

1 A bill to be entitled
2 An act relating to growth management; creating
3 s. 163.2524, F.S.; directing the Department of
4 Community Affairs to compile a revitalization
5 manual; amending 163.3174, F.S.; providing that
6 all non-public schools shall be exempt from
7 impact fees; providing for school board
8 representation on the local planning agency;
9 amending s. 163.3177, F.S.; conforming
10 language; providing that an agricultural land
11 use category shall be eligible for the location
12 of public schools in a local government
13 comprehensive plan in rural counties under
14 certain conditions; directing the department to
15 authorize up to five local governments to
16 designate rural land stewardship areas;
17 requiring a written agreement; providing
18 requirements for comprehensive plan amendments
19 for such designations; providing that owners of
20 land within such areas may convey development
21 rights in return for the assignment of
22 transferable rural land use credits; providing
23 requirements with respect to such credits;
24 specifying incentives that should be provided
25 such landowners; requiring reports; providing
26 intent; creating s. 163.31776, F.S.; providing
27 legislative intent and findings; requiring that
28 a local government comprehensive plan include a
29 public educational facilities element;
30 providing that the state land planning agency
31 establish a schedule for adoption of such

1 elements; exempting certain municipalities from
2 adopting such elements; requiring local
3 governments and the school board to enter into
4 an interlocal agreement and providing
5 requirements with respect thereto; providing
6 requirements for such elements; providing
7 requirements for future land use maps;
8 specifying the process for adoption of such
9 elements; specifying the effect of a local
10 government's failure to transmit such element
11 according to the adopted schedule; creating s.
12 163.31777, F.S.; requiring that local
13 governments consider the adequacy of public
14 school facilities when considering certain
15 comprehensive plan amendment and rezoning
16 applications; providing duties of the school
17 board; requiring denial of such applications
18 under certain conditions; creating a
19 Neighborhood School Construction Zone pilot
20 project; providing for procedures; providing
21 that impact fees within the zone must be place
22 in a facilities construction trust fund for
23 that zone; providing additional funding;
24 provides that the Florida Smart Schools
25 Clearinghouse oversees the pilot projects and
26 that it must submit a report regarding the
27 programs feasibility; amending s. 163.3180,
28 F.S.; revising provisions relating to
29 exceptions from the concurrency requirement for
30 transportation facilities; requiring that such
31 an exception be granted under certain

1 conditions; amending s. 163.3181, F.S.;

2 revising provisions relating to public

3 participation in the comprehensive planning

4 process; providing requirements for local

5 governments' citizen participation procedures;

6 providing for assistance from the department;

7 amending s. 163.3184; F.S.; revising the

8 definition of "affected person"; providing

9 additional agencies to which a local government

10 must transmit a proposed comprehensive plan or

11 plan amendment; removing provisions relating to

12 transmittal of copies by the state land

13 planning agency; providing that a local

14 government may request review by the state land

15 planning agency at the time of transmittal of

16 an amendment; revising time periods with

17 respect to submission of comments to the agency

18 by other agencies, notice by the agency of its

19 intent to review, and issuance by the agency of

20 its report; providing for priority review of

21 certain amendments; clarifying language;

22 providing that the agency shall not review an

23 amendment certified as having no objections

24 received; providing for compilation and

25 transmittal by the local government of a list

26 of persons who will receive an informational

27 statement concerning the agency's notice of

28 intent to find a plan or plan amendment in

29 compliance or not in compliance; directing the

30 agency to provide a model form; revising

31 requirements relating to publication of the

1 agency's notice of intent; deleting a
2 requirement that the notice be sent to certain
3 persons; amending s. 163.3187, F.S.; revising
4 requirements relating to small scale
5 development amendments which are exempt from
6 the limitation on the frequency of amendments
7 to a local comprehensive plan; revising acreage
8 requirements; revising a condition relating to
9 residential land use; removing a provision that
10 allows a local government to elect to have such
11 amendments subject to review under s.
12 163.3184(3)-(6), F.S.; amending s. 163.3191,
13 F.S.; conforming language; creating s.
14 163.3198, F.S.; directing the state land
15 planning agency to develop fiscal analysis
16 models for determining the costs and revenues
17 of local government land use decisions;
18 creating a commission to oversee development of
19 fiscal impact models; providing for field tests
20 of the models developed; providing for approval
21 of a uniform model by the commission and
22 submission of a report and recommendations to
23 the Governor and Legislature; providing for a
24 \$500,000 appropriation to the Department of
25 Community Affairs to implement program;
26 creating s. 163.3202(6); providing legislative
27 intent regarding electric utilities and
28 substations; providing prohibition on local
29 governments regarding substations; prohibits
30 denial of substation under certain conditions;
31 amending s. 163.3215, F.S.; revising procedures

1 for challenge of a development order by an
2 aggrieved or adversely affected party on the
3 basis of inconsistency with a local
4 comprehensive plan; providing the relief that
5 may be sought; providing that petition to the
6 circuit court for certiorari is the sole action
7 for such challenge if the local government has
8 adopted an ordinance establishing a local
9 development review process that includes
10 specified minimum components; removing a
11 requirement that a verified complaint be filed
12 with the local government prior to seeking
13 judicial review; amending s. 163.356, F.S.;
14 authorizing certain counties and municipalities
15 to create more than one community redevelopment
16 agency; amending s. 212.055, F.S.; increasing
17 the maximum allowable combined rate for the
18 local government infrastructure surtax and
19 small county surtax; requiring referendum
20 approval of the small county surtax at such
21 increased combined rate; creating s. 163.325,
22 F.S.; providing definitions; authorizing the
23 department to provide specified types of
24 financial assistance to local governments for
25 infrastructure needs and providing requirements
26 with respect thereto; requiring an annual
27 report; providing application requirements;
28 directing the department to adopt a priority
29 system; providing penalties for delinquent
30 loans; providing for management of loan funds;
31 providing that a Local Government

1 Infrastructure Revolving Loan Trust Fund shall
2 be established and providing requirements with
3 respect thereto; providing for rules; creating
4 s. 163.3251, F.S.; creating the Florida Local
5 Government Infrastructure Financing Corporation
6 to assist the department in implementing
7 financing activities and provide funding for
8 such financial assistance; providing for
9 termination of the corporation; providing for a
10 board of directors; providing powers and duties
11 of the corporation; providing requirements with
12 respect to service contracts with the
13 department; authorizing issuance of bonds and
14 other obligations; providing an exemption from
15 taxation; providing requirements for validating
16 bonds; providing status of the corporation and
17 applicability of laws; providing for contracts
18 with the State Board of Administration;
19 providing for audits; amending s. 199.292,
20 F.S.; providing for deposit of a portion of
21 intangible personal property tax proceeds in
22 the Local Government Infrastructure Revolving
23 Loan Trust Fund; amending s. 163.3244, F.S.;
24 providing for a sustainable communities
25 certification program in lieu of the
26 sustainable communities demonstration project;
27 revising requirements for certification
28 agreements; providing that a certified local
29 government shall assume review authority for
30 certain developments of regional impact;
31 revising programs to be emphasized in such

1 areas and providing for certain funding
2 priorities; revising report requirements;
3 providing for renewal of local governments
4 designated as a sustainable community
5 demonstration project; eliminating the
6 scheduled June 30, 2001, repeal of said
7 section; amending s. 235.002, F.S.; revising
8 legislative intent and findings with respect to
9 educational facilities; amending s. 235.061,
10 F.S.; revising the date after which
11 relocatables that fail to meet standards may
12 not be used as classrooms; amending s. 235.15,
13 F.S.; removing specific need assessment
14 criteria for a school district's educational
15 plant survey and providing that the survey
16 shall be submitted as part of the district's
17 educational facilities plan; providing that
18 such surveys are deemed to meet state
19 constitutional requirements, subject to State
20 Board of Education approval; amending s.
21 235.175, F.S.; providing legislative purpose
22 with respect to the district educational
23 facilities plans; amending s. 235.18, F.S.;
24 conforming language; amending s. 235.185, F.S.;
25 providing definitions; providing requirements
26 for preparation of an annual tentative
27 educational facilities plan by each school
28 district; providing requirements for long-range
29 planning; providing requirements for the
30 district's facilities work program; providing
31 for submission of the tentative plan to local

1 governments for review and comment; providing
2 for annual adoption of the plan; providing for
3 execution of the plan; amending s. 235.188,
4 F.S.; conforming language; amending s. 235.19,
5 F.S.; removing a requirement that the
6 Commissioner of Education prescribe recommended
7 sizes for new educational facility sites;
8 amending s. 235.193, F.S.; requiring school
9 districts and local governments to enter into
10 an interlocal agreement and providing
11 requirements with respect thereto; specifying
12 effect of failure to enter into the interlocal
13 agreement; requiring the school board to
14 provide a local government certain information
15 when it is considering certain comprehensive
16 amendment or rezoning applications; revising
17 requirements relating to school board
18 responsibilities in planning with local
19 governments; revising a notice requirement
20 regarding proposed use of property for an
21 educational facility; providing for inclusion
22 of an alternative process for proposed facility
23 review in the required interlocal agreement;
24 repealing s. 235.194, F.S., which requires
25 school boards to submit an annual general
26 educational facilities report to local
27 governments; amending ss. 235.218, 235.321, and
28 236.25, F.S.; conforming language; amending s.
29 380.04, F.S.; amending s. 380.06, F.S.,
30 relating to developments of regional impact;
31 removing the rebuttable presumptions with

1 respect to application of the statewide
2 guidelines and standards and revising the fixed
3 thresholds; revising application of thresholds
4 for development allowed under a preliminary
5 development agreement; revising the definition
6 of an essentially built-out development of
7 regional impact with respect to multiuse
8 developments; providing for submission of
9 biennial, rather than annual, reports by the
10 developer; authorizing submission of a letter,
11 rather than a report, under certain
12 circumstances; providing for amendment of
13 development orders with respect to report
14 frequency; providing that an extension of the
15 date of buildout of less than 7 years is not a
16 substantial deviation; revising provisions
17 relating to determination of whether a change
18 constitutes a substantial deviation based on
19 its percentage of the specified numerical
20 criteria; revising notice requirements;
21 providing that changes that are less than
22 specified numerical criteria need not be
23 submitted to the state land planning agency and
24 specifying the agency's right to appeal with
25 respect to such changes; deleting an exemption
26 from review by the regional planning agency and
27 state land planning agency for certain changes;
28 amending s. 380.0651, F.S.; revising the
29 guidelines and standards for attractions and
30 recreation facilities, office development,
31 retail and service development, and residential

1 development; amending s. 333.06, F.S.;

2 requiring each publicly owned licensed airport

3 to prepare an airport master plan; requiring

4 the entity which governs the operation of such

5 an airport to submit copies of certain

6 documents to all affected local governments;

7 removing provisions which specify that certain

8 changes in airport facilities, increases in the

9 storage capacity for chemical or petroleum

10 storage facilities, or development at a

11 waterport constitute a substantial deviation

12 and require further

13 development-of-regional-impact review;

14 exempting certain proposed facilities for the

15 storage of any petroleum product from

16 development-of-regional-impact requirements;

17 exempting proposed waterport development in

18 certain counties from such requirements and

19 providing application of such exemption to

20 counties identified in s. 370.12(2)(f), F.S.;

21 providing for maintenance of the exemption from

22 development-of-regional-impact review for

23 developments under s. 163.3245, F.S., relating

24 to optional sector plans, if said section is

25 repealed; exempting certain development or

26 expansion of airports or airport-related

27 development from development-of-regional-impact

28 requirements; exempting development or

29 expansion within certain areas from

30 development-of-regional-impact requirements;

31 repealing s. 380.0651(3)(a) and (e), F.S.,

1 which provide the
2 development-of-regional-impact statewide
3 guidelines and standards for airports and port
4 facilities; providing application with respect
5 to airports, marinas, and petroleum storage
6 facilities which have received a
7 development-of-regional-impact development
8 order, or which have an application for
9 development approval or notification of
10 proposed change pending, on the effective date
11 of the act; creating s. 570.70, F.S.; providing
12 for future review and repeal of ss. 380.06 and
13 380.0651, F.S.; providing application with
14 respect to developments which have received a
15 development-of-regional-impact development
16 order, or which have an application for
17 development approval or notification of
18 proposed change pending, on that future repeal
19 date; directing the Legislative Committee on
20 Intergovernmental Relations to study
21 alternatives to the
22 development-of-regional-impact process and
23 provide a report; providing legislative
24 findings; creating s. 570.71, F.S.; providing
25 for the purchase of rural land protection
26 easements by the Department of Agriculture and
27 Consumer Services; providing criteria;
28 providing for conservation easements, resource
29 conservation agreements, and agricultural
30 protection agreements; prescribing allowable
31 land uses; requiring rulemaking; providing for

1 an application process; providing for an option
2 to purchase property; directing the department
3 to seek funds from federal sources; providing a
4 severability clause; providing an effective
5 date.

6 WHEREAS, it is in the best interests of the people of
7 the State of Florida to ensure sound planning for new
8 population growth in Florida, and

9 WHEREAS, Florida's population is expected to increase
10 by 50 percent from 16 million to 24 million over the next
11 three decades, and the number of school age children is
12 projected to increase sharply around 2020 as the baby boom
13 echo generation's children reach school age, with commensurate
14 impacts to the state's public infrastructure, including our
15 public education facilities, and

16 WHEREAS, our growth management system should fully
17 integrate the planning of public education facilities, should
18 accurately forecast the costs associated with the
19 construction, operation and maintenance of infrastructure, and
20 should adequately address our existing infrastructure
21 deficits, and

22 WHEREAS, as we respond to new growth and continue to
23 address our existing infrastructure deficits, communities
24 should make land use decisions with the knowledge of all
25 relevant expenses and revenues associated with those
26 decisions, as the future health of our state economy and the
27 livability of our communities depends on appropriately
28 addressing our infrastructure needs,

29 NOW, THEREFORE,

30

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

1 Section 1. Section 163.2524, Florida Statutes, is
2 created to read:

3 163.2524 Revitalization manual.--The Department of
4 Community Affairs shall create and compile a single document,
5 available on the Internet, that lists and cross-references all
6 existing and future revitalization tools, resources, training,
7 and programs. The department is directed to coordinate with
8 state and federal agencies in the compilation of this
9 document.

10 Section 2. All non-public schools in the state shall
11 be exempt from all impact fees.

12 Section 3. Subsection (1) of section 163.3174 is
13 amended to read:

14 163.3174 Local planning agency.--

15 (1) The governing body of each local government,
16 individually or in combination as provided in s. 163.3171,
17 shall designate and by ordinance establish a "local planning
18 agency," unless the agency is otherwise established by law.
19 Notwithstanding any special act to the contrary, no later than
20 January 1, 2002, each local planning agencies shall include a
21 representative of the district school board as a member of the
22 local planning agency. The governing body may designate
23 itself as the local planning agency pursuant to this
24 subsection with the addition of a school board representative.
25 The governing body shall notify the state land planning agency
26 of the establishment of its local planning agency. All local
27 planning agencies shall provide opportunities for involvement
28 by ~~district school boards and~~ applicable community college
29 boards, which may be accomplished by formal representation,
30 membership on technical advisory committees, or other
31 appropriate means. The local planning agency shall prepare the

1 comprehensive plan or plan amendment after hearings to be held
2 after public notice and shall make recommendations to the
3 governing body regarding the adoption or amendment of the
4 plan. The agency may be a local planning commission, the
5 planning department of the local government, or other
6 instrumentality, including a countywide planning entity
7 established by special act or a council of local government
8 officials created pursuant to s. 163.02, provided the
9 composition of the council is fairly representative of all the
10 governing bodies in the county or planning area; however:

11 Section 4. Paragraphs (a) and (h) of Subsection (6)
12 and subsection (11) of section 163.3177 is amended, and
13 subsection (12) is repealed:

14 163.3177 Required and optional elements of
15 comprehensive plan; studies and surveys.--

16 (6) In addition to the requirements of subsections
17 (1)- (5), the comprehensive plan shall include the following
18 elements:

19 (a) A future land use plan element designating
20 proposed future general distribution, location, and extent of
21 the uses of land for residential uses, commercial uses,
22 industry, agriculture, recreation, conservation, education,
23 public buildings and grounds, other public facilities, and
24 other categories of the public and private uses of land. The
25 future land use plan shall include standards to be followed in
26 the control and distribution of population densities and
27 building and structure intensities. The proposed distribution,
28 location, and extent of the various categories of land use
29 shall be shown on a land use map or map series which shall be
30 supplemented by goals, policies, and measurable objectives.
31 Each land use category shall be defined in terms of the types

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

1 development to meet the projected needs for schools in
 2 coordination with public school boards and may establish
 3 differing criteria for schools of different type or size. Each
 4 local government shall include lands contiguous to existing
 5 school sites, to the maximum extent possible, within the land
 6 use categories in which public schools are an allowable use.
 7 All comprehensive plans must comply with the school siting
 8 requirements of this paragraph no later than October 1, 1999.
 9 The failure by a local government to comply with these school
 10 siting requirements by October 1, 1999, will result in the
 11 prohibition of the local government's ability to amend the
 12 local comprehensive plan, except for plan amendments described
 13 in s. 163.3187(1)(b), until the school siting requirements are
 14 met. ~~An amendment~~ Amendments proposed by a local government
 15 for purposes of identifying the land use categories in which
 16 public schools are an allowable use or for adopting or
 17 amending the school siting maps pursuant to s. 163.31776(6)
 18 are ~~is~~ exempt from the limitation on the frequency of plan
 19 amendments contained in s. 163.3187. The future land use
 20 element shall include criteria which encourage the location of
 21 schools proximate to urban residential areas to the extent
 22 possible and shall require that the local government seek to
 23 collocate public facilities, such as parks, libraries, and
 24 community centers, with schools ~~to the extent possible~~ and to
 25 encourage using elementary schools as focal points for
 26 neighborhoods. For schools serving predominantly rural
 27 counties, defined as a county with a population of less than
 28 75,000, an agricultural land use category shall be eligible
 29 for the location of public school facilities if the local
 30 comprehensive plan contains school siting criteria, and the
 31 location is consistent with such criteria.

1 5. Intergovernmental coordination between local
2 governments and the district school board shall be governed by
3 ss. 163.31776 and 163.31777 for local governments subject to
4 the requirements of those sections and is encouraged for local
5 governments exempt from such requirements.

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

20 (b) It is the intent of the Legislature that the local
21 government comprehensive plans and plan amendments adopted
22 pursuant to the provisions of this part provide for a planning
23 process which allows for land use efficiencies within existing
24 urban areas and which also allows for the conversion of rural
25 lands to other uses, where appropriate and consistent with the
26 other provisions of this part and the affected local
27 comprehensive plans, through the application of innovative and
28 flexible planning and development strategies and creative land
29 use planning techniques, which may include, but not be limited
30 to, urban villages, new towns, satellite communities,
31

1 area-based allocations, clustering and open space provisions,
2 mixed-use development, and sector planning.

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

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

24 2. The department shall encourage participation by
25 local governments of different sizes and rural
26 characteristics. It is the intent of the Legislature that
27 rural land stewardship areas be used to further the following
28 broad principles of rural sustainability: restoration and
29 maintenance of the economic value of rural land; control of
30 urban sprawl; identification and protection of ecosystems,
31 habitats, and natural resources; promotion of rural economic

1 activity; maintenance of the viability of Florida's
2 agricultural economy; and protection of the character of rural
3 areas of Florida.

