specific operation is not intended to mean that the
10 operation or activity, when part of other operations or
11 activities, is not development. Reference to particular
12 operations is not intended to limit the generality of
13 subsection (1).

14 Section 27. Paragraphs (d) and (e) of subsection (2),
15 paragraph (c) of subsection (3), paragraph (b) of subsection
16 (4), paragraph (a) of subsection (8), paragraphs (c) and (g)
17 of subsection (15), subsection (18), and paragraph (c), (e),
18 and (f) of subsection (19) of section 380.06, Florida
19 Statutes, are amended, to read:

20 380.06 Developments of regional impact.--

21 (2) STATEWIDE GUIDELINES AND STANDARDS.--

22 (d) The guidelines and standards shall be applied as
23 follows:

24 ~~1. Fixed thresholds.--~~

25 1.a. A development that is ~~at or~~ below 100 ~~80~~ percent
26 of all numerical thresholds in the guidelines and standards
27 shall not be required to undergo
28 development-of-regional-impact review.

29 2.b. A development that is at or above 100 ~~120~~ percent
30 of any numerical threshold shall be required to undergo
31 development-of-regional-impact review.

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1 ~~3.c.~~ Projects certified under s. 403.973 which create
2 at least 100 jobs and meet the criteria of the Office of
3 Tourism, Trade, and Economic Development as to their impact on
4 an area's economy, employment, and prevailing wage and skill
5 levels that are at or below 100 percent of the numerical
6 thresholds for industrial plants, industrial parks,
7 distribution, warehousing or wholesaling facilities, office
8 development or multiuse projects other than residential, as
9 described in s. 380.0651(3)(~~b~~)(~~c~~), (~~c~~)(~~d~~), and(~~g~~)(~~i~~), are not
10 required to undergo development-of-regional-impact review.

11 ~~2. Rebuttable presumptions.--~~

12 ~~a. It shall be presumed that a development that is~~
13 ~~between 80 and 100 percent of a numerical threshold shall not~~
14 ~~be required to undergo development-of-regional-impact review.~~

15 ~~b. It shall be presumed that a development that is at~~
16 ~~100 percent or between 100 and 120 percent of a numerical~~
17 ~~threshold shall be required to undergo~~
18 ~~development-of-regional-impact review.~~

19 ~~The Administration Commission, upon the recommendation~~
20 ~~of the state land planning agency, shall implement this~~
21 ~~paragraph by rule no later than December 1, 1993. The~~
22 ~~increased guidelines and standards authorized by this~~
23 ~~paragraph shall not be implemented until the effectiveness of~~
24 ~~the rule which, among other things, shall set forth the~~
25 ~~pertinent characteristics of urban central business districts~~
26 ~~and regional activity centers.~~

27 (e) With respect to residential, hotel, motel, office,
28 and retail developments, the applicable guidelines and
29 standards shall be increased by 50 percent in urban central
30 business districts and regional activity centers of
31 jurisdictions whose local comprehensive plans are in

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1 compliance with part II of chapter 163. With respect to
2 multiuse developments, the applicable guidelines and standards
3 shall be increased by 100 percent in urban central business
4 districts and regional activity centers of jurisdictions whose
5 local comprehensive plans are in compliance with part II of
6 chapter 163, if one land use of the multiuse development is
7 residential and amounts to not less than 35 percent of the
8 jurisdiction's applicable residential threshold. With respect
9 to resort or convention hotel developments, the applicable
10 guidelines and standards shall be increased by 150 percent in
11 urban central business districts and regional activity centers
12 of jurisdictions whose local comprehensive plans are in
13 compliance with part II of chapter 163 and where the increase
14 is specifically for a proposed resort or convention hotel
15 located in a county with a population greater than 500,000 and
16 the local government specifically designates that the proposed
17 resort or convention hotel development will serve an existing
18 convention center of more than 250,000 gross square feet built
19 prior to July 1, 1992. The applicable guidelines and
20 standards shall be increased by 200 percent for development in
21 any area designated by the Governor as a rural area of
22 critical economic concern pursuant to s. 288.0656 during the
23 effectiveness of the designation.~~The Administration~~
24 ~~Commission, upon the recommendation of the state land planning~~
25 ~~agency, shall implement this paragraph by rule no later than~~
26 ~~December 1, 1993. The increased guidelines and standards~~
27 ~~authorized by this paragraph shall not be implemented until~~
28 ~~the effectiveness of the rule which, among other things, shall~~
29 ~~set forth the pertinent characteristics of urban central~~
30 ~~business districts and regional activity centers.~~

31 (3) VARIATION OF THRESHOLDS IN STATEWIDE GUIDELINES

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1 AND STANDARDS.--The state land planning agency, a regional
2 planning agency, or a local government may petition the
3 Administration Commission to increase or decrease the
4 numerical thresholds of any statewide guideline and standard.
5 The state land planning agency or the regional planning agency
6 may petition for an increase or decrease for a particular
7 local government's jurisdiction or a part of a particular
8 jurisdiction. A local government may petition for an increase
9 or decrease within its jurisdiction or a part of its
10 jurisdiction. A number of requests may be combined in a
11 single petition.

