

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Constantine moved the following amendment:

**Senate Amendment (with title amendment)**  
Delete everything after the enacting clause

and insert:

Section 1. Subsection (1) of section 163.3174, Florida Statutes, is amended to read:

163.3174 Local planning agency.--

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. All local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 the subject of the application, provided that nothing  
2 contained in this subsection shall prevent a local agency from  
3 granting voting status to the school board member.The  
4 governing body may designate itself as the local planning  
5 agency pursuant to this subsection with the addition of a  
6 nonvoting school board representative. The governing body  
7 shall notify the state land planning agency of the  
8 establishment of its local planning agency. All local planning  
9 agencies shall provide opportunities for involvement by  
10 ~~district school boards and~~ applicable community college  
11 boards, which may be accomplished by formal representation,  
12 membership on technical advisory committees, or other  
13 appropriate means. The local planning agency shall prepare the  
14 comprehensive plan or plan amendment after hearings to be held  
15 after public notice and shall make recommendations to the  
16 governing body regarding the adoption or amendment of the  
17 plan. The agency may be a local planning commission, the  
18 planning department of the local government, or other  
19 instrumentality, including a countywide planning entity  
20 established by special act or a council of local government  
21 officials created pursuant to s. 163.02, provided the  
22 composition of the council is fairly representative of all the  
23 governing bodies in the county or planning area; however:

24 (a) If a joint planning entity is in existence on the  
25 effective date of this act which authorizes the governing  
26 bodies to adopt and enforce a land use plan effective  
27 throughout the joint planning area, that entity shall be the  
28 agency for those local governments until such time as the  
29 authority of the joint planning entity is modified by law.

30 (b) In the case of chartered counties, the planning  
31 responsibility between the county and the several

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 municipalities therein shall be as stipulated in the charter.

2 Section 2. Paragraph (a) of subsection (4), paragraphs  
3 (a), (c), and (h) of subsection (6), and subsection (11) of  
4 section 163.3177, Florida Statutes, are amended to read:

5 163.3177 Required and optional elements of  
6 comprehensive plan; studies and surveys.--

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

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

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

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

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

30 2. The intergovernmental coordination element shall  
31 further state principles and guidelines to be used in the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

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



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 The plan amendments are exempt from the provisions of s.  
2 163.3187(1).

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

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

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 to, urban villages, new towns, satellite communities,  
2 area-based allocations, clustering and open space provisions,  
3 mixed-use development, and sector planning.

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

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

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 habitats, and natural resources; promotion of rural economic  
2 activity; maintenance of the viability of Florida's  
3 agricultural economy; and protection of the character of rural  
4 areas of Florida.

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

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

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

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 250,000 acres in size,  
31 shall be located outside of municipalities and established

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

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 and must provide  
5 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 land stewardship area 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, and 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 Rule 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.

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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 Rule 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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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.

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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 implementation  
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 may adopt rules necessary to  
20 administer ~~shall implement the provisions of~~ this subsection  
21 ~~by rule.~~

22           Section 3. Section 163.31776, Florida Statutes, is  
23 created to read:

24           163.31776 Public educational facilities element.--

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

27           (a) Share information concerning the growth and  
28 development trends in their communities in order to forecast  
29 future enrollment and school needs;

30           (b) Cooperatively plan for the provision of  
31 educational facilities to meet the current and projected needs



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

4 (c) Cooperatively identify and meet the infrastructure  
5 needs of public schools to assure healthy school environments  
6 and safe school access.

7 (2) The Legislature finds that:

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

12 (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 (3) A public educational facilities element shall be  
18 adopted in cooperation with the applicable school district by  
19 all local governments meeting the criteria identified in  
20 paragraph (a). The public educational facilities elements  
21 shall be transmitted no later than January 1, 2003, for those  
22 local governments initially meeting the criteria in paragraph  
23 (a).

24 (a) A local government must adopt a public educational  
25 facilities element if the local government is located in a  
26 county where:

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

31 2. The projected 5-year student growth rate is 10

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 percent or greater.

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

8 2. By January 1, 2007, remaining local governments  
9 that have not been notified by June 1, 2005, that they have  
10 met the criteria in paragraph (a) shall adopt, in cooperation  
11 with the applicable school district, a limited public  
12 educational facilities element. The state land planning agency  
13 shall by rule specify the contents of the limited public  
14 educational facilities element. The rule specifying the  
15 contents of the limited public facilities element must  
16 incorporate the future land use element requirements of s.  
17 163.3177(6)(a), including school-siting requirements,  
18 requirements for intergovernmental coordination and interlocal  
19 agreements with school boards contained in s.  
20 163.3177(6)(h)1.-2., and requirements for evaluation and  
21 appraisal reports contained in s. 163.3191(2)(k). The agency  
22 rule must ensure effective planning with school boards, but  
23 recognize that the needs for school planning differ for those  
24 local governments that have lower population and  
25 student-population growth rates. The sanctions of subsection  
26 (9) apply to local governments that fail to adopt a limited  
27 public educational facilities element. Any local government  
28 that, after complying with this rule, reaches the criteria in  
29 paragraph (a) shall have 18 months within which to comply with  
30 subsections (4) and (5). Nothing in this subsection shall  
31 supersede the other requirements of this chapter.

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

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

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

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

14           3. The municipality has no public schools located  
15 within its boundaries;

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

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

21  
22 Any municipality that is exempt shall notify the county and  
23 the school board of any planned annexation into residential or  
24 proposed residential areas or other change in condition and  
25 must comply with this subsection within 1 year following a  
26 change in conditions that renders the municipality no longer  
27 eligible for exemption or following the identification of a  
28 proposed public school in the school board's 5-year district  
29 facilities work program in the municipality's jurisdiction.

30           (4) No later than 6 months prior to the deadline for  
31 transmittal of a public educational facilities element, the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 county, the non-exempt municipalities, and the school board  
2 shall enter into an interlocal agreement that establishes a  
3 process for developing coordinated and consistent local  
4 government public educational facilities elements and a  
5 district educational facilities plan, including a process:  
6       (a) By which each local government and the school  
7 district agree and base the local government comprehensive  
8 plan and educational facilities plan on uniform projections of  
9 the amount, type, and distribution of population growth and  
10 student enrollment;  
11       (b) To coordinate and share information relating to  
12 existing and planned public school facilities and local  
13 government plans for development and redevelopment;  
14       (c) To ensure that school siting decisions by the  
15 school board are consistent with the local comprehensive plan,  
16 including appropriate circumstances and criteria under which a  
17 school district may request an amendment to the comprehensive  
18 plan for school siting and for early involvement by the local  
19 government as the school board identifies potential school  
20 sites;  
21       (d) To coordinate and provide timely formal comments  
22 during the development, adoption, and amendment of each local  
23 government's public educational facilities element and the  
24 educational facilities plan of the school district to ensure a  
25 uniform countywide school facility planning system;  
26       (e) For school district participation in the review of  
27 comprehensive plan amendments and rezonings that increase  
28 residential density and that are reasonably expected to have  
29 an impact on public school facility demand pursuant to s.  
30 163.31777. The interlocal agreement must specify how the  
31 school board and local governments will develop the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 methodology and criteria for determining whether school  
2 facility capacity will be readily available at the time of  
3 projected school impacts, and must specify uniform,  
4 districtwide level-of-service standards for all public schools  
5 of the same type and availability standards for public  
6 schools. The interlocal agreement must ensure that consistent  
7 criteria and capacity-determination methodologies including  
8 student generation multipliers are adopted into the school  
9 board's district educational facilities plan and the local  
10 government's public educational facilities element. The  
11 interlocal agreement must also set forth the process and  
12 uniform methodology for determining proportionate-share  
13 mitigation pursuant to s. 163.31777; and

14 (f) For the resolution of disputes between the school  
15 district and local governments.

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

22 (a) The need for, strategies for, and commitments to  
23 addressing improvements to infrastructure, safety, and  
24 community conditions in areas proximate to existing public  
25 schools.

26 (b) The need for and strategies for providing adequate  
27 infrastructure necessary to support proposed schools,  
28 including potable water, wastewater, drainage, solid waste,  
29 transportation, and means by which to assure safe access to  
30 schools, including sidewalks, bicycle paths, turn lanes, and  
31 signalization.

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

1           (c) Colocation of other public facilities, such as  
2 parks, libraries, and community centers, in proximity to  
3 public schools.

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

7           (e) Use of public schools to serve as emergency  
8 shelters.

9           (f) Consideration of the existing and planned capacity  
10 of public schools when reviewing comprehensive plan amendments  
11 and rezonings that are likely to increase residential  
12 development and that are reasonably expected to have an impact  
13 on the demand for public school facilities pursuant to s.  
14 163.31777, with the review to be based on uniform,  
15 districtwide level-of-service standards for all public schools  
16 of the same type, availability standards for public schools,  
17 and the financially feasible 5-year district facilities work  
18 program adopted by the school board pursuant to s. 235.185.

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

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

25           (6) The future land-use map series must incorporate  
26 maps that are the result of a collaborative process for  
27 identifying school sites in the educational facilities plan  
28 adopted by the school board pursuant to s. 235.185 and must  
29 show the locations of existing public schools and the general  
30 locations of improvements to existing schools or new schools  
31 anticipated over the 5-year, 10-year, and 20-year time

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 periods, or such maps shall be data and analysis in support of  
2 the future land-use map series. Maps indicating general  
3 locations of future schools or school improvements should not  
4 prescribe a land use on a particular parcel of land.

5 (7) The process for adopting a public educational  
6 facilities element shall be as provided in s. 163.3184. The  
7 state land planning agency shall submit a copy of the proposed  
8 public school facilities element pursuant to the procedures  
9 outlined in s. 163.3184(4) to the Office of Educational  
10 Facilities of the Commissioner of Education for review and  
11 comment.

12 (8) In any proceeding to challenge the adoption of the  
13 public educational facilities element pursuant to s. 163.3184,  
14 the petitioner may also challenge the data and analysis used  
15 to support the processes set forth in the interlocal agreement  
16 executed pursuant to this section.

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

26 (b) The failure by a local government to comply with  
27 the requirement to transmit and adopt a public educational  
28 facility element will result in the prohibition of the local  
29 government's ability to amend the local comprehensive plan  
30 until the public school facilities element is adopted.

31 (c) If a local government fails to comply with the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

1 requirements of this section to enter into the interlocal  
2 agreement or to transmit a public educational facilities  
3 element by the required date, or if the Administration  
4 Commission finds that the public educational facilities  
5 element is not in compliance, the local government shall be  
6 subject to sanctions imposed by the Administration Commission  
7 pursuant to s. 163.3184(11).

8 (d) The failure of a school board to provide the  
9 required plans or information or to enter into the interlocal  
10 agreement under this section shall subject the school board to  
11 sanctions pursuant to s. 235.193(3).

12 (e) A local government or school board's bad-faith  
13 failure to enter into the interlocal agreement does not  
14 subject another local government or school board to sanctions.

15 (10) Any local government that has executed an  
16 interlocal agreement for the purpose of adopting public school  
17 concurrency before the effective date of this act is not  
18 required to amend the public school element or any interlocal  
19 agreement to conform with the provisions of this section or s.  
20 163.31777 if such amendment is ultimately determined to be in  
21 compliance.

22 Section 4. Section 163.31777, Florida Statutes, is  
23 created to read:

24 163.31777 Public school capacity for plan amendments  
25 and rezonings.--

26 (1) Local governments shall consider public school  
27 facilities when reviewing proposed comprehensive plan  
28 amendments and rezonings that increase residential densities  
29 and that are reasonably expected to have an impact on the  
30 demand for public school facilities.