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

10 4. In selecting a local government, the department
11 shall, by written agreement:

12 a. Ensure that the local government has expressed its
13 intent to designate a rural land stewardship area pursuant to
14 the provisions of this subsection and clarify that the rural
15 land stewardship area is intended.

16 b. Ensure that the local government has the financial
17 and administrative capabilities to implement a rural land
18 stewardship area.

19 5. The written agreement shall include the basis for
20 the authorization and provide criteria for evaluating the
21 success of the authorization including the extent the rural
22 land stewardship area enhances rural land values; control
23 urban sprawl; provides necessary open space for agriculture
24 and protection of the natural environment; promotes rural
25 economic activity; and maintains rural character and the
26 economic viability of agriculture. The department may
27 terminate the agreement at any time if it determines that the
28 local government is not meeting the terms of the agreement.

29 6. A rural land stewardship area shall be not less
30 than 50,000 acres and shall not exceed 400,000 acres in size,
31 shall be located outside of municipalities and established

1 urban growth boundaries, and shall be designated by plan
2 amendment. The plan amendment designating a rural land
3 stewardship area shall be subject to review by the Department
4 of Community Affairs pursuant to s. 163.3184, F.S., and shall
5 provide for the following:

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

20 b. Goals, objectives, an policies setting forth the
21 innovative planning and development strategies to be applied
22 within rural land stewardship areas pursuant to the provisions
23 of this section.

24 c. A process for the implementation of innovative
25 planning and development strategies within the rural land
26 stewardship area, including those described in this subsection
27 and s. 9J-5.006(5)(1), Florida Administrative code, which
28 provide for a functional mix of land uses and which are
29 applied through the adoption by the local government of zoning
30 and land development regulations applicable to the rural land
31 stewardship area.

1 d. A process which encourages visioning pursuant to s.
2 163.3167(11) to ensure that innovative planning and
3 development strategies comply with the provisions of this
4 section.

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

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

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

27 a. Transferable rural land use credits may only exist
28 within a rural land stewardship area.

29 b. Transferable rural land use credits may only be
30 used on lands designated as receiving areas and then solely
31 for the purpose of implementing innovative planning and

1 development strategies and creative land use planning
2 techniques adopted by the local government pursuant to this
3 section.

4 c. Transferable rural land use credits assigned to a
5 parcel of land within a rural land stewardship area shall
6 cease to exist if the parcel of land is removed from the rural
7 land stewardship area by plan amendment.

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

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

23 f. Transferable rural land use credits shall cease to
24 exist on a parcel of land where the underlying density
25 assigned to the parcel of land is utilized.

26 g. An increase in the density of use on a parcel of
27 land located within a designated receiving area may occur only
28 through the assignment or use of transferable rural land use
29 credits and shall not require a plan amendment.

30 h. A change in the density of land use on parcels
31 located within receiving areas shall be specified in a

1 development order which reflects the total number of
2 transferable rural land use credits assigned to the parcel of
3 land and the infrastructure and support services necessary to
4 provide for a functional mix of land uses corresponding to the
5 plan of development.

6 i. Land within a rural land stewardship area may be
7 removed from the rural land stewardship area through a plan
8 amendment.

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

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

22 9. Owners of land within rural land stewardship areas
23 should be provided incentives to enter into rural land
24 stewardship agreements, pursuant to existing law and rules
25 adopted thereto, with state agencies, water management
26 districts, and local governments to achieve mutually agreed
27 upon conservation objectives. Such incentives may include,
28 but not be limited to, the following:

29 a. Opportunity to accumulate transferable mitigation
30 credits.

31 b. Extended permit agreements.

1 c. Opportunities for recreational leases and
2 ecotourism.

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

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

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

16 (e)~~(d)~~ The implementation of this subsection shall be
17 subject to the provisions of this chapter, chapters 186 and
18 187, and applicable agency rules.

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

22 Section 5. Create new Section 163.31776:

23 163.31776 Public Educational Facilities Element.--

24 (1) The intent of the Legislature is:

25 (a) To establish a systematic process of sharing
26 information between school boards and local governments on the
27 growth and development trends in their communities in order to
28 forecast future enrollment and school needs;

29 (b) To establish a systematic process for school
30 boards and local governments to cooperatively plan for the
31 provision of educational facilities to meet the current and

1 projected needs of the public education system population,
2 including the needs placed on the public education system as a
3 result of growth and development decisions by local
4 government;

5 (c) To establish a systematic process for local
6 governments and school boards to cooperatively identify and
7 meet the infrastructure needs of public schools to assure
8 healthy school environments and safe school access;

9 (2) The Legislature finds that:

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

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

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

29 (a) A local government must adopt a public educational
30 facilities element if the local government is located in a
31

1 county where the districtwide number of capital outlay
2 fulltime equivalent students:

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

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

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

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

25 Any municipality currently exempt shall notify the
26 county and the school board of any planned annexations into
27 residential or proposed residential areas or other change in
28 condition and shall comply with the provisions of this
29 subsection no later than one year following a change in
30 conditions which render the municipality no longer eligible
31 for exemption or the identification of a proposed public

1 school in the school board's five-year district facilities
2 work program in the municipality's jurisdiction.

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

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

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

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

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

31

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

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

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

27 (g) That determines the "true cost of school needs."
28 This analysis must provide the number of schools and the
29 funding needed to meet any current backlog and future needs
30 based on uniform projections of population and student growth
31

1 and development trends. This analysis should also identify
2 how the current and future needs are funded.

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

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

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

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

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

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

26 (f) A uniform methodology for consideration of the
27 existing and planned capacity of public schools when reviewing
28 comprehensive plan amendments and rezonings which would
29 increase residential development, and that are reasonably
30 expected to have an impact on the demand for public school
31 facilities pursuant to s. 163.31777, with the review based on

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

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

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

30 (i) As part of the public education facilities
31 element, the school board shall provide its response to the

1 independent third-party financial management audit as required
2 by s. 235.185, as it relates to educational facility planning
3 and construction. The response shall be part of the data and
4 analysis needed to support the element.

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

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

24 (8) The interlocal agreement must be entered into by
25 the county, the school board, and the non-exempt
26 municipalities within the county. If such parties cannot
27 reach agreement, the matter shall be resolved by binding
28 arbitration through the regional planning council. The
29 failure of such parties to enter an interlocal agreement
30 within 60 days of referral to binding arbitration shall result
31 in the prohibition of the local governments' ability to amend

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

12 Section 6. Create a new section 163.31777:

13 163.31777 Public School Capacity for Plan Amendments
14 and Rezonings.--

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

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

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

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

1 proportionate to the demand for public school facilities to be
2 created by actual development of the property, including but
3 not limited to the options described in subsection (4).

4 (4) However, a local government may approve a
5 comprehensive plan amendment or rezoning that impacts public
6 school facility demand provided the proposed development does
7 not decrease available school capacity beyond 15 students or
8 the equivalent as measured by the public educational
9 facilities element. In a single school year, the cumulative
10 effect of this exemption cannot decrease available capacity by
11 more than 5% of the total school capacity as measured by the
12 public educational facilities element.

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

1 (b) If the educational facilities plan and the public
2 educational facilities element authorize a contribution of
3 land or construction, expansion, or payment for land
4 acquisition or construction or expansion of a public school
5 facility, or a portion thereof, as proportionate share
6 mitigation, the local government shall credit such a
7 contribution, construction, expansion or payment toward any
8 other impact fee or exaction imposed by local ordinance for
9 the same need, on a dollar-for-dollar basis at fair market
10 value.

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

15 (6)(a) By mutual agreement within the local general
16 purpose government, the applicant for a comprehensive plan
17 amendment, applicant for rezoning, or an approved development
18 may satisfy any proportionate share mitigation required as
19 follows:

20 (i) The local government shall designate by ordinance
21 a geographic area to be known as a Neighborhood School
22 Construction Zone. The zone shall include the area within the
23 proposed comprehensive pan amendment, rezoning designation or
24 approved development.

25 (ii) The local general purpose government shall also
26 create by ordinance a neighborhood school construction trust
27 fund. All revenues allocated to and deposited in the trust
28 fund shall be used to fund educational facilities construction
29 within the neighborhood school construction zone pursuant to
30 an approved educational facilities plan.

31

1 (b) Upon creation of a neighborhood school zone, all
2 educational facilities impact fees collected within the
3 Neighborhood School Construction Zone shall be deposited in
4 the trust fund for facilities construction within the
5 mitigation district. Provided further, all interlocal
6 agreements between local general purpose governments and
7 school districts shall provide for such allocation.

8 (c) In the event the local general purpose government
9 and the applicant agree pursuant to paragraph (a) of this
10 subsection to the described proportionate share mitigation,
11 additional annual funding of the trust fund shall be in an
12 amount not less than the increment in the income, proceeds,
13 revenues and funds of the school district derived from or held
14 in connection with the undertaking and carrying out of
15 residential development within the educational facilities
16 mitigation district. Such increment shall be determined
17 annually and shall be that amount equal to 95% of the
18 difference between:

19 (i) The amount of ad valorem taxes levied each year by
20 the school district within the Neighborhood School
21 Construction Zone pursuant to section 236.25(1), F.S.,
22 exclusive of any amount for any debt service millage, on
23 taxable real property contained within the geographic
24 boundaries of the educational facilities mitigation district;
25 and

26 (ii) The amount of ad valorem taxes which would have
27 been produced pursuant to section 236.25(1), F.S., by the rate
28 upon which the tax is levied each year by the school district,
29 exclusive of any debt service millage, upon the total assessed
30 value of the taxable real property in the educational
31 facilities mitigation district as shown upon the most recent

1 assessment roll used in connection with the taxation of such
2 property by the school district prior to the effective date of
3 the ordinance providing for the funding of the trust fund.

4 (d) An approved applicant may petition the local
5 general purpose government for funds to build an educational
6 facility. The facility shall be built according to Florida
7 law, located geographically within the established education
8 facilities mitigation district, and adhere to the following
9 requirements:

10 (i) For schools operated by the school district, the
11 school must be included in the district's approved facilities
12 plan or approved by the elected school board.

13 (ii) For schools organized and operated pursuant to
14 section 228.056, Florida Statutes, the application for the
15 school must be approved according to the requirements of law
16 prior to petitioning the local general purpose government for
17 funding.

18 (e) Should the funds generated pursuant to this
19 section be insufficient to fully fund the proposed public
20 school, the difference between the amount needed to construct
21 the school and the local revenue source, up to 35% of the
22 construction costs, shall be funded as follows:

23 (i) For district operated schools the difference will
24 be funded pursuant to other local sources of revenue per
25 agreement with the local school district.

26 (ii) For schools approved pursuant to section 228.056,
27 Florida Statutes, the difference shall be funded with funds
28 generated pursuant to section 228.0561, Florida Statutes.

29 (iii) No schools shall be built costing more than the
30 Florida Smart Schools Clearinghouse annual estimate of student
31 station costs.

1 (iv) The Florida Smart Schools Clearinghouse shall
2 oversee this section as a 3 year pilot project beginning July
3 1, 2001. The pilot project will be for up to 6 counties
4 selected by the Florida Smart Schools Clearinghouse. A report
5 showing the feasibility and long term effects of the
6 Neighborhood School Construction Fund shall be made to the
7 Governor, Senate President and Speaker of the House.

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

11 Section 7. Subsection (5) and paragraph (a) of
12 subsection (12) of section 163.3180, Florida Statutes, are
13 amended to read:

14 163.3180 Concurrency.--

15 (5)(a) The Legislature finds that under limited
16 circumstances dealing with transportation facilities,
17 countervailing planning and public policy goals may come into
18 conflict with the requirement that adequate public facilities
19 and services be available concurrent with the impacts of such
20 development. The Legislature further finds that often the
21 unintended result of the concurrency requirement for
22 transportation facilities is the discouragement of urban
23 infill development and redevelopment. Such unintended results
24 directly conflict with the goals and policies of the state
25 comprehensive plan and the intent of this part. Therefore,
26 exceptions from the concurrency requirement for transportation
27 facilities may be granted as provided by this subsection.

28 (b) A local government may grant an exception from the
29 concurrency requirement for transportation facilities if the
30 proposed development is otherwise consistent with the adopted
31 local government comprehensive plan and is a project that

1 promotes public transportation ~~or is located within an area~~
2 ~~designated in the comprehensive plan for:~~

3 (c) A local government shall grant an exception from
4 the concurrency requirement for transportation facilities if
5 the proposed development is located within an area designated
6 in the comprehensive plan for:

- 7 1. Urban infill development,
- 8 2. Urban redevelopment,
- 9 3. Downtown revitalization, or
- 10 4. Urban infill and redevelopment under s. 163.2517.

11 (d)(c) The Legislature also finds that developments
12 located within urban infill, urban redevelopment, existing
13 urban service, or downtown revitalization areas or areas
14 designated as urban infill and redevelopment areas under s.
15 163.2517 which pose only special part-time demands on the
16 transportation system should be excepted from the concurrency
17 requirement for transportation facilities. A special
18 part-time demand is one that does not have more than 200
19 scheduled events during any calendar year and does not affect
20 the 100 highest traffic volume hours.

21 (e)(d) A local government shall establish guidelines
22 for granting the exceptions authorized in paragraphs (b) and
23 (d)(c) in the comprehensive plan. These guidelines must
24 include consideration of the impacts on the Florida Intrastate
25 Highway System, as defined in s. 338.001. The exceptions may
26 be available only within the specific geographic area of the
27 jurisdiction designated in the plan. Pursuant to s. 163.3184,
28 any affected person may challenge a plan amendment
29 establishing these guidelines and the areas within which an
30 exception could be granted.

31

1 (f) A local government shall establish guidelines for
2 designating the exception areas authorized in paragraph (c) in
3 the comprehensive plan. These guidelines must include
4 consideration of the impacts on the Florida Intrastate Highway
5 System, as defined in s. 338.001. The exceptions may be
6 available only within the specific geographic area of the
7 jurisdiction designated in the plan. Pursuant to s. 163.3184,
8 any affected person may challenge a plan amendment
9 establishing these guidelines and the areas within which an
10 exception could be granted.

11 (12) When authorized by a local comprehensive plan, a
12 multiuse development of regional impact may satisfy the
13 transportation concurrency requirements of the local
14 comprehensive plan, the local government's concurrency
15 management system, and s. 380.06 by payment of a
16 proportionate-share contribution for local and regionally
17 significant traffic impacts, if:

18 (a) The development of regional impact meets or
19 exceeds the guidelines and standards of s. 380.0651(3)~~(g)(i)~~
20 and rule 28-24.032(2), Florida Administrative Code, and
21 includes a residential component that contains at least 100
22 residential dwelling units or 15 percent of the applicable
23 residential guideline and standard, whichever is greater;

24
25 The proportionate-share contribution may be applied to any
26 transportation facility to satisfy the provisions of this
27 subsection and the local comprehensive plan, but, for the
28 purposes of this subsection, the amount of the
29 proportionate-share contribution shall be calculated based
30 upon the cumulative number of trips from the proposed
31 development expected to reach roadways during the peak hour

1 from the complete buildout of a stage or phase being approved,
2 divided by the change in the peak hour maximum service volume
3 of roadways resulting from construction of an improvement
4 necessary to maintain the adopted level of service, multiplied
5 by the construction cost, at the time of developer payment, of
6 the improvement necessary to maintain the adopted level of
7 service. For purposes of this subsection, "construction cost"
8 includes all associated costs of the improvement.

9 Section 8. Subsections (1) and (2) of section
10 163.3181, Florida Statutes, are amended to read:

11 163.3181 Public participation in the comprehensive
12 planning process; intent; alternative dispute resolution.--

13 (1) It is the intent of the Legislature that the
14 public participate in the comprehensive planning process and
15 the land use decision process at the earliest possible point
16 and to the fullest extent possible. Towards this end, local
17 planning agencies and local governmental units are directed to
18 adopt procedures designed to provide effective public
19 participation in the comprehensive planning process and to
20 provide real property owners with notice of all official
21 actions which will regulate the use of their property. The
22 provisions and procedures required in this act are set out as
23 the minimum requirements towards this end.

24 (2)(a) Prior to and during consideration of the
25 proposed plan or amendments thereto, or of development orders
26 requiring a public hearing pursuant to local ordinance,by the
27 local planning agency or by the local governing body, the
28 procedures shall provide for broad dissemination of the
29 proposals and alternatives, opportunity for written comments,
30 public hearings as provided herein, provisions for open
31

1 discussion, communications programs, information services, and
2 consideration of and response to public comments.

3 (b) Local governments shall include in their citizen
4 participation procedures a requirement that public notice be
5 given within 15 days after application, and be user-friendly.
6 Formal public hearing notice shall be modified to clearly
7 identify in plain language the nature of the amendment or
8 application under consideration.

9 (c) Conspicuous signs that are located on site and
10 consistent with local sign ordinances shall also be a
11 requirement in citizen participation procedures for all site
12 specific future land use map amendments requiring a public
13 hearing. Local governments shall determine the information
14 required. The applicant shall bear the cost of any required
15 signs.

16 (d) Local governments shall include in their citizen
17 participation procedures a requirement that applicants for
18 comprehensive plan amendments articulate a citizen involvement
19 plan at the time of the application. The department may
20 develop technical assistance documents on citizen
21 participation plans.

22 (e) The department shall develop best management
23 practices to increase citizen involvement and articulate how
24 local governments will achieve their citizen participation
25 goals throughout the planning and development review
26 processes. These best management practices shall:

27 1. Encourage local governments to use plain language
28 in all notices.

29 2. Encourage local governments to develop citizen
30 involvement plans.

31

1 3. Recommend additional forms of notice beyond
2 traditional legal notices in the local newspaper.

3 Section 9. Paragraphs (a) and (b) of subsection (1),
4 and subsection (4) of section 163.3184 are amended to read:

5 Section 10. Section 163.3184 Process for adoption of
6 comprehensive plan or plan amendment.--

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

8 (a) "Affected person" includes the affected local
9 government; persons owning property, residing, or owning or
10 operating a business within the boundaries of the local
11 government whose plan is the subject of the review; owners of
12 real property abutting real property which is the subject of a
13 proposed change to a future land use map;and adjoining local
14 governments that can demonstrate that the plan or plan
15 amendment will produce substantial impacts on the increased
16 need for publicly funded infrastructure or substantial impacts
17 on areas designated for protection or special treatment within
18 their jurisdiction. Each person, other than an adjoining local
19 government, in order to qualify under this definition, shall
20 also have submitted oral or written comments, recommendations,
21 or objections to the local government during the period of
22 time beginning with the transmittal hearing for the plan or
23 plan amendment and ending with the adoption of the plan or
24 plan amendment. (b) "In compliance" means consistent with the
25 requirements of ss. 163.3177, 163.31776,163.3178, 163.3180,
26 163.3191, and 163.3245, with the state comprehensive plan,
27 with the appropriate strategic regional policy plan, and with
28 chapter 9J-5, Florida Administrative Code, where such rule is
29 not inconsistent with this part and with the principles for
30 guiding development in designated areas of critical state
31 concern.