12 (c) The Administration Commission shall have authority
13 to increase or decrease a threshold in the statewide
14 guidelines and standards ~~up to 50 percent above or below the~~
15 ~~statewide presumptive threshold~~. The commission may from time
16 to time reconsider changed thresholds and make additional
17 variations as it deems necessary.

18 (4) BINDING LETTER.--

19 (b) Unless a developer waives the requirements of this
20 paragraph by agreeing to undergo
21 development-of-regional-impact review pursuant to this
22 section, the state land planning agency or local government
23 with jurisdiction over the land on which a development is
24 proposed may require a developer to obtain a binding letter
25 if+

26 1. the development is ~~at a presumptive numerical~~
27 ~~threshold or~~ up to 20 percent above a numerical threshold in
28 the guidelines and standards, ~~or~~

29 2. ~~The development is between a presumptive numerical~~
30 ~~threshold and 20 percent below the numerical threshold and the~~
31 ~~local government or the state land planning agency is in doubt~~

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1 ~~as to whether the character or magnitude of the development at~~
2 ~~the proposed location creates a likelihood that the~~
3 ~~development will have a substantial effect on the health,~~
4 ~~safety, or welfare of citizens of more than one county.~~

5 (8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

6 (a) A developer may enter into a written preliminary
7 development agreement with the state land planning agency to
8 allow a developer to proceed with a limited amount of the
9 total proposed development, subject to all other governmental
10 approvals and solely at the developer's own risk, prior to
11 issuance of a final development order. All owners of the land
12 in the total proposed development shall join the developer as
13 parties to the agreement. Each agreement shall include and be
14 subject to the following conditions:

15 1. The developer shall comply with the preapplication
16 conference requirements pursuant to subsection (7) within 45
17 days after the execution of the agreement.

18 2. The developer shall file an application for
19 development approval for the total proposed development within
20 3 months after execution of the agreement, unless the state
21 land planning agency agrees to a different time for good cause
22 shown. Failure to timely file an application and to otherwise
23 diligently proceed in good faith to obtain a final development
24 order shall constitute a breach of the preliminary development
25 agreement.

26 3. The agreement shall include maps and legal
27 descriptions of both the preliminary development area and the
28 total proposed development area and shall specifically
29 describe the preliminary development in terms of magnitude and
30 location. The area approved for preliminary development must
31 be included in the application for development approval and

1 shall be subject to the terms and conditions of the final
2 development order.

3 4. The preliminary development shall be limited to
4 lands that the state land planning agency agrees are suitable
5 for development and shall only be allowed in areas where
6 adequate public infrastructure exists to accommodate the
7 preliminary development, when such development will utilize
8 public infrastructure. The developer must also demonstrate
9 that the preliminary development will not result in material
10 adverse impacts to existing resources or existing or planned
11 facilities.

12 5. The preliminary development agreement may allow
13 development which is:

14 a. Less than 100 ~~or equal to 80~~ percent of any
15 applicable threshold if the developer demonstrates that such
16 development is consistent with subparagraph 4.; or

17 b. Equal to or more than 100 ~~less than 120~~ percent of
18 any applicable threshold if the developer demonstrates that
19 such development is part of a proposed downtown development of
20 regional impact specified in subsection (22) or part of any
21 areawide development of regional impact specified in
22 subsection (25) and that the development is consistent with
23 subparagraph 4.

24 6. The developer and owners of the land may not claim
25 vested rights, or assert equitable estoppel, arising from the
26 agreement or any expenditures or actions taken in reliance on
27 the agreement to continue with the total proposed development
28 beyond the preliminary development. The agreement shall not
29 entitle the developer to a final development order approving
30 the total proposed development or to particular conditions in
31 a final development order.

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1 7. The agreement shall not prohibit the regional
2 planning agency from reviewing or commenting on any regional
3 issue that the regional agency determines should be included
4 in the regional agency's report on the application for
5 development approval.

6 8. The agreement shall include a disclosure by the
7 developer and all the owners of the land in the total proposed
8 development of all land or development within 5 miles of the
9 total proposed development in which they have an interest and
10 shall describe such interest.

