

1 A bill to be entitled
2 An act relating to growth management; amending
3 s. 163.3174, F.S.; requiring that the
4 membership of all local planning agencies or
5 equivalent agencies that review comprehensive
6 plan amendments and rezonings include a
7 nonvoting representative of the district school
8 board; amending s. 163.3177, F.S.; revising
9 elements of comprehensive plans; requiring
10 intergovernmental coordination between local
11 governments and district school boards;
12 creating s. 163.31776, F.S.; providing
13 legislative intent and findings with respect to
14 a public educational facilities element;
15 providing a schedule for adoption by local
16 governments; providing for certain
17 municipalities to be exempt; requiring certain
18 interlocal agreements; requiring that the
19 public educational facilities element include
20 certain provisions; providing requirements for
21 future land-use maps; providing a process for
22 adopting the element; prohibiting a local
23 government that fails to adopt the required
24 element from amending its local comprehensive
25 plan; creating s. 163.31777, F.S.; requiring
26 school boards to report to the local government
27 on school capacity; requiring a local
28 government to deny a plan amendment or a
29 request for rezoning if school capacity is
30 unavailable; authorizing certain mitigation
31 agreements; providing prerequisites to this

1 section's taking effect; providing for an
2 exemption for certain urban infill areas;
3 amending s. 163.3180, F.S.; revising provisions
4 relating to concurrency; amending s. 163.3184,
5 F.S.; revising definitions; revising provisions
6 governing the process for adopting
7 comprehensive plans and plan amendments;
8 amending s. 163.3187, F.S.; authorizing the
9 adoption of a public educational facilities
10 element notwithstanding certain limitations;
11 amending s. 163.3191, F.S., relating to
12 evaluation and appraisal of comprehensive
13 plans; conforming provisions to changes made by
14 the act; providing an appropriation for the
15 state land planning agency to develop a uniform
16 fiscal-impact-analysis model for evaluating the
17 cost of infrastructure to support development;
18 amending s. 163.3215, F.S.; revising provisions
19 governing the challenge of a development order
20 by an aggrieved or adversely affected party on
21 the basis of inconsistency with a local
22 comprehensive plan; providing the relief that
23 may be sought; providing that petition to the
24 circuit court for certiorari is the sole action
25 for such challenge if the local government has
26 adopted an ordinance establishing a local
27 development review process that includes
28 specified minimum components; removing a
29 requirement that a verified complaint be filed
30 with the local government prior to seeking
31 judicial review; amending s. 163.3244, F.S.;

1 postponing the repeal of provisions governing
2 the Sustainable Communities Demonstration
3 Project; amending s. 186.504, F.S.; adding an
4 elected school board member to the membership
5 of each regional planning council; amending s.
6 212.055, F.S.; providing for the levy of the
7 local government infrastructure surtax and
8 school capital outlay surtax by a supermajority
9 vote and requiring certain educational facility
10 planning prior to the levy of the school
11 capital outlay surtax; amending s. 235.002,
12 F.S.; revising legislative intent with respect
13 to building educational facilities; amending s.
14 235.15, F.S.; revising requirements for
15 educational plant surveys; revising
16 requirements for review and validation of such
17 surveys; amending s. 235.175, F.S.; requiring
18 school districts to adopt education facilities
19 plans; amending s. 235.18, F.S., relating to
20 capital outlay budgets of school boards;
21 conforming provisions to changes made by the
22 act; amending s. 235.185, F.S.; requiring
23 school district educational facilities plans;
24 providing definitions; specifying projections
25 and other information to be included in the
26 plan; providing requirements for the work
27 program; requiring district school boards to
28 submit a tentative plan to the local
29 government; providing for adopting and
30 executing the plan; amending s. 235.188, F.S.;
31 providing bonding requirements; amending s.

1 235.19, F.S.; exempting certain school boards
2 and local governments from requirements for
3 site planning; revising requirements for school
4 boards; amending s. 235.193, F.S.; requiring
5 interlocal agreements with respect to public
6 educational facilities elements and plans;
7 providing that failure to enter into such
8 agreements will result in the withholding of
9 certain funds for school construction;
10 providing requirements for preparing a district
11 education facilities work plan; repealing s.
12 235.194, F.S., relating to the general
13 educational facilities report; amending s.
14 235.218, F.S.; requiring the SMART Schools
15 Clearinghouse to adopt measures for evaluating
16 the school district educational facilities
17 plans; amending s. 235.231, F.S.; providing for
18 the school board to authorize certain change
19 orders for its district education facilities
20 plan; amending s. 236.25, F.S., relating to the
21 district school tax; conforming provisions to
22 changes made by the act; allowing a school
23 district to levy by referendum additional
24 millage for school operational purposes;
25 amending s. 236.31, F.S.; authorizing school
26 boards to direct the county commission to call
27 an election for approval of an ad valorem tax
28 millage; amending s. 236.32, F.S.;
29 substantially rewording the section and
30 providing procedures for holding and conducting
31 school district millage elections; amending s.

1 380.06, F.S.; providing that certain standards
2 must be increased for development in any area
3 designated by the Governor as a rural area of
4 critical economic concern; revising provisions
5 governing substantial-deviation standards for
6 developments of regional impact; providing for
7 designation of a lead regional planning
8 council; amending s. 380.0651, F.S.; revising
9 standards for determining the necessity for a
10 development-of-regional-impact review;
11 requiring specified counties to adopt a
12 service-delivery interlocal agreement with all
13 municipalities and the school district and
14 prescribing requirements for such agreements;
15 providing an appropriation; providing a
16 legislative finding that the act is a matter of
17 great public importance; directing the
18 Legislative Committee on Intergovernmental
19 Relations to conduct a study of the bonding
20 capacity of local governments and school
21 boards; requiring multicounty airport
22 authorities with development-of-regional-impact
23 development orders to establish a
24 noise-mitigation-project fund; providing for
25 the expenditure of such funds; preventing the
26 airport authority from amending its development
27 order or commencing development until such
28 funds are expended; amending s. 163.356, F.S.;
29 allowing certain charter counties to create
30 multiple community redevelopment agencies
31

1 within the unincorporated county areas;
2 providing effective dates.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Subsection (1) of section 163.3174, Florida
7 Statutes, is amended to read:

8 163.3174 Local planning agency.--

9 (1) The governing body of each local government,
10 individually or in combination as provided in s. 163.3171,
11 shall designate and by ordinance establish a "local planning
12 agency," unless the agency is otherwise established by law.
13 Notwithstanding any special act to the contrary, all local
14 planning agencies or equivalent agencies that first review
15 rezoning and comprehensive plan amendments in each
16 municipality and county shall include a representative of the
17 school district appointed by the school board as a nonvoting
18 member of the local planning agency or equivalent agency to
19 attend those meetings at which the agency considers
20 comprehensive plan amendments and rezonings that would, if
21 approved, increase residential density on the property that is
22 the subject of the application, provided that nothing
23 contained in this subsection shall prevent a local agency from
24 granting voting status to the school board member.The
25 governing body may designate itself as the local planning
26 agency pursuant to this subsection with the addition of a
27 nonvoting school board representative. The governing body
28 shall notify the state land planning agency of the
29 establishment of its local planning agency. All local planning
30 agencies shall provide opportunities for involvement by
31 ~~district school boards and applicable community college~~

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

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

20 (b) In the case of chartered counties, the planning
21 responsibility between the county and the several
22 municipalities therein shall be as stipulated in the charter.

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

26 163.3177 Required and optional elements of
27 comprehensive plan; studies and surveys.--

28 (4)(a) Coordination of the local comprehensive plan
29 with the comprehensive plans of adjacent municipalities, the
30 county, adjacent counties, or the region; with the appropriate
31 water management district's regional water supply plans

1 adopted pursuant to s. 373.0361, or successor plans required
2 by legislative directive;with adopted rules pertaining to
3 designated areas of critical state concern; and with the state
4 comprehensive plan shall be a major objective of the local
5 comprehensive planning process. To that end, in the
6 preparation of a comprehensive plan or element thereof, and in
7 the comprehensive plan or element as adopted, the governing
8 body shall include a specific policy statement indicating the
9 relationship of the proposed development of the area to the
10 comprehensive plans of adjacent municipalities, the county,
11 adjacent counties, or the region and to the state
12 comprehensive plan, as the case may require and as such
13 adopted plans or plans in preparation may exist.

14 (6) In addition to the requirements of subsections
15 (1)-(5), the comprehensive plan shall include the following
16 elements:

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

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

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

29 (c) A general sanitary sewer, solid waste, drainage,
30 potable water, and natural groundwater aquifer recharge
31 element correlated to principles and guidelines for future

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

22 (h)1. An intergovernmental coordination element
23 showing relationships and stating principles and guidelines to
24 be used in the accomplishment of coordination of the adopted
25 comprehensive plan with the plans of school boards and other
26 units of local government providing services but not having
27 regulatory authority over the use of land, with the
28 comprehensive plans of adjacent municipalities, the county,
29 adjacent counties, or the region, and with the state
30 comprehensive plan, as the case may require and as such
31 adopted plans or plans in preparation may exist. This element

1 of the local comprehensive plan shall demonstrate
2 consideration of the particular effects of the local plan,
3 when adopted, upon the development of adjacent municipalities,
4 the county, adjacent counties, or the region, or upon the
5 state comprehensive plan, as the case may require.

6 a. The intergovernmental coordination element shall
7 provide for procedures to identify and implement joint
8 planning areas, especially for the purpose of annexation,
9 municipal incorporation, and joint infrastructure service
10 areas.

11 b. The intergovernmental coordination element shall
12 provide for recognition of campus master plans prepared
13 pursuant to s. 240.155.

14 c. The intergovernmental coordination element may
15 provide for a voluntary dispute resolution process as
16 established pursuant to s. 186.509 for bringing to closure in
17 a timely manner intergovernmental disputes. A local
18 government may develop and use an alternative local dispute
19 resolution process for this purpose.

20 2. The intergovernmental coordination element shall
21 further state principles and guidelines to be used in the
22 accomplishment of coordination of the adopted comprehensive
23 plan with the plans of school boards and other units of local
24 government providing facilities and services but not having
25 regulatory authority over the use of land. In addition, the
26 intergovernmental coordination element shall describe joint
27 processes for collaborative planning and decisionmaking on
28 population projections and public school siting, the location
29 and extension of public facilities subject to concurrency, and
30 siting facilities with countywide significance, including
31 locally unwanted land uses whose nature and identity are

1 established in an agreement. Within 1 year of adopting their
2 intergovernmental coordination elements, each county, all the
3 municipalities within that county, the district school board,
4 and any unit of local government service providers in that
5 county shall establish by interlocal or other formal agreement
6 executed by all affected entities, the joint processes
7 described in this subparagraph consistent with their adopted
8 intergovernmental coordination elements.

9 3. To foster coordination between special districts
10 and local general-purpose governments as local general-purpose
11 governments implement local comprehensive plans, each
12 independent special district must submit a public facilities
13 report to the appropriate local government as required by s.
14 189.415.

15 4. The state land planning agency shall establish a
16 schedule for phased completion and transmittal of plan
17 amendments to implement subparagraphs 1., 2., and 3. from all
18 jurisdictions so as to accomplish their adoption by December
19 31, 1999. A local government may complete and transmit its
20 plan amendments to carry out these provisions prior to the
21 scheduled date established by the state land planning agency.
22 The plan amendments are exempt from the provisions of s.
23 163.3187(1).

24 5. Intergovernmental coordination between local
25 governments and the district school board shall be governed by
26 ss. 163.31776 and 163.31777 for those local governments
27 adopting a public educational facilities element pursuant to
28 s. 163.31776.

29 Section 3. Section 163.31776, Florida Statutes, is
30 created to read:

31 163.31776 Public educational facilities element.--

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

3 (a) Share information concerning the growth and
4 development trends in their communities in order to forecast
5 future enrollment and school needs;

6 (b) Cooperatively plan for the provision of
7 educational facilities to meet the current and projected needs
8 of the public education system population, including the needs
9 placed on the public education system as a result of growth
10 and development decisions by local government; and

11 (c) Cooperatively identify and meet the infrastructure
12 needs of public schools to assure healthy school environments
13 and safe school access.

14 (2) The Legislature finds that:

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

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

24 (3) A public educational facilities element shall be
25 adopted in cooperation with the applicable school district by
26 all local governments meeting the criteria identified in
27 paragraph (a). The public educational facilities elements
28 shall be transmitted no later than January 1, 2003, for those
29 local governments initially meeting the criteria in paragraph
30 (a).