31 (2) For each proposed comprehensive plan amendment or



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 rezoning that increases residential densities and is  
2 reasonably expected to have an impact on the demand for public  
3 school facilities, the school board shall provide the local  
4 government with a school-capacity report based on the district  
5 educational facilities plan adopted by the school board  
6 pursuant to s. 235.185, which must provide data and analysis  
7 on the capacity and enrollment of affected schools based on  
8 standards established by state or federal law or judicial  
9 orders, projected additional enrollment attributable to the  
10 density increase resulting from the amendment or rezoning,  
11 programmed and financially feasible new public school  
12 facilities or improvements for affected schools identified in  
13 the educational facilities plan of the school board and the  
14 expected date of availability of such facilities or  
15 improvements, and available reasonable options for providing  
16 public school facilities to students if the rezoning or  
17 comprehensive plan amendment is approved. The options must  
18 include, but need not be limited to, the school board's  
19 evaluation of school schedule modification, school attendance  
20 zones modification, school facility modification, and the  
21 creation of charter schools. The report must be consistent  
22 with this section, any adopted interlocal agreement and public  
23 educational facilities element, and must be submitted no later  
24 than 3 working days before the first public hearing by the  
25 local government to consider the comprehensive plan amendment  
26 or rezoning.

27 (3) The local government shall deny a request for a  
28 comprehensive plan amendment or rezoning which would increase  
29 the density of residential development allowed on the property  
30 subject to the amendment or rezoning and is reasonably  
31 expected to have an increased impact on the demand for public

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 school facilities, if the school facility capacity will not be  
2 reasonably available at the time of projected school impacts  
3 as determined by the methodology established in the public  
4 educational facilities element. However, the application for a  
5 comprehensive plan amendment or a rezoning may be approved if  
6 the applicant executes a legally binding commitment to provide  
7 mitigation proportionate to the demand for public school  
8 facilities to be created by actual development of the  
9 property, including, but not limited to, the options described  
10 in subsection (4).

11 (4)(a) Options for proportionate-share mitigation of  
12 public school facility impacts from actual development of  
13 property subject to a plan amendment or rezoning that  
14 increases residential density shall be established in the  
15 educational facilities plan and the public educational  
16 facilities element. Appropriate mitigation options include the  
17 contribution of land; the construction, expansion, or payment  
18 for land acquisition or construction of a public school  
19 facility; or the creation of mitigation banking based on the  
20 construction of a public school facility in exchange for the  
21 right to sell capacity credits. Such options must include  
22 execution by the applicant and the local government of a  
23 binding development agreement pursuant to ss.  
24 163.3220-163.3243 which constitutes a legally binding  
25 commitment to pay proportionate-share mitigation for the  
26 additional residential units approved by the local government  
27 in a development order and actually developed on the property,  
28 taking into account residential density allowed on the  
29 property prior to the plan amendment or rezoning that  
30 increased overall residential density. The district school  
31 board may be a party to such an agreement. As a condition of

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 its entry into such a development agreement, the local  
2 government may require the landowner to agree to continuing  
3 renewal of the agreement upon its expiration.

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

14 (c) Any proportionate-share mitigation must be  
15 directed by the school board toward a school capacity  
16 improvement that is identified in the financially feasible  
17 5-year district work plan and that will be provided in  
18 accordance with a binding developers agreement.

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

21 (a) The local governments and the school board have  
22 entered into an interlocal agreement pursuant to ss. 163.31776  
23 and 235.193;

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

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

29 (d) One of the following revenue sources is levied for  
30 the purpose of funding public educational facilities  
31 consistent with the public educational facilities plan and

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 interlocal agreement adopted pursuant to s. 163.31776, and the  
2 district educational facilities plan pursuant to s. 235.185:

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

5 2. An amount of new broad-based revenue from state or  
6 local sources, equivalent to the amount that would be raised  
7 from the school capital outlay surtax, is available and  
8 dedicated to the implementation of the financially feasible  
9 work program adopted by the school board pursuant to s.  
10 235.185.

11 (6) Under limited circumstances dealing with  
12 educational facilities, countervailing planning and public  
13 policy goals may come into conflict with the requirements of  
14 subsections (3) and (4). Often the unintended results directly  
15 conflict with the goals and policies of the state  
16 comprehensive plan and the intent of this part. Therefore, a  
17 local government may grant an exception from the requirements  
18 of subsections (3) and (4) if the proposed development is  
19 otherwise consistent with the adopted local government  
20 comprehensive plan and is a project located within an area  
21 designated in the comprehensive plan for:

22 (a) Urban infill development;

23 (b) Urban redevelopment;

24 (c) Downtown revitalization; or

25 (d) Urban infill and redevelopment under s. 163.2517.

26 (7) This section does not prohibit a local government  
27 from using its home-rule powers to deny a comprehensive plan  
28 amendment or from rezoning.

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

31 163.3180 Concurrency.--

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

5           (b) The concurrency requirement as implemented in  
6 local comprehensive plans does not apply to public transit  
7 facilities. For the purposes of this paragraph, public  
8 transit facilities include transit stations and terminals,  
9 transit station parking, park-and-ride lots, intermodal public  
10 transit connection or transfer facilities, and fixed bus,  
11 guideway, and rail stations. As used in this paragraph, the  
12 terms "terminals" and "transit facilities" do not include  
13 airports or seaports or commercial or residential development  
14 constructed in conjunction with a public transit facility.

15           (c) The concurrency requirement as implemented in  
16 local government comprehensive plans may be waived by a local  
17 government for urban infill and redevelopment areas designated  
18 pursuant to s. 163.2517 if such a waiver does not endanger  
19 public health or safety as defined by the local government in  
20 its local government comprehensive plan.

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

23           163.3184 Process for adoption of comprehensive plan or  
24 plan amendment.--

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

26           (a) "Affected person" includes the affected local  
27 government; persons owning property, residing, or owning or  
28 operating a business within the boundaries of the local  
29 government whose plan is the subject of the review; owners of  
30 real property abutting real property that is the subject of a  
31 proposed change to a future land use map; and adjoining local

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 governments that can demonstrate that the plan or plan  
2 amendment will produce substantial impacts on the increased  
3 need for publicly funded infrastructure or substantial impacts  
4 on areas designated for protection or special treatment within  
5 their jurisdiction. Each person, other than an adjoining local  
6 government, in order to qualify under this definition, shall  
7 also have submitted oral or written comments, recommendations,  
8 or objections to the local government during the period of  
9 time beginning with the transmittal hearing for the plan or  
10 plan amendment and ending with the adoption of the plan or  
11 plan amendment.

12 (b) "In compliance" means consistent with the  
13 requirements of ss. 163.3177, 163.31776, 163.3178, 163.3180,  
14 163.3191, and 163.3245, with the state comprehensive plan,  
15 with the appropriate strategic regional policy plan, and with  
16 chapter 9J-5, Florida Administrative Code, where such rule is  
17 not inconsistent with this part and with the principles for  
18 guiding development in designated areas of critical state  
19 concern.

20 (3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR  
21 AMENDMENT.--

22 (a) Each local governing body shall transmit the  
23 complete proposed comprehensive plan or plan amendment to the  
24 state land planning agency, the appropriate regional planning  
25 council and water management district, the Department of  
26 Environmental Protection, the Department of State, and the  
27 Department of Transportation, and, in the case of municipal  
28 plans, to the appropriate county, and, in the case of county  
29 plans, to the Fish and Wildlife Conservation Commission and  
30 the Department of Agriculture and Consumer Services,  
31 immediately following a public hearing pursuant to subsection

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 (15) as specified in the state land planning agency's  
2 procedural rules. The local governing body shall also transmit  
3 a copy of the complete proposed comprehensive plan or plan  
4 amendment to any other unit of local government or government  
5 agency in the state that has filed a written request with the  
6 governing body for the plan or plan amendment. The local  
7 government may request a review by the state land planning  
8 agency pursuant to subsection (6) at the time of the  
9 transmittal of an amendment.

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 (c) A local government may adopt a proposed plan  
2 amendment previously transmitted pursuant to this subsection,  
3 unless review is requested or otherwise initiated pursuant to  
4 subsection (6).

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

15 (4) INTERGOVERNMENTAL REVIEW.--~~The if review of a~~  
16 ~~proposed comprehensive plan amendment is requested or~~  
17 ~~otherwise initiated pursuant to subsection (6), the state land~~  
18 ~~planning agency within 5 working days of determining that such~~  
19 ~~a review will be conducted shall transmit a copy of the~~  
20 ~~proposed plan amendment to various government agencies, as~~  
21 ~~appropriate, for response or comment, including, but not~~  
22 ~~limited to, the Department of Environmental Protection, the~~  
23 ~~Department of Transportation, the water management district,~~  
24 ~~and the regional planning council, and, in the case of~~  
25 ~~municipal plans, to the county land planning agency. These~~  
26 ~~governmental agencies specified in paragraph (3)(a) shall~~  
27 ~~provide comments to the state land planning agency within 30~~  
28 ~~days after receipt by the state land planning agency of the~~  
29 ~~complete proposed plan amendment. If the plan or plan~~  
30 ~~amendment includes or relates to the public school facilities~~  
31 ~~element required by s. 163.31776, the state land planning~~



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 agency shall submit a copy to the Office of Educational  
2 Facilities of the Commissioner of Education for review and  
3 comment.The appropriate regional planning council shall also  
4 provide its written comments to the state land planning agency  
5 within 30 days after receipt by the state land planning agency  
6 of the complete proposed plan amendment and shall specify any  
7 objections, recommendations for modifications, and comments of  
8 any other regional agencies to which the regional planning  
9 council may have referred the proposed plan amendment. Written  
10 comments submitted by the public within 30 days after notice  
11 of transmittal by the local government of the proposed plan  
12 amendment will be considered as if submitted by governmental  
13 agencies. All written agency and public comments must be made  
14 part of the file maintained under subsection (2).

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

16 (a) The state land planning agency shall review a  
17 proposed plan amendment upon request of a regional planning  
18 council, affected person, or local government transmitting the  
19 plan amendment. The request from the regional planning council  
20 or affected person must be if the request is received within  
21 30 days after transmittal of the proposed plan amendment  
22 pursuant to subsection (3). ~~The agency shall issue a report~~  
23 ~~of its objections, recommendations, and comments regarding the~~  
24 ~~proposed plan amendment.~~A regional planning council or  
25 affected person requesting a review shall do so by submitting  
26 a written request to the agency with a notice of the request  
27 to the local government and any other person who has requested  
28 notice.

29 (b) The state land planning agency may review any  
30 proposed plan amendment regardless of whether a request for  
31 review has been made, if the agency gives notice to the local

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 government, and any other person who has requested notice, of  
2 its intention to conduct such a review within 35 ~~30~~ days after  
3 receipt of transmittal of the complete proposed plan amendment  
4 ~~pursuant to subsection (3).~~

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 considerations on written, and not oral, comments, from any  
2 source.