11 9. In the event of a breach of the agreement or
12 failure to comply with any condition of the agreement, or if
13 the agreement was based on materially inaccurate information,
14 the state land planning agency may terminate the agreement or
15 file suit to enforce the agreement as provided in this section
16 and s. 380.11, including a suit to enjoin all development.

17 10. A notice of the preliminary development agreement
18 shall be recorded by the developer in accordance with s.
19 28.222 with the clerk of the circuit court for each county in
20 which land covered by the terms of the agreement is located.
21 The notice shall include a legal description of the land
22 covered by the agreement and shall state the parties to the
23 agreement, the date of adoption of the agreement and any
24 subsequent amendments, the location where the agreement may be
25 examined, and that the agreement constitutes a land
26 development regulation applicable to portions of the land
27 covered by the agreement. The provisions of the agreement
28 shall inure to the benefit of and be binding upon successors
29 and assigns of the parties in the agreement.

30 11. Except for those agreements which authorize
31 preliminary development for substantial deviations pursuant to

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1 subsection (19), a developer who no longer wishes to pursue a
2 development of regional impact may propose to abandon any
3 preliminary development agreement executed after January 1,
4 1985, including those pursuant to s. 380.032(3), provided at
5 the time of abandonment:

6 a. A final development order under this section has
7 been rendered that approves all of the development actually
8 constructed; or

9 b. The amount of development is less than 100 ~~80~~
10 percent of all numerical thresholds of the guidelines and
11 standards, and the state land planning agency determines in
12 writing that the development to date is in compliance with all
13 applicable local regulations and the terms and conditions of
14 the preliminary development agreement and otherwise adequately
15 mitigates for the impacts of the development to date.

16

17 In either event, when a developer proposes to abandon said
18 agreement, the developer shall give written notice and state
19 that he or she is no longer proposing a development of
20 regional impact and provide adequate documentation that he or
21 she has met the criteria for abandonment of the agreement to
22 the state land planning agency. Within 30 days of receipt of
23 adequate documentation of such notice, the state land planning
24 agency shall make its determination as to whether or not the
25 developer meets the criteria for abandonment. Once the state
26 land planning agency determines that the developer meets the
27 criteria for abandonment, the state land planning agency shall
28 issue a notice of abandonment which shall be recorded by the
29 developer in accordance with s. 28.222 with the clerk of the
30 circuit court for each county in which land covered by the
31 terms of the agreement is located.

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1 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

2 (c) The development order shall include findings of
3 fact and conclusions of law consistent with subsections (13)
4 and (14). The development order:

5 1. Shall specify the monitoring procedures and the
6 local official responsible for assuring compliance by the
7 developer with the development order.

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

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

24 4. Shall specify the requirements for the biennial
25 ~~annual~~ report designated under subsection (18), including the
26 date of submission, parties to whom the report is submitted,
27 and contents of the report, based upon the rules adopted by
28 the state land planning agency. Such rules shall specify the
29 scope of any additional local requirements that may be
30 necessary for the report.

31 5. May specify the types of changes to the development

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1 which shall require submission for a substantial deviation
2 determination under subsection (19).

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

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

7 1. The proposed development has been evaluated
8 cumulatively with existing development under the substantial
9 deviation provisions of subsection (19) subsequent to the
10 termination or expiration date;

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

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

29 a. The development is in compliance with all
30 applicable terms and conditions of the development order
31 except the built-out date; and

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

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

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

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1 Development orders which require annual reports may be amended
2 to require biennial reports at the option of the local
3 government.

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

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

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1 ~~(f)5.~~

2 ~~1.2.~~ Except for a development order rendered pursuant
3 to subsection (22) or subsection (25), a proposed change to a
4 development order that individually or cumulatively with any
5 previous change is less than 60 ~~40~~ percent of any numerical
6 criterion contained in subparagraphs (b)~~1.-12.1.-15.~~ and does
7 not exceed any other criterion is not a substantial deviation,
8 ~~or that involves an extension of the buildout date of a~~
9 ~~development, or any phase thereof, of less than 5 years~~ is not
10 subject to the public hearing requirements of subparagraph
11 (f)3., and is not subject to a determination pursuant to
12 subparagraph (f)5. Notice of the proposed change shall be
13 made to the local government and the regional planning council
14 ~~and the state land planning agency.~~ Such notice shall include
15 a description of previous individual changes made to the
16 development, including changes previously approved by the
17 local government, and shall include appropriate amendments to
18 the development order. The following changes, individually or
19 cumulatively with any previous changes, are not substantial
20 deviations:

- 21 a. Changes in the name of the project, developer,
22 owner, or monitoring official.
- 23 b. Changes to a setback that do not affect noise
24 buffers, environmental protection or mitigation areas, or
25 archaeological or historical resources.
- 26 c. Changes to minimum lot sizes.
- 27 d. Changes in the configuration of internal roads that
28 do not affect external access points.
- 29 e. Changes to the building design or orientation that
30 stay approximately within the approved area designated for
31 such building and parking lot, and which do not affect

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1 historical buildings designated as significant by the Division
2 of Historical Resources of the Department of State.