31

1 (a) A local government must adopt a public educational
2 facilities element if the local government is located in a
3 county where:

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

8 2. The projected 5-year student growth rate is 10
9 percent or greater.

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

16 2. By January 1, 2007, remaining local governments
17 that have not been notified by June 1, 2005, that they have
18 met the criteria in paragraph (a) shall adopt, in cooperation
19 with the applicable school district, a limited public
20 educational facilities element. The state land planning agency
21 shall by rule specify the contents of the limited public
22 educational facilities element. The rule specifying the
23 contents of the limited public facilities element must
24 incorporate the future land use element requirements of s.
25 163.3177(6)(a), including school-siting requirements,
26 requirements for intergovernmental coordination and interlocal
27 agreements with school boards contained in s.
28 163.3177(6)(h)1.-2., and requirements for evaluation and
29 appraisal reports contained in s. 163.3191(2)(k). The agency
30 rule must ensure effective planning with school boards, but
31 recognize that the needs for school planning differ for those

1 local governments that have lower population and
2 student-population growth rates. The sanctions of subsection
3 (9) apply to local governments that fail to adopt a limited
4 public educational facilities element. Any local government
5 that, after complying with this rule, reaches the criteria in
6 paragraph (a) shall have 18 months within which to comply with
7 subsections (4) and (5). Nothing in this subsection shall
8 supersede the other requirements of this chapter.

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

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

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

22 3. The municipality has no public schools located
23 within its boundaries;

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

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

29
30 Any municipality that is exempt shall notify the county and
31 the school board of any planned annexation into residential or

1 proposed residential areas or other change in condition and
2 must comply with this subsection within 1 year following a
3 change in conditions that renders the municipality no longer
4 eligible for exemption or following the identification of a
5 proposed public school in the school board's 5-year district
6 facilities work program in the municipality's jurisdiction.

7 (4) No later than 6 months prior to the deadline for
8 transmittal of a public educational facilities element, the
9 county, the non-exempt municipalities, and the school board
10 shall enter into an interlocal agreement that establishes a
11 process for developing coordinated and consistent local
12 government public educational facilities elements and a
13 district educational facilities plan, including a process:

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

19 (b) To coordinate and share information relating to
20 existing and planned public school facilities and local
21 government plans for development and redevelopment;

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

29 (d) To coordinate and provide timely formal comments
30 during the development, adoption, and amendment of each local
31 government's public educational facilities element and the

1 educational facilities plan of the school district to ensure a
2 uniform countywide school facility planning system;

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

22 (f) For the resolution of disputes between the school
23 district and local governments.

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

30 (a) The need for, strategies for, and commitments to
31 addressing improvements to infrastructure, safety, and

1 community conditions in areas proximate to existing public
2 schools.

3 (b) The need for and strategies for providing adequate
4 infrastructure necessary to support proposed schools,
5 including potable water, wastewater, drainage, solid waste,
6 transportation, and means by which to assure safe access to
7 schools, including sidewalks, bicycle paths, turn lanes, and
8 signalization.

9 (c) Colocation of other public facilities, such as
10 parks, libraries, and community centers, in proximity to
11 public schools.

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

15 (e) Use of public schools to serve as emergency
16 shelters.

17 (f) Consideration of the existing and planned capacity
18 of public schools when reviewing comprehensive plan amendments
19 and rezonings that are likely to increase residential
20 development and that are reasonably expected to have an impact
21 on the demand for public school facilities pursuant to s.
22 163.31777, with the review to be based on uniform,
23 districtwide level-of-service standards for all public schools
24 of the same type, availability standards for public schools,
25 and the financially feasible 5-year district facilities work
26 program adopted by the school board pursuant to s. 235.185.

27 (g) A uniform methodology for determining school
28 capacity and proportionate-share mitigation consistent with
29 the requirements of s. 163.31777(4) and the interlocal
30 agreement.

31

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

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

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

21 (8) In any proceeding to challenge the adoption of the
22 public educational facilities element pursuant to s. 163.3184,
23 the petitioner may also challenge the data and analysis used
24 to support the processes set forth in the interlocal agreement
25 executed pursuant to this section.

26 (9)(a) If the county, school board and nonexempt
27 municipalities within the county cannot reach agreement
28 regarding the interlocal agreement required by subsection (4),
29 the parties shall seek mediation through the appropriate
30 regional planning council or the state land planning agency.
31 The bad-faith failure of any party to enter into an interlocal

1 agreement within 60 days after referral to mediation shall
2 result in the prohibition of that local government's ability
3 to amend its comprehensive plan until the dispute is resolved.

4 (b) The failure by a local government to comply with
5 the requirement to transmit and adopt a public educational
6 facility element will result in the prohibition of the local
7 government's ability to amend the local comprehensive plan
8 until the public school facilities element is adopted.

9 (c) If a local government fails to comply with the
10 requirements of this section to enter into the interlocal
11 agreement or to transmit a public educational facilities
12 element by the required date, or if the Administration
13 Commission finds that the public educational facilities
14 element is not in compliance, the local government shall be
15 subject to sanctions imposed by the Administration Commission
16 pursuant to s. 163.3184(11).

17 (d) The failure of a school board to provide the
18 required plans or information or to enter into the interlocal
19 agreement under this section shall subject the school board to
20 sanctions pursuant to s. 235.193(3).

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

24 (10) Any local government that has executed an
25 interlocal agreement for the purpose of adopting public school
26 concurrency before the effective date of this act is not
27 required to amend the public school element or any interlocal
28 agreement to conform with the provisions of this section or s.
29 163.31777 if such amendment is ultimately determined to be in
30 compliance.

31

1 Section 4. Section 163.31777, Florida Statutes, is
2 created to read:

3 163.31777 Public school capacity for plan amendments
4 and rezonings.--

5 (1) Local governments shall consider public school
6 facilities when reviewing proposed comprehensive plan
7 amendments and rezonings that increase residential densities
8 and that are reasonably expected to have an impact on the
9 demand for public school facilities.