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

16 Section 7. Effective October 1, 2001, subsections (7),  
17 (8), and (15) and paragraph (d) of subsection (16) of section  
18 163.3184, Florida Statutes, as amended by this act, are  
19 amended to read:

20 163.3184 Process for adoption of comprehensive plan or  
21 plan amendment.--

22 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF  
23 PLAN OR AMENDMENTS AND TRANSMITTAL.--The local government  
24 shall review the written comments submitted to it by the state  
25 land planning agency, and any other person, agency, or  
26 government. Any comments, recommendations, or objections and  
27 any reply to them shall be public documents, a part of the  
28 permanent record in the matter, and admissible in any  
29 proceeding in which the comprehensive plan or plan amendment  
30 may be at issue. The local government, upon receipt of  
31 written comments from the state land planning agency, shall

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 have 120 days to adopt or adopt with changes the proposed  
2 comprehensive plan or s. 163.3191 plan amendments. In the  
3 case of comprehensive plan amendments other than those  
4 proposed pursuant to s. 163.3191, the local government shall  
5 have 60 days to adopt the amendment, adopt the amendment with  
6 changes, or determine that it will not adopt the amendment.  
7 The adoption of the proposed plan or plan amendment or the  
8 determination not to adopt a plan amendment, other than a plan  
9 amendment proposed pursuant to s. 163.3191, shall be made in  
10 the course of a public hearing pursuant to subsection (15).  
11 The local government shall transmit the complete adopted  
12 comprehensive plan or ~~adopted~~ plan amendment, including the  
13 names and addresses of persons compiled pursuant to paragraph  
14 (15)(c), to the state land planning agency as specified in the  
15 agency's procedural rules within 10 working days after  
16 adoption. The local governing body shall also transmit a copy  
17 of the adopted comprehensive plan or plan amendment to the  
18 regional planning agency and to any other unit of local  
19 government or governmental agency in the state that has filed  
20 a written request with the governing body for a copy of the  
21 plan or plan amendment.

22 (8) NOTICE OF INTENT.--

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 upon the plan amendment as adopted. If review was conducted  
2 under subsection (6), the agency's determination of compliance  
3 must be based only upon one or both of the following:

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

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

8 (b) During the time period provided for in this  
9 subsection, the state land planning agency shall issue,  
10 through a senior administrator or the secretary, as specified  
11 in the agency's procedural rules, a notice of intent to find  
12 that the plan or plan amendment is in compliance or not in  
13 compliance. A notice of intent shall be issued by publication  
14 in the manner provided by this paragraph and by mailing a copy  
15 to the local government ~~and to persons who request notice.~~  
16 ~~The required advertisement shall be no less than 2 columns~~  
17 ~~wide by 10 inches long, and the headline in the advertisement~~  
18 ~~shall be in a type no smaller than 12 point.~~ The advertisement  
19 shall not be placed in that portion of the newspaper where  
20 legal notices and ~~classified advertisements~~ appear. The  
21 advertisement shall be published in a newspaper which meets  
22 the size and circulation requirements set forth in paragraph  
23 ~~(15)(e)(15)(c)~~ and which has been designated in writing by  
24 the affected local government at the time of transmittal of  
25 the amendment. Publication by the state land planning agency  
26 of a notice of intent in the newspaper designated by the local  
27 government shall be prima facie evidence of compliance with  
28 the publication requirements of this section.

29 (c) The state land planning agency shall post a copy  
30 of the notice of intent on the agency's Internet site. The  
31 agency shall, no later than the date the notice of intent is

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 transmitted to the newspaper, mail a courtesy informational  
2 statement to the persons whose names and mailing addresses  
3 were compiled pursuant to paragraph (15)(c). The informational  
4 statement must identify the newspaper in which the notice of  
5 intent will appear, the approximate date of publication of the  
6 notice of intent, and the ordinance number of the plan or plan  
7 amendment and must advise that the informational statement is  
8 provided as a courtesy to the person and that affected persons  
9 have 21 days from the actual date of publication of the notice  
10 to file a petition. The informational statement must be sent  
11 by regular mail and does not affect the timeframes specified  
12 in subsections (9) and (10).

13 (d) A local government that has an Internet site shall  
14 post a copy of the state land planning agency's notice of  
15 intent on that site within 5 days after receipt of the mailed  
16 copy of the agency's notice of intent.

17 (15) PUBLIC HEARINGS.--

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

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

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

24           (d) The agency shall provide a model sign-in format  
25 for providing the list to the agency which may be used by the  
26 local government to satisfy the requirements of this  
27 subsection.

28           (e)~~(c)~~ If the proposed comprehensive plan or plan  
29 amendment changes the actual list of permitted, conditional,  
30 or prohibited uses within a future land use category or  
31 changes the actual future land use map designation of a parcel

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 or parcels of land, the required advertisements shall be in  
2 the format prescribed by s. 125.66(4)(b)2. for a county or by  
3 s. 166.041(3)(c)2.b. for a municipality.

4 (16) COMPLIANCE AGREEMENTS.--

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

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

23 163.3187 Amendment of adopted comprehensive plan.--

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

27 (k) A comprehensive plan amendment to adopt a public  
28 educational facilities element pursuant to s. 163.31776 and  
29 future land-use-map amendments for school siting may be  
30 approved notwithstanding statutory limits on the frequency of  
31 adopting plan amendments.



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

4           163.3191 Evaluation and appraisal of comprehensive  
5 plan.--

6           (2) The report shall present an evaluation and  
7 assessment of the comprehensive plan and shall contain  
8 appropriate statements to update the comprehensive plan,  
9 including, but not limited to, words, maps, illustrations, or  
10 other media, related to:

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

24           (1) If any of the jurisdiction of the local government  
25 is located within the coastal high hazard area, an evaluation  
26 of whether any past reduction in land use density impairs the  
27 property rights of current residents when redevelopment  
28 occurs, including, but not limited to, redevelopment following  
29 a natural disaster. The local government must identify  
30 strategies to address redevelopment feasibility and the  
31 property rights of affected residents. These strategies may

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

1 include the authorization of redevelopment up to the actual  
2 built density in existence on the property prior to the  
3 natural disaster or redevelopment.

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

8           Section 11. Section 163.3215, Florida Statutes, is  
9 amended to read:

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

12           (1) Any aggrieved or adversely affected party may  
13 maintain an action for declaratory and injunctive or other  
14 relief against any local government to challenge any decision  
15 of local government granting or denying an application for, or  
16 to prevent such local government from taking any action on a  
17 development order, as defined in s. 163.3164, which materially  
18 alters the use or density or intensity of use on a particular  
19 piece of property that is not consistent with the  
20 comprehensive plan adopted under this part. Such action shall  
21 be filed no later than 30 days following rendition of a  
22 development order or other written decision, or when all local  
23 administrative appeals, if any, are exhausted, whichever is  
24 later.

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 environmental or natural resources. The alleged adverse  
2 interest may be shared in common with other members of the  
3 community at large, but shall exceed in degree the general  
4 interest in community good shared by all persons. The term  
5 shall include the owner, developer or applicant for a  
6 development order.

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

12 ~~(b) Suit under subsections (1) or (4)~~ this section  
13 shall be the sole action available to challenge the  
14 consistency of a development order with a comprehensive plan  
15 adopted under this part. The local government that issues  
16 that development order shall be named as the respondent.

17 (4) 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: ~~As a condition~~  
31 ~~precedent to the institution of an action pursuant to this~~

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

16 (a) Notice by publication and by mailed notice to all  
17 abutting property owners within 10 days of the filing of an  
18 application for development review, provided that notice under  
19 this subsection shall not be required for an application for a  
20 building permit. The notice must delineate that aggrieved or  
21 adversely affected persons have the right to request a  
22 quasi-judicial hearing, that the request need not be a formal  
23 petition or complaint, how to initiate the quasi-judicial  
24 process and the time-frames for initiating the process. The  
25 local government shall include an opportunity for an  
26 alternative dispute resolution process and may include a stay  
27 of the formal quasi-judicial hearing for this purpose.

28 (b) A point of entry into the process consisting of a  
29 written preliminary decision, at a time and in a manner to be  
30 established in the local ordinance, with the time to request a  
31 quasi-judicial hearing running from the written preliminary

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 decision; provided that the local government is not bound by  
2 the preliminary decision. A party may request a hearing to  
3 challenge or support a preliminary decision.

4 (c) An opportunity to participate in the process for  
5 an aggrieved or adversely affected party which provides a  
6 reasonable time to prepare and present a case for a  
7 quasi-judicial hearing.

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

10 (e) A quasi-judicial hearing before an independent  
11 special master who shall be an attorney with at least five  
12 years experience and who shall, at the conclusion of the  
13 hearing, recommend written findings of fact and conclusions of  
14 law.

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

20 (g) The standard of review applied by the special  
21 master shall be strict scrutiny in accordance with Florida  
22 law.

23 (h) A duly noticed public hearing before the local  
24 government at which public testimony shall be allowed. At the  
25 hearing the local government shall be bound by the special  
26 master's findings of fact unless the findings of fact are not  
27 supported by competent substantial evidence. The governing  
28 body may modify the conclusions of law if it finds that the  
29 special master's application or interpretation of law is  
30 erroneous. The governing body may make reasonable  
31 interpretations of its comprehensive plan and land development

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 regulations without regard to whether the special master's  
2 interpretation is labeled as a finding of fact or a conclusion  
3 of law. The local government's final decision shall be  
4 reduced to writing, including the findings of fact and  
5 conclusions of law, and shall not be considered rendered or  
6 final until officially date stamped by the city or county  
7 clerk.

8 (i) No ex parte communication relating to the merits  
9 of the matter under review shall be made to the special  
10 master. No ex parte communication relating to the merits of  
11 the matter under review shall be made to the governing body  
12 after a time to be established by the local ordinance, but no  
13 later than receipt of the recommended order by the governing  
14 body.

15 (j) At the option of the local government this  
16 ordinance may require actions to challenge the consistency of  
17 a development order with land development regulations to be  
18 brought in the same proceeding.

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

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

25 (6) The signature of an attorney or party constitutes  
26 a certificate that he or she has read the pleading, motion, or  
27 other paper and that, to the best of his or her knowledge,  
28 information, and belief formed after reasonable inquiry, it is  
29 not interposed for any improper purpose, such as to harass or  
30 to cause unnecessary delay or for economic advantage,  
31 competitive reasons or frivolous purposes or needless increase

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 in the cost of litigation. If a pleading, motion, or other  
2 paper is signed in violation of these requirements, the court,  
3 upon motion or its own initiative, shall impose upon the  
4 person who signed it, a represented party, or both, an  
5 appropriate sanction, which may include an order to pay to the  
6 other party or parties the amount of reasonable expenses  
7 incurred because of the filing of the pleading, motion, or  
8 other paper, including a reasonable attorney's fee.

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

14 (8) In any suit under this section, the Department of  
15 Legal Affairs may intervene to represent the interests of the  
16 state.

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

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

22 163.3244 Sustainable communities demonstration  
23 project.--

24 (9) This section ~~is shall stand~~ repealed on June 30,  
25 ~~2002 2001~~, and shall be reviewed by the Legislature prior to  
26 ~~that date~~.

27 Section 13. Subsections (2) and (3) of section  
28 186.504, Florida Statutes, are amended to read:

29 186.504 Regional planning councils; creation;  
30 membership.--

31 (2) Membership on the regional planning council shall

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 be as follows:

2 (a) Representatives appointed by each of the member  
3 counties in the geographic area covered by the regional  
4 planning council.

5 (b) Representatives from other member local  
6 general-purpose governments in the geographic area covered by  
7 the regional planning council.

8 (c) Representatives appointed by the Governor from the  
9 geographic area covered by the regional planning council,  
10 including an elected school board member from the geographic  
11 area covered by the regional planning council, to be nominated  
12 by the Florida School Board Association.

