

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

1 and local governments from requirements for  
2 site planning; revising requirements for school  
3 boards; amending s. 235.193, F.S.; requiring  
4 interlocal agreements with respect to public  
5 educational facilities elements and plans;  
6 providing that failure to enter into such  
7 agreements will result in the withholding of  
8 certain funds for school construction;  
9 providing requirements for preparing a district  
10 education facilities work plan; repealing s.  
11 235.194, F.S., relating to the general  
12 educational facilities report; amending s.  
13 235.218, F.S.; requiring the SMART Schools  
14 Clearinghouse to adopt measures for evaluating  
15 the school district educational facilities  
16 plans; amending s. 235.231, F.S.; providing for  
17 the school board to authorize certain change  
18 orders for its district education facilities  
19 plan; amending s. 236.25, F.S., relating to the  
20 district school tax; conforming provisions to  
21 changes made by the act; allowing a school  
22 district to levy by referendum additional  
23 millage for school operational purposes;  
24 amending s. 236.31, F.S.; authorizing school  
25 boards to direct the county commission to call  
26 an election for approval of an ad valorem tax  
27 millage; amending s. 236.32, F.S.;  
28 substantially rewording the section and  
29 providing procedures for holding and conducting  
30 school district millage elections; amending s.  
31 380.06, F.S.; providing that certain standards

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

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

2

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

5 163.3174 Local planning agency.--

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

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

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

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

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

23 163.3177 Required and optional elements of  
24 comprehensive plan; studies and surveys.--

25 (4)(a) Coordination of the local comprehensive plan  
26 with the comprehensive plans of adjacent municipalities, the  
27 county, adjacent counties, or the region; with the appropriate  
28 water management district's regional water supply plans  
29 adopted pursuant to s. 373.0361, or successor plans required  
30 by legislative directive;with adopted rules pertaining to  
31 designated areas of critical state concern; and with the state

1 comprehensive plan shall be a major objective of the local  
2 comprehensive planning process. To that end, in the  
3 preparation of a comprehensive plan or element thereof, and in  
4 the comprehensive plan or element as adopted, the governing  
5 body shall include a specific policy statement indicating the  
6 relationship of the proposed development of the area to the  
7 comprehensive plans of adjacent municipalities, the county,  
8 adjacent counties, or the region and to the state  
9 comprehensive plan, as the case may require and as such  
10 adopted plans or plans in preparation may exist.

11 (6) In addition to the requirements of subsections  
12 (1)-(5), the comprehensive plan shall include the following  
13 elements:

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



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

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

26 (c) A general sanitary sewer, solid waste, drainage,  
27 potable water, and natural groundwater aquifer recharge  
28 element correlated to principles and guidelines for future  
29 land use, indicating ways to provide for future potable water,  
30 drainage, sanitary sewer, solid waste, and aquifer recharge  
31 protection requirements for the area. The element may be a

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

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

1 the county, adjacent counties, or the region, or upon the  
2 state comprehensive plan, as the case may require.

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

8 b. The intergovernmental coordination element shall  
9 provide for recognition of campus master plans prepared  
10 pursuant to s. 240.155.

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

17 2. The intergovernmental coordination element shall  
18 further state principles and guidelines to be used in the  
19 accomplishment of coordination of the adopted comprehensive  
20 plan with the plans of school boards and other units of local  
21 government providing facilities and services but not having  
22 regulatory authority over the use of land. In addition, the  
23 intergovernmental coordination element shall describe joint  
24 processes for collaborative planning and decisionmaking on  
25 population projections and public school siting, the location  
26 and extension of public facilities subject to concurrency, and  
27 siting facilities with countywide significance, including  
28 locally unwanted land uses whose nature and identity are  
29 established in an agreement. Within 1 year of adopting their  
30 intergovernmental coordination elements, each county, all the  
31 municipalities within that county, the district school board,

1 and any unit of local government service providers in that  
2 county shall establish by interlocal or other formal agreement  
3 executed by all affected entities, the joint processes  
4 described in this subparagraph consistent with their adopted  
5 intergovernmental coordination elements.

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

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

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

26 Section 3. Section 163.31776, Florida Statutes, is  
27 created to read:

28 163.31776 Public educational facilities element.--

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

31

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

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

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

12           (2) The Legislature finds that:

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

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

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

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

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

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

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

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

1 public educational facilities element. Any local government  
2 that, after complying with this rule, reaches the criteria in  
3 paragraph (a) shall have 18 months within which to comply with  
4 subsections (4) and (5). Nothing in this subsection shall  
5 supersede the other requirements of this chapter.