10 (2) For each proposed comprehensive plan amendment or
11 rezoning that increases residential densities and is
12 reasonably expected to have an impact on the demand for public
13 school facilities, the school board shall provide the local
14 government with a school-capacity report based on the district
15 educational facilities plan adopted by the school board
16 pursuant to s. 235.185, which must provide data and analysis
17 on the capacity and enrollment of affected schools based on
18 standards established by state or federal law or judicial
19 orders, projected additional enrollment attributable to the
20 density increase resulting from the amendment or rezoning,
21 programmed and financially feasible new public school
22 facilities or improvements for affected schools identified in
23 the educational facilities plan of the school board and the
24 expected date of availability of such facilities or
25 improvements, and available reasonable options for providing
26 public school facilities to students if the rezoning or
27 comprehensive plan amendment is approved. The options must
28 include, but need not be limited to, the school board's
29 evaluation of school schedule modification, school attendance
30 zones modification, school facility modification, and the
31 creation of charter schools. The report must be consistent

1 with this section, any adopted interlocal agreement and public
2 educational facilities element, and must be submitted no later
3 than 3 working days before the first public hearing by the
4 local government to consider the comprehensive plan amendment
5 or rezoning.

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

21 (4)(a) Options for proportionate-share mitigation of
22 public school facility impacts from actual development of
23 property subject to a plan amendment or rezoning that
24 increases residential density shall be established in the
25 educational facilities plan and the public educational
26 facilities element. Appropriate mitigation options include the
27 contribution of land; the construction, expansion, or payment
28 for land acquisition or construction of a public school
29 facility; or the creation of mitigation banking based on the
30 construction of a public school facility in exchange for the
31 right to sell capacity credits. Such options must include

1 execution by the applicant and the local government of a
2 binding development agreement pursuant to ss.
3 163.3220-163.3243 which constitutes a legally binding
4 commitment to pay proportionate-share mitigation for the
5 additional residential units approved by the local government
6 in a development order and actually developed on the property,
7 taking into account residential density allowed on the
8 property prior to the plan amendment or rezoning that
9 increased overall residential density. The district school
10 board may be a party to such an agreement. As a condition of
11 its entry into such a development agreement, the local
12 government may require the landowner to agree to continuing
13 renewal of the agreement upon its expiration.

14 (b) If the educational facilities plan and the public
15 educational facilities element authorize a contribution of
16 land; the construction, expansion, or payment for land
17 acquisition; or the construction or expansion of a public
18 school facility, or a portion thereof, as proportionate-share
19 mitigation, the local government shall credit such a
20 contribution, construction, expansion, or payment toward any
21 other impact fee or exaction imposed by local ordinance for
22 the same need, on a dollar-for-dollar basis at fair market
23 value.

24 (c) Any proportionate-share mitigation must be
25 directed by the school board toward a school capacity
26 improvement that is identified in the financially feasible
27 5-year district work plan and that will be provided in
28 accordance with a binding developers agreement.

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

31

1 (a) The local governments and the school board have
2 entered into an interlocal agreement pursuant to ss. 163.31776
3 and 235.193;

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

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

9 (d) One of the following revenue sources is levied for
10 the purpose of funding public educational facilities
11 consistent with the public educational facilities plan and
12 interlocal agreement adopted pursuant to s. 163.31776, and the
13 district educational facilities plan pursuant to s. 235.185:

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

16 2. An amount of new broad-based revenue from state or
17 local sources, equivalent to the amount that would be raised
18 from the school capital outlay surtax, is available and
19 dedicated to the implementation of the financially feasible
20 work program adopted by the school board pursuant to s.
21 235.185.

22 (6) Under limited circumstances dealing with
23 educational facilities, countervailing planning and public
24 policy goals may come into conflict with the requirements of
25 subsections (3) and (4). Often the unintended results directly
26 conflict with the goals and policies of the state
27 comprehensive plan and the intent of this part. Therefore, a
28 local government may grant an exception from the requirements
29 of subsections (3) and (4) if the proposed development is
30 otherwise consistent with the adopted local government

31

1 comprehensive plan and is a project located within an area
2 designated in the comprehensive plan for:

3 (a) Urban infill development;

4 (b) Urban redevelopment;

5 (c) Downtown revitalization; or

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

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

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

12 163.3180 Concurrency.--

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

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

27 (c) The concurrency requirement as implemented in
28 local government comprehensive plans may be waived by a local
29 government for urban infill and redevelopment areas designated
30 pursuant to s. 163.2517 if such a waiver does not endanger

31

1 public health or safety as defined by the local government in
2 its local government comprehensive plan.

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

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

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

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

25 (b) "In compliance" means consistent with the
26 requirements of ss. 163.3177, 163.31776,163.3178, 163.3180,
27 163.3191, and 163.3245, with the state comprehensive plan,
28 with the appropriate strategic regional policy plan, and with
29 chapter 9J-5, Florida Administrative Code, where such rule is
30 not inconsistent with this part and with the principles for
31

1 guiding development in designated areas of critical state
2 concern.

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

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

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

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

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

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

29 (4) INTERGOVERNMENTAL REVIEW.--~~The if review of a~~
30 ~~proposed comprehensive plan amendment is requested or~~
31 ~~otherwise initiated pursuant to subsection (6), the state land~~

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

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

30 (a) The state land planning agency shall review a
31 proposed plan amendment upon request of a regional planning

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

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

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

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

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

30 Section 7. Effective October 1, 2001, subsections (7),
31 (8), and (15) and paragraph (d) of subsection (16) of section

1 163.3184, Florida Statutes, as amended by this act, are
2 amended to read:

3 163.3184 Process for adoption of comprehensive plan or
4 plan amendment.--

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

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

5 (8) NOTICE OF INTENT.--

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

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

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

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

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

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

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

31 (15) PUBLIC HEARINGS.--

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

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

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

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

23 (c) The local government shall provide a sign-in form
24 at the transmittal hearing and at the adoption hearing for
25 persons to provide their names and mailing addresses. The
26 sign-in form must advise that any person providing the
27 requested information will receive a courtesy informational
28 statement concerning publications of the state land planning
29 agency's notice of intent. The local government shall add to
30 the sign-in form the name and address of any person who
31 submits written comments concerning the proposed plan or plan

1 amendment during the time period between the commencement of
2 the transmittal hearing and the end of the adoption hearing.
3 It is the responsibility of the person completing the form or
4 providing written commends to accurately, completely, and
5 legibly provide all information needed in order to receive the
6 courtesy informational statement.

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

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

18 (16) COMPLIANCE AGREEMENTS.--

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

1 the plan amendment, and one copy to any party to the
2 proceeding under ss. 120.569 and 120.57 granted intervenor
3 status.