13 (3) Not less than two-thirds of the representatives  
14 serving as voting members on the governing bodies of such  
15 regional planning councils shall be elected officials of local  
16 general-purpose governments chosen by the cities and counties  
17 of the region, provided each county shall have at least one  
18 vote. The remaining one-third of the voting members on the  
19 governing board shall be appointed by the Governor, to include  
20 one elected school board member, subject to confirmation by  
21 the Senate, and shall reside in the region. No two appointees  
22 of the Governor shall have their places of residence in the  
23 same county until each county within the region is represented  
24 by a Governor's appointee to the governing board. Nothing  
25 contained in this section shall deny to local governing bodies  
26 or the Governor the option of appointing either locally  
27 elected officials or lay citizens provided at least two-thirds  
28 of the governing body of the regional planning council is  
29 composed of locally elected officials.

30 Section 14. Paragraph (a) of subsection (2) and  
31 subsection (6) of section 212.055, Florida Statutes, are



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 amended to read:

2           212.055 Discretionary sales surtaxes; legislative  
3 intent; authorization and use of proceeds.--It is the  
4 legislative intent that any authorization for imposition of a  
5 discretionary sales surtax shall be published in the Florida  
6 Statutes as a subsection of this section, irrespective of the  
7 duration of the levy. Each enactment shall specify the types  
8 of counties authorized to levy; the rate or rates which may be  
9 imposed; the maximum length of time the surtax may be imposed,  
10 if any; the procedure which must be followed to secure voter  
11 approval, if required; the purpose for which the proceeds may  
12 be expended; and such other requirements as the Legislature  
13 may provide. Taxable transactions and administrative  
14 procedures shall be as provided in s. 212.054.

15           (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

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

28           2. If the surtax was levied pursuant to a referendum  
29 held before July 1, 1993, the surtax may not be levied beyond  
30 the time established in the ordinance, or, if the ordinance  
31 did not limit the period of the levy, the surtax may not be

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 levied for more than 15 years. The levy of such surtax may be  
2 extended only by approval of a majority of the electors of the  
3 county voting in a referendum on the surtax or pursuant to  
4 ordinance enacted by a supermajority vote of the members of  
5 the county governing authority.

6  
7 For purposes of this paragraph, the term "supermajority vote"  
8 means an affirmative vote of a majority of the membership of  
9 the governing authority plus one.

10 (6) SCHOOL CAPITAL OUTLAY SURTAX.--

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

16 (b) The resolution shall include a statement that  
17 provides a brief and general description of the school capital  
18 outlay projects to be funded by the surtax. If applicable, the  
19 resolution must state that the district school board has been  
20 recognized by the State Board of Education as having a Florida  
21 Frugal Schools Program. The statement shall conform to the  
22 requirements of s. 101.161 and shall be placed on the ballot  
23 by the governing body of the county. The following question  
24 shall be placed on the ballot:

25  
26 . . . .FOR THE . . . .CENTS TAX  
27 . . . .AGAINST THE . . . .CENTS TAX  
28

29 (c) As an alternative method of levying the  
30 discretionary sales surtax, the district school board may  
31 levy, pursuant to resolution adopted by a supermajority of the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 members of the school board, a discretionary sales surtax at a  
2 rate not to exceed 0.5 percent where the following conditions  
3 are met:

4 1. The district school board and local governments in  
5 the county where the school district is located have adopted  
6 the interlocal agreement and public educational facilities  
7 element required by s. 163.31776;

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

10 3. The district school board has been recognized by  
11 the State Board of Education as having a Florida Frugal School  
12 Program pursuant to s. 235.2197 and complies with s.  
13 235.2197(2)(b) and (c).

14  
15 For purposes of this paragraph, the term "supermajority vote"  
16 means an affirmative vote of a majority of the membership of  
17 the school board plus one.

18 (d)(e) The resolution providing for the imposition of  
19 the surtax shall set forth a plan for use of the surtax  
20 proceeds for fixed capital expenditures or fixed capital costs  
21 associated with the construction, reconstruction, or  
22 improvement of school facilities and campuses which have a  
23 useful life expectancy of 5 or more years, and any land  
24 acquisition, land improvement, design, and engineering costs  
25 related thereto. Additionally, the plan shall include the  
26 costs of retrofitting and providing for technology  
27 implementation, including hardware and software, for the  
28 various sites within the school district. Surtax revenues may  
29 be used for the purpose of servicing bond indebtedness to  
30 finance projects authorized by this subsection, and any  
31 interest accrued thereto may be held in trust to finance such

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 projects. Neither the proceeds of the surtax nor any interest  
2 accrued thereto shall be used for operational expenses. If the  
3 district school board has been recognized by the State Board  
4 of Education as having a Florida Frugal Schools Program, the  
5 district's plan for use of the surtax proceeds must be  
6 consistent with this subsection and with uses assured under  
7 the Florida Frugal Schools Program.

8 (e)~~(d)~~ Any school board imposing the surtax shall  
9 implement a freeze on noncapital local school property taxes,  
10 at the millage rate imposed in the year prior to the  
11 implementation of the surtax, for a period of at least 3 years  
12 from the date of imposition of the surtax. This provision  
13 shall not apply to existing debt service or required state  
14 taxes.

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

18 Section 15. Section 235.002, Florida Statutes, is  
19 amended to read:

20 235.002 Intent.--

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

22 ~~(a) To provide each student in the public education~~  
23 ~~system the availability of an educational environment~~  
24 ~~appropriate to his or her educational needs which is~~  
25 ~~substantially equal to that available to any similar student,~~  
26 ~~notwithstanding geographic differences and varying local~~  
27 ~~economic factors, and to provide facilities for the Florida~~  
28 ~~School for the Deaf and the Blind and other educational~~  
29 ~~institutions and agencies as may be defined by law.~~

30 (a)~~(b)~~ To Encourage the use of innovative designs,  
31 construction techniques, and financing mechanisms in building

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 educational facilities for the purposes ~~purpose~~ of reducing  
2 costs to the taxpayer, creating a more satisfactory  
3 educational environment, ~~and~~ reducing the amount of time  
4 necessary for design and construction to fill unmet needs, and  
5 permitting the on-site and off-site improvements required by  
6 law.

7 (b)(c) ~~To~~ Provide a systematic mechanism whereby  
8 educational facilities construction plans can meet the current  
9 and projected needs of the public education system population  
10 as quickly as possible by building uniform, sound educational  
11 environments and to provide a sound base for planning for  
12 educational facilities needs.

13 (c)(d) ~~To~~ Provide ~~proper legislative support for as~~  
14 ~~wide a range of~~ fiscally sound financing methodologies ~~as~~  
15 ~~possible for the delivery~~ of educational facilities ~~and, where~~  
16 ~~appropriate, for their construction, operation, and~~  
17 ~~maintenance.~~

18 (d) Establish a systematic process of sharing  
19 information between school boards and local governments on the  
20 growth and development trends in their communities in order to  
21 forecast future enrollment and school needs.

22 (e) Establish a systematic process by which school  
23 boards and local governments can cooperatively plan for the  
24 provision of educational facilities to meet the current and  
25 projected needs of the public education system, including the  
26 needs placed on the public education system as a result of  
27 growth and development decisions by local governments.

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

31 (2) The Legislature finds and declares that:

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1           (a) Public schools are a linchpin to the vitality of  
2 our communities and play a significant role in the thousands  
3 of individual housing decisions that result in community  
4 growth trends.

5           ~~(b)(a)~~ Growth and development issues transcend the  
6 boundaries and responsibilities of individual units of  
7 government, and often no single unit of government can plan or  
8 implement policies to deal with these issues without affecting  
9 other units of government.

10           ~~(c)(b)~~ The effective and efficient provision of public  
11 educational facilities and services enhances ~~is essential to~~  
12 ~~preserving and enhancing~~ the quality of life of the people of  
13 this state.

14           ~~(d)(c)~~ The provision of educational facilities often  
15 impacts community infrastructure and services. Assuring  
16 coordinated and cooperative provision of such facilities and  
17 associated infrastructure and services is in the best interest  
18 of the state.

19           Section 16. Section 235.15, Florida Statutes, is  
20 amended to read:

21           235.15 Educational plant survey; localized need  
22 assessment; PECO project funding.--

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

26 (b) Required need assessment criteria for district,  
27 community college, and state university plant surveys.--~~Each~~  
28 ~~Educational plant surveys~~ survey completed after December 31,  
29 ~~1997,~~ must use uniform data sources and criteria specified in  
30 this paragraph. ~~Each educational plant survey completed after~~  
31 ~~June 30, 1995, and before January 1, 1998, must be revised, if~~

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 ~~necessary, to comply with this paragraph. Each revised~~  
2 ~~educational plant survey and each new educational plant survey~~  
3 ~~supersedes previous surveys.~~

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



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

31           3. Each community college's survey must reflect the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

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

26           (c) Review and validation.--The Office of Educational  
27 Facilities of the Commissioner of Education ~~department~~ shall  
28 review and validate the surveys of school districts and  
29 community colleges and any amendments thereto for compliance  
30 with the requirements of this chapter and, ~~when required by~~  
31 ~~the State Constitution~~, shall recommend those in compliance

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 for approval by the State Board of Education.

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

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

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

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

28 235.175 SMART schools; Classrooms First; legislative  
29 purpose.--

30 (3) SCHOOL DISTRICT EDUCATIONAL FACILITIES PLAN WORK  
31 ~~PROGRAMS~~.--It is the purpose of the Legislature to create s.

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

1 235.185, requiring each school district annually to adopt an  
2 educational facilities plan that provides an integrated  
3 long-range facilities plan, including the survey of projected  
4 needs and the ~~a district facilities~~ 5-year work program. The  
5 purpose of the educational facilities plan ~~district facilities~~  
6 ~~work program~~ is to keep the school board, local governments,  
7 and the public fully informed as to whether the district is  
8 using sound policies and practices that meet the essential  
9 needs of students and that warrant public confidence in  
10 district operations. The educational facilities plan ~~district~~  
11 ~~facilities work program~~ will be monitored by the SMART Schools  
12 Clearinghouse, which will also apply performance standards  
13 pursuant to s. 235.218.

14 Section 18. Section 235.18, Florida Statutes, is  
15 amended to read:

16 235.18 Annual capital outlay budget.--Each board,  
17 including the Board of Regents, shall, each year, adopt a  
18 capital outlay budget for the ensuing year in order that the  
19 capital outlay needs of the board for the entire year may be  
20 well understood by the public. This capital outlay budget  
21 shall be a part of the annual budget and shall be based upon  
22 and in harmony with the educational plant and ancillary  
23 facilities plan. This budget shall designate the proposed  
24 capital outlay expenditures by project for the year from all  
25 fund sources. The board may not expend any funds on any  
26 project not included in the budget, as amended. Each district  
27 school board must prepare its tentative district education  
28 facilities plan ~~facilities work program~~ as required by s.  
29 235.185 before adopting the capital outlay budget.

30 Section 19. Section 235.185, Florida Statutes, is  
31 amended to read:

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

1           235.185 School district educational facilities plan  
2 ~~work program~~; definitions; preparation, adoption, and  
3 amendment; long-term work programs.--

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

5           (a) "Adopted educational facilities plan" means the  
6 comprehensive planning document that is adopted annually by  
7 the district school board as provided in subsection (2) and  
8 that contains the educational plant survey.

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

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

- 17           1. ~~To~~ Properly maintain the educational plant and  
18 ancillary facilities of the district.  
19           2. ~~To~~ Provide an adequate number of satisfactory  
20 student stations for the projected student enrollment of the  
21 district in K-12 programs in accordance with the goal in s.  
22 235.062.

23           (c) "Tentative educational facilities plan" means the  
24 comprehensive planning document prepared annually by the  
25 district school board and submitted to the Office of  
26 Educational Facilities of the Commissioner of Education and  
27 the affected general-purpose local governments.