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

1 Section 11. Effective October 1, 2001, subsections
2 (3), (4), (6), (7), (8), and (15) and paragraph (d) of
3 subsection (16) of said section are amended, to read:

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

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

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

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

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

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

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

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

1 government subsequently adopts together constitute one
2 amendment cycle in accordance with s. 163.3187(1).

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

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

31

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

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

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

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

24 (d) The state land planning agency review shall
25 identify all written communications with the agency regarding
26 the proposed plan amendment. If the state land planning agency
27 does not issue such a review, it shall identify in writing to
28 the local government all written communications received 30
29 days after transmittal. The written identification must
30 include a list of all documents received or generated by the
31 agency, which list must be of sufficient specificity to enable

1 the documents to be identified and copies requested, if
 2 desired, and the name of the person to be contacted to request
 3 copies of any identified document. The list of documents must
 4 be made a part of the public records of the state land
 5 planning agency.

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

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

1 governing body shall also transmit a copy of the adopted
2 comprehensive plan or plan amendment to the regional planning
3 agency and to any other unit of local government or
4 governmental agency in the state that has filed a written
5 request with the governing body for a copy of the plan or plan
6 amendment.

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

18 (8) NOTICE OF INTENT.--

19 (a) Except as provided in s. 163.3187(3), the state
20 land planning agency, upon receipt of a local government's
21 complete adopted comprehensive plan or plan amendment, shall
22 have 45 days for review and to determine if the plan or plan
23 amendment is in compliance with this act, unless the amendment
24 is the result of a compliance agreement entered into under
25 subsection (16), in which case the time period for review and
26 determination shall be 30 days. If review was not conducted
27 under subsection (6), the agency's determination must be based
28 upon the plan amendment as adopted. If review was conducted
29 under subsection (6), the agency's determination of compliance
30 must be based only upon one or both of the following:
31

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

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

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

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

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

31

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

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

20 (15) PUBLIC HEARINGS.--

21 (a) The procedure for transmittal of a complete
22 proposed comprehensive plan or plan amendment pursuant to
23 subsection (3) and for adoption of a comprehensive plan or
24 plan amendment pursuant to subsection (7) shall be by
25 affirmative vote of not less than a majority of the members of
26 the governing body present at the hearing. The adoption of a
27 comprehensive plan or plan amendment shall be by ordinance.
28 For the purposes of transmitting or adopting a comprehensive
29 plan or plan amendment, the notice requirements in chapters
30 125 and 166 are superseded by this subsection, except as
31 provided in this part.

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

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

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

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

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

31

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

8 (16) COMPLIANCE AGREEMENTS.--

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

25 Section 12. Paragraph (c) of subsection (1) of section
26 163.3187, Florida Statutes, is amended and new paragraph (h)
27 of subsection (1) of said section is created to read:

28 163.3187 Amendment of adopted comprehensive plan.--

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

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

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

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

20 (I) A maximum of 150 ~~120~~ acres in a local government
21 that contains areas specifically designated in the local
22 comprehensive plan for urban infill, urban redevelopment, or
23 downtown revitalization as defined in s. 163.3164, urban
24 infill and redevelopment areas designated under s. 163.2517,
25 transportation concurrency exception areas approved pursuant
26 to s. 163.3180(5), or regional activity centers and urban
27 central business districts approved pursuant to s.
28 380.06(2)(e); however, amendments under this paragraph may be
29 applied to no more than 60 acres annually of property outside
30 the designated areas listed in this sub-sub-subparagraph.

31

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

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

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

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

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

18 e. The property that is the subject of the proposed
19 amendment is not located within an area of critical state
20 concern, unless the project subject to the proposed amendment
21 involves the construction of affordable housing units meeting
22 the criteria of s. 420.0004(3), and is located within an area
23 of critical state concern designated by s. 380.0552 or by the
24 Administration Commission pursuant to s. 380.05(1). Such
25 amendment is not subject to the density limitations of
26 sub-subparagraph f., and shall be reviewed by the state land
27 planning agency for consistency with the principles for
28 guiding development applicable to the area of critical state
29 concern where the amendment is located and shall not become
30 effective until a final order is issued under s. 380.05(6).

31

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

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

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

29 3. Small scale development amendments adopted pursuant
30 to this paragraph require only one public hearing before the
31 governing board, which shall be an adoption hearing as

1 described in s. 163.3184(7), and are not subject to the
2 requirements of s. 163.3184(3)-(6) ~~unless the local government~~
3 ~~elects to have them subject to those requirements.~~

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

9 Section 13. Paragraph (k) of subsection (2) of section
10 163.3191, Florida Statutes, is amended to read:

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

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

29 Section 14. Section 163.3198 is created to read:
30
31

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

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

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

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 15. 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 16. 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 17. 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

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.

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

31

1 (8) In any suit under this section, the Department of
2 Legal Affairs may intervene to represent the interests of the
3 state.

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

7 Section 18. Subsection (1) of section 163.356, Florida
8 Statutes, is amended to read:

9 163.356 Creation of community redevelopment agency.--

10 (1) Upon a finding of necessity as set forth in s.
11 163.355, and upon a further finding that there is a need for a
12 community redevelopment agency to function in the county or
13 municipality to carry out the community redevelopment purposes
14 of this part, any county or municipality may create a public
15 body corporate and politic to be known as a "community
16 redevelopment agency." A county or municipality having a
17 population equal to or greater than 50,000 may create, by a
18 vote of at least a majority plus one of the entire governing
19 body of the county or municipality, more than one community
20 redevelopment agency. Each such agency shall be constituted
21 as a public instrumentality, and the exercise by a community
22 redevelopment agency of the powers conferred by this part
23 shall be deemed and held to be the performance of an essential
24 public function. ~~The Community redevelopment agencies agency~~
25 of a county have ~~has~~ the power to function within the
26 corporate limits of a municipality only as, if, and when the
27 governing body of the municipality has by resolution concurred
28 in the community redevelopment plan or plans proposed by the
29 governing body of the county.

30 Section 19. Paragraph (a) of subsection (1) of section
31 235.002, Florida Statutes, is repealed and subsequent

1 paragraphs are amended and a new paragraph (a) of subsection
2 (2) is created and subsequent paragraphs are renumbered and
3 amended as follows:

4 235.002 Intent.--

5 (1) The intent of the Legislature is:

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

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

19 ~~(d)~~(c) To provide ~~proper legislative support for as~~
20 ~~wide a range of~~ fiscally sound financing methodologies ~~as~~
21 ~~possible for the delivery of~~ educational facilities ~~and, where~~
22 ~~appropriate, for their construction, operation, and~~
23 ~~maintenance.~~

24 (d) To establish a systematic process of sharing
25 information between school boards and local governments on the
26 growth and development trends in their communities in order to
27 forecast future enrollment and school needs;

28 (e) To establish a systematic process for school
29 boards and local governments to cooperatively plan for the
30 provision of educational facilities to meet the current and
31 projected needs of the public education system population,

1 including the needs placed on the public education system as a
2 result of growth and development decisions by local
3 government;

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

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

8 (a) Public schools are a linchpin to the vitality of
9 our communities and play a significant role in the thousands
10 of individual housing decisions which result in community
11 growth trends;

12 ~~(a)~~(b) Growth and development issues transcend the
13 boundaries and responsibilities of individual units of
14 government, and often no single unit of government can plan or
15 implement policies to deal with these issues without affecting
16 other units of government.

17 ~~(b)~~(c) The effective and efficient provision of
18 public educational facilities and services ~~is essential to~~
19 ~~preserving and enhancing~~ enhances the quality of life of the
20 people of this state.

21 ~~(c)~~(d) The provision of educational facilities often
22 impacts community infrastructure and services. Assuring
23 coordinated and cooperative provision of such facilities and
24 associated infrastructure and services is in the best interest
25 of the state.

26 (e) The location of schools must follow future land
27 use maps and may not be used to control growth, rather the
28 location of schools should correspond with local government
29 growth trends.

30 Section 20. Subsection (1) of section 235.061, Florida
31 Statutes, is amended to read:

1 235.061 Standards for relocatables used as classroom
2 space; inspections.--

3 (1) The Commissioner of Education shall adopt rules
4 establishing standards for relocatables intended for long-term
5 use as classroom space at a public elementary school, middle
6 school, or high school. "Long-term use" means the use of
7 relocatables at the same educational plant for a period of 4
8 years or more. These rules must be implemented by July 1,
9 1998, and each relocatable acquired by a district school board
10 after the effective date of the rules and intended for
11 long-term use must comply with the standards. The rules shall
12 require that, by July 1, 2002 ~~2001~~, relocatables that fail to
13 meet the standards may not be used as classrooms. The
14 standards shall protect the health, safety, and welfare of
15 occupants by requiring compliance with the Uniform Building
16 Code for Public Educational Facilities or other locally
17 adopted state minimum building codes to ensure the safety and
18 stability of construction and onsite installation; fire and
19 moisture protection; air quality and ventilation; appropriate
20 wind resistance; and compliance with the requirements of the
21 Americans with Disabilities Act of 1990. If appropriate, the
22 standards must also require relocatables to provide access to
23 the same technologies available to similar classrooms within
24 the main school facility and, if appropriate, to be accessible
25 by adequate covered walkways. By July 1, 2000, the
26 commissioner shall adopt standards for all relocatables
27 intended for long-term use as classrooms. A relocatable that
28 is subject to this section and does not meet the standards
29 shall not be reported as providing satisfactory student
30 stations in the Florida Inventory of School Houses.

31

1 Section 21. Subsection (2) and paragraphs (a) and (f)
2 of subsection (3) of section 212.055, Florida Statutes, are
3 amended to read:

4 212.055 Discretionary sales surtaxes; legislative
5 intent; authorization and use of proceeds.--It is the
6 legislative intent that any authorization for imposition of a
7 discretionary sales surtax shall be published in the Florida
8 Statutes as a subsection of this section, irrespective of the
9 duration of the levy. Each enactment shall specify the types
10 of counties authorized to levy; the rate or rates which may be
11 imposed; the maximum length of time the surtax may be imposed,
12 if any; the procedure which must be followed to secure voter
13 approval, if required; the purpose for which the proceeds may
14 be expended; and such other requirements as the Legislature
15 may provide. Taxable transactions and administrative
16 procedures shall be as provided in s. 212.054.

17 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

18 (a)1. The governing authority in each county may levy
19 a discretionary sales surtax of 0.5 percent or 1 percent. The
20 levy of the surtax shall be pursuant to ordinance enacted by a
21 majority of the members of the county governing authority and
22 approved by a majority of the electors of the county voting in
23 a referendum on the surtax. If the governing bodies of the
24 municipalities representing a majority of the county's
25 population adopt uniform resolutions establishing the rate of
26 the surtax and calling for a referendum on the surtax, the
27 levy of the surtax shall be placed on the ballot and shall
28 take effect if approved by a majority of the electors of the
29 county voting in the referendum on the surtax.

30 2. If the surtax was levied pursuant to a referendum
31 held before July 1, 1993, the surtax may not be levied beyond

1 the time established in the ordinance, or, if the ordinance
2 did not limit the period of the levy, the surtax may not be
3 levied for more than 15 years. The levy of such surtax may be
4 extended only by approval of a majority of the electors of the
5 county voting in a referendum on the surtax.

6 (b) A statement which includes a brief general
7 description of the projects to be funded by the surtax and
8 which conforms to the requirements of s. 101.161 shall be
9 placed on the ballot by the governing authority of any county
10 which enacts an ordinance calling for a referendum on the levy
11 of the surtax or in which the governing bodies of the
12 municipalities representing a majority of the county's
13 population adopt uniform resolutions calling for a referendum
14 on the surtax. The following question shall be placed on the
15 ballot:

16
17 FOR the -cent sales tax
18 AGAINST the -cent sales tax
19

20 (c) Pursuant to s. 212.054(4), the proceeds of the
21 surtax levied under this subsection shall be distributed to
22 the county and the municipalities within such county in which
23 the surtax was collected, according to:

24 1. An interlocal agreement between the county
25 governing authority and the governing bodies of the
26 municipalities representing a majority of the county's
27 municipal population, which agreement may include a school
28 district with the consent of the county governing authority
29 and the governing bodies of the municipalities representing a
30 majority of the county's municipal population; or
31

1 2. If there is no interlocal agreement, according to
2 the formula provided in s. 218.62.

3
4 Any change in the distribution formula must take effect on the
5 first day of any month that begins at least 60 days after
6 written notification of that change has been made to the
7 department.

8 (d)1. The proceeds of the surtax authorized by this
9 subsection and any interest accrued thereto shall be expended
10 by the school district or within the county and municipalities
11 within the county, or, in the case of a negotiated joint
12 county agreement, within another county, to finance, plan, and
13 construct infrastructure and to acquire land for public
14 recreation or conservation or protection of natural resources
15 and to finance the closure of county-owned or municipally
16 owned solid waste landfills that are already closed or are
17 required to close by order of the Department of Environmental
18 Protection. Any use of such proceeds or interest for purposes
19 of landfill closure prior to July 1, 1993, is ratified.

20 Neither the proceeds nor any interest accrued thereto shall be
21 used for operational expenses of any infrastructure, except
22 that any county with a population of less than 75,000 that is
23 required to close a landfill by order of the Department of
24 Environmental Protection may use the proceeds or any interest
25 accrued thereto for long-term maintenance costs associated
26 with landfill closure. Counties, as defined in s. 125.011(1),
27 and charter counties may, in addition, use the proceeds and
28 any interest accrued thereto to retire or service indebtedness
29 incurred for bonds issued prior to July 1, 1987, for
30 infrastructure purposes, and for bonds subsequently issued to
31 refund such bonds. Any use of such proceeds or interest for

1 purposes of retiring or servicing indebtedness incurred for
2 such refunding bonds prior to July 1, 1999, is ratified.

3 2. For the purposes of this paragraph,
4 "infrastructure" means:

5 a. Any fixed capital expenditure or fixed capital
6 outlay associated with the construction, reconstruction, or
7 improvement of public facilities which have a life expectancy
8 of 5 or more years and any land acquisition, land improvement,
9 design, and engineering costs related thereto.

10 b. A fire department vehicle, an emergency medical
11 service vehicle, a sheriff's office vehicle, a police
12 department vehicle, or any other vehicle, and such equipment
13 necessary to outfit the vehicle for its official use or
14 equipment that has a life expectancy of at least 5 years.

15 3. Notwithstanding any other provision of this
16 subsection, a discretionary sales surtax imposed or extended
17 after the effective date of this act may provide for an amount
18 not to exceed 15 percent of the local option sales surtax
19 proceeds to be allocated for deposit to a trust fund within
20 the county's accounts created for the purpose of funding
21 economic development projects of a general public purpose
22 targeted to improve local economies, including the funding of
23 operational costs and incentives related to such economic
24 development. The ballot statement must indicate the intention
25 to make an allocation under the authority of this
26 subparagraph.

27 (e) School districts, counties, and municipalities
28 receiving proceeds under the provisions of this subsection may
29 pledge such proceeds for the purpose of servicing new bond
30 indebtedness incurred pursuant to law. Local governments may
31 use the services of the Division of Bond Finance of the State

1 Board of Administration pursuant to the State Bond Act to
2 issue any bonds through the provisions of this subsection. In
3 no case may a jurisdiction issue bonds pursuant to this
4 subsection more frequently than once per year. Counties and
5 municipalities may join together for the issuance of bonds
6 authorized by this subsection.

7 (f) Counties and municipalities shall not use the
8 surtax proceeds to supplant or replace user fees or to reduce
9 ad valorem taxes existing prior to the levy of the surtax
10 authorized by this subsection.

11 (g)1. Notwithstanding paragraph (d), a county that has
12 a population of 50,000 or less on April 1, 1992, or any county
13 designated as an area of critical state concern on the
14 effective date of this act, and that imposed the surtax before
15 July 1, 1992, may use the proceeds and interest of the surtax
16 for any public purpose if:

- 17 a. The debt service obligations for any year are met;
18 b. The county's comprehensive plan has been determined
19 to be in compliance with part II of chapter 163; and
20 c. The county has adopted an amendment to the surtax
21 ordinance pursuant to the procedure provided in s. 125.66
22 authorizing additional uses of the surtax proceeds and
23 interest.

24 2. A municipality located within a county that has a
25 population of 50,000 or less on April 1, 1992, or within a
26 county designated as an area of critical state concern on the
27 effective date of this act, and that imposed the surtax before
28 July 1, 1992, may not use the proceeds and interest of the
29 surtax for any purpose other than an infrastructure purpose
30 authorized in paragraph (d) unless the municipality's
31 comprehensive plan has been determined to be in compliance

1 with part II of chapter 163 and the municipality has adopted
2 an amendment to its surtax ordinance or resolution pursuant to
3 the procedure provided in s. 166.041 authorizing additional
4 uses of the surtax proceeds and interest. Such municipality
5 may expend the surtax proceeds and interest for any public
6 purpose authorized in the amendment.

7 3. Those counties designated as an area of critical
8 state concern which qualify to use the surtax for any public
9 purpose may use only up to 10 percent of the surtax proceeds
10 for any public purpose other than for infrastructure purposes
11 authorized by this section.

12 (h) Notwithstanding paragraph (d), a county in which
13 40 percent or more of the just value of real property is
14 exempt or immune from ad valorem taxation, and the
15 municipalities within such a county, may use the proceeds and
16 interest of the surtax for operation and maintenance of parks
17 and recreation programs and facilities established with the
18 proceeds of the surtax.

19 (i) Notwithstanding any other provision of this
20 section, a county shall not levy local option sales surtaxes
21 authorized in this subsection and subsections (3), (4), and
22 (5) in excess of a combined rate of 1 percent. However, if the
23 county is levying local option sales surtaxes under this
24 subsection and subsection (3) only, the combined rate shall
25 not exceed 1.5 percent.

26 (3) SMALL COUNTY SURTAX.--

27 (a) The governing authority in each county that has a
28 population of 50,000 or less on April 1, 1992, may levy a
29 discretionary sales surtax of 0.5 percent or 1 percent. The
30 levy of the surtax shall be pursuant to ordinance enacted by
31 an extraordinary vote of the members of the county governing

1 authority if the surtax revenues are expended for operating
2 purposes. If the surtax revenues are expended for the purpose
3 of servicing bond indebtedness, the surtax shall be approved
4 by a majority of the electors of the county voting in a
5 referendum on the surtax. However, any local government
6 levying the local government infrastructure surtax under
7 subsection (2) at the rate of 1 percent shall not levy the
8 surtax under this subsection at a rate of 0.5 percent, so that
9 the combined rates equal 1.5 percent as authorized by
10 paragraph (2)(i), unless the surtax under this subsection is
11 approved by a majority of the electors of the county voting in
12 a referendum on the surtax.

13 (f) Notwithstanding any other provision of this
14 section, a county shall not levy local option sales surtaxes
15 authorized in this subsection and subsections (2), (4), and
16 (5) in excess of a combined rate of 1 percent, except as
17 provided in paragraph (2)(i).

18 Section 22. Effective January 1, 2003, section
19 163.325, Florida Statutes, is created to read:

20 163.325 Local government infrastructure financial
21 assistance.--

22 (1) The purpose of this section is to facilitate the
23 use of existing federal, state, and local financial resources
24 by providing local governments with financial assistance to
25 address local infrastructure needs. These funds may be used
26 for public education facilities; for joint-use facilities; to
27 revitalize existing infrastructure within a downtown business
28 center; or to expedite a county or municipal infrastructure
29 project.