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

6 163.3187 Amendment of adopted comprehensive plan.--

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

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

15 Section 9. Paragraph (k) of subsection (2) of section
16 163.3191, Florida Statutes, is amended, and paragraph (1) is
17 added to that subsection, to read:

18 163.3191 Evaluation and appraisal of comprehensive
19 plan.--

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

25 (k) The coordination of the comprehensive plan with
26 existing public schools and those identified in the applicable
27 educational 5-year school district facilities plan work
28 program adopted pursuant to s. 235.185. The assessment shall
29 address, where relevant, the success or failure of the
30 coordination of the future land use map and associated planned
31 residential development with public schools and their

1 capacities, as well as the joint decisionmaking processes
2 engaged in by the local government and the school board in
3 regard to establishing appropriate population projections and
4 the planning and siting of public school facilities. If the
5 issues are not relevant, the local government shall
6 demonstrate that they are not relevant.

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

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

22 Section 11. Section 163.3215, Florida Statutes, is
23 amended to read:

24 163.3215 Standing to enforce local comprehensive plans
25 through development orders.--

26 (1) Any aggrieved or adversely affected party may
27 maintain an action for declaratory and injunctive or other
28 relief against any local government to challenge any decision
29 of local government granting or denying an application for, or
30 to prevent such local government from taking any action on a
31 development order, as defined in s. 163.3164, which materially

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

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

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

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

31

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

31

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

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

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

9 163.3244 Sustainable communities demonstration
10 project.--

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

14 Section 13. Subsections (2) and (3) of section
15 186.504, Florida Statutes, are amended to read:

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

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

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

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

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

31

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

18 Section 14. Paragraph (a) of subsection (2) and
19 subsection (6) of section 212.055, Florida Statutes, are
20 amended to read:

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

1 may provide. Taxable transactions and administrative
2 procedures shall be as provided in s. 212.054.

3 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

4 (a)1. The governing authority in each county may levy
5 a discretionary sales surtax of 0.5 percent or 1 percent. The
6 levy of the surtax shall be pursuant to ordinance enacted by a
7 supermajority ~~majority~~ of the members of the county governing
8 authority or ~~and~~ approved by a majority of the electors of the
9 county voting in a referendum on the surtax. If the governing
10 bodies of the municipalities representing a majority of the
11 county's population adopt uniform resolutions establishing the
12 rate of the surtax and calling for a referendum on the surtax,
13 the levy of the surtax shall be placed on the ballot and shall
14 take effect if approved by a majority of the electors of the
15 county voting in the referendum on the surtax.

16 2. If the surtax was levied pursuant to a referendum
17 held before July 1, 1993, the surtax may not be levied beyond
18 the time established in the ordinance, or, if the ordinance
19 did not limit the period of the levy, the surtax may not be
20 levied for more than 15 years. The levy of such surtax may be
21 extended only by approval of a majority of the electors of the
22 county voting in a referendum on the surtax or pursuant to
23 ordinance enacted by a supermajority vote of the members of
24 the county governing authority.

25
26 For purposes of this paragraph, the term "supermajority vote"
27 means an affirmative vote of a majority of the membership of
28 the governing authority plus one.

29 (6) SCHOOL CAPITAL OUTLAY SURTAX.--

30 (a) The school board in each county may levy, pursuant
31 to resolution conditioned to take effect only upon approval by

1 a majority vote of the electors of the county voting in a
2 referendum, a discretionary sales surtax at a rate that may
3 not exceed 0.5 percent.

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

13
14 FOR THE CENTS TAX
15 AGAINST THE CENTS TAX
16

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

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

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

29 3. The district school board has been recognized by
30 the State Board of Education as having a Florida Frugal School
31

1 Program pursuant to s. 235.2197 and complies with s.
2 235.2197(2)(b) and (c).

3
4 For purposes of this paragraph, the term "supermajority vote"
5 means an affirmative vote of a majority of the membership of
6 the school board plus one.

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

28 (e)~~(d)~~ Any school board imposing the surtax shall
29 implement a freeze on noncapital local school property taxes,
30 at the millage rate imposed in the year prior to the
31 implementation of the surtax, for a period of at least 3 years

1 from the date of imposition of the surtax. This provision
2 shall not apply to existing debt service or required state
3 taxes.

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

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

9 235.002 Intent.--

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

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

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

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

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

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

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

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

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

21 (2) The Legislature finds and declares that:

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

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

31

1 (c)~~(b)~~ The effective and efficient provision of public
2 educational facilities and services enhances ~~is essential to~~
3 ~~preserving and enhancing~~ the quality of life of the people of
4 this state.

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

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

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

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

31

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

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

27 1. The school district's survey must be submitted as a
28 part of the district educational facilities plan defined in s.
29 235.185. ~~Each school district's educational plant survey must~~
30 ~~reflect the capacity of existing satisfactory facilities as~~
31 ~~reported in the Florida Inventory of School Houses.~~

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

1 ~~stations scheduled for replacement during the 5-year survey~~
2 ~~period and the total dollar amount needed for that~~
3 ~~replacement. All district educational plant surveys revised~~
4 ~~after July 1, 1998, shall include information on leased space~~
5 ~~used for conducting the district's instructional program, in~~
6 ~~accordance with the recommendations of the department's report~~
7 ~~authorized in s. 235.056. A definition of satisfactory~~
8 ~~relocatable classrooms shall be established by rule of the~~
9 ~~department.~~

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

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

1 4. Each state university's survey must reflect the
2 capacity of existing facilities as specified in the inventory
3 maintained and validated by the Board of Regents. Projections
4 of facility space needs must be consistent with standards for
5 determining space needs approved by the Board of Regents. The
6 projected capital outlay full-time equivalent student
7 enrollment must be consistent with the 5-year planned
8 enrollment cycle for the State University System approved by
9 the Board of Regents.

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

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

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

30 (a) Upon request for release of PECO funds for
31 planning purposes, certification must be made to the Office of

1 Educational Facilities of the Commissioner of Education
2 ~~department~~ that the need for and location of the facility are
3 in compliance with the board-approved survey recommendations,
4 ~~and that~~ the project meets the definition of a PECO project
5 and the limiting criteria for expenditures of PECO funding,
6 and the plan is consistent with the local government
7 comprehensive plan.