28           (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL  
29 FACILITIES PLAN ~~WORK PROGRAM~~.--

30           (a) Annually, prior to the adoption of the district  
31 school budget, each school board shall prepare a tentative

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 district educational facilities plan that includes long-range  
2 planning for facilities needs over 5-year, 10-year, and  
3 20-year periods. The plan must be developed in coordination  
4 with the general-purpose local governments and be consistent  
5 with the local government comprehensive plans. The school  
6 board's plan for provision of new schools must meet the needs  
7 of all growing communities in the district, ranging from small  
8 rural communities to large urban cities. The plan must include  
9 work program that includes:

10 1. Projected student populations apportioned  
11 geographically at the local level. The projections must be  
12 based on information produced by the demographic, revenue, and  
13 education estimating conferences pursuant to s. 216.136, where  
14 available, as modified by the district based on development  
15 data and agreement with the local governments and the Office  
16 of Educational Facilities of the Commissioner of Education.  
17 The projections must be apportioned geographically with  
18 assistance from the local governments using local development  
19 trend data and the school district student enrollment data.

20 2. An inventory of existing school facilities. Any  
21 anticipated expansions or closures of existing school sites  
22 over the 5-year, 10-year, and 20-year periods must be  
23 identified. The inventory must include an assessment of areas  
24 proximate to existing schools and identification of the need  
25 for improvements to infrastructure, safety, including safe  
26 access routes, and conditions in the community. The plan must  
27 also provide a listing of major repairs and renovation  
28 projects anticipated over the period of the plan.

29 3. Projections of facilities space needs, which may  
30 not exceed the norm space and occupant design criteria  
31 established in the State Requirements for Educational

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 Facilities.

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

5 5. The general location of public schools proposed to  
6 be constructed over the 5-year, 10-year, and 20-year time  
7 periods, including a listing of the proposed schools' site  
8 acreage needs and anticipated capacity and maps showing the  
9 general locations. The school board's identification of  
10 general locations of future school sites must be based on the  
11 school siting requirements of s. 163.3177(6)(a) and policies  
12 in the comprehensive plan which provide guidance for  
13 appropriate locations for school sites.

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

- 18 a. Acceptable capacity;
- 19 b. Redistricting;
- 20 c. Busing;
- 21 d. Year-round schools; and
- 22 e. Charter schools.

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

27 (b) The plan must also include a financially feasible  
28 district facilities work program for a 5-year period. The work  
29 program must include:

- 30 1. A schedule of major repair and renovation projects  
31 necessary to maintain the educational ~~plant~~ facilities and

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 ancillary facilities of the district.

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

6 a. The locations, capacities, and planned utilization  
7 rates of current educational facilities of the district. The  
8 capacity of existing satisfactory facilities, as reported in  
9 the Florida Inventory of School Houses must be compared to the  
10 capital outlay full-time-equivalent student enrollment as  
11 determined by the department including all enrollment used in  
12 the calculation of the distribution formula in s. 235.435(3).

13 b. The proposed locations of planned facilities,  
14 whether those locations are consistent with the comprehensive  
15 plans of all affected local governments, and recommendations  
16 for infrastructure and other improvements to land adjacent to  
17 existing facilities. The provisions of ss. 235.19 and  
18 235.193(6), (7), and (8) must be addressed for new facilities  
19 planned within the first 3 years of the work plan, as  
20 appropriate.

21 c. Plans for the use and location of relocatable  
22 facilities, leased facilities, and charter school facilities.

23 d. Plans for multitrack scheduling, grade level  
24 organization, block scheduling, or other alternatives that  
25 reduce the need for additional permanent student stations.

26 e. Information concerning average class size and  
27 utilization rate by grade level within the district which that  
28 will result if the tentative district facilities work program  
29 is fully implemented. ~~The average shall not include~~  
30 ~~exceptional student education classes or prekindergarten~~  
31 ~~classes.~~



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1           f. The number and percentage of district students  
2 planned to be educated in relocatable facilities during each  
3 year of the tentative district facilities work program. For  
4 determining future needs, student capacity may not be assigned  
5 to any relocatable classroom that is scheduled for elimination  
6 or replacement with a permanent educational facility in the  
7 current year of the adopted district educational facilities  
8 plan and in the district facilities work program adopted under  
9 this section. Those relocatable classrooms clearly identified  
10 and scheduled for replacement in a school-board-adopted,  
11 financially feasible, 5-year district facilities work program  
12 shall be counted at zero capacity at the time the work program  
13 is adopted and approved by the school board. However, if the  
14 district facilities work program is changed and the  
15 relocatable classrooms are not replaced as scheduled in the  
16 work program, the classrooms must be reentered into the system  
17 and be counted at actual capacity. Relocatable classrooms may  
18 not be perpetually added to the work program or continually  
19 extended for purposes of circumventing this section. All  
20 relocatable classrooms not identified and scheduled for  
21 replacement, including those owned, lease-purchased, or leased  
22 by the school district, must be counted at actual student  
23 capacity. The district educational facilities plan must  
24 identify the number of relocatable student stations scheduled  
25 for replacement during the 5-year survey period and the total  
26 dollar amount needed for that replacement.

27           g. Plans for the closure of any school, including  
28 plans for disposition of the facility or usage of facility  
29 space, and anticipated revenues.

30           h. Projects for which capital outlay and debt service  
31 funds accruing under s. 9(d), Art. XII of the State

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

1 Constitution are to be used shall be identified separately in  
2 priority order on a project priority list within the district  
3 facilities work program.

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

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

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

20           6. A schedule of options for the generation of  
21 additional revenues by the district for expenditure on  
22 projects identified in the ~~tentative~~ district facilities work  
23 program which are not funded under subparagraph 5. Additional  
24 anticipated revenues may include effort index grants, SIT  
25 Program awards, and Classrooms First funds.

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

30           (d)(e) Provision shall be made for public comment  
31 concerning the tentative district educational facilities plan

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 work program.

2 (e) The district school board shall coordinate with  
3 each affected local government to ensure consistency between  
4 the tentative district educational facilities plan and the  
5 local government comprehensive plans of the affected local  
6 governments during the development of the tentative district  
7 educational facilities plan.

8 (f) Commencing on October 1, 2001, and not less than  
9 once every 5 years thereafter, the district school board shall  
10 contract with a qualified, independent third party to conduct  
11 a financial management and performance audit of the  
12 educational planning and construction activities of the  
13 district. An audit conducted by the Auditor General satisfies  
14 this requirement.

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 235.193(2).

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

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

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

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

29 ~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.~~--In addition to  
 30 ~~the adopted district facilities work program covering the~~  
 31 ~~5-year work program, the district school board shall adopt~~

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 ~~annually a 10-year and a 20-year work program which include~~  
2 ~~the information set forth in subsection (2), but based upon~~  
3 ~~enrollment projections and facility needs for the 10-year and~~  
4 ~~20-year periods. It is recognized that the projections in the~~  
5 ~~10-year and 20-year timeframes are tentative and should be~~  
6 ~~used only for general planning purposes.~~

7 Section 20. Section 235.188, Florida Statutes, is  
8 amended to read:

9 235.188 Full bonding required to participate in  
10 programs.--Any district with unused bonding capacity in its  
11 Capital Outlay and Debt Service Trust Fund allocation that  
12 certifies in its district educational facilities plan work  
13 program that it will not be able to meet all of its need for  
14 new student stations within existing revenues must fully bond  
15 its Capital Outlay and Debt Service Trust Fund allocation  
16 before it may participate in Classrooms First, the School  
17 Infrastructure Thrift (SIT) Program, or the Effort Index  
18 Grants Program.

19 Section 21. Section 235.19, Florida Statutes, is  
20 amended to read:

21 235.19 Site planning and selection.--

22 (1) If the school board and local government have  
23 entered into an interlocal agreement pursuant to ss.  
24 163.31776(4) and 235.193(2) and have developed a process to  
25 ensure consistency between the local government comprehensive  
26 plan and the school district educational facilities plan and a  
27 method to coordinate decisionmaking and approved activities  
28 relating to school planning and site selection, the provisions  
29 of this section do not apply to such school board and local  
30 government.

31 (2)(1) Before acquiring property for sites, each board

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

25 (4)~~(3)~~ Sites recommended for purchase, or purchased,  
26 in accordance with chapter 230 or chapter 240 must meet  
27 standards prescribed therein and such supplementary standards  
28 as the school board ~~commissioner~~ prescribes to promote the  
29 educational interests of the students. Each site must be well  
30 drained and suitable for outdoor educational purposes as  
31 appropriate for the educational program or collocated with

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 facilities to serve this purpose. As provided in s. 333.03,  
 2 the site must not be located within any path of flight  
 3 approach of any airport. Insofar as is practicable, the site  
 4 must not adjoin a right-of-way of any railroad or through  
 5 highway and must not be adjacent to any factory or other  
 6 property from which noise, odors, or other disturbances, or at  
 7 which conditions, would be likely to interfere with the  
 8 educational program. To the extent practicable, sites must be  
 9 chosen that will provide safe access from neighborhoods to  
 10 schools.

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

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

23 235.193 Coordination of planning with local governing  
24 bodies.--

25 (1) It is the policy of this state to require the  
26 coordination of planning between boards and local governing  
27 bodies to ensure that plans for the construction and opening  
28 of public educational facilities are facilitated and  
29 coordinated in time and place with plans for residential  
30 development, concurrently with other necessary services. Such  
31 planning shall include the integration of the educational



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

20 (2) No later than 6 months prior to the transmittal of  
21 a public educational facilities element by general purpose  
22 local governments meeting the criteria of s. 163.31776(3), the  
23 school district, the county, and the non-exempt municipalities  
24 shall enter into an interlocal agreement that establishes a  
25 process for developing coordinated and consistent local  
26 government public educational facilities elements and a  
27 district educational facilities plan, including a process:

28 (a) By which each local government and the school  
29 district agree and base the local government comprehensive  
30 plan and educational facilities plan on uniform projections of  
31 the amount, type, and distribution of population growth and

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 student enrollment.

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

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

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

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 government's public educational facilities element. The  
2 interlocal agreement shall also set forth the process and  
3 uniform methodology for determining proportionate-share  
4 mitigation pursuant to s. 163.31777.

5 (f) For the resolution of disputes between the school  
6 district and local governments.

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

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

27 (4) The school board shall report to the local  
28 government on school capacity when the local government  
29 notifies the school board that it is reviewing an application  
30 for a comprehensive plan amendment or a rezoning that seeks to  
31 increase residential density. The report must provide data and

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 analysis as required by s. 163.31777(2) for the local  
2 government's review of the proposed plan amendment or  
3 rezoning.

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

30 (6)(3) The location of public educational facilities  
31 shall be consistent with the comprehensive plan of the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

20       ~~(8)(5)~~ As early in the design phase as feasible, but  
21 at least before commencing construction of a new public  
22 educational facility, the local governing body that regulates  
23 the use of land shall determine, in writing within 90 days  
24 after receiving the necessary information and a school board's  
25 request for a determination, whether a proposed public  
26 educational facility is consistent with the local  
27 comprehensive plan and consistent with local land development  
28 regulations, to the extent that the regulations are not in  
29 conflict with or the subject regulated is not specifically  
30 addressed by this chapter or the State Uniform Building Code,  
31 unless mutually agreed. If the determination is affirmative,

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 school construction may proceed and further local government  
2 approvals are not required, except as provided in this  
3 section. Failure of the local governing body to make a  
4 determination in writing within 90 days after a school board's  
5 request for a determination of consistency shall be considered  
6 an approval of the school board's application.