3 f. Changes to increase the acreage in the development,
4 provided that no development is proposed on the acreage to be
5 added.

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

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

11 i. Any other change which the state land planning
12 agency agrees in writing is similar in nature, impact, or
13 character to the changes enumerated in sub-subparagraphs a.-h.
14 and which does not create the likelihood of any additional
15 regional impact.

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

23 ~~2.3.~~ Except for the change authorized by
24 sub-subparagraph ~~1.f.2.f.~~, any addition of land not
25 previously reviewed or any change not specified in paragraph
26 (b) or paragraph (c) shall be presumed to create a substantial
27 deviation. This presumption may be rebutted by clear and
28 convincing evidence.

29 ~~3.4.~~ Any submittal of a proposed change to a
30 previously approved development shall include a description of
31 individual changes previously made to the development,

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1 including changes previously approved by the local government.
2 The local government shall consider the previous and current
3 proposed changes in deciding whether such changes cumulatively
4 constitute a substantial deviation requiring further
5 development-of-regional-impact review.

6 ~~4.5.~~ The following changes to an approved development
7 of regional impact shall be presumed to create a substantial
8 deviation. Such presumption may be rebutted by clear and
9 convincing evidence.

10 a. A change proposed for 15 percent or more of the
11 acreage to a land use not previously approved in the
12 development order. Changes of less than 15 percent shall be
13 presumed not to create a substantial deviation.

14 b. Except for the types of uses listed in subparagraph
15 (b)~~13.16~~, any change which would result in the development of
16 any area which was specifically set aside in the application
17 for development approval or in the development order for
18 preservation, buffers, or special protection, including
19 habitat for plant and animal species, archaeological and
20 historical sites, dunes, and other special areas.

21 c. Notwithstanding any provision of paragraph (b) to
22 the contrary, a proposed change consisting of simultaneous
23 increases and decreases of at least two of the uses within an
24 authorized multiuse development of regional impact which was
25 originally approved with three or more uses specified in s.
26 380.0651(3)(b)~~(c)~~, ~~(c)~~~~(d)~~, ~~(d)~~~~(f)~~, and ~~(e)~~~~(g)~~ and residential
27 use.

28 (f)1. The state land planning agency shall establish
29 by rule standard forms for submittal of proposed changes to a
30 previously approved development of regional impact which may
31 require further development-of-regional-impact review. At a

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1 minimum, the standard form shall require the developer to
2 provide the precise language that the developer proposes to
3 delete or add as an amendment to the development order.

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

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

22 4. The appropriate regional planning agency or the
23 state land planning agency shall review the proposed change
24 and, no later than 45 days after submittal by the developer of
25 the proposed change, unless that time is extended by the
26 developer, and prior to the public hearing at which the
27 proposed change is to be considered, shall advise the local
28 government in writing whether it objects to the proposed
29 change, shall specify the reasons for its objection, if any,
30 and shall provide a copy to the developer. ~~A change which is~~
31 ~~subject to the substantial deviation criteria specified in~~

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1 ~~sub-subparagraph (e)5.c. shall not be subject to this~~
2 ~~requirement.~~

3 5. At the public hearing, the local government shall
4 determine whether the proposed change requires further
5 development-of-regional-impact review. The provisions of
6 paragraphs (a) and (e), the thresholds set forth in paragraph
7 (b), and the presumptions set forth in paragraphs (c) and (d)
8 and subparagraph (e)2.~~subparagraphs (e)1. and 3.~~shall be
9 applicable in determining whether further
10 development-of-regional-impact review is required.

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

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1 archaeological, historical, or natural resource not previously
2 identified in the original development-of-regional-impact
3 review.

4 Section 28. Paragraphs (b), (d), (f), and (j) of said
5 subsection are amended, to read:

6 380.0651 Statewide guidelines and standards.--

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

11 (b) Attractions and recreation facilities.--Any
12 sports, entertainment, amusement, or recreation facility,
13 including, but not limited to, a sports arena, stadium,
14 racetrack, tourist attraction, amusement park, or pari-mutuel
15 facility, the construction or expansion of which:

16 1. For single performance facilities:

17 a. Provides parking spaces for more than 2,500 cars;

18 or

19 b. Provides more than 10,000 permanent seats for
20 spectators.