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

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

20 235.175 SMART schools; Classrooms First; legislative
21 purpose.--

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

1 needs of students and that warrant public confidence in
2 district operations. The educational facilities plan ~~district~~
3 ~~facilities work program~~ will be monitored by the SMART Schools
4 Clearinghouse, which will also apply performance standards
5 pursuant to s. 235.218.

6 Section 18. Section 235.18, Florida Statutes, is
7 amended to read:

8 235.18 Annual capital outlay budget.--Each board,
9 including the Board of Regents, shall, each year, adopt a
10 capital outlay budget for the ensuing year in order that the
11 capital outlay needs of the board for the entire year may be
12 well understood by the public. This capital outlay budget
13 shall be a part of the annual budget and shall be based upon
14 and in harmony with the educational plant and ancillary
15 facilities plan. This budget shall designate the proposed
16 capital outlay expenditures by project for the year from all
17 fund sources. The board may not expend any funds on any
18 project not included in the budget, as amended. Each district
19 school board must prepare its tentative district education
20 facilities plan ~~facilities work program~~ as required by s.
21 235.185 before adopting the capital outlay budget.

22 Section 19. Section 235.185, Florida Statutes, is
23 amended to read:

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

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

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

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

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

9 1. ~~To~~ Properly maintain the educational plant and
10 ancillary facilities of the district.

11 2. ~~To~~ Provide an adequate number of satisfactory
12 student stations for the projected student enrollment of the
13 district in K-12 programs in accordance with the goal in s.
14 235.062.

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

20 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL
21 FACILITIES PLAN ~~WORK PROGRAM.~~--

22 (a) Annually, prior to the adoption of the district
23 school budget, each school board shall prepare a tentative
24 district educational facilities plan that includes long-range
25 planning for facilities needs over 5-year, 10-year, and
26 20-year periods. The plan must be developed in coordination
27 with the general-purpose local governments and be consistent
28 with the local government comprehensive plans. The school
29 board's plan for provision of new schools must meet the needs
30 of all growing communities in the district, ranging from small
31

1 rural communities to large urban cities. The plan must include
2 work program that includes:

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

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

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

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

29 5. The general location of public schools proposed to
30 be constructed over the 5-year, 10-year, and 20-year time
31 periods, including a listing of the proposed schools' site

1 acreage needs and anticipated capacity and maps showing the
2 general locations. The school board's identification of
3 general locations of future school sites must be based on the
4 school siting requirements of s. 163.3177(6)(a) and policies
5 in the comprehensive plan which provide guidance for
6 appropriate locations for school sites.

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

- 11 a. Acceptable capacity;
- 12 b. Redistricting;
- 13 c. Busing;
- 14 d. Year-round schools; and
- 15 e. Charter schools.

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

20 (b) The plan must also include a financially feasible
21 district facilities work program for a 5-year period. The work
22 program must include:

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

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

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

1 capacity of existing satisfactory facilities, as reported in
2 the Florida Inventory of School Houses must be compared to the
3 capital outlay full-time-equivalent student enrollment as
4 determined by the department including all enrollment used in
5 the calculation of the distribution formula in s. 235.435(3).

6 b. The proposed locations of planned facilities,
7 whether those locations are consistent with the comprehensive
8 plans of all affected local governments, and recommendations
9 for infrastructure and other improvements to land adjacent to
10 existing facilities. The provisions of ss. 235.19 and
11 235.193(6), (7), and (8) must be addressed for new facilities
12 planned within the first 3 years of the work plan, as
13 appropriate.

14 c. Plans for the use and location of relocatable
15 facilities, leased facilities, and charter school facilities.

16 d. Plans for multitrack scheduling, grade level
17 organization, block scheduling, or other alternatives that
18 reduce the need for additional permanent student stations.

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

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

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

20 g. Plans for the closure of any school, including
21 plans for disposition of the facility or usage of facility
22 space, and anticipated revenues.

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

28 3. The projected cost for each project identified in
29 the ~~tentative~~ district facilities work program. For proposed
30 projects for new student stations, a schedule shall be
31 prepared comparing the planned cost and square footage for

1 each new student station, by elementary, middle, and high
2 school levels, to the low, average, and high cost of
3 facilities constructed throughout the state during the most
4 recent fiscal year for which data is available from the
5 Department of Education.

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

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

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

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

23 ~~(d)(c)~~ Provision shall be made for public comment
24 concerning the tentative district educational facilities plan
25 ~~work program~~.

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

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

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

26 (4)(3) ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN
27 ~~WORK PROGRAM~~.--Annually, the district school board shall
28 consider and adopt the tentative district educational
29 facilities plan ~~work program~~ completed pursuant to subsection
30 (2). Upon giving proper ~~public~~ notice to the public and local
31 governments and opportunity for public comment, the district

1 school board may amend the plan ~~program~~ to revise the priority
2 of projects, to add or delete projects, to reflect the impact
3 of change orders, or to reflect the approval of new revenue
4 sources which may become available. The adopted district
5 educational facilities plan ~~work program~~ shall:

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

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

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

22 ~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.--In addition to~~
23 ~~the adopted district facilities work program covering the~~
24 ~~5-year work program, the district school board shall adopt~~
25 ~~annually a 10-year and a 20-year work program which include~~
26 ~~the information set forth in subsection (2), but based upon~~
27 ~~enrollment projections and facility needs for the 10-year and~~
28 ~~20-year periods. It is recognized that the projections in the~~
29 ~~10-year and 20-year timeframes are tentative and should be~~
30 ~~used only for general planning purposes.~~

31

1 Section 20. Section 235.188, Florida Statutes, is
2 amended to read:

3 235.188 Full bonding required to participate in
4 programs.--Any district with unused bonding capacity in its
5 Capital Outlay and Debt Service Trust Fund allocation that
6 certifies in its district educational facilities plan ~~work~~
7 ~~program~~ that it will not be able to meet all of its need for
8 new student stations within existing revenues must fully bond
9 its Capital Outlay and Debt Service Trust Fund allocation
10 before it may participate in Classrooms First, the School
11 Infrastructure Thrift (SIT) Program, or the Effort Index
12 Grants Program.