7 (9)~~(6)~~ A local governing body may not deny the site  
8 applicant based on adequacy of the site plan as it relates  
9 solely to the needs of the school. If the site is consistent  
10 with the comprehensive plan's ~~future~~ land use policies and  
11 categories in which public schools are identified as allowable  
12 uses, the local government may not deny the application but it  
13 may impose reasonable development standards and conditions in  
14 accordance with s. 235.34(1) and consider the site plan and  
15 its adequacy as it relates to environmental concerns, health,  
16 safety and welfare, and effects on adjacent property.  
17 Standards and conditions may not be imposed which conflict  
18 with those established in this chapter or the State Uniform  
19 Building Code, unless mutually agreed.

20 (10)~~(7)~~ This section does not prohibit a local  
21 governing body and district school board from agreeing and  
22 establishing an alternative process for reviewing a proposed  
23 educational facility and site plan, and offsite impacts  
24 pursuant to an interlocal agreement adopted in accordance with  
25 this section.

26 (11)~~(8)~~ Existing schools shall be considered  
27 consistent with the applicable local government comprehensive  
28 plan adopted under part II of chapter 163. ~~The collocation of~~  
29 ~~a new proposed public educational facility with an existing~~  
30 ~~public educational facility, or the expansion of an existing~~  
31 ~~public educational facility is not inconsistent with the local~~

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 ~~comprehensive plan, if the site is consistent with the~~  
2 ~~comprehensive plan's future land use policies and categories~~  
3 ~~in which public schools are identified as allowable uses, and~~  
4 ~~levels of service adopted by the local government for any~~  
5 ~~facilities affected by the proposed location for the new~~  
6 ~~facility are maintained.~~ If a board submits an application to  
7 expand an existing school site, the local governing body may  
8 impose reasonable development standards and conditions on the  
9 expansion only, and in a manner consistent with s. 235.34(1).  
10 Standards and conditions may not be imposed which conflict  
11 with those established in this chapter or the State Uniform  
12 Building Code, unless mutually agreed. Local government review  
13 or 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 23. Section 235.194, Florida Statutes, is  
22 repealed.

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

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

28 (1) The SMART Schools Clearinghouse shall develop and  
29 adopt measures for evaluating the performance and productivity  
30 of school district educational facilities plans ~~work programs~~.  
31 The measures may be both quantitative and qualitative and

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 must, to the maximum extent practical, assess those factors  
2 that are within the districts' control. The measures must, at  
3 a minimum, assess performance in the following areas:

- 4 (a) Frugal production of high-quality projects.
- 5 (b) Efficient finance and administration.
- 6 (c) Optimal school and classroom size and utilization  
7 rate.
- 8 (d) Safety.
- 9 (e) Core facility space needs and cost-effective  
10 capacity improvements that consider demographic projections.
- 11 (f) Level of district local effort.

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

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

22 Section 25. Section 235.321, Florida Statutes, is  
23 amended to read:

24 235.321 Changes in construction requirements after  
25 award of contract.--The board may, at its option and by  
26 written policy duly adopted and entered in its official  
27 minutes, authorize the superintendent or president or other  
28 designated individual to approve change orders in the name of  
29 the board for preestablished amounts. Approvals shall be for  
30 the purpose of expediting the work in progress and shall be  
31 reported to the board and entered in its official minutes. For



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

1 accountability, the school district shall monitor and report  
2 the impact of change orders on its district educational  
3 facilities plan ~~work program~~ pursuant to s. 235.185.

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

7 236.25 District school tax.--

8 (5)

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

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

31 (6) In addition to the maximum millage levied under

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 this section and the General Appropriations Act, a school  
2 district may levy, by local referendum or in a general  
3 election, additional millage for school operational purposes  
4 up to an amount that, when combined with nonvoted millage  
5 levied under this section, does not exceed the 10-mill limit  
6 established in s. 9(b), Art. VII of the State Constitution.  
7 Any such levy shall be for a maximum of 4 years and shall be  
8 counted as part of the 10-mill limit established in s. 9(b),  
9 Art. VII of the State Constitution. Millage elections  
10 conducted under the authority granted pursuant to this section  
11 are subject to ss. 236.31 and 236.32. Funds generated by such  
12 additional millage do not become a part of the calculation of  
13 the Florida Education Finance Program total potential funds in  
14 2001-2002 or any subsequent year and must not be incorporated  
15 in the calculation of any hold-harmless or other component of  
16 the Florida Education Finance Program formula in any year.

17 Section 27. Section 236.31, Florida Statutes, is  
18 amended to read:

19 236.31 District millage elections.--

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 held.

2 (2) The school board, pursuant to resolution adopted  
3 at a regular meeting, shall direct the county commissioners to  
4 call an election at which the electors within the school  
5 district may approve an ad valorem tax millage as authorized  
6 under s. 236.25(6). Such election may be held at any time,  
7 except that not more than one such election shall be held  
8 during any 12-month period. Any millage so authorized shall be  
9 levied for a period not in excess of 4 years or until changed  
10 by another millage election, whichever is earlier. If any such  
11 election is invalidated by a court of competent jurisdiction,  
12 such invalidated election shall be considered not to have been  
13 held.

14 Section 28. Section 236.32, Florida Statutes, is  
15 amended to read:

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

18 236.32 Procedures for holding and conducting school  
19 district millage elections.--

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

24 (2) FORM OF BALLOT.--

25 (a) The school board may propose a single millage or  
26 two millages, with one for operating expenses and another for  
27 a local capital improvement reserve fund. When two millage  
28 figures are proposed, each millage must be voted on  
29 separately.

30 (b) The school board shall provide the wording of the  
31 substance of the measure and the ballot title in the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 resolution calling for the election. The wording of the  
2 ballot must conform to the provisions of s. 101.161.

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

6 (4) RESULTS OF ELECTION.--When the school board  
7 proposes one tax levy for operating expenses and another for  
8 the local capital improvement reserve fund, the results shall  
9 be considered separately. The tax levy shall be levied only  
10 in case a majority of the electors participating in the  
11 election vote in favor of the proposed special millage.

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

16 380.06 Developments of regional impact.--

17 (2) STATEWIDE GUIDELINES AND STANDARDS.--

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

22 (12) REGIONAL REPORTS.--

23 (a) Within 50 days after receipt of the notice of  
24 public hearing required in paragraph (11)(c), the regional  
25 planning agency, if one has been designated for the area  
26 including the local government, shall prepare and submit to  
27 the local government a report and recommendations on the  
28 regional impact of the proposed development. In preparing its  
29 report and recommendations, the regional planning agency shall  
30 identify regional issues based upon the following review  
31 criteria and make recommendations to the local government on

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 these regional issues, specifically considering whether, and  
2 the extent to which:

3           1. The development will have a favorable or  
4 unfavorable impact on state or regional resources or  
5 facilities identified in the applicable state or regional  
6 plans. For the purposes of this subsection, "applicable state  
7 plan" means the state comprehensive plan. For the purposes of  
8 this subsection, "applicable regional plan" means an adopted  
9 comprehensive regional policy plan until the adoption of a  
10 strategic regional policy plan pursuant to s. 186.508, and  
11 thereafter means an adopted strategic regional policy plan.

12           2. The development will significantly impact adjacent  
13 jurisdictions. At the request of the appropriate local  
14 government, regional planning agencies may also review and  
15 comment upon issues that affect only the requesting local  
16 government.

17           3. As one of the issues considered in the review in  
18 subparagraphs 1. and 2., the development will favorably or  
19 adversely affect the ability of people to find adequate  
20 housing reasonably accessible to their places of employment.  
21 The determination should take into account information on  
22 factors that are relevant to the availability of reasonably  
23 accessible adequate housing. Adequate housing means housing  
24 that is available for occupancy and that is not substandard.

25           (b) At the request of the regional planning agency,  
26 other appropriate agencies shall review the proposed  
27 development and shall prepare reports and recommendations on  
28 issues that are clearly within the jurisdiction of those  
29 agencies. Such agency reports shall become part of the  
30 regional planning agency report; however, the regional  
31 planning agency may attach dissenting views. When water

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 management district and Department of Environmental Protection  
2 permits have been issued pursuant to chapter 373 or chapter  
3 403, the regional planning council may comment on the regional  
4 implications of the permits but may not offer conflicting  
5 recommendations.

6 (c) The regional planning agency shall afford the  
7 developer or any substantially affected party reasonable  
8 opportunity to present evidence to the regional planning  
9 agency head relating to the proposed regional agency report  
10 and recommendations.

11 (d) Where the location of a proposed development  
12 involves land within the boundaries of multiple regional  
13 planning councils, the state land planning agency shall  
14 designate a lead regional planning council. The lead regional  
15 planning council shall prepare the regional report.

16 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

17 (c) The development order shall include findings of  
18 fact and conclusions of law consistent with subsections (13)  
19 and (14). The development order:

20 1. Shall specify the monitoring procedures and the  
21 local official responsible for assuring compliance by the  
22 developer with the development order.

23 2. Shall establish compliance dates for the  
24 development order, including a deadline for commencing  
25 physical development and for compliance with conditions of  
26 approval or phasing requirements, and shall include a  
27 termination date that reasonably reflects the time required to  
28 complete the development.

29 3. Shall establish a date until which the local  
30 government agrees that the approved development of regional  
31 impact shall not be subject to downzoning, unit density

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 reduction, or intensity reduction, unless the local government  
2 can demonstrate that substantial changes in the conditions  
3 underlying the approval of the development order have occurred  
4 or the development order was based on substantially inaccurate  
5 information provided by the developer or that the change is  
6 clearly established by local government to be essential to the  
7 public health, safety, or welfare.

8           4. Shall specify the requirements for the biennial  
9 ~~annual~~ report designated under subsection (18), including the  
10 date of submission, parties to whom the report is submitted,  
11 and contents of the report, based upon the rules adopted by  
12 the state land planning agency. Such rules shall specify the  
13 scope of any additional local requirements that may be  
14 necessary for the report.

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

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

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



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 developer submit the report within 30 days. The failure to  
2 submit the report after 30 days shall result in the temporary  
3 suspension of the development order by the local government.  
4 If no additional development pursuant to the development order  
5 has occurred since the submission of the previous report, a  
6 letter from the developer stating that no development has  
7 occurred satisfies the requirement for a report. Development  
8 orders that require annual reports may be amended to require  
9 biennial reports at the option of the local government.

10 (19) SUBSTANTIAL DEVIATIONS.--

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

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

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 spaces, whichever is greater, or an increase in the number of  
2 spectators that may be accommodated at such a facility by 5  
3 percent or 1,000 spectators, whichever is greater.

4           2. A new runway, a new terminal facility, a 25-percent  
5 lengthening of an existing runway, or a 25-percent increase in  
6 the number of gates of an existing terminal, but only if the  
7 increase adds at least three additional gates. However, if an  
8 airport is located in two counties, a 10-percent lengthening  
9 of an existing runway or a 20-percent increase in the number  
10 of gates of an existing terminal is the applicable criteria.

11           3. An increase in the number of hospital beds by 5  
12 percent or 60 beds, whichever is greater.

13           4. An increase in industrial development area by 5  
14 percent or 32 acres, whichever is greater.

15           5. An increase in the average annual acreage mined by  
16 5 percent or 10 acres, whichever is greater, or an increase in  
17 the average daily water consumption by a mining operation by 5  
18 percent or 300,000 gallons, whichever is greater. An increase  
19 in the size of the mine by 5 percent or 750 acres, whichever  
20 is less.