30 (2) For the purposes of this section:
31

1 (a) "Bonds" means bonds, certificates, or other
2 obligations of indebtedness issued by the Florida Local
3 Government Infrastructure Financing Corporation under this
4 section and s. 163.3251.

5 (b) "Corporation" means the Florida Local Government
6 Infrastructure Financing Corporation.

7 (c) "Local government" means a county or municipality.

8 (3)(a) The department may provide financial assistance
9 through any program authorized under this section, including,
10 but not limited to, making loans, providing loan guarantees,
11 purchasing loan insurance or other credit enhancements, and
12 buying or refinancing local debt. This financial assistance
13 shall be administered in accordance with this section. The
14 department shall administer all programs operated from funds
15 secured through the activities of the Florida Local Government
16 Infrastructure Financing Corporation under s. 163.3251 to
17 fulfill the purposes of this section.

18 (b) The department may make, or request the
19 corporation to make, loans to local governments, which local
20 governments may pledge any revenue available to them to repay
21 any funds borrowed.

22 (c) The department shall administer financial
23 assistance so that at least 15 percent of the funding made
24 available each year under this section is reserved for use by
25 small communities during the year it is reserved.

26 (4) The department shall prepare an annual report
27 detailing the amount loaned, interest earned, and loans
28 outstanding at the end of each fiscal year.

29 (5) Prior to approval of financial assistance, the
30 applicant shall:

31

1 (a) Submit evidence of credit worthiness, loan
2 security, and a loan repayment schedule in support of a
3 request for a loan.

4 (b) Provide assurance that records will be kept using
5 generally accepted accounting principles and that the
6 department, the Auditor General, or their agents will have
7 access to all records pertaining to the financial assistance
8 provided.

9 (c) Provide assurance that the subject facilities,
10 systems, or activities will be properly operated and
11 maintained.

12 (d) Identify the revenues to be pledged and document
13 their sufficiency for loan repayment and pledged revenue
14 coverage in support of a request for a loan.

15 (e) Provide assurance that financial information will
16 be provided as required by the department.

17 (f) Submit project planning documentation
18 demonstrating a cost comparison of alternative methods,
19 environmental soundness, public participation, and financial
20 feasibility for any proposed project or activity.

21 (g) Submit a certification stating the percentage of
22 its revenues that is allocated for infrastructure needs, the
23 current ad valorem millage levied, and the percentage and
24 amount of any local option surtaxes levied.

25 (6) The department shall adopt a priority system by
26 rule. In developing the priority system, the department shall
27 give priority to projects that:

28 (a) Are located within a sustainable community, urban
29 infill area, urban revitalization area, or blighted area;

30 (b) Have matching local government funds;

31

1 (c) Are located within a local government that is
2 levying the maximum ad valorem millage rate allowed under s.
3 9, Art. VII of the State Constitution;

4 (d) Are located within a local government where
5 constitutional officers' expenses are greater than 75 percent
6 of the local government's budget; or

7 (e) Are located within a local government where more
8 than 30 percent of the local government's revenues are
9 allocated to infrastructure needs.

10 (7) If a local government becomes delinquent on its
11 loan, the department shall so certify to the Chief Financial
12 Officer, who shall forward the amount delinquent to the
13 department from any unobligated funds due to the local
14 government under any revenue-sharing or tax-sharing fund
15 established by the state, except as otherwise provided by the
16 State Constitution. Certification of delinquency shall not
17 limit the department from pursuing other remedies available
18 for default on a loan. The department may impose a penalty
19 for delinquent loan payments in an amount not to exceed an
20 interest rate of 18 percent per annum on the amount due, in
21 addition to charging the cost to handle and process the debt.
22 Penalty interest shall accrue on any amount due and payable
23 beginning on the 30th day following the date upon which
24 payment is due.

25 (8) Funds for the loans authorized under this section
26 shall be managed as follows:

27 (a) A nonlapsing trust fund with revolving loan
28 provisions to be known as the "Local Government Infrastructure
29 Revolving Loan Trust Fund" shall be established in the State
30 Treasury prior to January 1, 2003, to be used as a revolving
31 fund by the department to carry out the purposes of this

1 section. Any funds therein which are not needed on an
 2 immediate basis for loans may be invested pursuant to s.
 3 215.49. The cost of administering the program shall be paid
 4 from reasonable service fees that may be imposed upon loans,
 5 and from proceeds from the sale of loans as permitted by
 6 federal law so as to enhance program perpetuity. Investment
 7 earnings thereon shall be deposited into the trust fund.
 8 Proceeds from the sale of loans shall be deposited into the
 9 trust fund. All moneys available in the trust fund, including
 10 investment earnings, are designated to carry out the purpose
 11 of this section. The principal and interest payments of all
 12 loans held by the trust fund shall be deposited in the trust
 13 fund.

14 (b) The department may obligate moneys available in
 15 the trust fund for payment of amounts payable under any
 16 service contract entered into by the department under s.
 17 163.3251, subject to annual appropriation by the Legislature.
 18 Amounts on deposit in the trust fund in each fiscal year shall
 19 first be applied or allocated for the repayment of amounts
 20 payable by the department under this paragraph and
 21 appropriated each year by the Legislature before making or
 22 providing for other disbursement from the trust fund.

23 (c) Under the provisions of s. 19(f)(3), Art. III of
 24 the State Constitution, the Local Government Infrastructure
 25 Revolving Loan Trust Fund shall be exempt from the termination
 26 provisions of s. 19(f)(2), Art. III of the State Constitution.

27 (9) The department may adopt rules regarding program
 28 administration; project eligibilities and priorities,
 29 including the development and management of project priority
 30 lists; financial assistance application requirements
 31 associated with planning, design, construction, and

1 implementation activities, including environmental and
2 engineering requirements; financial assistance agreement
3 conditions; disbursement and repayment provisions; auditing
4 provisions; program exceptions; the procedural and contractual
5 relationship between the department and the corporation under
6 s. 163.3251; and other provisions consistent with the purposes
7 of this section.

8 Section 23. Effective January 1, 2003, section
9 163.3251, Florida Statutes, is created to read:

10 163.3251 Florida Local Government Infrastructure
11 Financing Corporation.--

12 (1) The Florida Local Government Infrastructure
13 Financing Corporation is created as a nonprofit public benefit
14 corporation for the purpose of financing or refinancing the
15 costs of local government infrastructure projects and
16 activities described in s. 163.325. The projects and
17 activities described in that section are found to constitute a
18 public governmental purpose and be necessary for the health,
19 safety, and welfare of all residents. The fulfillment of the
20 purposes of the corporation promotes the health, safety, and
21 welfare of the people of the state and serves essential
22 governmental functions and a paramount public purpose. The
23 activities of the corporation are specifically limited to
24 assisting the department in implementing financing activities
25 to provide funding for the programs authorized by s. 163.325.
26 All other activities relating to the purposes for which the
27 corporation raises funds are the responsibility of the
28 department, including, but not limited to, development of
29 program criteria, review of applications for financial
30 assistance, decisions relating to the number and amount of
31 loans, and enforcement of the terms of any financial

1 assistance agreements provided through funds raised by the
2 corporation. The corporation shall terminate upon fulfillment
3 of the purposes of this section.

4 (2) The corporation shall be governed by a board of
5 directors consisting of the Governor's budget director or the
6 budget director's designee, the Chief Financial Officer or the
7 Chief Financial Officer's designee, and the Secretary of
8 Community Affairs or the secretary's designee. The executive
9 director of the State Board of Administration shall be the
10 chief executive officer of the corporation, shall direct and
11 supervise the administrative affairs of the corporation, and
12 shall control, direct, and supervise operation of the
13 corporation. The corporation shall have such other officers
14 as may be determined by the board of directors.

15 (3) The corporation shall have all the powers of a
16 corporate body under the laws of this state to the extent not
17 inconsistent with or restricted by this section, including,
18 but not limited to, the power to:

19 (a) Adopt, amend, and repeal bylaws not inconsistent
20 with this section.

21 (b) Sue and be sued.

22 (c) Adopt and use a common seal.

23 (d) Acquire, purchase, hold, lease, and convey any
24 real and personal property as may be proper or expedient to
25 carry out the purposes of the corporation and this section,
26 and to sell, lease, or otherwise dispose of that property.

27 (e) Elect or appoint and employ such officers, agents,
28 and employees as the corporation considers advisable to
29 operate and manage the affairs of the corporation, which
30 officers, agents, and employees may be officers or employees

31

1 of the department or the state agencies represented on the
2 board of directors of the corporation.

3 (f) Borrow money and issue notes, bonds, certificates
4 of indebtedness, or other obligations or evidence of
5 indebtedness described in s. 163.325.

6 (g) Operate, as specifically directed by the
7 department, any program to provide financial assistance
8 authorized under s. 163.325, which may be funded from any
9 funds received under a service contract with the department,
10 from the proceeds of bonds issued by the corporation, or from
11 any other funding sources obtained by the corporation.

12 (h) Sell all or any portion of the loans issued under
13 s. 163.325 to accomplish the purposes of this section and s.
14 163.325.

15 (i) Make and execute any contracts, trust agreements,
16 and other instruments and agreements necessary or convenient
17 to accomplish the purposes of the corporation and this
18 section.

19 (j) Select, retain, and employ professionals,
20 contractors, or agents, which may include the Division of Bond
21 Finance of the State Board of Administration, as are necessary
22 or convenient to enable or assist the corporation in carrying
23 out its purposes and this section.

24 (k) Do any act or thing necessary or convenient to
25 carry out the purposes of the corporation and this section.

26 (4) The corporation shall evaluate all financial and
27 market conditions necessary and prudent for the purpose of
28 making sound, financially responsible, and cost-effective
29 decisions in order to secure additional funds to fulfill the
30 purposes of this section and s. 163.325.

31

1 (5) The corporation may enter into one or more service
2 contracts with the department under which the corporation
3 shall provide services to the department in connection with
4 financing the functions, projects, and activities provided for
5 in s. 163.325. The department may enter into one or more
6 service contracts with the corporation and provide for
7 payments under those contracts pursuant to s. 163.325, subject
8 to annual appropriation by the Legislature. The service
9 contracts may provide for the transfer of all or a portion of
10 the funds in the Local Government Infrastructure Revolving
11 Loan Trust Fund to the corporation for use by the corporation
12 for costs incurred by the corporation in its operations,
13 including, but not limited to, payment of debt service,
14 reserves, or other costs in relation to bonds issued by the
15 corporation, for use by the corporation at the request of the
16 department to directly provide the types of local financial
17 assistance provided for by s. 163.325, or for payment of the
18 administrative costs of the corporation. The department shall
19 not transfer funds under any service contract with the
20 corporation without specific appropriation for such purpose in
21 the General Appropriations Act, except for administrative
22 expenses incurred by the State Board of Administration or
23 other expenses necessary under documents authorizing or
24 securing previously issued bonds of the corporation. The
25 service contracts may also provide for the assignment or
26 transfer to the corporation of any loans made by the
27 department. The service contracts may establish the operating
28 relationship between the department and the corporation and
29 shall require the department to request the corporation to
30 issue bonds before any issuance of bonds by the corporation,
31 to take any actions necessary to enforce the agreements

1 entered into between the corporation and other parties, and to
 2 take all other actions necessary to assist the corporation in
 3 its operations. In compliance with s. 287.0641 and other
 4 applicable provisions of law, the obligations of the
 5 department under the service contracts do not constitute a
 6 general obligation of the state or a pledge of the faith and
 7 credit or taxing power of the state, nor may the obligations
 8 be construed in any manner as an obligation of the State Board
 9 of Administration or entities for which it invests funds, or
 10 of the department except as provided in this section as
 11 payable solely from amounts available under any service
 12 contract between the corporation and the department, subject
 13 to appropriation. In compliance with this subsection and s.
 14 287.0582, service contracts must expressly include the
 15 following statement: "The State of Florida's performance and
 16 obligation to pay under this contract is contingent upon an
 17 annual appropriation by the Legislature."

18 (6) The corporation may issue and incur notes, bonds,
 19 certificates of indebtedness, or other obligations or
 20 evidences of indebtedness payable from and secured by amounts
 21 received from payment of loans and other moneys received by
 22 the corporation, including, but not limited to, amounts
 23 payable to the corporation by the department under a service
 24 contract entered into under subsection (5). The corporation
 25 shall not issue bonds in excess of an amount authorized by
 26 general law or an appropriations act except to refund
 27 previously issued bonds. The proceeds of the bonds may be
 28 used for the purpose of providing funds for projects and
 29 activities provided for under subsection (1) or for refunding
 30 bonds previously issued by the corporation. The corporation
 31 may select a financing team and issue obligations through

1 competitive bidding or negotiated contracts, whichever is most
2 cost-effective. Any such indebtedness of the corporation does
3 not constitute a debt or obligation of the state or a pledge
4 of the faith and credit or taxing power of the state.

5 (7) The corporation is exempt from taxation and
6 assessments of any nature whatsoever upon its income and any
7 property, assets, or revenues acquired, received, or used in
8 the furtherance of the purposes provided by s. 163.325. The
9 obligations of the corporation incurred under subsection (6)
10 and the interest and income on the obligations and all
11 security agreements, letters of credit, liquidity facilities,
12 or other obligations or instruments arising out of, entered
13 into in connection with, or given to secure payment of the
14 obligations are exempt from all taxation; however, this
15 exemption does not apply to any tax imposed by chapter 220 on
16 the interest, income, or profits on debt obligations owned by
17 corporations.

18 (8) The corporation shall validate any bonds issued
19 under this section, except refunding bonds, which may be
20 validated at the option of the corporation, by proceedings
21 under chapter 75. The validation complaint shall be filed
22 only in the Circuit Court for Leon County. The notice
23 required under s. 75.06 shall be published in Leon County, and
24 the complaint and order of the circuit court shall be served
25 only on the State Attorney for the Second Judicial Circuit.
26 Sections 75.04(2) and 75.06(2) do not apply to a validation
27 complaint filed as authorized by this subsection. The
28 validation of the first bonds issued under this section may be
29 appealed to the Supreme Court, and the appeal shall be handled
30 on an expedited basis.

31

1 (9) The corporation and the department shall not take
2 any action that will materially and adversely affect the
3 rights of holders of any obligations issued under this section
4 as long as the obligations are outstanding.

5 (10) The corporation is not a special district for
6 purposes of chapter 189 or a unit of local government for
7 purposes of part III of chapter 218. The provisions of
8 chapters 120 and 215, except the limitation on interest rates
9 provided by s. 215.84, which applies to obligations of the
10 corporation issued under this section, and the provisions of
11 part I of chapter 287, except ss. 287.0582 and 287.0641, do
12 not apply to this section, the corporation created by this
13 section, the service contracts entered into under this
14 section, or debt obligations issued by the corporation as
15 provided by this section.

16 (11) The benefits or earnings of the corporation may
17 not inure to the benefit of any private person, except persons
18 receiving loans under s. 163.325.

19 (12) Upon dissolution of the corporation, title to all
20 property owned by the corporation reverts to the department.

21 (13) The corporation may contract with the State Board
22 of Administration to serve as trustee with respect to debt
23 obligations issued by the corporation as provided by this
24 section; to hold, administer, and invest proceeds of those
25 debt obligations and other funds of the corporation; and to
26 perform other services required by the corporation. The State
27 Board of Administration may perform those services and may
28 contract with others to provide all or a part of those
29 services and to recover the costs and expenses of providing
30 those services.

31

1 (14) The Auditor General may conduct a financial audit
2 of the accounts and records of the corporation.

3 Section 24. Effective June 1, 2003, subsection (3) of
4 section 199.292, Florida Statutes, is amended to read:

5 199.292 Disposition of intangible personal property
6 taxes.--All intangible personal property taxes collected
7 pursuant to this chapter shall be placed in a special fund
8 designated as the "Intangible Tax Trust Fund." The fund shall
9 be disbursed as follows:

10 (3) Of the remaining intangible personal property
11 taxes collected, 25 percent of the balance shall be
12 transferred to the Local Government Infrastructure Revolving
13 Loan Trust Fund, and the remaining balance shall be
14 transferred to the General Revenue Fund of the state.

15 Section 25. Section (3) of section 215.211, Florida
16 Statutes, is amended to read:

17 215.211 Service charge; elimination or reduction for
18 specified proceeds.--

19 (3) Notwithstanding the provisions of s. 215.20(1),
20 the service charge provided in s. 215.20(1), which is deducted
21 from the proceeds of the local option fuel tax distributed
22 under s. 336.025, shall be eliminated June 1, 2003. ~~reduced as~~
23 ~~follows:~~

24 ~~(a) For the period July 1, 2005, through June 30,~~
25 ~~2006, the rate of the service charge shall be 3.5 percent.~~

26 ~~(b) Beginning July 1, 2006, and thereafter, no service~~
27 ~~charge shall be deducted from the proceeds of the local option~~
28 ~~fuel tax distributed under s. 336.025.~~

29
30 The increased revenues derived from this subsection shall be
31 deposited in the State Transportation Trust Fund and used to

1 fund the County Incentive Grant Program and the Small County
2 Outreach Program. Up to 20 percent of such funds shall be used
3 for the purpose of implementing the Small County Outreach
4 Program as provided in this act. Notwithstanding any other
5 laws to the contrary, the requirements of ss. 339.135,
6 339.155, and 339.175 shall not apply to these funds and
7 programs.

8 Section 26. Effective June 1, 2003, paragraph (c) of
9 subsection (1) and subsection (2) of section 336.021, Florida
10 Statutes, are amended to read:

11 336.021 County transportation system; levy of
12 ninth-cent fuel tax on motor fuel and diesel fuel.--

13 (1)

14 (c) Local option taxes collected on sales or use of
15 diesel fuel in this state shall be distributed in the
16 following manner:

17 1. The fiscal year of July 1, 1995, through June 30,
18 1996, shall be the base year for all distributions.

19 2. Each year the tax collected, less the deduction
20 provided for in paragraph (2)(b), the service and
21 administrative charges enumerated in s. 215.20, and the
22 allowances allowed under s. 206.91, on the number of gallons
23 reported, up to the total number of gallons reported in the
24 base year, shall be distributed to each county using the
25 distribution percentage calculated for the base year.