13 Section 21. Section 235.19, Florida Statutes, is
14 amended to read:

15 235.19 Site planning and selection.--

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

25 (2)~~(1)~~ Before acquiring property for sites, each board
26 shall determine the location of proposed educational centers
27 or campuses for the board. In making this determination, the
28 board shall consider existing and anticipated site needs and
29 the most economical and practicable locations of sites. The
30 board shall coordinate with the long-range or comprehensive
31 plans of local, regional, and state governmental agencies to

1 assure the consistency ~~compatibility~~ of such plans ~~with site~~
2 ~~planning~~. Boards are encouraged to locate schools proximate to
3 urban residential areas to the extent possible, and shall seek
4 to collocate schools with other public facilities, such as
5 parks, libraries, and community centers, to the extent
6 possible and to encourage using elementary schools as focal
7 points for neighborhoods.

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

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

1 which conditions, would be likely to interfere with the
2 educational program. To the extent practicable, sites must be
3 chosen that will provide safe access from neighborhoods to
4 schools.

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

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

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

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

17 235.193 Coordination of planning with local governing
18 bodies.--

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

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

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

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

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

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

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

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

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

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

1
2 Any school board entering into an interlocal agreement for the
3 purpose of adopting public school concurrency prior to the
4 effective date of this act is not required to amend the
5 interlocal agreement to conform to the provisions of this
6 subsection if the comprehensive plan amendment adopting public
7 school concurrency is ultimately determined to be in
8 compliance.

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

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

29 (5)~~(2)~~ A school board and the local governing body
30 must share and coordinate information related to existing and
31 planned public school facilities; proposals for development,

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

24 ~~(6)(3)~~ The location of public educational facilities
25 shall be consistent with the comprehensive plan of the
26 appropriate local governing body developed under part II of
27 chapter 163 and consistent with the plan's implementing land
28 development regulations, ~~to the extent that the regulations~~
29 ~~are not in conflict with or the subject regulated is not~~
30 ~~specifically addressed by this chapter or the State Uniform~~
31

1 ~~Building Code, unless mutually agreed by the local government~~
2 ~~and the board.~~

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

15 (8)~~(5)~~ As early in the design phase as feasible, but
16 at least before commencing construction of a new public
17 educational facility, the local governing body that regulates
18 the use of land shall determine, in writing within 90 days
19 after receiving the necessary information and a school board's
20 request for a determination, whether a proposed public
21 educational facility is consistent with the local
22 comprehensive plan and consistent with local land development
23 regulations, to the extent that the regulations are not in
24 conflict with or the subject regulated is not specifically
25 addressed by this chapter or the State Uniform Building Code,
26 unless mutually agreed. If the determination is affirmative,
27 school construction may proceed and further local government
28 approvals are not required, except as provided in this
29 section. Failure of the local governing body to make a
30 determination in writing within 90 days after a school board's
31

1 request for a determination of consistency shall be considered
2 an approval of the school board's application.

3 (9)~~(6)~~ A local governing body may not deny the site
4 applicant based on adequacy of the site plan as it relates
5 solely to the needs of the school. If the site is consistent
6 with the comprehensive plan's ~~future~~ land use policies and
7 categories in which public schools are identified as allowable
8 uses, the local government may not deny the application but it
9 may impose reasonable development standards and conditions in
10 accordance with s. 235.34(1) and consider the site plan and
11 its adequacy as it relates to environmental concerns, health,
12 safety and welfare, and effects on adjacent property.
13 Standards and conditions may not be imposed which conflict
14 with those established in this chapter or the State Uniform
15 Building Code, unless mutually agreed.

16 (10)~~(7)~~ This section does not prohibit a local
17 governing body and district school board from agreeing and
18 establishing an alternative process for reviewing a proposed
19 educational facility and site plan, and offsite impacts
20 pursuant to an interlocal agreement adopted in accordance with
21 this section.

22 (11)~~(8)~~ Existing schools shall be considered
23 consistent with the applicable local government comprehensive
24 plan adopted under part II of chapter 163. ~~The collocation of~~
25 ~~a new proposed public educational facility with an existing~~
26 ~~public educational facility, or the expansion of an existing~~
27 ~~public educational facility is not inconsistent with the local~~
28 ~~comprehensive plan, if the site is consistent with the~~
29 ~~comprehensive plan's future land use policies and categories~~
30 ~~in which public schools are identified as allowable uses, and~~
31 ~~levels of service adopted by the local government for any~~

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

10 (a) The placement of temporary or portable classroom
11 facilities; or

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

17 Section 23. Section 235.194, Florida Statutes, is
18 repealed.

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

21 235.218 School district educational facilities plan
22 ~~work program~~ performance and productivity standards;
23 development; measurement; application.--

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

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

- 1 (b) Efficient finance and administration.
2 (c) Optimal school and classroom size and utilization
3 rate.
4 (d) Safety.
5 (e) Core facility space needs and cost-effective
6 capacity improvements that consider demographic projections.
7 (f) Level of district local effort.

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

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

18 Section 25. Section 235.321, Florida Statutes, is
19 amended to read:

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

31

1 Section 26. Paragraph (d) of subsection (5) of section
2 236.25, Florida Statutes, is amended, and subsection (6) is
3 added to that section, to read:

4 236.25 District school tax.--

5 (5)

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

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

28 (6) In addition to the maximum millage levied under
29 this section and the General Appropriations Act, a school
30 district may levy, by local referendum or in a general
31 election, additional millage for school operational purposes

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

14 Section 27. Section 236.31, Florida Statutes, is
15 amended to read:

16 236.31 District millage elections.--

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

30 (2) The school board, pursuant to resolution adopted
31 at a regular meeting, shall direct the county commissioners to

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

11 Section 28. Section 236.32, Florida Statutes, is
12 amended to read:

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

15 236.32 Procedures for holding and conducting school
16 district millage elections.--

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

21 (2) FORM OF BALLOT.--

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

27 (b) The school board shall provide the wording of the
28 substance of the measure and the ballot title in the
29 resolution calling for the election. The wording of the
30 ballot must conform to the provisions of s. 101.161.