21           6. An increase in land area for office development by  
22 5 percent ~~or 6 acres, whichever is greater~~, or an increase of  
23 gross floor area of office development by 5 percent or 60,000  
24 gross square feet, whichever is greater.

25           7. An increase in the storage capacity for chemical or  
26 petroleum storage facilities by 5 percent, 20,000 barrels, or  
27 7 million pounds, whichever is greater.

28           8. An increase of development at a waterport of wet  
29 storage for 20 watercraft, dry storage for 30 watercraft, or  
30 wet/dry storage for 60 watercraft in an area identified in the  
31 state marina siting plan as an appropriate site for additional

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

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

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

12 12. An increase in a recreational vehicle park area by  
13 5 percent or 100 vehicle spaces, whichever is less.

14 13. A decrease in the area set aside for open space of  
15 5 percent or 20 acres, whichever is less.

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

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

27 16. Any change which would result in development of  
28 any area which was specifically set aside in the application  
29 for development approval or in the development order for  
30 preservation or special protection of endangered or threatened  
31 plants or animals designated as endangered, threatened, or

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

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

27 1.2. Except for a development order rendered pursuant  
28 to subsection (22) or subsection (25), a proposed change to a  
29 development order that individually or cumulatively with any  
30 previous change is less than ~~40 percent of~~ any numerical  
31 criterion contained in subparagraphs (b)1.-15. and does not

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 exceed any other criterion, or that involves an extension of  
2 the buildout date of a development, or any phase thereof, of  
3 less than 5 years is not a substantial deviation, is not  
4 subject to the public hearing requirements of subparagraph  
5 (f)3., and is not subject to a determination pursuant to  
6 subparagraph (f)5. Notice of the proposed change shall be  
7 made to the regional planning council and the state land  
8 planning agency. Such notice shall include a description of  
9 previous individual changes made to the development, including  
10 changes previously approved by the local government, and shall  
11 include appropriate amendments to the development order.

12 2. The following changes, individually or cumulatively  
13 with any previous changes, are not substantial deviations:

14 a. Changes in the name of the project, developer,  
15 owner, or monitoring official.

16 b. Changes to a setback that do not affect noise  
17 buffers, environmental protection or mitigation areas, or  
18 archaeological or historical resources.

19 c. Changes to minimum lot sizes.

20 d. Changes in the configuration of internal roads that  
21 do not affect external access points.

22 e. Changes to the building design or orientation that  
23 stay approximately within the approved area designated for  
24 such building and parking lot, and which do not affect  
25 historical buildings designated as significant by the Division  
26 of Historical Resources of the Department of State.

27 f. Changes to increase the acreage in the development,  
28 provided that no development is proposed on the acreage to be  
29 added.

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

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

9  
10 This subsection does not require a development order amendment  
11 for any change listed in sub-subparagraphs a.-i. unless such  
12 issue is addressed either in the existing development order or  
13 in the application for development approval, but, in the case  
14 of the application, only if, and in the manner in which, the  
15 application is incorporated in the development order.

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

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

30           5. The following changes to an approved development of  
31 regional impact shall be presumed to create a substantial

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 deviation. Such presumption may be rebutted by clear and  
2 convincing evidence.

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

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

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

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

27 2. The developer shall submit, simultaneously, to the  
28 local government, the regional planning agency, and the state  
29 land planning agency the request for approval of a proposed  
30 change.

31 3. No sooner than 30 days but no later than 45 days



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 after submittal by the developer to the local government, the  
2 state land planning agency, and the appropriate regional  
3 planning agency, the local government shall give 15 days'  
4 notice and schedule a public hearing to consider the change  
5 that the developer asserts does not create a substantial  
6 deviation. This public hearing shall be held within 90 days  
7 after submittal of the proposed changes, unless that time is  
8 extended by the developer.

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

21           5. At the public hearing, the local government shall  
22 determine whether the proposed change requires further  
23 development-of-regional-impact review. The provisions of  
24 paragraphs (a) and (e), the thresholds set forth in paragraph  
25 (b), and the presumptions set forth in paragraphs (c) and (d)  
26 and subparagraph (e)3.~~subparagraphs (e)1. and 3.~~ shall be  
27 applicable in determining whether further  
28 development-of-regional-impact review is required.

29           6. If the local government determines that the  
30 proposed change does not require further  
31 development-of-regional-impact review and is otherwise

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

19 (g) If a proposed change requires further  
20 development-of-regional-impact review pursuant to this  
21 section, the review shall be conducted subject to the  
22 following additional conditions:

23 1. The development-of-regional-impact review conducted  
24 by the appropriate regional planning agency shall address only  
25 those issues raised by the proposed change except as provided  
26 in subparagraph 2.

27 2. The regional planning agency shall consider, and  
28 the local government shall determine whether to approve,  
29 approve with conditions, or deny the proposed change as it  
30 relates to the entire development. If the local government  
31 determines that the proposed change, as it relates to the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 entire development, is unacceptable, the local government  
2 shall deny the change.

3 3. If the local government determines that the  
4 proposed change, as it relates to the entire development,  
5 should be approved, any new conditions in the amendment to the  
6 development order issued by the local government shall address  
7 only those issues raised by the proposed change.

8 4. Development within the previously approved  
9 development of regional impact may continue, as approved,  
10 during the development-of-regional-impact review in those  
11 portions of the development which are not affected by the  
12 proposed change.

13 (h) When further development-of-regional-impact review  
14 is required because a substantial deviation has been  
15 determined or admitted by the developer, the amendment to the  
16 development order issued by the local government shall be  
17 consistent with the requirements of subsection (15) and shall  
18 be subject to the hearing and appeal provisions of s. 380.07.  
19 The state land planning agency or the appropriate regional  
20 planning agency need not participate at the local hearing in  
21 order to appeal a local government development order issued  
22 pursuant to this paragraph.

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

25 380.0651 Statewide guidelines and standards.--

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

30 (d) Office development.--Any proposed office building  
31 or park operated under common ownership, development plan, or

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

1 management that:

2 1. Encompasses 300,000 or more square feet of gross  
3 floor area; or

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

5 2.3. Encompasses more than 600,000 square feet of  
6 gross floor area in a county with a population greater than  
7 500,000 and only in a geographic area specifically designated  
8 as highly suitable for increased threshold intensity in the  
9 approved local comprehensive plan and in the strategic  
10 regional policy plan.

11 (f) Retail and service development.--Any proposed  
12 retail, service, or wholesale business establishment or group  
13 of establishments which deals primarily with the general  
14 public onsite, operated under one common property ownership,  
15 development plan, or management that:

16 1. Encompasses more than 400,000 square feet of gross  
17 area; or

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

19 2.3. Provides parking spaces for more than 2,500 cars.

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

22 570.71 Conservation easements and agreements.--

23 (1) The department, on behalf of the Board of Trustees  
24 of the Internal Improvement Trust Fund, may allocate moneys to  
25 acquire perpetual, less-than-fee interest in land, to enter  
26 into agricultural protection agreements, and to enter into  
27 resource conservation agreements for the following public  
28 purposes:

29 (a) Promotion and improvement of wildlife habitat;

30 (b) Protection and enhancement of water bodies,

31 aquifer recharge areas, wetlands, and watersheds;

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No.      Barcode 085144

1           (c) Perpetuation of open space on lands with  
2 significant natural areas; or

3           (d) Protection of agricultural lands threatened by  
4 conversion to other uses.

5           (2) To achieve the purposes of this act, beginning no  
6 sooner than July 1, 2002, and every year thereafter, the  
7 department may accept applications for project proposals that:

8           (a) Purchase conservation easements, as defined in s.  
9 704.06.

10          (b) Purchase rural-lands-protection easements pursuant  
11 to this act.

12          (c) Fund resource conservation agreements pursuant to  
13 this act.

14          (d) Fund agricultural protection agreements pursuant  
15 to this act.

16  
17 No funds may be expended to implement this subsection prior to  
18 July 1, 2002.

19          (3) Rural-lands-protection easements shall be a  
20 perpetual right or interest in agricultural land which is  
21 appropriate to retain such land in predominantly its current  
22 state and to prevent the subdivision and conversion of such  
23 land into other uses. This right or interest in property shall  
24 prohibit only the following:

25          (a) Construction or placing of buildings, roads,  
26 billboards or other advertising, utilities, or structures,  
27 except those structures and unpaved roads necessary for the  
28 agricultural operations on the land or structures necessary  
29 for other activities allowed under the easement, and except  
30 for linear facilities described in s. 704.06(11);

31          (b) Subdivision of the property;

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1           (c) Dumping or placing of trash, waste, or offensive  
2 materials; and

3           (d) Activities that affect the natural hydrology of  
4 the land or that detrimentally affect water conservation,  
5 erosion control, soil conservation, or fish or wildlife  
6 habitat, except those required for environmental restoration;  
7 federal, state, or local government regulatory programs; or  
8 best management practices.

9           (4) Resource conservation agreements will be contracts  
10 for services which provide annual payments to landowners for  
11 services that actively improve habitat and water restoration  
12 or conservation on their lands over and above that which is  
13 already required by law or which provide recreational  
14 opportunities. They will be for a term of not less than 5  
15 years and not more than 10 years. Property owners will become  
16 eligible to enter into a resource conservation agreement only  
17 upon entering into a conservation easement or rural lands  
18 protection easement.

19           (5) Agricultural protection agreements shall be for  
20 terms of 30 years and will provide payments to landowners  
21 having significant natural areas on their land. Public access  
22 and public recreational opportunities may be negotiated at the  
23 request of the landowner.

24           (a) For the length of the agreement, the landowner  
25 shall agree to prohibit:

26           1. Construction or placing of buildings, roads,  
27 billboards or other advertising, utilities, or structures,  
28 except those structures and unpaved roads necessary for the  
29 agricultural operations on the land or structures necessary  
30 for other activities allowed under the easement, and except  
31 for linear facilities described in s. 704.06(11);

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

- 1           2. Subdivision of the property;  
2           3. Dumping or placing of trash, waste, or offensive  
3 materials; and  
4           4. Activities that affect the natural hydrology of the  
5 land, or that detrimentally affect water conservation, erosion  
6 control, soil conservation, or fish or wildlife habitat.  
7           (b) As part of the agricultural protection agreement,  
8 the parties shall agree that the state shall have a right to  
9 buy a conservation easement or rural land protection easement  
10 at the end of the 30-year term or prior to the landowner  
11 transferring or selling the property, whichever occurs later.  
12 If the landowner tenders the easement for the purchase and the  
13 state does not timely exercise its right to buy the easement,  
14 the landowner shall be released from the agricultural  
15 agreement. The purchase price of the easement shall be  
16 established in the agreement and shall be based on the value  
17 of the easement at the time the agreement is entered into,  
18 plus a reasonable escalator multiplied by the number of full  
19 calendar years following the date of the commencement of the  
20 agreement. The landowner may transfer or sell the property  
21 before the expiration of the 30-year term, but only if the  
22 property is sold subject to the agreement and the buyer  
23 becomes the successor in interest to the agricultural  
24 protection agreement. Upon mutual consent of the parties, a  
25 landowner may enter into a perpetual easement at any time  
26 during the term of an agricultural protection agreement.  
27           (6) Payment for conservation easements and rural land  
28 protection easements shall be a lump-sum payment at the time  
29 the easement is entered into.  
30           (7) Landowners entering into an agricultural  
31 protection agreement may receive up to 50 percent of the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 purchase price at the time the agreement is entered into and  
2 remaining payments on the balance shall be equal annual  
3 payments over the term of the agreement.

4 (8) Payments for the resource conservation agreements  
5 shall be equal annual payments over the term of the agreement.