21 2. For serial performance facilities, +

22 ~~a. Provides parking spaces for more than 1,000 cars;~~

23 or

24 ~~b.~~ provides more than 4,000 permanent seats for
25 spectators.

26

27 For purposes of this subsection, "serial performance
28 facilities" means those using their parking areas or permanent
29 seating more than one time per day on a regular or continuous
30 basis.

31 3. For multiscreen movie theaters of at least 8

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1 screens and 2,500 seats:

2 a. Provides parking spaces for more than 1,500 cars;
3 or

4 b. Provides more than 6,000 permanent seats for
5 spectators.

6 (d) Office development.--Any proposed office building
7 or park operated under common ownership, development plan, or
8 management that:

9 1. Encompasses 300,000 or more square feet of gross
10 floor area; or

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

12 2.3. Encompasses more than 600,000 square feet of
13 gross floor area in a county with a population greater than
14 500,000 and only in a geographic area specifically designated
15 as highly suitable for increased threshold intensity in the
16 approved local comprehensive plan and in the strategic
17 regional policy plan.

18 (f) Retail and service development.--Any proposed
19 retail, service, or wholesale business establishment or group
20 of establishments which deals primarily with the general
21 public onsite, operated under one common property ownership,
22 development plan, or management that:

23 1. Encompasses more than 400,000 square feet of gross
24 area; or

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

26 2.3. Provides parking spaces for more than 2,500 cars.

27 (j) Residential development.--No rule may be adopted
28 concerning residential developments which treats a residential
29 development in one county as being located in a less populated
30 adjacent county unless more than 25 percent of the development
31 is located within 2 or less miles of the less populated

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1 adjacent county. However, residential development shall not be
2 treated as though it is in a less populated county if the
3 affected counties have entered into an interlocal agreement to
4 specify development review standards for affected developments
5 within 2 or less miles.

6 Section 29. Section 570.70, Florida Statutes, is
7 created to read:

8 570.70 Legislative findings.--The Legislature finds
9 and declares that:

10 (1) A thriving rural economy with a strong
11 agricultural base, a healthy natural environment, and viable
12 rural communities is an essential part of Florida. Rural areas
13 include the largest remaining intact ecosystems and best
14 examples of remaining wildlife habitats as well as a majority
15 of privately owned land targeted by local, state, and federal
16 agencies for natural resource protection.

17 (2) The growth of Florida's population can result in
18 the conversion of agricultural and rural lands into
19 residential or commercial development areas.

20 (3) The agricultural, rural, natural resource, and
21 commodity values of rural lands are vital to the state's
22 economy, productivity, rural heritage, and quality of life.

23 (4) The purpose of this act is to bring under public
24 protection lands that serve to limit subdivision and
25 conversion of agricultural and natural areas that provide
26 economic, open space, water, and wildlife benefits by
27 acquiring land or related interests in land such as perpetual,
28 less-than-fee acquisitions, agricultural protection
29 agreements, and resource conservation agreements.

30 Section 30. Section 570.71, Florida Statutes, is
31 created to read:

1 570.71 Conservation easements and agreements.--
2 (1) The department, on behalf of the Board of Trustees
3 of the Internal Improvement Trust Fund, may allocate moneys to
4 acquire perpetual, less-than-fee interest in land, to enter
5 into agricultural protection agreements, and to enter into
6 resource conservation agreements for any of the following
7 public purposes:
8 (a) Promotion and improvement of wildlife habitat.
9 (b) Protection and enhancement of water bodies,
10 aquifer recharge areas, wetlands, and watersheds.
11 (c) Perpetuation of open space on lands with
12 significant natural areas.
13 (d) Protection of agricultural lands threatened by
14 conversion to other uses.
15 (2) To achieve the purposes of this act, beginning no
16 later than July 1, 2002, and every year thereafter, the
17 department shall accept applications for project proposals
18 that:
19 (a) Purchase conservation easements as defined in s.
20 704.06.
21 (b) Purchase rural land protection easements pursuant
22 to this act.
23 (c) Fund resource conservation agreements pursuant to
24 this act.
25 (d) Fund agricultural protection agreements pursuant
26 to this act.
27 (3) Rural land protection easements shall be perpetual
28 rights or interests in agricultural land which are appropriate
29 to retain such land in predominantly its current state and to
30 prevent the subdivision and conversion of such land into other
31 uses. Such easements shall prohibit only the following:

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1 (a) Construction or placement of buildings, roads,
2 billboards or other advertising, utilities, or structures on
3 the land, except those structures and unpaved roads necessary
4 for agricultural operations or structures necessary for other
5 activities allowed under the easement, and except for linear
6 facilities described in s. 704.06(11);

7 (b) Subdivision of the land;

8 (c) Dumping or placement of trash, waste, or offensive
9 materials on the land; and

10 (d) Activities that affect the natural hydrology of
11 the land or that detrimentally affect water conservation,
12 erosion control, soil conservation, or fish and wildlife
13 habitat, except those required for environmental restoration;
14 federal, state, or local government regulatory programs; or
15 best management practices.