26 3. After the distribution of taxes pursuant to
27 subparagraph 2., additional taxes available for distribution
28 shall first be distributed pursuant to this subparagraph. A
29 distribution shall be made to each county in which a qualified
30 new retail station is located. A qualified new retail station
31 is a retail station that began operation after June 30, 1996,

1 and that has sales of diesel fuel exceeding 50 percent of the
2 sales of diesel fuel reported in the county in which it is
3 located during the 1995-1996 state fiscal year. The
4 determination of whether a new retail station is qualified
5 shall be based on the total gallons of diesel fuel sold at the
6 station during each full month of operation during the
7 12-month period ending March 31, divided by the number of full
8 months of operation during those 12 months, and the result
9 multiplied by 12. The amount distributed pursuant to this
10 subparagraph to each county in which a qualified new retail
11 station is located shall equal the local option taxes due on
12 the gallons of diesel fuel sold by the new retail station
13 during the year ending March 31, less the service charges
14 enumerated in s. 215.20 and the dealer allowance provided for
15 by s. 206.91. Gallons of diesel fuel sold at the qualified new
16 retail station shall be certified to the department by the
17 county requesting the additional distribution by June 15,
18 1997, and by May 1 in each subsequent year. The certification
19 shall include the beginning inventory, fuel purchases and
20 sales, and the ending inventory for the new retail station for
21 each month of operation during the year, the original purchase
22 invoices for the period, and any other information the
23 department deems reasonable and necessary to establish the
24 certified gallons. The department may review and audit the
25 retail dealer's records provided to a county to establish the
26 gallons sold by the new retail station. Notwithstanding the
27 provisions of this subparagraph, when more than one county
28 qualifies for a distribution pursuant to this subparagraph and
29 the requested distributions exceed the total taxes available
30 for distribution, each county shall receive a prorated share
31 of the moneys available for distribution.

1 4. After the distribution of taxes pursuant to
2 subparagraph 3., all additional taxes available for
3 distribution shall be distributed based on vehicular diesel
4 fuel storage capacities in each county pursuant to this
5 subparagraph. The total vehicular diesel fuel storage capacity
6 shall be established for each fiscal year based on the
7 registration of facilities with the Department of
8 Environmental Protection as required by s. 376.303 for the
9 following facility types: retail stations, fuel
10 user/nonretail, state government, local government, and county
11 government. Each county shall receive a share of the total
12 taxes available for distribution pursuant to this subparagraph
13 equal to a fraction, the numerator of which is the storage
14 capacity located within the county for vehicular diesel fuel
15 in the facility types listed in this subparagraph and the
16 denominator of which is the total statewide storage capacity
17 for vehicular diesel fuel in those facility types. The
18 vehicular diesel fuel storage capacity for each county and
19 facility type shall be that established by the Department of
20 Environmental Protection by June 1, 1997, for the 1996-1997
21 fiscal year, and by January 31 for each succeeding fiscal
22 year. The storage capacities so established shall be final.
23 The storage capacity for any new retail station for which a
24 county receives a distribution pursuant to subparagraph 3.
25 shall not be included in the calculations pursuant to this
26 subparagraph.

27 (2)(a) The tax collected by the department pursuant to
28 subsection (1), except for the deduction provided for by
29 paragraph (b), shall be transferred to the Ninth-cent Fuel Tax
30 Trust Fund, which fund is created for distribution to the
31 counties pursuant to paragraph (1)(d). The department shall

1 deduct the administrative costs incurred by it in collecting,
2 administering, enforcing, and distributing back to the
3 counties the tax, which administrative costs may not exceed 2
4 percent of collections authorized by this section. The total
5 administrative cost shall be prorated among those counties
6 levying the tax according to the following formula, which
7 shall be revised on July 1 of each year: Two-thirds of the
8 amount deducted shall be based on the county's proportional
9 share of the number of dealers who are registered for purposes
10 of chapter 212 on June 30th of the preceding state fiscal
11 year, and one-third of the amount deducted shall be based on
12 the county's share of the total amount of the tax collected
13 during the preceding state fiscal year. The department has the
14 authority to prescribe and publish all forms upon which
15 reports shall be made to it and other forms and records deemed
16 to be necessary for proper administration and collection of
17 the tax levied by any county and shall adopt rules necessary
18 to enforce this section, which rules shall have the full force
19 and effect of law. The provisions of ss. 206.026, 206.027,
20 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07,
21 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,
22 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,
23 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,
24 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.45,
25 206.48, 206.49, 206.56, 206.59, 206.626, 206.87, 206.872,
26 206.873, 206.8735, 206.874, 206.8741, 206.8745, 206.94, and
27 206.945 shall, as far as practicable, be applicable to the
28 levy and collection of the tax imposed pursuant to this
29 section as if fully set out in this section.

30 (b) Notwithstanding any provision to the contrary, the
31 department shall transfer 7 percent of the tax collected

1 pursuant to subsection (1) to the Local Government
2 Infrastructure Revolving Loan Trust Fund, to be used for
3 purposes provided for in s. 163.325.

4 ~~(c)(b)~~ The provisions of s. 206.43(7) shall apply to
5 the incorrect reporting of the tax levied under this section.

6 Section 27. Section 163.3244, Florida Statutes, is
7 amended to read:

8 163.3244 Sustainable communities certification
9 ~~demonstration project~~.--

10 (1) The Department of Community Affairs shall create
11 ~~is authorized to undertake~~ a sustainable communities
12 certification program for communities that have implemented
13 best planning practices through their local government
14 comprehensive plans and specific planning or design
15 initiatives, thereby reducing the need for state review of
16 amendments to local government comprehensive plans. One of the
17 purposes of the certification program is to address the
18 extrajurisdictional effects of development occurring within
19 the certified area and to assume
20 development-of-regional-impact review authority from the
21 department. It is the intent of the Legislature that the
22 department and other executive agencies under the Governor
23 give priority to and direct infrastructure spending to areas
24 within the certified communities.~~demonstration project. Up~~
25 ~~to five local governments may be designated under this~~
26 ~~section. At least three of the local governments shall be~~
27 ~~located totally or in part within the boundaries of the South~~
28 ~~Florida Water Management District. In selecting the local~~
29 ~~governments to participate in this demonstration project, the~~
30 ~~department shall assure participation by local governments of~~
31 ~~different sizes and characteristics. It is the intent of the~~

1 ~~Legislature that this demonstration project shall be used to~~
2 ~~further six broad principles of sustainability: restoring key~~
3 ~~ecosystems; achieving a more clean, healthy environment;~~
4 ~~limiting urban sprawl; protecting wildlife and natural areas;~~
5 ~~advancing the efficient use of land and other resources; and~~
6 ~~creating quality communities and jobs.~~

7 (2) A local government may apply to the department in
8 writing requesting consideration for certification as a
9 sustainable community ~~designation under the demonstration~~
10 ~~program~~. The local government shall describe its reasons for
11 applying for this certification ~~designation~~ and support its
12 application with documents regarding its compliance with
13 criteria set forth in this section.

14 (3) In determining whether to certify ~~designate~~ all or
15 part of a local government as a sustainable community, the
16 department shall:

17 (a) Assure that the local government has set an urban
18 development boundary or functionally equivalent mechanisms,
19 based on projected needs and adequate data and analysis, that
20 will:

21 1. Encourage urban infill at appropriate densities and
22 intensities, separate urban and rural uses, and discourage
23 urban sprawl ~~development patterns~~ while preserving public open
24 space and planning for buffer-type land uses and rural
25 development consistent with their respective character along
26 and outside of the urban boundary.

27 2. Assure protection of key natural areas and
28 agricultural lands.

29 3. Ensure the cost-efficient provision of public
30 infrastructure and services.

31

1 (b) Consider and assess the extent to which the local
2 government has adopted programs in its local comprehensive
3 plan or land development regulations which:

4 1. Promote infill development and redevelopment,
5 including prioritized and timely permitting processes in which
6 applications for local development permits within the urban
7 development boundary are acted upon expeditiously for proposed
8 development which is consistent with the local comprehensive
9 plan.

10 2. Promote the development of housing for low-income
11 and very-low-income households or specialized housing to
12 assist elders and the disabled to remain at home or in
13 independent living arrangements.

14 3. Achieve effective intergovernmental coordination.

15 4. Promote economic diversity and growth while
16 encouraging the retention of rural character, where rural
17 areas exist, and the protection and restoration of the
18 environment.

19 5. Provide and maintain public urban and rural open
20 space and recreational opportunities.

21 6. Manage transportation and land uses to support
22 public transit and promote opportunities for pedestrian and
23 nonmotorized transportation.

24 7. Use urban design principles to foster individual
25 community identity, create a sense of place, and promote
26 pedestrian-oriented safe neighborhoods and town centers.

27 8. Redevelop blighted areas.

28 9. Improve disaster preparedness programs and the
29 ability to protect lives and property, especially in coastal
30 high-hazard areas.

31

1 10. Encourage clustered, mixed-use development which
2 incorporates greenspace and residential development within
3 walking distance of commercial development.

4 11. Demonstrate financial and administrative
5 capabilities to implement the designation.

6 12. Demonstrate a record of effectively adopting,
7 implementing, and enforcing its comprehensive plan.

8 (c) Consider and assess the extent to which the local
9 government has the support of its regional planning council
10 governing board in favor of the designation.

11 (4) The department shall certify ~~designate~~ all or part
12 of a local government as a sustainable community by written
13 agreement, which shall be considered final agency action. The
14 agreement shall include the basis for the certification
15 ~~designation~~, any conditions necessary to comply with the
16 intent of this section, including procedures for mitigation of
17 extrajurisdictional effects ~~impacts~~ of development, a 5-year
18 work plan identifying local government and department tasks
19 that will promote the intent of this section, a commitment to
20 effectively adopt, implement, and enforce the local
21 government's comprehensive plan in jurisdictions where
22 ~~developments of regional impact would be abolished or~~
23 ~~modified~~, and criteria for evaluating the success of the
24 certification ~~designation~~. Subsequent to executing the
25 agreement, the department may remove the local government's
26 certification ~~designation~~ if it determines that the local
27 government is not meeting the terms of the certification
28 ~~designation~~ agreement. If an affected person, as defined by
29 s. 163.3184(1)(a), determines that a local government is not
30 complying with the terms of the certification ~~designation~~
31 agreement, he or she may petition for administrative review of

1 local government compliance with the terms of the agreement,
2 using the procedures and timeframes for notice and conditions
3 precedent described in s. 163.3213.

4 (5) Upon certification ~~designation~~ as a sustainable
5 community, ~~the local government shall receive the following~~
6 ~~benefits:~~

7 (a) All comprehensive plan amendments affecting areas
8 within the urban growth boundary or functional equivalent
9 shall be adopted and reviewed in the manner described in ss.
10 163.3184(1), (2), (7), (14), (15), and (16) and 163.3187, such
11 that state and regional agency review is eliminated. The
12 department shall not issue an objections, recommendations, and
13 comments report on proposed plan amendments or a notice of
14 intent on adopted plan amendments; however, affected persons,
15 as defined by s. 163.3184(1)(a), may file a petition for
16 administrative review pursuant to the requirements of s.
17 163.3187(3)(a) to challenge the compliance of an adopted plan
18 amendment. Plan amendments that would change the adopted
19 urban development boundary, impact lands outside the urban
20 development boundary, or impact lands within the coastal
21 high-hazard area shall be reviewed pursuant to ss. 163.3184
22 and 163.3187.

23 (b) The local government shall assume the review
24 authority of the department and regional planning council for
25 developments of regional impact ~~Developments~~ within the urban
26 growth boundary and outside the coastal high-hazard area ~~are~~
27 ~~exempt from review pursuant to ss. 380.06 and 380.061 to the~~
28 ~~extent established in the designation agreement.~~

29 (c) The Executive Office of the Governor shall work
30 with the Department of Community Affairs and other departments
31 to emphasize programs and set priorities for funding within

1 areas in certified ~~designated~~ local governments in the areas
2 of education ~~job creation~~; crime prevention; environmental
3 protection and restoration programs; ~~solid waste recycling~~;
4 transportation improvements, including highways, transit, and
5 nonmotorized transportation projects; sewage treatment system
6 improvements; ~~expedited and prioritized funding initiatives~~;
7 and other programs that will direct development within the
8 urban development boundary of certified ~~assist~~ local
9 governments ~~to create and maintain self-sustaining~~
10 ~~communities~~.

11 (6) The Secretary of ~~the Department of~~ Environmental
12 Protection, the Secretary of Community Affairs, the Secretary
13 of Transportation, the Commissioner of Agriculture, the
14 executive director of the Fish and Wildlife Conservation
15 Commission, and the executive directors of the five water
16 management districts and the 11 regional planning councils
17 shall have the authority to enter into agreements with
18 landowners, developers, businesses, industries, individuals,
19 and governmental agencies as may be necessary to effectuate
20 the provisions of this section.

21 (7) Once certified ~~designated~~ as a sustainable
22 community pursuant to this section, the local government shall
23 provide a progress report to the department ~~and the Advisory~~
24 ~~Council on Intergovernmental Relations~~ each year on the first
25 anniversary date of its designation and thereafter,
26 biennially, that identifies plan amendments adopted during the
27 year or 2-year period, updates the future land use map, and
28 advises whether the local government continues to comply with
29 the certification ~~designation~~ agreement. ~~Beginning December 1,~~
30 ~~1997, and each year thereafter, the department shall provide a~~
31 ~~report to the Speaker of the House of Representatives and the~~

1 ~~President of the Senate regarding the successes and failures~~
2 ~~of this demonstration project. The report shall include any~~
3 ~~recommendations for legislative action to modify or repeal the~~
4 ~~project.~~

5 (8) The certification designation of a local
6 government as a sustainable community under this section shall
7 continue ~~be~~ for a period of 5 years, unless otherwise revoked
8 or renewed by the department. The certification designation
9 may be renewed for additional 5-year periods if the department
10 determines that the local government is complying with the
11 terms of its agreement. Those local governments designated as
12 a sustainable community demonstration project shall have their
13 designation renewed for an additional 5-year period, which may
14 be renewed for additional 5-year periods pursuant to this
15 subsection, showing continuing progress toward sustainable
16 goals, and the demonstration project is still in effect.

17 ~~(9) This section shall stand repealed on June 30,~~
18 ~~2001, and shall be reviewed by the Legislature prior to that~~
19 ~~date.~~

20 ~~(10) If this section is repealed, all designations~~
21 ~~shall terminate as of the effective date of the repeal.~~

22 Section 28. Section 235.15 is amended as follows:

23 235.15 Educational plant survey; localized need
24 assessment; PECO project funding.--

25 (1) At least every 5 years, each board, including the
26 Board of Regents, shall arrange for an educational plant
27 survey, to aid in formulating plans for housing the
28 educational program and student population, faculty,
29 administrators, staff, and auxiliary and ancillary services of
30 the district or campus, including consideration of the local
31 comprehensive plan. The Division of Workforce Development

1 shall document the need for additional career and adult
 2 education programs and the continuation of existing programs
 3 before facility construction or renovation related to career
 4 or adult education may be included in the educational plant
 5 survey of a school district or community college that delivers
 6 career or adult education programs. Information used by the
 7 Division of Workforce Development to establish facility needs
 8 must include, but need not be limited to, labor market data,
 9 needs analysis, and information submitted by the school
 10 district or community college.

11 (a) Survey preparation and required data.--Each survey
 12 shall be conducted by the board or an agency employed by the
 13 board. Surveys shall be reviewed and approved by the board,
 14 and a file copy shall be submitted to the Office of
 15 Educational Facilities of the Commissioner of Education. The
 16 survey report shall include at least an inventory of existing
 17 educational and ancillary plants; recommendations for existing
 18 educational and ancillary plants, including safe access
 19 facilities; recommendations for new educational or ancillary
 20 plants, including the general location of each in coordination
 21 with the land use plan; campus master plan update and detail
 22 for community colleges; the utilization of school plants based
 23 on an extended school day or year-round operation; and such
 24 other information as may be required by the rules of the State
 25 Board of Education. This report may be amended, if conditions
 26 warrant, at the request of the board or commissioner.

27 (b) Required need assessment criteria for district,
 28 community college, and state university plant surveys.--~~Each~~
 29 ~~educational plant surveys completed after December 31, 1997,~~
 30 must use uniform data sources and criteria specified in this
 31 paragraph. ~~Each educational plant survey completed after June~~

1 ~~30, 1995, and before January 1, 1998, must be revised, if~~
2 ~~necessary, to comply with this paragraph.~~ Each revised
3 educational plant survey and each new educational plant survey
4 supersedes previous surveys.

5 1. The school district's survey is to be submitted as
6 a part of the District Education Facilities Plan in s.
7 235.185. ~~Each school district's educational plant survey must~~
8 ~~reflect the capacity of existing satisfactory facilities as~~
9 ~~reported in the Florida Inventory of School Houses.~~
10 ~~Projections of facility space needs may not exceed the norm~~
11 ~~space and occupant design criteria established by the State~~
12 ~~Requirements for Educational Facilities. Existing and~~
13 ~~projected capital outlay full-time equivalent student~~
14 ~~enrollment must be consistent with data prepared by the~~
15 ~~department and must include all enrollment used in the~~
16 ~~calculation of the distribution formula in ss. 235.435(3). All~~
17 ~~satisfactory relocatable classrooms, including those owned,~~
18 ~~lease-purchased, or leased by the school district, shall be~~
19 ~~included in the school district inventory of gross capacity of~~
20 ~~facilities and must be counted at actual student capacity for~~
21 ~~purposes of the inventory. For future needs determination,~~
22 ~~student capacity shall not be assigned to any relocatable~~
23 ~~classroom that is scheduled for elimination or replacement~~
24 ~~with a permanent educational facility in the adopted 5-year~~
25 ~~educational plant survey and in the district facilities work~~
26 ~~program adopted under ss. 235.185. Those relocatables clearly~~
27 ~~identified and scheduled for replacement in a school board~~
28 ~~adopted financially feasible 5-year district facilities work~~
29 ~~program shall be counted at zero capacity at the time the work~~
30 ~~program is adopted and approved by the school board. However,~~
31 ~~if the district facilities work program is changed or altered~~

1 ~~and the relocatables are not replaced as scheduled in the work~~
 2 ~~program, they must then be reentered into the system for~~
 3 ~~counting at actual capacity. Relocatables may not be~~
 4 ~~perpetually added to the work program and continually extended~~
 5 ~~for purposes of circumventing the intent of this section. All~~
 6 ~~remaining relocatable classrooms, including those owned,~~
 7 ~~lease-purchased, or leased by the school district, shall be~~
 8 ~~counted at actual student capacity. The educational plant~~
 9 ~~survey shall identify the number of relocatable student~~
 10 ~~stations scheduled for replacement during the 5-year survey~~
 11 ~~period and the total dollar amount needed for that~~
 12 ~~replacement. All district educational plant surveys revised~~
 13 ~~after July 1, 1998, shall include information on leased space~~
 14 ~~used for conducting the district's instructional program, in~~
 15 ~~accordance with the recommendations of the department's report~~
 16 ~~authorized in ss. 235.056. A definition of satisfactory~~
 17 ~~relocatable classrooms shall be established by rule of the~~
 18 ~~department.~~

19 2. Each survey of a special facility, joint-use
 20 facility, or cooperative vocational education facility must be
 21 based on capital outlay full-time equivalent student
 22 enrollment data prepared by the department for school
 23 districts, by the Division of Community Colleges for community
 24 colleges, and by the Board of Regents for state universities.
 25 A survey of space needs of a joint-use facility shall be based
 26 upon the respective space needs of the school districts,
 27 community colleges, and universities, as appropriate.
 28 Projections of a school district's facility space needs may
 29 not exceed the norm space and occupant design criteria
 30 established by the State Requirements for Educational
 31 Facilities.

1 3. Each community college's survey must reflect the
2 capacity of existing facilities as specified in the inventory
3 maintained by the Division of Community Colleges. Projections
4 of facility space needs must comply with standards for
5 determining space needs as specified by rule of the State
6 Board of Education. The 5-year projection of capital outlay
7 student enrollment must be consistent with the annual report
8 of capital outlay full-time student enrollment prepared by the
9 Division of Community Colleges.