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

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

20 (11) If a landowner objects to having his property  
21 included in any lists or maps developed to implement this act,  
22 the department shall remove the property from any such lists  
23 or maps upon receipt of the landowner's written request to do  
24 so.

25 (12) The department is authorized to use funds from  
26 the following sources to implement this act:

- 27 (a) State funds;  
28 (b) Federal funds;  
29 (c) Other governmental entities;  
30 (d) Nongovernmental organizations; or  
31 (e) Private individuals.



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1  
2 Any such funds provided shall be deposited into the  
3 Conservation and Recreation Lands Program Trust Fund within  
4 the Department of Agriculture and Consumer Services and used  
5 for the purposes of this act.

6 (13) No more than ten percent of any funds made  
7 available to implement this act shall be expended for resource  
8 conservation agreements and agricultural protection  
9 agreements.

10 (14) The department, in consultation with the  
11 Department of Environmental Protection, the Fish and Wildlife  
12 Conservation Commission, and the water management districts  
13 shall conduct a study to determine and prioritize needs for  
14 implementing the act.

15 (a) The department may contract with the Florida  
16 Natural Areas Inventory for an analysis of the geographic  
17 distribution of certain types of natural resources, or  
18 resource-based land uses that have been identified for  
19 acquisition by previous conservation and recreation land  
20 acquisition programs.

21 (b) The needs assessment shall locate areas of the  
22 state where existing privately-owned ranch and timber lands  
23 containing resources of the type identified in (a) can be  
24 preserved or protected through implementation of the Rural and  
25 Family Lands Protection Act.

26 (c) The department shall report its findings to the  
27 Governor, President of the Senate, and Speaker of the House of  
28 Representatives by December 31, 2001. At a minimum, the report  
29 must include a prioritization of the types of resources to be  
30 preserved or protected, the location of privately-owned ranch  
31 and timber lands containing such resources that could be

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 preserved or protected by easements or agreements pursuant to  
2 this act, and the funding needs for the program.

3 Section 32. Requirement of interlocal service  
4 provision agreements.--

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

10 (a) Identifies the current providers of the following  
11 services; education, sanitary sewer, public safety, solid  
12 waste, drainage, potable water, parks and recreation, and  
13 transportation facilities.

14 (b) Describes the existing organization of such  
15 services and the means of financing such services and  
16 designates the entities that will provide the services over  
17 the next 20 years, including any anticipated changes caused by  
18 annexation.

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

22 (d) Identifies opportunities for the joint financing  
23 of capital outlay projects.

24 (e) Identifies any areas that the municipalities plan  
25 to annex within the next 5 years and establishes a plan for  
26 service delivery within the areas to be annexed or a process  
27 for resolving service-delivery issues associated with  
28 annexation.

29 (f) Provides specific procedures for amending the  
30 interlocal agreement.

31 (2) Each county and municipality shall submit a copy

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 of its interlocal agreement to the Department of Community  
2 Affairs by February 15, 2005.

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

6 Section 33. The sum of \$500,000 is appropriated from  
7 the General Revenue Fund to the Department of Community  
8 Affairs for the purpose of funding the Urban Infill and  
9 Redevelopment Assistance Grant Program established under  
10 section 163.2523, Florida Statutes, during the 2001-2002  
11 fiscal year.

12 Section 34. The Legislature finds that the integration  
13 of the growth-management system and the planning of public  
14 educational facilities is a matter of great public importance.

15 Section 35. (1) The Legislative Committee on  
16 Intergovernmental Relations is directed to conduct a study of  
17 the existing bonding capacity of counties, municipalities, and  
18 school boards. The study shall include, but is not limited to:  
19 possible methods of strengthening their credit ratings and  
20 interest rates; feasibility of increasing their borrowing  
21 capacity to the extent of their authorized millage or revenue;  
22 and more flexible use of bond proceeds, especially for small  
23 municipalities and counties.

24 (2) The Legislative Committee on Intergovernmental  
25 Relations is required to report its findings and  
26 recommendations to the Governor and Legislature by January 1,  
27 2002. The recommendations must specifically include proposed  
28 legislation, if applicable, for additional county,  
29 municipality, and school board bonding capacity.

30 Section 36. Any multicounty airport authority created  
31 as an independent special district which is subject to a

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

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

17 Section 37. Except as otherwise expressly provided in  
18 this act, this act shall take effect upon becoming a law.  
19  
20

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

22 And the title is amended as follows:

23 Delete everything before the enacting clause  
24

25 and insert:

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

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 nonvoting representative of the district school  
2 board; amending s. 163.3177, F.S.; revising  
3 elements of comprehensive plans; requiring  
4 intergovernmental coordination between local  
5 governments and district school boards;  
6 directing the department to authorize up to  
7 five local governments to designate rural land  
8 stewardship areas; requiring a written  
9 agreement; providing requirements for  
10 comprehensive plan amendments for such  
11 designations; providing that owners of land  
12 within such areas may convey development rights  
13 in return for the assignment of transferable  
14 rural land use credits; providing requirements  
15 with respect to such credits; specifying  
16 incentives that should be provided such  
17 landowners; requiring reports; providing  
18 intent; creating s. 163.31776, F.S.; providing  
19 legislative intent and findings with respect to  
20 a public educational facilities element;  
21 providing a schedule for adoption by local  
22 governments; providing for certain  
23 municipalities to be exempt; requiring certain  
24 interlocal agreements; requiring that the  
25 public educational facilities element include  
26 certain provisions; providing requirements for  
27 future land-use maps; providing a process for  
28 adopting the element; prohibiting a local  
29 government that fails to adopt the required  
30 element from amending its local comprehensive  
31 plan; creating s. 163.31777, F.S.; requiring

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 school boards to report to the local government  
2 on school capacity; requiring a local  
3 government to deny a plan amendment or a  
4 request for rezoning if school capacity is  
5 unavailable; authorizing certain mitigation  
6 agreements; providing prerequisites to this  
7 section's taking effect; providing for an  
8 exemption for certain urban infill areas;  
9 amending s. 163.3180, F.S.; revising provisions  
10 relating to concurrency; amending s. 163.3184,  
11 F.S.; revising definitions; revising provisions  
12 governing the process for adopting  
13 comprehensive plans and plan amendments;  
14 amending s. 163.3187, F.S.; authorizing the  
15 adoption of a public educational facilities  
16 element notwithstanding certain limitations;  
17 amending s. 163.3191, F.S., relating to  
18 evaluation and appraisal of comprehensive  
19 plans; conforming provisions to changes made by  
20 the act; providing an appropriation for the  
21 state land planning agency to develop a uniform  
22 fiscal-impact-analysis model for evaluating the  
23 cost of infrastructure to support development;  
24 amending s. 163.3215, F.S.; revising provisions  
25 governing the challenge of a development order  
26 by an aggrieved or adversely affected party on  
27 the basis of inconsistency with a local  
28 comprehensive plan; providing the relief that  
29 may be sought; providing that petition to the  
30 circuit court for certiorari is the sole action  
31 for such challenge if the local government has

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1           adopted an ordinance establishing a local  
2           development review process that includes  
3           specified minimum components; removing a  
4           requirement that a verified complaint be filed  
5           with the local government prior to seeking  
6           judicial review; amending s. 163.3244, F.S.;  
7           postponing the repeal of provisions governing  
8           the Sustainable Communities Demonstration  
9           Project; amending s. 186.504, F.S.; adding an  
10          elected school board member to the membership  
11          of each regional planning council; amending s.  
12          212.055, F.S.; providing for the levy of the  
13          local government infrastructure surtax and  
14          school capital outlay surtax by a supermajority  
15          vote and requiring certain educational facility  
16          planning prior to the levy of the school  
17          capital outlay surtax; amending s. 235.002,  
18          F.S.; revising legislative intent with respect  
19          to building educational facilities; amending s.  
20          235.15, F.S.; revising requirements for  
21          educational plant surveys; revising  
22          requirements for review and validation of such  
23          surveys; amending s. 235.175, F.S.; requiring  
24          school districts to adopt education facilities  
25          plans; amending s. 235.18, F.S., relating to  
26          capital outlay budgets of school boards;  
27          conforming provisions to changes made by the  
28          act; amending s. 235.185, F.S.; requiring  
29          school district educational facilities plans;  
30          providing definitions; specifying projections  
31          and other information to be included in the

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 plan; providing requirements for the work  
2 program; requiring district school boards to  
3 submit a tentative plan to the local  
4 government; providing for adopting and  
5 executing the plan; amending s. 235.188, F.S.;  
6 providing bonding requirements; amending s.  
7 235.19, F.S.; exempting certain school boards  
8 and local governments from requirements for  
9 site planning; revising requirements for school  
10 boards; amending s. 235.193, F.S.; requiring  
11 interlocal agreements with respect to public  
12 educational facilities elements and plans;  
13 providing that failure to enter into such  
14 agreements will result in the withholding of  
15 certain funds for school construction;  
16 providing requirements for preparing a district  
17 education facilities work plan; repealing s.  
18 235.194, F.S., relating to the general  
19 educational facilities report; amending s.  
20 235.218, F.S.; requiring the SMART Schools  
21 Clearinghouse to adopt measures for evaluating  
22 the school district educational facilities  
23 plans; amending s. 235.231, F.S.; providing for  
24 the school board to authorize certain change  
25 orders for its district education facilities  
26 plan; amending s. 236.25, F.S., relating to the  
27 district school tax; conforming provisions to  
28 changes made by the act; allowing a school  
29 district to levy by referendum additional  
30 millage for school operational purposes;  
31 amending s. 236.31, F.S.; authorizing school



Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 boards to direct the county commission to call  
2 an election for approval of an ad valorem tax  
3 millage; amending s. 236.32, F.S.;

4 substantially rewording the section and  
5 providing procedures for holding and conducting  
6 school district millage elections; amending s.  
7 380.06, F.S.; providing that certain standards  
8 must be increased for development in any area  
9 designated by the Governor as a rural area of  
10 critical economic concern; revising provisions  
11 governing substantial-deviation standards for  
12 developments of regional impact; providing for  
13 designation of a lead regional planning  
14 council; amending s. 380.0651, F.S.; revising  
15 standards for determining the necessity for a  
16 development-of-regional-impact review; creating  
17 s. 570.71, F.S.; providing for the purchase of  
18 rural-lands-protection easements by the  
19 Department of Agriculture and Consumer  
20 Services; providing criteria; providing for  
21 resource conservation agreements and  
22 agricultural protection agreements; prescribing  
23 allowable land uses; providing for an  
24 application process; providing for the sale of  
25 an easement; requiring the department to adopt  
26 rules; authorizing the use of specified funds;  
27 authorizing the removal of property from lists  
28 and maps; providing for the deposit of funds;  
29 directing the completion of a needs assessment  
30 and a report; requiring specified counties to  
31 adopt a service-delivery interlocal agreement

Bill No. CS for CS for CS for SB's 310 & 380

Amendment No. \_\_\_\_ Barcode 085144

1 with all municipalities and the school district  
2 and prescribing requirements for such  
3 agreements; providing an appropriation;  
4 providing a legislative finding that the act is  
5 a matter of great public importance; directing  
6 the Legislative Committee on Intergovernmental  
7 Relations to conduct a study of the bonding  
8 capacity of local governments and school  
9 boards; requiring multicounty airport  
10 authorities with development-of-regional-impact  
11 development orders to establish a  
12 noise-mitigation-project fund; providing for  
13 the expenditure of such funds; preventing the  
14 airport authority from amending its development  
15 order or commencing development until such  
16 funds are expended; providing effective dates.

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