16 (4) Resource conservation agreements shall be
17 contracts for services that provide annual payments to
18 landowners for services that actively improve habitat and
19 water restoration or conservation on their lands over and
20 above that which is already required by law or that provide
21 recreational opportunities. Such agreements shall be for a
22 term of not less than 5 years and not more than 10 years.
23 Property owners shall become eligible to enter into a resource
24 conservation agreement only upon entering into a conservation
25 easement or rural land protection easement.

26 (5) Agricultural protection agreements shall be for
27 terms of 30 years and shall provide payments to landowners
28 having significant natural areas on their land. Public access
29 and public recreational opportunities may be negotiated at the
30 request of the landowner.

31 (a) For the length of the agreement, the landowner

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1 shall agree to prohibit:

2 1. Construction or placement of buildings, roads,
3 billboards or other advertising, utilities, or structures on
4 the land, except those structures and unpaved roads necessary
5 for agricultural operations or structures necessary for other
6 activities allowed under the agreement, and except for linear
7 facilities described in s. 704.06(11);

8 2. Subdivision of the land;

9 3. Dumping or placement of trash, waste, or offensive
10 materials on the land; and

11 4. Activities that affect the natural hydrology of the
12 land or that detrimentally affect water conservation, erosion
13 control, soil conservation, or fish and wildlife habitat.

14 (b) As part of the agricultural protection agreement,
15 the parties shall agree that the state shall have a right to
16 buy a conservation easement or rural land protection easement
17 at the end of the 30-year term or prior to the landowner
18 transferring or selling the property, whichever occurs later.
19 If the landowner tenders the easement for the purchase and the
20 state does not timely exercise its right to buy the easement,
21 the landowner shall be released from the agricultural
22 agreement. The purchase price of the easement shall be
23 established in the agreement and shall be based on the value
24 of the easement at the time the agreement is entered into,
25 plus a reasonable escalator multiplied by the number of full
26 calendar years following the date of the commencement of the
27 agreement. The landowner may transfer or sell the property
28 before the expiration of the 30-year term, but only if the
29 property is sold subject to the agreement and the buyer
30 becomes the successor in interest to the agricultural
31 protection agreement. Upon mutual consent of the parties, a

1 landowner may enter into a perpetual easement at any time
2 during the term of an agricultural protection agreement.

3 (6) Payment for conservation easements and rural land
4 protection easements shall be a lump-sum payment at the time
5 the easement is entered into, payable from proceeds derived
6 from revenues distributed pursuant to ss. 201.15 and 215.619.

7 (7) Landowners entering into an agricultural
8 protection agreement may receive up to 50 percent of the
9 purchase price at the time the agreement is entered into, and
10 remaining payments on the balance shall be equal annual
11 payments over the term of the agreement, payable from proceeds
12 derived from revenues distributed pursuant to ss. 201.15 and
13 215.619, subject to the provisions of s. 11(e), Art. VII of
14 the State Constitution. Payments for agricultural protection
15 agreements may not exceed 10 percent of the total funds
16 appropriated.

17 (8) Payments for resource conservation agreements
18 shall be equal annual payments over the term of the agreement,
19 payable from proceeds derived from revenues distributed
20 pursuant to s. 201.15.

21 (9) Easements purchased pursuant to this act may not
22 prevent landowners from transferring the remaining fee value
23 with the easement.

24 (10) The department, in consultation with the
25 Department of Environmental Protection, water management
26 districts, the Department of Community Affairs, and the
27 Florida Fish and Wildlife Conservation Commission, shall adopt
28 rules that establish an application process, a process and
29 criteria for setting priorities for use of funds consistent
30 with the purposes specified in s. 570.71(1) and giving
31 preference to ranch and timber lands managed using sustainable

1 practices, an appraisal process, and a process for title
2 review and compliance and approval of the rules by the Board
3 of Trustees of the Internal Improvement Trust Fund.

4 (11) The department is directed to seek funds from
5 federal sources to use in combination with state funds to
6 carry out the purposes of this section.

7 Section 31. If any provision of this act or the
8 application thereof to any person or circumstance is held
9 invalid, the invalidity shall not affect other provisions or
10 applications of the act which can be given effect without the
11 invalid provision or application, and to this end the
12 provisions of this act are declared severable.