10 4. Each state university's survey must reflect the
11 capacity of existing facilities as specified in the inventory
12 maintained and validated by the Board of Regents. Projections
13 of facility space needs must be consistent with standards for
14 determining space needs approved by the Board of Regents. The
15 projected capital outlay full-time equivalent student
16 enrollment must be consistent with the 5-year planned
17 enrollment cycle for the State University System approved by
18 the Board of Regents.

19 5. The ~~educational plant survey~~ district education
20 facilities plan of a school district, and the educational
21 plant survey of a community college, or state university may
22 include space needs that deviate from approved standards for
23 determining space needs if the deviation is justified by the
24 district or institution and approved by the department or the
25 Board of Regents, as appropriate, as necessary for the
26 delivery of an approved educational program.

27 (c) Review and validation.--The Office of Educational
28 Facilities of the Commissioner of Education ~~department~~ shall
29 review and validate the education facilities plans of school
30 districts and the surveys of school districts and community
31 colleges and any amendments thereto for compliance with the

1 requirements of this chapter and, ~~when required by the State~~
2 ~~Constitution~~, shall recommend those in compliance for approval
3 by the State Board of Education.

4 (2) Only the superintendent or the college president
5 shall certify to the Office of Educational Facilities of the
6 Commissioner of Education ~~department~~ a project's compliance
7 with the requirements for expenditure of PECO funds prior to
8 release of funds.

9 (a) Upon request for release of PECO funds for
10 planning purposes, certification must be made to the Office of
11 Educational Facilities of the Commissioner of Education
12 ~~department~~ that the need and location of the facility are in
13 compliance with the board-approved education facilities plan
14 or survey recommendations, ~~and~~ that the project meets the
15 definition of a PECO project and the limiting criteria for
16 expenditures of PECO funding and that the plan is consistent
17 with the local government comprehensive plan.

18 (b) Upon request for release of construction funds,
19 certification must be made to the Office of Educational
20 Facilities of the Commissioner of Education ~~department~~ that
21 the need and location of the facility are in compliance with
22 the board-approved education facilities plan or survey
23 recommendations, that the project meets the definition of a
24 PECO project and the limiting criteria for expenditures of
25 PECO funding, ~~and~~ that the construction documents meet the
26 requirements of the State Uniform Building Code for
27 Educational Facilities Construction or other applicable codes
28 as authorized in this chapter, and that the site is consistent
29 with the local government comprehensive plan.

30 Section 29. Paragraphs (3) and (4) of section 235.175,
31 and sections 235.18 and .185 are amended as follows:

1 235.175 SMART schools; Classrooms First; legislative
2 purpose.--

3 (3) SCHOOL DISTRICT EDUCATION FACILITIES PLAN WORK
4 ~~PROGRAMS~~--It is the purpose of the Legislature to create ss.
5 235.185, requiring each school district annually to adopt an
6 education facilities plan that provides an integrated
7 long-range facilities plan, including the survey of projected
8 needs and the five-year work program.~~a district facilities~~
9 ~~5-year work program.~~ The purpose of the ~~district facilities~~
10 ~~work program~~ education facilities plan is to keep the school
11 board, local governments and the public fully informed as to
12 whether the district is using sound policies and practices
13 that meet the essential needs of students and that warrant
14 public confidence in district operations. The ~~district~~
15 ~~facilities work program~~ education facilities plan will be
16 monitored by the SMART Schools Clearinghouse, which will also
17 apply performance standards pursuant to ss. 235.218.

18 (4) SMART SCHOOLS CLEARINGHOUSE.--It is the purpose of
19 the Legislature to create ss. 235.217, establishing the SMART
20 Schools Clearinghouse to assist the school districts in
21 building SMART schools utilizing functional and frugal
22 practices. The SMART Schools Clearinghouse must review
23 district facilities work programs and projects and identify
24 districts qualified for incentive funding available through
25 School Infrastructure Thrift Program awards; identify
26 opportunities to maximize design and construction savings;
27 develop school district facilities work program performance
28 standards; and provide for review and recommendations to the
29 Governor, the Legislature, and the State Board of Education.

30 Section 30. Section 235.18 is amended to read:

31 235.18 Annual capital outlay budget.--

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

14 Section 31. Section 235.185 is amended to read:

15 235.185 School district education facilities plan ~~work~~
16 ~~program~~; definitions; preparation, adoption, and amendment;
17 long-term work programs.--

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

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

23 (b) "District facilities work program" means the
24 5-year listing of capital outlay projects, adopted by the
25 district school board as provided in subsection (2)(a)2. and
26 (2)(b) as part of the district education facilities plan,
27 required:

28 1. To properly repair and maintain the educational
29 plant and ancillary facilities of the district.

30 2. To provide an adequate number of satisfactory
31 student stations for the projected student enrollment of the

1 district in K-12 programs in accordance with the goal in s.
2 235.061.

3 (c) "Tentative education facilities plan" means the
4 comprehensive planning document prepared annually by the
5 district school board and submitted to the Office of
6 Educational Facilities of the Commissioner of Education and
7 the affected general purpose local governments.

8 (d) "Financially feasible" means that a capital
9 improvements program will be financed for each year of the
10 planning period, without a financial deficit, based on
11 projected revenues from existing and committed revenue sources
12 so that the adopted level-of-service standard will be achieved
13 and maintained in the planning period. Revenue sources may
14 include, but are not limited to, ad valorem taxes, state
15 revenue distributions, proceeds from the sale of bonds, sales
16 tax proceeds, or other general tax sources. Local option
17 revenue sources requiring approval by a referendum of the
18 electors shall be deemed an existing or committed revenue
19 source only after approval in the required referendum. The
20 current level and amount of impact fees collected by a local
21 government may be included in the calculation of financial
22 feasibility.

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

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

28 ~~1. To properly maintain the educational plant and~~
29 ~~ancillary facilities of the district.~~

30 ~~2. To provide an adequate number of satisfactory~~
31 ~~student stations for the projected student enrollment of the~~

1 ~~district in K-12 programs in accordance with the goal in ss.~~
2 ~~235.062.~~

3 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATION
4 FACILITIES PLAN ~~WORK PROGRAM~~.--

5 (a) Annually, prior to the adoption of the district
6 school budget, each school board shall prepare a tentative
7 district work program education facilities plan which includes
8 long range planning for facilities needs over 5, 10, and 20
9 year periods. The plan shall be developed in coordination
10 with the general purpose local governments and be consistent
11 with the local government comprehensive plans. The school
12 board's plan for provision of new schools shall meet the needs
13 of all growing communities in the district, ranging from small
14 rural communities to large urban cities. The plan shall
15 consider:

16 1. Projected student populations apportioned
17 geographically at the local level. For the 5-year, 10-year,
18 and 20-year planning periods projections shall be based on
19 information produced by the demographic, revenue and education
20 estimating conferences pursuant to s. 216.136, where
21 available, as modified by the district based on local
22 governments and the Office of Educational Facilities of the
23 Commissioner of Education. The projections shall be
24 apportioned geographically with assistance from the local
25 governments using local development trend data, the
26 comprehensive plan, and the school district student enrollment
27 data from all communities. There must be a reasonable
28 distribution to all local governments in a county, regardless
29 of the local government's size.

30 2. An inventory of existing school facilities shall be
31 provided. Any anticipated expansions or closures of existing

1 school sites over the 5, 10, and 20 year periods shall be
2 identified. The inventory shall include an assessment of
3 areas proximate to existing schools and identification for the
4 need for improvements to infrastructure, safety, including
5 safe access routes, and conditions in the community. The plan
6 shall also provide a listing of major repairs and renovation
7 projects anticipated over the period of the plan.

8 3. Each school district's education facilities plan
9 shall include:

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

13 b. information on leased, loaned, and donated space
14 and relocatables used for conducting the district's
15 instructional programs.

16 4. General location of public schools proposed to be
17 constructed over the 5, 10, and 20 year time periods,
18 including a listing of the proposed schools' site acreage
19 needs and anticipated capacity and maps showing the general
20 location. The school boards identification of general
21 locations of future school sites will be based on the school
22 siting requirements of s. 163.3177(6)(a) and policies in the
23 comprehensive plan which provide guidance for appropriate
24 locations for school sites.

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

29 a. acceptable capacity

30 b. redistricting,

31 c. busing,

1 d. year round schools, and

2 e. charter schools.

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

7 (b) The plan shall also include a financially feasible
8 district facilities work program for a five-year period. The
9 work program shall include:

10 1. A schedule of major repair and renovation projects
11 necessary to maintain the educational facilities ~~plant~~ and
12 ancillary facilities of the district.

13 2. A schedule of capital outlay projects necessary to
14 ensure the availability of satisfactory student stations for
15 the projected student enrollment in K-12 programs. This
16 schedule shall consider:

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

19 b. The proposed locations of planned facilities,
20 whether those locations are consistent with the comprehensive
21 plans of all affected local governments and recommendations
22 for infrastructure and other improvements to land adjacent to
23 existing facilities. The provisions of ss. 235.19 and
24 235.193((6), (7) and (8) shall be addressed for new facilities
25 planned within the first three years of the work plan, as
26 appropriate.

27 c. Plans for the use and location of relocatable
28 facilities, leased facilities, and charter school facilities.

29 d. Plans for multitrack scheduling, grade level
30 organization, block scheduling, or other alternatives that
31 reduce the need for additional permanent student stations.

1 e. Information concerning average class size and
2 utilization rate by grade level within the district that will
3 result if the tentative district facilities work program is
4 fully implemented. ~~The average shall not include exceptional~~
5 ~~student education classes or prekindergarten classes.~~

6 f. The number and percentage of district students
7 planned to be educated in relocatable facilities during each
8 year of the tentative district facilities work program. For
9 future needs determination, student capacity shall not be
10 assigned to any relocatable classroom that is scheduled for
11 elimination or replacement with a permanent educational
12 facility in the current year of the adopted district education
13 facilities plan and in the district facilities work program
14 adopted under ss. 235.185. Those relocatables clearly
15 identified and scheduled for replacement in a school board
16 adopted, financially feasible, five-year district facilities
17 work program shall be counted at zero capacity at the time the
18 work program is adopted and approved by the school board.
19 However, if the district facilities work program is changed or
20 altered and the relocatables are not replaced as scheduled in
21 the work program, they must then be reentered into the system
22 for counting at actual capacity. Relocatables may not be
23 perpetually added to the work program and continually extended
24 for purposes of circumventing the intent of this section. All
25 relocatable classrooms not identified and scheduled for
26 replacement, including those owned, lease- purchased, or
27 leased by the school district, shall be counted at actual
28 student capacity. The district education facilities plan shall
29 identify the number of relocatable student stations scheduled
30 for replacement during the five- year survey period and the
31 total dollar amount needed for that replacement.

1 g. Plans for the closure of any school, including
2 plans for disposition of the facility or usage of facility
3 space, and anticipated revenues.

4 h. Projects for which Capital Outlay and Debt Service
5 funds, accruing under Section 9(d), Article XII of the State
6 Constitution are to be used, shall be identified separately in
7 priority order as a Project Priority List (PPL) within the
8 district facilities work program.

9 3. The projected cost for each project identified in
10 the ~~tentative~~ district facilities work program. For proposed
11 projects for new student stations, a schedule shall be
12 prepared comparing the planned cost and square footage for
13 each new student station, by elementary, middle, and high
14 school levels, to the low, average, and high cost of
15 facilities constructed throughout the state during the most
16 recent fiscal year for which data is available from the
17 Department of Education.

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

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

25 6. A schedule of options for the generation of
26 additional revenues by the district for expenditure on
27 projects identified in the ~~tentative~~ district facilities work
28 program which are not funded under subparagraph 4.5.

29 Additional anticipated revenues may include effort index
30 grants, SIT Program awards, and Classrooms First funds.

31

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

5 (c) Provision shall be made for public comment
6 concerning the tentative district education facilities plan
7 ~~work program~~.

8 (d) The district school board shall coordinate with
9 each affected local government to ensure consistency between
10 the tentative district education facilities plan and the local
11 government comprehensive plans of the affected local
12 governments during the development of the tentative district
13 education facilities plan.

14 (e) Commencing on October 1, 2001, and not less than
15 once every five years thereafter, the district school board
16 shall contract with a qualified, independent third party to
17 conduct a financial management and performance audit of the
18 educational planning and construction activities of the
19 district, and to make a determination as to whether the plan
20 is financially feasible. The response of the school board to
21 the audit shall be included in the public education facilities
22 element adopted pursuant to s. 163.31776. An audit conducted
23 by the Auditor General satisfies this requirement.

24 (3) Submittal of tentative district education
25 facilities plan to local government. The district school board
26 shall submit a copy of its tentative district education
27 facilities plan to all affected local governments prior to
28 adoption by the board. The affected local governments shall
29 review the tentative district education facilities plan and
30 comment to the district school board on the consistency of the
31 plan with the local comprehensive plan, whether a

1 comprehensive plan amendment will be necessary for any
 2 proposed educational facility, and whether the local
 3 government supports a necessary comprehensive plan amendment.
 4 If the local government does not support a comprehensive plan
 5 amendment for a proposed educational facility, the matter
 6 shall be resolved pursuant to the interlocal agreement
 7 required by ss. 163.31776(4) and 235.193(2). The process for
 8 the submittal and review shall be detailed in the interlocal
 9 agreement required pursuant to ss. 163.31776(4) and
 10 235.193(2). Where the school board and the local government
 11 have not entered into an interlocal agreement pursuant to ss.
 12 163.31776(4) and 235.193(2), the school board and the local
 13 government must determine a mutually acceptable process for
 14 submittal and review of the tentative district education
 15 facilities plan. Disputes between the school board and the
 16 local government, in instances where the school board and the
 17 local government have not entered into an interlocal agreement
 18 pursuant to 163.31776(4) and 235.193(2), shall be addressed
 19 pursuant to s. 163.3181.

20 ~~(4)(3)~~ ADOPTED DISTRICT EDUCATION FACILITIES PLAN
 21 ~~WORK PROGRAM.~~--Annually, the district school board shall
 22 consider and adopt the tentative district education facilities
 23 plan ~~work program~~ completed pursuant to subsection (2). Upon
 24 giving proper ~~public~~ notice to the public and local
 25 governments and opportunity for public comment, the district
 26 school board may amend the plan ~~program~~ to revise the priority
 27 of projects, to add or delete projects, to reflect the impact
 28 of change orders, or to reflect the approval of new revenue
 29 sources which may become available. The adopted district
 30 facilities work program shall include a 5-year facilities work
 31 program which:

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

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

9 ~~(5)(4)~~ EXECUTION OF ADOPTED DISTRICT FACILITIES WORK
10 PROGRAM.--The first year of the adopted district education
11 facilities plan work program shall constitute the capital
12 outlay budget required in ss. 235.18. The adopted district
13 facilities work program shall include the information required
14 in subparagraphs (2)(b) 1., 2., and 3., based upon projects
15 actually funded in the program.

16 ~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.--In addition to~~
17 ~~the adopted district facilities work program covering the~~
18 ~~5-year work program, the district school board shall adopt~~
19 ~~annually a 10-year and a 20-year work program which is include~~
20 ~~the information set forth in subsection (2), but based upon~~
21 ~~enrollment projections and facility needs for the 10-year and~~
22 ~~20-year periods. It is recognized that the projections in the~~
23 ~~10-year and 20-year timeframes are tentative and should be~~
24 ~~used only for general planning purposes.~~

25 Section 32. Section 235.188, Florida Statutes, is
26 amended to read:

27 235.188 Full bonding required to participate in
28 programs.--

29 Any district with unused bonding capacity in its
30 Capital Outlay and Debt Service Trust Fund allocation that
31 certifies in its district education facilities plan work

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

7 Section 33. Section 235.19 is amended as follows:

8 235.19 Site planning and selection.--

9 (1) If the school board and local government have
10 entered into an interlocal agreement pursuant to ss.
11 163.31776(4) and 235.193(2) and have developed a process to
12 ensure consistency between the local government comprehensive
13 plan and the school district education facilities plan and a
14 method to coordinate decision making and approval activities
15 relating to school planning and site selection, the provisions
16 of this section are superseded by the interlocal agreement and
17 the plans of the local government and the school board.

18 ~~(1)~~(2) Before acquiring property for sites, each
19 board shall determine the location of proposed educational
20 centers or campuses for the board. In making this
21 determination, the board shall consider existing and
22 anticipated site needs and the most economical and practicable
23 locations of sites. The board shall coordinate with the
24 long-range or comprehensive plans of local, regional, and
25 state governmental agencies to assure the ~~compatibility~~
26 consistency of such plans ~~with site planning~~. Boards are
27 encouraged to locate schools proximate to urban residential
28 areas to the extent possible, and shall seek to collocate
29 schools with other public facilities, such as parks,
30 libraries, and community centers, to the extent possible, and

31

1 to encourage using elementary schools as focal points for
2 neighborhoods.

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

14 ~~(+3)(4)~~ Sites recommended for purchase, or purchased,
15 in accordance with chapter 230 or chapter 240 must meet
16 standards prescribed therein and such supplementary standards
17 as the school board commissioner prescribes to promote the
18 educational interests of the students. Each site must be well
19 drained and either suitable for outdoor educational purposes
20 as appropriate for the educational program or co-located with
21 facilities to serve this purpose. As provided in ss. 333.03,
22 the site must not be located within any path of flight
23 approach of any airport. Insofar as is practicable, the site
24 must not adjoin a right-of-way of any railroad or through
25 highway and must not be adjacent to any factory or other
26 property from which noise, odors, or other disturbances, or at
27 which conditions, would be likely to interfere with the
28 educational program. To the extent practicable, sites must be
29 chosen that will provide safe access from neighborhoods to
30 schools.

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

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

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

11 Section 34. Section 235.193 is amended as follows:

12 235.193 Coordination of planning with local governing
13 bodies.--

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

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

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

22 (a) By which each local government and the school
23 district agree and base their plans on local government
24 projections based on professionally accepted methodology of
25 the amount, type, and distribution of population growth and
26 student enrollment.

27 (b) To coordinate and share information relating to
28 existing and planned public school facilities and local
29 government plans for development and redevelopment.

30 (c) To ensure school siting decisions by the school
31 board are consistent with the local comprehensive plan and

1 future land use maps, including appropriate circumstances and
2 criteria under which a school district may request an
3 amendment to the comprehensive plan for school siting, and for
4 early involvement by the local government as the school board
5 identifies potential school sites.

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

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

30 (f) For the resolution of disputes between the school
31 district and local governments.

1 (g) That determines the "true cost of school needs."
2 This analysis must provide the number of schools and the
3 funding needed to meet any current backlog and future needs
4 based on local governments' population and growth trends.
5 This analysis should also identify how the current and future
6 needs are funded.

7 (h) Any school board entering into an interlocal
8 agreement for the purpose of adopting public school
9 concurrency prior to the effective date of this act is not
10 required to amend the interlocal agreement to conform to the
11 provisions of this paragraph if the comprehensive plan
12 amendment adopting public school concurrency is ultimately
13 determined to be in compliance.