31

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

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

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

14 380.06 Developments of regional impact.--

15 (2) STATEWIDE GUIDELINES AND STANDARDS.--

16 (e) With respect to residential, hotel, motel, office,
17 and retail developments, the applicable guidelines and
18 standards shall be increased by 50 percent in urban central
19 business districts and regional activity centers of
20 jurisdictions whose local comprehensive plans are in
21 compliance with part II of chapter 163. With respect to
22 multiuse developments, the applicable guidelines and standards
23 shall be increased by 100 percent in urban central business
24 districts and regional activity centers of jurisdictions whose
25 local comprehensive plans are in compliance with part II of
26 chapter 163, if one land use of the multiuse development is
27 residential and amounts to not less than 35 percent of the
28 jurisdiction's applicable residential threshold. With respect
29 to resort or convention hotel developments, the applicable
30 guidelines and standards shall be increased by 150 percent in
31 urban central business districts and regional activity centers

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

20 (12) REGIONAL REPORTS.--

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

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

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

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

23 (b) At the request of the regional planning agency,
24 other appropriate agencies shall review the proposed
25 development and shall prepare reports and recommendations on
26 issues that are clearly within the jurisdiction of those
27 agencies. Such agency reports shall become part of the
28 regional planning agency report; however, the regional
29 planning agency may attach dissenting views. When water
30 management district and Department of Environmental Protection
31 permits have been issued pursuant to chapter 373 or chapter

1 403, the regional planning council may comment on the regional
2 implications of the permits but may not offer conflicting
3 recommendations.

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

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

14 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

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

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

27 3. Shall establish a date until which the local
28 government agrees that the approved development of regional
29 impact shall not be subject to downzoning, unit density
30 reduction, or intensity reduction, unless the local government
31 can demonstrate that substantial changes in the conditions

1 underlying the approval of the development order have occurred
2 or the development order was based on substantially inaccurate
3 information provided by the developer or that the change is
4 clearly established by local government to be essential to the
5 public health, safety, or welfare.

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

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

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

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

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

8 (19) SUBSTANTIAL DEVIATIONS.--

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

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

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

1 spectators that may be accommodated at such a facility by 5
2 percent or 1,000 spectators, whichever is greater.

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

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

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

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

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

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

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

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

3 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

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

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

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.

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

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

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

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

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

30 6. If the local government determines that the
31 proposed change does not require further

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

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

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

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

1 determines that the proposed change, as it relates to the
2 entire development, is unacceptable, the local government
3 shall deny the change.

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

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

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

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

26 380.0651 Statewide guidelines and standards.--

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

31

1 (d) Office development.--Any proposed office building
2 or park operated under common ownership, development plan, or
3 management that:

4 1. Encompasses 300,000 or more square feet of gross
5 floor area; or

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

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

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

18 1. Encompasses more than 400,000 square feet of gross
19 area; or

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

21 2.3. Provides parking spaces for more than 2,500 cars.

22 Section 31. Requirement of interlocal service
23 provision agreements.--

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

29 (a) Identifies the current providers of the following
30 services; education, sanitary sewer, public safety, solid
31

1 waste, drainage, potable water, parks and recreation, and
2 transportation facilities.

3 (b) Describes the existing organization of such
4 services and the means of financing such services and
5 designates the entities that will provide the services over
6 the next 20 years, including any anticipated changes caused by
7 annexation.

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

11 (d) Identifies opportunities for the joint financing
12 of capital outlay projects.

13 (e) Identifies any areas that the municipalities plan
14 to annex within the next 5 years and establishes a plan for
15 service delivery within the areas to be annexed or a process
16 for resolving service-delivery issues associated with
17 annexation.

18 (f) Provides specific procedures for amending the
19 interlocal agreement.

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

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

26 Section 32. The sum of \$500,000 is appropriated from
27 the General Revenue Fund to the Department of Community
28 Affairs for the purpose of funding the Urban Infill and
29 Redevelopment Assistance Grant Program established under
30 section 163.2523, Florida Statutes, during the 2001-2002
31 fiscal year.

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

4 Section 34. (1) The Legislative Committee on
5 Intergovernmental Relations is directed to conduct a study of
6 the existing bonding capacity of counties, municipalities, and
7 school boards. The study shall include, but is not limited to:
8 possible methods of strengthening their credit ratings and
9 interest rates; feasibility of increasing their borrowing
10 capacity to the extent of their authorized millage or revenue;
11 and more flexible use of bond proceeds, especially for small
12 municipalities and counties.

13 (2) The Legislative Committee on Intergovernmental
14 Relations is required to report its findings and
15 recommendations to the Governor and Legislature by January 1,
16 2002. The recommendations must specifically include proposed
17 legislation, if applicable, for additional county,
18 municipality, and school board bonding capacity.

19 Section 35. Any multicounty airport authority created
20 as an independent special district which is subject to a
21 development-of-regional-impact development order and which has
22 conducted a noise study in accordance with 14 C.F.R. Part 150
23 shall, in fiscal year 2002, establish a
24 noise-mitigation-project fund in an amount of \$7.5 million,
25 which shall be increased by another \$2.5 million in fiscal
26 year 2004. The moneys in the project fund shall be segregated
27 and expended by the airport authority by December 31, 2006, to
28 the extent necessary to comply with development-order
29 commitments to acquire property from or otherwise mitigate
30 property owners adversely affected by the development of
31 regional impact. If moneys are not expended for such purposes

1 by December 31, 2006, the airport authority shall not
2 thereafter amend its development-of-regional-impact
3 development order or commence development of airport
4 infrastructure improvements authorized by such development
5 order until such funds are fully expended for such purposes.

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

8 163.356 Creation of community redevelopment agency.--

9 (1) Upon a finding of necessity as set forth in s.
10 163.355, and upon a further finding that there is a need for a
11 community redevelopment agency to function in the county or
12 municipality to carry out the community redevelopment purposes
13 of this part, any county or municipality may create a public
14 body corporate and politic to be known as a "community
15 redevelopment agency." A charter county having a population
16 less than or equal to 1.6 million may create, by a vote of at
17 least a majority plus one of the entire governing body of the
18 charter county, more than one community redevelopment agency.

19 Each such agency shall be constituted as a public
20 instrumentality, and the exercise by a community redevelopment
21 agency of the powers conferred by this part shall be deemed
22 and held to be the performance of an essential public
23 function. ~~The Community redevelopment agencies agency~~ of a
24 county have ~~has~~ the power to function within the corporate
25 limits of a municipality only as, if, and when the governing
26 body of the municipality has by resolution concurred in the
27 community redevelopment plan or plans proposed by the
28 governing body of the county.

29 Section 37. Except as otherwise expressly provided in
30 this act, this act shall take effect upon becoming a law.

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