13 Section 32. This act shall take effect upon becoming a
14 law.

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

18 And the title is amended as follows:

19 On page ,
20 remove from the bill: entire title

21
22 and insert in lieu thereof:

23 A bill to be entitled
24 An act relating to growth management; amending
25 163.3174, F.S.; providing for school board
26 representation on the local planning agency;
27 amending s. 163.3177, F.S.; conforming
28 language; providing that an agricultural land
29 use category shall be eligible for the location
30 of public schools in a local government
31 comprehensive plan in rural counties under

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1 certain conditions; directing the department to
2 authorize up to five local governments to
3 designate rural land stewardship areas;
4 requiring a written agreement; providing
5 requirements for comprehensive plan amendments
6 for such designations; providing that owners of
7 land within such areas may convey development
8 rights in return for the assignment of
9 transferable rural land use credits; providing
10 requirements with respect to such credits;
11 specifying incentives that should be provided
12 such landowners; requiring reports; providing
13 intent; creating s. 163.31776, F.S.; providing
14 legislative intent and findings; requiring that
15 a local government comprehensive plan include a
16 public educational facilities element;
17 providing that the state land planning agency
18 establish a schedule for adoption of such
19 elements; exempting certain municipalities from
20 adopting such elements; requiring local
21 governments and the school board to enter into
22 an interlocal agreement and providing
23 requirements with respect thereto; providing
24 requirements for such elements; providing
25 requirements for future land use maps;
26 specifying the process for adoption of such
27 elements; specifying the effect of a local
28 government's failure to transmit such element
29 according to the adopted schedule; creating s.
30 163.31777, F.S.; requiring that local
31 governments consider the adequacy of public

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1 school facilities when considering certain
2 comprehensive plan amendment and rezoning
3 applications; providing duties of the school
4 board; requiring denial of such applications
5 under certain conditions; amending s. 163.3180,
6 F.S.; providing requirements with respect to
7 the public educational facilities element when
8 school concurrency is imposed by local option;
9 amending s. 163.3184; F.S.; revising the
10 definition of "affected person"; providing
11 additional agencies to which a local government
12 must transmit a proposed comprehensive plan or
13 plan amendment; removing provisions relating to
14 transmittal of copies by the state land
15 planning agency; providing that a local
16 government may request review by the state land
17 planning agency at the time of transmittal of
18 an amendment; revising time periods with
19 respect to submission of comments to the agency
20 by other agencies, notice by the agency of its
21 intent to review, and issuance by the agency of
22 its report; providing for priority review of
23 certain amendments; clarifying language;
24 providing that the agency shall not review an
25 amendment certified as having no objections
26 received; providing for compilation and
27 transmittal by the local government of a list
28 of persons who will receive an informational
29 statement concerning the agency's notice of
30 intent to find a plan or plan amendment in
31 compliance or not in compliance; directing the

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1 agency to provide a model form; revising
2 requirements relating to publication of the
3 agency's notice of intent; deleting a
4 requirement that the notice be sent to certain
5 persons; amending s. 163.3187, F.S.; revising
6 requirements relating to small scale
7 development amendments which are exempt from
8 the limitation on the frequency of amendments
9 to a local comprehensive plan; revising acreage
10 requirements; revising a condition relating to
11 residential land use; removing a provision that
12 allows a local government to elect to have such
13 amendments subject to review under s.
14 163.3184(3)-(6), F.S.; amending s. 163.3191,
15 F.S.; conforming language; creating s.
16 163.3198, F.S.; directing the state land
17 planning agency to develop fiscal analysis
18 models for determining the costs and revenues
19 of local government land use decisions;
20 creating a commission to oversee development of
21 fiscal impact models; providing for field tests
22 of the models developed; providing for approval
23 of a uniform model by the commission and
24 submission of a report and recommendations to
25 the Governor and Legislature; providing for a
26 \$500,000 appropriation to the Department of
27 Community Affairs to implement program;
28 creating s. 163.3202(6); providing legislative
29 intent regarding electric utilities and
30 substations; providing prohibition on local
31 governments regarding substations; prohibits

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1 denial of substation under certain conditions;
2 amending s. 163.3215, F.S.; revising procedures
3 for challenge of a development order by an
4 aggrieved or adversely affected party on the
5 basis of inconsistency with a local
6 comprehensive plan; providing the relief that
7 may be sought; providing that petition to the
8 circuit court for certiorari is the sole action
9 for such challenge if the local government has
10 adopted an ordinance establishing a local
11 development review process that includes
12 specified minimum components; removing a
13 requirement that a verified complaint be filed
14 with the local government prior to seeking
15 judicial review; amending s. 235.002, F.S.;
16 revising legislative intent and findings with
17 respect to educational facilities; amending s.
18 235.15, F.S.; removing specific need assessment
19 criteria for a school district's educational
20 plant survey and providing that the survey
21 shall be submitted as part of the district's
22 educational facilities plan; providing that
23 such surveys are deemed to meet state
24 constitutional requirements, subject to State
25 Board of Education approval; amending s.
26 235.175, F.S.; providing legislative purpose
27 with respect to the district educational
28 facilities plans; amending s. 235.18, F.S.;
29 conforming language; amending s. 235.185, F.S.;
30 providing definitions; providing requirements
31 for preparation of an annual tentative