14 (3) Failure to enter into an interlocal agreement as
15 required by s. 235.193(2) shall result in the withholding of
16 funds for school construction available pursuant to ss.
17 235.187, 235.216, 235.2195, and 235.42 and a prohibition from
18 siting schools. Before the Office of Educational Facilities
19 of the Commissioner of Education can withhold any funds, the
20 Office shall provide the school board with a notice of intent
21 to withhold funds, which the school board may dispute pursuant
22 to the provisions of chapter 120. The Office shall withhold
23 funds when a final order is issued finding the school board
24 has failed to enter into an interlocal agreement which meets
25 the requirements of this subsection.

26 (4) The local school board shall provide the local
27 government a school capacity report when the local government
28 notifies the school board that it is reviewing an application
29 for a comprehensive plan amendment or a rezoning which seeks
30 to increase residential density. The report shall provide
31 data and analysis as required by s. 163.31777(2) for the local

1 government's review of such proposed plan amendment or
 2 rezoning.
 3 (5)(2) A school board and the local governing body
 4 must share and coordinate information related to existing and
 5 planned public school facilities; proposals for development,
 6 redevelopment, or additional development; and infrastructure
 7 required to support the public school facilities, concurrent
 8 with proposed development. A school board shall use
 9 information produced by the demographic, revenue and education
 10 estimating conferences pursuant to s. 216.136 ~~Department of~~
 11 ~~Education enrollment projections~~ when preparing the district
 12 education facilities plan 5-year district facilities work
 13 ~~program~~ pursuant to ss. 235.185, as modified, and agreed to by
 14 the local governments and the Office of Educational Facilities
 15 of the Commissioner of Education, in ~~and a school board shall~~
 16 ~~affirmatively demonstrate in the educational facilities report~~
 17 ~~consideration of local governments' population projections to~~
 18 ~~ensure that the district education facilities plan 5-year work~~
 19 ~~program~~ not only reflects enrollment projections but also
 20 considers applicable municipal and county growth and
 21 development projections. The projections shall be apportioned
 22 geographically with assistance from the local governments
 23 using local development trend data and the school district
 24 student enrollment data from all communities. There must be a
 25 reasonable, distribution to all local governments with a
 26 county, regardless of the local government's size. A school
 27 board is precluded from siting a new school in a jurisdiction
 28 where the school board has failed to provide the annual
 29 educational facilities ~~plan report~~ for the prior year required
 30 pursuant to ss. 235.185 ~~235.194~~ unless the failure is
 31 corrected.

1 ~~(6)(3)~~ The location of public educational facilities
 2 shall be consistent with the comprehensive plan of the
 3 appropriate local governing body developed under part II of
 4 chapter 163 and consistent with the plan's implementing land
 5 development regulations, ~~to the extent that the regulations~~
 6 ~~are not in conflict with or the subject regulated is not~~
 7 ~~specifically addressed by this chapter or the State Uniform~~
 8 ~~Building Code, unless mutually agreed by the local government~~
 9 ~~and the board.~~

10 ~~(7)(4)~~ To improve coordination relative to potential
 11 educational facility sites, a board shall provide written
 12 notice to the local government that has regulatory authority
 13 over the use of the land at least 120 ~~60~~ days prior to
 14 acquiring or leasing property that may be used for a new
 15 public educational facility. The local government, upon
 16 receipt of this notice, shall notify the board within 45 days
 17 if the site proposed for acquisition or lease is consistent
 18 with the future land use element of the local government's
 19 comprehensive plan. This preliminary notice does not
 20 constitute the local government's determination of consistency
 21 pursuant to subsection~~(5)~~(8).

22 ~~(8)(5)~~ As early in the design phase as feasible, but
 23 at least before commencing construction of a new public
 24 educational facility, the local governing body that regulates
 25 the use of land shall determine, in writing within 90 days
 26 after receiving the necessary information and a school board's
 27 request for a determination, whether a proposed public
 28 educational facility is consistent with the local
 29 comprehensive plan and consistent with local land development
 30 regulations, to the extent that the regulations are not in
 31 conflict with or the subject regulated is not specifically

1 addressed by this chapter or the State Uniform Building Code,
 2 unless mutually agreed. If the determination is affirmative,
 3 school construction may proceed and further local government
 4 approvals are not required, except as provided in this
 5 section. Failure of the local governing body to make a
 6 determination in writing within 90 days after a school board's
 7 request for a determination of consistency shall be considered
 8 an approval of the school board's application.

9 (9)~~(6)~~ A local governing body may not deny the site
 10 applicant based on adequacy of the site plan as it relates
 11 solely to the needs of the school. If the site is consistent
 12 with the comprehensive plan's ~~future land use~~, the local
 13 government may not deny the application but it may impose
 14 reasonable development standards and conditions in accordance
 15 with ss. 235.34(1) and consider the site plan and its adequacy
 16 as it relates to environmental concerns, health, safety and
 17 welfare, and effects on adjacent property. 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.

21 (10)~~(7)~~ This section does not prohibit a local
 22 governing body and district school board from agreeing and
 23 establishing an alternative process for reviewing a proposed
 24 educational facility and site plan, and offsite impacts
 25 pursuant to an interlocal agreement adopted in accordance with
 26 s. 235.193.

27 (11)~~(8)~~ Existing schools shall be considered
 28 consistent with the applicable local government comprehensive
 29 plan adopted under part II of chapter 163. ~~The collocation of~~
 30 ~~a new proposed public educational facility with an existing~~
 31 ~~public educational facility, or the expansion of an existing~~

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

14 (a) The placement of temporary or portable classroom
15 facilities; or

16 (b) Proposed renovation or construction on existing
17 school sites, with the exception of construction that changes
18 the primary use of a facility, includes stadiums, or results
19 in a greater than 5 percent increase in student capacity, or
20 as mutually agreed.

21 Section 35. Section 235.194 is repealed.

22 Section 36. Section 235.218, Florida Statutes, is
23 amended to read:

24 235.218 School district educational facilities plan
25 ~~work program~~ performance and productivity standards;
26 development; measurement; application.--

27 (1) The SMART Schools Clearinghouse shall develop and
28 adopt measures for evaluating the performance and productivity
29 of school district educational facilities plan ~~work program~~.
30 The measures may be both quantitative and qualitative and
31 must, to the maximum extent practical, assess those factors

1 that are within the districts' control. The measures must, at
2 a minimum, assess performance in the following areas:

3 (a) Frugal production of high-quality projects.
4 (b) Efficient finance and administration.
5 (c) Optimal school and classroom size and utilization
6 rate.

7 (d) Safety.

8 (e) Core facility space needs and cost-effective
9 capacity improvements that consider demographic projections,
10 land use patterns, and collocation and shared use with other
11 public facilities.

12 (f) Level of district local effort.

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

16 (3) The clearinghouse shall conduct ongoing
17 evaluations of district educational facilities program
18 performance and productivity, using the measures adopted under
19 this section. If, using these measures, the clearinghouse
20 finds that a district failed to perform satisfactorily, the
21 clearinghouse must recommend to the district school board
22 actions to be taken to improve the district's performance.

23 Section 37. Section 235.321, Florida Statutes is
24 amended to read:

25 235.321 Changes in construction requirements after
26 award of contract.--

27 The board may, at its option and by written policy duly
28 adopted and entered in its official minutes, authorize the
29 superintendent or president or other designated individual to
30 approve change orders in the name of the board for
31 preestablished amounts. Approvals shall be for the purpose of

1 expediting the work in progress and shall be reported to the
2 board and entered in its official minutes. For accountability,
3 the school district shall monitor and report the impact of
4 change orders on its district education facilities plan ~~work~~
5 ~~program~~ pursuant to ss. 235.185.

6 Section 38. Paragraph (d) of subsection (5) of section
7 236.25, Florida Statutes, is amended to read:

8 236.25 District school tax.--

9 (5)

10 (d) Notwithstanding any other provision of this
11 subsection, if through its adopted education facilities plan
12 ~~work program~~ a district has clearly identified the need for an
13 ancillary plant, has provided opportunity for public input as
14 to the relative value of the ancillary plant versus an
15 educational plant, and has obtained public approval, the
16 district may use revenue generated by the millage levy
17 authorized by subsection (2) for the construction, renovation,
18 remodeling, maintenance, or repair of an ancillary plant.

19 A district that violates these expenditure restrictions
20 shall have an equal dollar reduction in funds appropriated to
21 the district under ss. 236.081 in the fiscal year following
22 the audit citation. The expenditure restrictions do not apply
23 to any school district that certifies to the Commissioner of
24 Education that all of the district's instructional space needs
25 for the next 5 years can be met from capital outlay sources
26 that the district reasonably expects to receive during the
27 next 5 years or from alternative scheduling or construction,
28 leasing, rezoning, or technological methodologies that exhibit
29 sound management.

30 Section 39. Section 380.04, Florida Statutes, is
31 amended to read:

1 380.04 Definition of development.--

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

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

9 (a) A reconstruction, alteration of the size, or
10 material change in the external appearance of a structure on
11 land.

12 (b) A change in the intensity of use of land, such as
13 an increase in the number of dwelling units in a structure or
14 on land or a material increase in the number of businesses,
15 manufacturing establishments, offices, or dwelling units in a
16 structure or on land.

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

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

22 (e) Demolition of a structure.

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

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

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

29 (a) Work by a highway or road agency or railroad
30 company for the maintenance or improvement of a road or
31

1 railroad track, if the work is carried out on land within the
2 boundaries of the right-of-way.

3 (b) Work by any utility and other persons engaged in
4 the distribution or transmission of gas, electricity, or
5 water, for the purpose of inspecting, repairing, renewing, or
6 constructing on or adjacent to established rights-of-way any
7 sewers, mains, pipes, cables, utility tunnels, power lines,
8 towers, poles, tracks, or the like.

9 (c) Work for the maintenance, renewal, improvement, or
10 alteration of any structure, if the work affects only the
11 interior or the color of the structure or the decoration of
12 the exterior of the structure.

13 (d) The use of any structure or land devoted to
14 dwelling uses for any purpose customarily incidental to
15 enjoyment of the dwelling.

16 (e) The use of any land for the purpose of growing
17 plants, crops, trees, and other agricultural or forestry
18 products; raising livestock; or for other agricultural
19 purposes.

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

23 (g) A change in the ownership or form of ownership of
24 any parcel or structure.

25 (h) The creation or termination of rights of access,
26 riparian rights, easements, covenants concerning development
27 of land, or other rights in land.

28 (4) "Development," as designated in an ordinance,
29 rule, or development permit includes all other development
30 customarily associated with it unless otherwise specified.
31 When appropriate to the context, "development" refers to the

1 act of developing or to the result of development. Reference
2 to any specific operation is not intended to mean that the
3 operation or activity, when part of other operations or
4 activities, is not development. Reference to particular
5 operations is not intended to limit the generality of
6 subsection (1).

7 Section 40. Paragraphs (d) and (e) of subsection (2),
8 paragraph (c) of subsection (3), paragraph (b) of subsection
9 (4), paragraph (a) of subsection (8), paragraphs (c) and (g)
10 of subsection (15), subsection (18), and paragraph (c), (e),
11 and (f) of subsection (19) of section 380.06, Florida
12 Statutes, are amended, to read:

13 380.06 Developments of regional impact.--

14 (2) STATEWIDE GUIDELINES AND STANDARDS.--

15 (d) The guidelines and standards shall be applied as
16 follows:

17 ~~1. Fixed thresholds.--~~

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

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

25 ~~3.c.~~ Projects certified under s. 403.973 which create
26 at least 100 jobs and meet the criteria of the Office of
27 Tourism, Trade, and Economic Development as to their impact on
28 an area's economy, employment, and prevailing wage and skill
29 levels that are at or below 100 percent of the numerical
30 thresholds for industrial plants, industrial parks,
31 distribution, warehousing or wholesaling facilities, office

1 development or multiuse projects other than residential, as
2 described in s. 380.0651(3)~~(b)(c), (c)(d), and (g)(i)~~, are not
3 required to undergo development-of-regional-impact review.

4 ~~2. Rebuttable presumptions.--~~

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

8 ~~b. It shall be presumed that a development that is at~~
9 ~~100 percent or between 100 and 120 percent of a numerical~~
10 ~~threshold shall be required to undergo~~
11 ~~development-of-regional-impact review.~~

12 ~~The Administration Commission, upon the recommendation~~
13 ~~of the state land planning agency, shall implement this~~
14 ~~paragraph by rule no later than December 1, 1993. The~~
15 ~~increased guidelines and standards authorized by this~~
16 ~~paragraph shall not be implemented until the effectiveness of~~
17 ~~the rule which, among other things, shall set forth the~~
18 ~~pertinent characteristics of urban central business districts~~
19 ~~and regional activity centers.~~

20 (e) With respect to residential, hotel, motel, office,
21 and retail developments, the applicable guidelines and
22 standards shall be increased by 50 percent in urban central
23 business districts and regional activity centers of
24 jurisdictions whose local comprehensive plans are in
25 compliance with part II of chapter 163. With respect to
26 multiuse developments, the applicable guidelines and standards
27 shall be increased by 100 percent in urban central business
28 districts and regional activity centers of jurisdictions whose
29 local comprehensive plans are in compliance with part II of
30 chapter 163, if one land use of the multiuse development is
31 residential and amounts to not less than 35 percent of the

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

24 (3) VARIATION OF THRESHOLDS IN STATEWIDE GUIDELINES
 25 AND STANDARDS.--The state land planning agency, a regional
 26 planning agency, or a local government may petition the
 27 Administration Commission to increase or decrease the
 28 numerical thresholds of any statewide guideline and standard.
 29 The state land planning agency or the regional planning agency
 30 may petition for an increase or decrease for a particular
 31 local government's jurisdiction or a part of a particular

1 jurisdiction. A local government may petition for an increase
2 or decrease within its jurisdiction or a part of its
3 jurisdiction. A number of requests may be combined in a
4 single petition.

5 (c) The Administration Commission shall have authority
6 to increase or decrease a threshold in the statewide
7 guidelines and standards ~~up to 50 percent above or below the~~
8 ~~statewide presumptive threshold~~. The commission may from time
9 to time reconsider changed thresholds and make additional
10 variations as it deems necessary.

11 (4) BINDING LETTER.--

12 (b) Unless a developer waives the requirements of this
13 paragraph by agreeing to undergo
14 development-of-regional-impact review pursuant to this
15 section, the state land planning agency or local government
16 with jurisdiction over the land on which a development is
17 proposed may require a developer to obtain a binding letter
18 if:

19 ~~1. the development is at a presumptive numerical~~
20 ~~threshold or up to 20 percent above a numerical threshold in~~
21 ~~the guidelines and standards.~~ 7 or

22 ~~2. The development is between a presumptive numerical~~
23 ~~threshold and 20 percent below the numerical threshold and the~~
24 ~~local government or the state land planning agency is in doubt~~
25 ~~as to whether the character or magnitude of the development at~~
26 ~~the proposed location creates a likelihood that the~~
27 ~~development will have a substantial effect on the health,~~
28 ~~safety, or welfare of citizens of more than one county.~~

29 (8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

30 (a) A developer may enter into a written preliminary
31 development agreement with the state land planning agency to

1 allow a developer to proceed with a limited amount of the
2 total proposed development, subject to all other governmental
3 approvals and solely at the developer's own risk, prior to
4 issuance of a final development order. All owners of the land
5 in the total proposed development shall join the developer as
6 parties to the agreement. Each agreement shall include and be
7 subject to the following conditions:

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

11 2. The developer shall file an application for
12 development approval for the total proposed development within
13 3 months after execution of the agreement, unless the state
14 land planning agency agrees to a different time for good cause
15 shown. Failure to timely file an application and to otherwise
16 diligently proceed in good faith to obtain a final development
17 order shall constitute a breach of the preliminary development
18 agreement.

19 3. The agreement shall include maps and legal
20 descriptions of both the preliminary development area and the
21 total proposed development area and shall specifically
22 describe the preliminary development in terms of magnitude and
23 location. The area approved for preliminary development must
24 be included in the application for development approval and
25 shall be subject to the terms and conditions of the final
26 development order.

27 4. The preliminary development shall be limited to
28 lands that the state land planning agency agrees are suitable
29 for development and shall only be allowed in areas where
30 adequate public infrastructure exists to accommodate the
31 preliminary development, when such development will utilize

1 public infrastructure. The developer must also demonstrate
2 that the preliminary development will not result in material
3 adverse impacts to existing resources or existing or planned
4 facilities.

5 5. The preliminary development agreement may allow
6 development which is:

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

10 b. Equal to or more than 100 ~~less than 120~~ percent of
11 any applicable threshold if the developer demonstrates that
12 such development is part of a proposed downtown development of
13 regional impact specified in subsection (22) or part of any
14 areawide development of regional impact specified in
15 subsection (25) and that the development is consistent with
16 subparagraph 4.

17 6. The developer and owners of the land may not claim
18 vested rights, or assert equitable estoppel, arising from the
19 agreement or any expenditures or actions taken in reliance on
20 the agreement to continue with the total proposed development
21 beyond the preliminary development. The agreement shall not
22 entitle the developer to a final development order approving
23 the total proposed development or to particular conditions in
24 a final development order.

25 7. The agreement shall not prohibit the regional
26 planning agency from reviewing or commenting on any regional
27 issue that the regional agency determines should be included
28 in the regional agency's report on the application for
29 development approval.

30 8. The agreement shall include a disclosure by the
31 developer and all the owners of the land in the total proposed

1 development of all land or development within 5 miles of the
2 total proposed development in which they have an interest and
3 shall describe such interest.

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

10 10. A notice of the preliminary development agreement
11 shall be recorded by the developer in accordance with s.
12 28.222 with the clerk of the circuit court for each county in
13 which land covered by the terms of the agreement is located.
14 The notice shall include a legal description of the land
15 covered by the agreement and shall state the parties to the
16 agreement, the date of adoption of the agreement and any
17 subsequent amendments, the location where the agreement may be
18 examined, and that the agreement constitutes a land
19 development regulation applicable to portions of the land
20 covered by the agreement. The provisions of the agreement
21 shall inure to the benefit of and be binding upon successors
22 and assigns of the parties in the agreement.

23 11. Except for those agreements which authorize
24 preliminary development for substantial deviations pursuant to
25 subsection (19), a developer who no longer wishes to pursue a
26 development of regional impact may propose to abandon any
27 preliminary development agreement executed after January 1,
28 1985, including those pursuant to s. 380.032(3), provided at
29 the time of abandonment:

30
31

1 a. A final development order under this section has
2 been rendered that approves all of the development actually
3 constructed; or

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

11
12 In either event, when a developer proposes to abandon said
13 agreement, the developer shall give written notice and state
14 that he or she is no longer proposing a development of
15 regional impact and provide adequate documentation that he or
16 she has met the criteria for abandonment of the agreement to
17 the state land planning agency. Within 30 days of receipt of
18 adequate documentation of such notice, the state land planning
19 agency shall make its determination as to whether or not the
20 developer meets the criteria for abandonment. Once the state
21 land planning agency determines that the developer meets the
22 criteria for abandonment, the state land planning agency shall
23 issue a notice of abandonment which shall be recorded by the
24 developer in accordance with s. 28.222 with the clerk of the
25 circuit court for each county in which land covered by the
26 terms of the agreement is located.

27 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

28 (c) The development order shall include findings of
29 fact and conclusions of law consistent with subsections (13)
30 and (14). The development order:

1 1. Shall specify the monitoring procedures and the
2 local official responsible for assuring compliance by the
3 developer with the development order.

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

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

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

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

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

31

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

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

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

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

26 a. The development is in compliance with all
27 applicable terms and conditions of the development order
28 except the built-out date; and

29 b.(I) The amount of development that remains to be
30 built is less than the substantial deviation threshold
31 specified in paragraph (19)(b) for each individual land use

1 category, or, for a multiuse development, the sum total of all
 2 unbuilt land uses as a percentage of the applicable
 3 substantial deviation threshold is equal to or less than 150
 4 ~~100~~ percent; or

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

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

1 (19) SUBSTANTIAL DEVIATIONS.--

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

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

30 1.2. Except for a development order rendered pursuant
31 to subsection (22) or subsection (25), a proposed change to a

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

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

31

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

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

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

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

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

21 ~~2.3.~~ Except for the change authorized by
22 sub-subparagraph 1.f.2.f., any addition of land not
23 previously reviewed or any change not specified in paragraph
24 (b) or paragraph (c) shall be presumed to create a substantial
25 deviation. This presumption may be rebutted by clear and
26 convincing evidence.

27 ~~3.4.~~ Any submittal of a proposed change to a
28 previously approved development shall include a description of
29 individual changes previously made to the development,
30 including changes previously approved by the local government.
31 The local government shall consider the previous and current

1 proposed changes in deciding whether such changes cumulatively
2 constitute a substantial deviation requiring further
3 development-of-regional-impact review.

4 ~~4.5.~~ The following changes to an approved development
5 of regional impact shall be presumed to create a substantial
6 deviation. Such presumption may be rebutted by clear and
7 convincing evidence.

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

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

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

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

1 provide the precise language that the developer proposes to
2 delete or add as an amendment to the development order.

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

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

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

31

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

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

4 Section 41. 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

1 3. For multiscreen movie theaters of at least 8
2 screens and 2,500 seats:

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

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

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

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

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

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

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

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

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

27 2.3. Provides parking spaces for more than 2,500 cars.

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

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

7 Section 42. Subsection (4) is added to section 333.06,
8 Florida Statutes, to read:

9 333.06 Airport zoning requirements.--

10 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO
11 AFFECTED LOCAL GOVERNMENT.--An airport master plan shall be
12 prepared by each publicly owned and operated airport licensed
13 by the Department of Transportation under chapter 330. The
14 authorized entity having responsibility for governing the
15 operation of the airport, when either requesting from or
16 submitting to a state or federal government agency with
17 funding or approval jurisdiction a "finding of no significant
18 impact," an environmental assessment, a site selection study,
19 an airport master plan, or any amendment to an airport master
20 plan, shall submit simultaneously a copy of said request,
21 submittal, assessment, study, plan, or amendment by certified
22 mail to all affected local governments. For the purposes of
23 this subsection, "affected local government" means any city or
24 county having jurisdiction over the airport and any city or
25 county located within 2 miles of the boundaries of the land
26 subject to the airport master plan.

27 Section 43. Paragraph (b) of subsection (19) of
28 section 380.06, Florida Statutes, is amended, paragraphs (i),
29 (j), (k), (l), (m), and (n) are added to subsection (24) of
30 said section to read:

31 380.06 Developments of regional impact.--

1 (19) SUBSTANTIAL DEVIATIONS.--

2 (b) Any proposed change to a previously approved
3 development of regional impact or development order condition
4 which, either individually or cumulatively with other changes,
5 exceeds any of the following criteria shall constitute a
6 substantial deviation and shall cause the development to be
7 subject to further development-of-regional-impact review
8 without the necessity for a finding of same by the local
9 government:

10 1. An increase in the number of parking spaces at an
11 attraction or recreational facility by 5 percent or 300
12 spaces, whichever is greater, or an increase in the number of
13 spectators that may be accommodated at such a facility by 5
14 percent or 1,000 spectators, whichever is greater.

15 ~~2. A new runway, a new terminal facility, a 25-percent~~
16 ~~lengthening of an existing runway, or a 25-percent increase in~~
17 ~~the number of gates of an existing terminal, but only if the~~
18 ~~increase adds at least three additional gates. However, if an~~
19 ~~airport is located in two counties, a 10-percent lengthening~~
20 ~~of an existing runway or a 20-percent increase in the number~~
21 ~~of gates of an existing terminal is the applicable criteria.~~

22 ~~2.3.~~ An increase in the number of hospital beds by 5
23 percent or 60 beds, whichever is greater.

24 ~~3.4.~~ An increase in industrial development area by 5
25 percent or 32 acres, whichever is greater.

26 ~~4.5.~~ An increase in the average annual acreage mined
27 by 5 percent or 10 acres, whichever is greater, or an increase
28 in the average daily water consumption by a mining operation
29 by 5 percent or 300,000 gallons, whichever is greater. An
30 increase in the size of the mine by 5 percent or 750 acres,
31 whichever is less.

1 5.6. An increase in land area for office development
2 by 5 percent or 6 acres, whichever is greater, or an increase
3 of gross floor area of office development by 5 percent or
4 60,000 gross square feet, whichever is greater.

5 ~~7.~~ ~~An increase in the storage capacity for chemical or~~
6 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or~~
7 ~~7 million pounds, whichever is greater.~~

8 ~~8.~~ ~~An increase of development at a waterport of wet~~
9 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
10 ~~wet/dry storage for 60 watercraft in an area identified in the~~
11 ~~state marina siting plan as an appropriate site for additional~~
12 ~~waterport development or a 5-percent increase in watercraft~~
13 ~~storage capacity, whichever is greater.~~

14 6.9. An increase in the number of dwelling units by 5
15 percent or 50 dwelling units, whichever is greater.

16 7.10. An increase in commercial development by 6 acres
17 of land area or by 50,000 square feet of gross floor area, or
18 of parking spaces provided for customers for 300 cars or a
19 5-percent increase of any of these, whichever is greater.

20 8.11. An increase in hotel or motel facility units by
21 5 percent or 75 units, whichever is greater.

22 9.12. An increase in a recreational vehicle park area
23 by 5 percent or 100 vehicle spaces, whichever is less.

24 10.13. A decrease in the area set aside for open space
25 of 5 percent or 20 acres, whichever is less.

26 11.14. A proposed increase to an approved multiuse
27 development of regional impact where the sum of the increases
28 of each land use as a percentage of the applicable substantial
29 deviation criteria is equal to or exceeds 150 ~~100~~ percent. The
30 percentage of any decrease in the amount of open space shall
31

1 be treated as an increase for purposes of determining when 150
2 ~~100~~ percent has been reached or exceeded.

3 ~~12.15.~~ A 15-percent increase in the number of external
4 vehicle trips generated by the development above that which
5 was projected during the original
6 development-of-regional-impact review.

7 ~~13.16.~~ Any change which would result in development of
8 any area which was specifically set aside in the application
9 for development approval or in the development order for
10 preservation or special protection of endangered or threatened
11 plants or animals designated as endangered, threatened, or
12 species of special concern and their habitat, primary dunes,
13 or archaeological and historical sites designated as
14 significant by the Division of Historical Resources of the
15 Department of State. The further refinement of such areas by
16 survey shall be considered under sub-subparagraph (e)4.b.
17 ~~(e)5.b.~~

18
19 The substantial deviation numerical standards in subparagraphs
20 ~~3.4., 5.6., 7.10., 11.14.,~~ excluding residential uses, and
21 ~~12.15.,~~ are increased by 100 percent for a project certified
22 under s. 403.973 which creates jobs and meets criteria
23 established by the Office of Tourism, Trade, and Economic
24 Development as to its impact on an area's economy, employment,
25 and prevailing wage and skill levels. The substantial
26 deviation numerical standards in subparagraphs ~~3.4., 5.6.,~~
27 ~~6.9., 7.10., 8.11., and 11.14.~~ are increased by 50 percent for
28 a project located wholly within an urban infill and
29 redevelopment area designated on the applicable adopted local
30 comprehensive plan future land use map and not located within
31 the coastal high hazard area.

1 (24) STATUTORY EXEMPTIONS.--

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

8 (j) Any proposal to increase development at a
9 waterport existing on the effective date of this act or any
10 new waterport development is exempt from the provisions of
11 this section, unless such proposed development is located
12 within a county identified in s. 370.12(2)(f). Such a county
13 shall be exempt after a manatee protection plan has been
14 adopted by the county and submitted for approval to the Fish
15 and Wildlife Conservation Commission, or on October 1, 2003,
16 whichever is earlier.

17 (k) Any development located within a sector plan
18 adopted pursuant to s. 163.3245 which is consistent with the
19 sector plan is exempt from the provisions of this section.
20 Should s. 163.3245 be repealed, any approved development
21 within a sector plan shall maintain this exemption. However,
22 any development-of-regional-impact development order that is
23 vested from the sector plan may be enforced under s. 380.11.

24 (l) Any development or expansion of an airport or
25 airport-related or aviation-related development is exempt from
26 the provisions of this section.

27 (m) Any development or expansion located within an
28 area designated in the comprehensive plan for urban infill
29 development, urban redevelopment, downtown revitalization, or
30 urban infill and redevelopment under s. 163.2517, is exempt
31

1 from the provisions of this section, unless such development
2 is located within a coastal high-hazard area.

3 (n) Any development or expansion of a brownfield site
4 or area designated as such in accordance with ss.
5 376.77-376.85 is exempt from the provisions of this section,
6 if such development or expansion is consistent with the local
7 comprehensive plan.

8 Section 44. Paragraphs (a) and (e) of subsection (3)
9 of section 380.0651, Florida Statutes, are repealed.

10 Section 45. (1) Nothing contained in this act
11 abridges or modifies any vested or other right or any duty or
12 obligation pursuant to any development order or agreement
13 which is applicable to a development of regional impact on the
14 effective date of this section. An airport, marina, or
15 petroleum storage facility which has received a
16 development-of-regional-impact development order pursuant to
17 s. 380.06, Florida Statutes 2000, but is no longer required to
18 undergo development-of-regional-impact review by operation of
19 s. 380.06(24)(i), (j), or (l), Florida Statutes, as created by
20 this act, or by operation of the repeal of s. 380.0651(3)(a)
21 or (e), Florida Statutes, by this act, shall be governed by
22 the following procedures:

23 (a) The development shall continue to be governed by
24 the development-of-regional-impact development order, and may
25 be completed in reliance upon and pursuant to the development
26 order. The development-of-regional-impact development order
27 may be enforced by the local government as provided by ss.
28 380.06(17) and 380.11, Florida Statutes 2000.

29 (b) If requested by the developer or landowner, the
30 development-of-regional-impact development order may be
31 amended or rescinded by the local government consistent with

1 the local comprehensive plan and land development regulations,
2 and pursuant to the local government procedures governing
3 local development orders.

4 (2) An airport, marina, or petroleum storage facility
5 with an application for development approval pending on the
6 effective date of this act, or a notification of proposed
7 change pending on the effective date of this act, may elect to
8 continue such review pursuant to s. 380.06, Florida Statutes
9 2000. At the conclusion of the pending review, including any
10 appeals pursuant to s. 380.07, Florida Statutes 2000, the
11 resulting development order shall be governed by the
12 provisions of subsection (1).

13 Section 46. Sections 380.06 and 380.0651, F.S., stand
14 repealed on June 1, 2005, and shall be reviewed prior to that
15 date.

16 (a) Nothing contained in this section abridges or
17 modifies any vested or other right or any duty or obligation
18 pursuant to any development order or agreement which is
19 applicable to a development of regional impact on June 1,
20 2005. Any development which has received a
21 development-of-regional-impact development order pursuant to
22 s. 380.06 prior to that date shall be governed by the
23 following procedures:

24 1. The development shall continue to be governed by
25 the development-of-regional-impact development order, and may
26 be completed in reliance upon and pursuant to the development
27 order. The development-of-regional-impact development order
28 may be enforced by the local government as provided by ss.
29 380.06(17) and 380.11.

30 2. If requested by the developer or landowner, the
31 development-of-regional-impact development order may be

1 amended or rescinded by the local government consistent with
2 the local comprehensive plan and land development regulations,
3 and pursuant to the local government procedures governing
4 local development orders.

5 (b) A development with an application for development
6 approval pending on June 1, 2005, or a notification of
7 proposed change pending on June 1, 2005, may elect to continue
8 such review pursuant to s. 380.06. At the conclusion of the
9 pending review, including any appeals pursuant to s. 380.07,
10 the resulting development order shall be governed by the
11 provisions of paragraph (b).

12 (c) The Legislative Committee on Intergovernmental
13 Relations is directed to perform an interim study regarding
14 potential alternatives to the development-of-regional-impact
15 process provided by ss. 380.06 and 380.0651, Florida Statutes.
16 This study shall also address nonreplacement of the
17 development-of-regional-impact process. A report shall be
18 presented to the Speaker of the House of Representatives and
19 the President of the Senate by September 1, 2003.

20 Section 47. Section 570.70, Florida Statutes, is
21 created to read:

22 570.70 Legislative findings.--The Legislature finds
23 and declares that:

24 (1) A thriving rural economy with a strong
25 agricultural base, a healthy natural environment, and viable
26 rural communities is an essential part of Florida. Rural areas
27 include the largest remaining intact ecosystems and best
28 examples of remaining wildlife habitats as well as a majority
29 of privately owned land targeted by local, state, and federal
30 agencies for natural resource protection.

31

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

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

7 (4) The purpose of this act is to bring under public
8 protection lands that serve to limit subdivision and
9 conversion of agricultural and natural areas that provide
10 economic, open space, water, and wildlife benefits by
11 acquiring land or related interests in land such as perpetual,
12 less-than-fee acquisitions, agricultural protection
13 agreements, and resource conservation agreements.

14 Section 48. Section 570.71, Florida Statutes, is
15 created to read:

16 570.71 Conservation easements and agreements.--

17 (1) The department, on behalf of the Board of Trustees
18 of the Internal Improvement Trust Fund, may allocate moneys to
19 acquire perpetual, less-than-fee interest in land, to enter
20 into agricultural protection agreements, and to enter into
21 resource conservation agreements for any of the following
22 public purposes:

23 (a) Promotion and improvement of wildlife habitat.

24 (b) Protection and enhancement of water bodies,
25 aquifer recharge areas, wetlands, and watersheds.

26 (c) Perpetuation of open space on lands with
27 significant natural areas.

28 (d) Protection of agricultural lands threatened by
29 conversion to other uses.

30 (2) To achieve the purposes of this act, beginning no
31 later than July 1, 2002, and every year thereafter, the

1 department shall accept applications for project proposals
2 that:

3 (a) Purchase conservation easements as defined in s.
4 704.06.

5 (b) Purchase rural land protection easements pursuant
6 to this act.

7 (c) Fund resource conservation agreements pursuant to
8 this act.

9 (d) Fund agricultural protection agreements pursuant
10 to this act.

11 (3) Rural land protection easements shall be perpetual
12 rights or interests in agricultural land which are appropriate
13 to retain such land in predominantly its current state and to
14 prevent the subdivision and conversion of such land into other
15 uses. Such easements shall prohibit only the following:

16 (a) Construction or placement of buildings, roads,
17 billboards or other advertising, utilities, or structures on
18 the land, except those structures and unpaved roads necessary
19 for agricultural operations or structures necessary for other
20 activities allowed under the easement, and except for linear
21 facilities described in s. 704.06(11);

22 (b) Subdivision of the land;

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

25 (d) Activities that affect the natural hydrology of
26 the land or that detrimentally affect water conservation,
27 erosion control, soil conservation, or fish and wildlife
28 habitat, except those required for environmental restoration;
29 federal, state, or local government regulatory programs; or
30 best management practices.

31

1 (4) Resource conservation agreements shall be
2 contracts for services that provide annual payments to
3 landowners for services that actively improve habitat and
4 water restoration or conservation on their lands over and
5 above that which is already required by law or that provide
6 recreational opportunities. Such agreements shall be for a
7 term of not less than 5 years and not more than 10 years.
8 Property owners shall become eligible to enter into a resource
9 conservation agreement only upon entering into a conservation
10 easement or rural land protection easement.

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

16 (a) For the length of the agreement, the landowner
17 shall agree to prohibit:

18 1. Construction or placement of buildings, roads,
19 billboards or other advertising, utilities, or structures on
20 the land, except those structures and unpaved roads necessary
21 for agricultural operations or structures necessary for other
22 activities allowed under the agreement, and except for linear
23 facilities described in s. 704.06(11);

24 2. Subdivision of the land;

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

27 4. Activities that affect the natural hydrology of the
28 land or that detrimentally affect water conservation, erosion
29 control, soil conservation, or fish and wildlife habitat.

30 (b) As part of the agricultural protection agreement,
31 the parties shall agree that the state shall have a right to

1 buy a conservation easement or rural land protection easement
2 at the end of the 30-year term or prior to the landowner
3 transferring or selling the property, whichever occurs later.
4 If the landowner tenders the easement for the purchase and the
5 state does not timely exercise its right to buy the easement,
6 the landowner shall be released from the agricultural
7 agreement. The purchase price of the easement shall be
8 established in the agreement and shall be based on the value
9 of the easement at the time the agreement is entered into,
10 plus a reasonable escalator multiplied by the number of full
11 calendar years following the date of the commencement of the
12 agreement. The landowner may transfer or sell the property
13 before the expiration of the 30-year term, but only if the
14 property is sold subject to the agreement and the buyer
15 becomes the successor in interest to the agricultural
16 protection agreement. Upon mutual consent of the parties, a
17 landowner may enter into a perpetual easement at any time
18 during the term of an agricultural protection agreement.

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

23 (7) Landowners entering into an agricultural
24 protection agreement may receive up to 50 percent of the
25 purchase price at the time the agreement is entered into, and
26 remaining payments on the balance shall be equal annual
27 payments over the term of the agreement, payable from proceeds
28 derived from revenues distributed pursuant to ss. 201.15 and
29 215.619, subject to the provisions of s. 11(e), Art. VII of
30 the State Constitution. Payments for agricultural protection

31

1 agreements may not exceed 10 percent of the total funds
2 appropriated.

3 (8) Payments for resource conservation agreements
4 shall be equal annual payments over the term of the agreement,
5 payable from proceeds derived from revenues distributed
6 pursuant to s. 201.15.

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

10 (10) The department, in consultation with the
11 Department of Environmental Protection, water management
12 districts, the Department of Community Affairs, and the
13 Florida Fish and Wildlife Conservation Commission, shall adopt
14 rules that establish an application process, a process and
15 criteria for setting priorities for use of funds consistent
16 with the purposes specified in s. 570.71(1) and giving
17 preference to ranch and timber lands managed using sustainable
18 practices, an appraisal process, and a process for title
19 review and compliance and approval of the rules by the Board
20 of Trustees of the Internal Improvement Trust Fund.

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

24 Section 49. If any provision of this act or the
25 application thereof to any person or circumstance is held
26 invalid, the invalidity shall not affect other provisions or
27 applications of the act which can be given effect without the
28 invalid provision or application, and to this end the
29 provisions of this act are declared severable.

30 Section 50. This act shall take effect upon becoming a
31 law.