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1 educational facilities plan by each school
2 district; providing requirements for long-range
3 planning; providing requirements for the
4 district's facilities work program; providing
5 for submission of the tentative plan to local
6 governments for review and comment; providing
7 for annual adoption of the plan; providing for
8 execution of the plan; amending s. 235.188,
9 F.S.; conforming language; amending s. 235.19,
10 F.S.; removing a requirement that the
11 Commissioner of Education prescribe recommended
12 sizes for new educational facility sites;
13 amending s. 235.193, F.S.; requiring school
14 districts and local governments to enter into
15 an interlocal agreement and providing
16 requirements with respect thereto; specifying
17 effect of failure to enter into the interlocal
18 agreement; requiring the school board to
19 provide a local government certain information
20 when it is considering certain comprehensive
21 amendment or rezoning applications; revising
22 requirements relating to school board
23 responsibilities in planning with local
24 governments; revising a notice requirement
25 regarding proposed use of property for an
26 educational facility; providing for inclusion
27 of an alternative process for proposed facility
28 review in the required interlocal agreement;
29 repealing s. 235.194, F.S., which requires
30 school boards to submit an annual general
31 educational facilities report to local

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1 governments; amending ss. 235.218, 235.321, and
2 236.25, F.S.; conforming language; amending s.
3 380.04, F.S.; amending s. 380.06, F.S.,
4 relating to developments of regional impact;
5 removing the rebuttable presumptions with
6 respect to application of the statewide
7 guidelines and standards and revising the fixed
8 thresholds; revising application of thresholds
9 for development allowed under a preliminary
10 development agreement; revising the definition
11 of an essentially built-out development of
12 regional impact with respect to multiuse
13 developments; providing for submission of
14 biennial, rather than annual, reports by the
15 developer; authorizing submission of a letter,
16 rather than a report, under certain
17 circumstances; providing for amendment of
18 development orders with respect to report
19 frequency; providing that an extension of the
20 date of buildout of less than 7 years is not a
21 substantial deviation; revising provisions
22 relating to determination of whether a change
23 constitutes a substantial deviation based on
24 its percentage of the specified numerical
25 criteria; revising notice requirements;
26 providing that changes that are less than
27 specified numerical criteria need not be
28 submitted to the state land planning agency and
29 specifying the agency's right to appeal with
30 respect to such changes; deleting an exemption
31 from review by the regional planning agency and

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1 state land planning agency for certain changes;
2 amending s. 380.0651, F.S.; revising the
3 guidelines and standards for attractions and
4 recreation facilities, office development,
5 retail and service development, and residential
6 development; creating s. 570.70, F.S.;
7 providing legislative findings; creating s.
8 570.71, F.S.; providing for the purchase of
9 rural land protection easements by the
10 Department of Agriculture and Consumer
11 Services; providing criteria; providing for
12 conservation easements, resource conservation
13 agreements, and agricultural protection
14 agreements; prescribing allowable land uses;
15 requiring rulemaking; providing for an
16 application process; providing for an option to
17 purchase property; directing the department to
18 seek funds from federal sources; providing a
19 severability clause; providing an effective
20 date.

21 WHEREAS, it is in the best interests of the people of
22 the State of Florida to ensure sound planning for new
23 population growth in Florida, and

24 WHEREAS, Florida's population is expected to increase
25 by 50 percent from 16 million to 24 million over the next
26 three decades, and the number of school age children is
27 projected to increase sharply around 2020 as the baby boom
28 echo generation's children reach school age, with commensurate
29 impacts to the state's public infrastructure, including our
30 public education facilities, and

31 WHEREAS, our growth management system should fully

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1 integrate the planning of public education facilities, should
2 accurately forecast the costs associated with the
3 construction, operation and maintenance of infrastructure, and
4 should adequately address our existing infrastructure
5 deficits, and

6 WHEREAS, as we respond to new growth and continue to
7 address our existing infrastructure deficits, communities
8 should make land use decisions with the knowledge of all
9 relevant expenses and revenues associated with those
10 decisions, as the future health of our state economy and the
11 livability of our communities depends on appropriately
12 addressing our infrastructure needs,

13 NOW, THEREFORE,
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