6 (c) Each municipality shall adopt its own element or  
7 accept by resolution or ordinance the public educational  
8 facilities element adopted by the county which includes the  
9 municipality's area of authority as defined in s. 163.3171.

10 However, a municipality is exempt from this requirement if it  
11 meets all the following criteria:

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

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

19 3. The municipality has no public schools located  
20 within its boundaries;

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

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

26  
27 Any municipality that is exempt shall notify the county and  
28 the school board of any planned annexation into residential or  
29 proposed residential areas or other change in condition and  
30 must comply with this subsection within 1 year following a  
31 change in conditions that renders the municipality no longer



1 eligible for exemption or following the identification of a  
2 proposed public school in the school board's 5-year district  
3 facilities work program in the municipality's jurisdiction.

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

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

16 (b) To coordinate and share information relating to  
17 existing and planned public school facilities and local  
18 government plans for development and redevelopment;

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

26 (d) To coordinate and provide timely formal comments  
27 during the development, adoption, and amendment of each local  
28 government's public educational facilities element and the  
29 educational facilities plan of the school district to ensure a  
30 uniform countywide school facility planning system;

31

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

20           (f) For the resolution of disputes between the school  
21 district and local governments.

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

28           (a) The need for, strategies for, and commitments to  
29 addressing improvements to infrastructure, safety, and  
30 community conditions in areas proximate to existing public  
31 schools.

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

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

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

13           (e) Use of public schools to serve as emergency  
14 shelters.

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

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

29           (h) The response of the school board to the financial  
30 management and performance audit required by s. 235.185(2)(f).  
31

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

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

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

24           (9)(a) If the county, school board and nonexempt  
25 municipalities within the county cannot reach agreement  
26 regarding the interlocal agreement required by subsection (4),  
27 the parties shall seek mediation through the appropriate  
28 regional planning council or the state land planning agency.  
29 The bad-faith failure of any party to enter into an interlocal  
30 agreement within 60 days after referral to mediation shall

31

1 result in the prohibition of that local government's ability  
2 to amend its comprehensive plan until the dispute is resolved.

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

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

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

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

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

30 Section 4. Section 163.31777, Florida Statutes, is  
31 created to read:

1           163.31777 Public school capacity for plan amendments  
2 and rezonings.--

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

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

1 than 3 working days before the first public hearing by the  
2 local government to consider the comprehensive plan amendment  
3 or rezoning.

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

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

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

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

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

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

29 (a) The local governments and the school board have  
30 entered into an interlocal agreement pursuant to ss. 163.31776  
31 and 235.193;



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

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

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

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

14           2. An amount of broad-based revenue from state or  
15 local sources is committed to the implementation of the  
16 financially feasible work program adopted by the school board  
17 pursuant to s. 235.185.

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

29           (a) Urban infill development;

30           (b) Urban redevelopment;

31           (c) Downtown revitalization; or

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

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

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

7           163.3180 Concurrency.--

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

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

22           (c) The concurrency requirement as implemented in  
23 local government comprehensive plans may be waived by a local  
24 government for urban infill and redevelopment areas designated  
25 pursuant to s. 163.2517 if such a waiver does not endanger  
26 public health or safety as defined by the local government in  
27 its local government comprehensive plan.

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

30           163.3184 Process for adoption of comprehensive plan or  
31 plan amendment.--

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

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

19 (b) "In compliance" means consistent with the  
20 requirements of ss. 163.3177, 163.31776, 163.3178, 163.3180,  
21 163.3191, and 163.3245, with the state comprehensive plan,  
22 with the appropriate strategic regional policy plan, and with  
23 chapter 9J-5, Florida Administrative Code, where such rule is  
24 not inconsistent with this part and with the principles for  
25 guiding development in designated areas of critical state  
26 concern.

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

29 (a) Each local governing body shall transmit the  
30 complete proposed comprehensive plan or plan amendment 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,  
7 immediately following a public hearing pursuant to subsection  
8 (15) as specified in the state land planning agency's  
9 procedural rules. The local governing body shall also transmit  
10 a copy of the complete proposed comprehensive plan or plan  
11 amendment to any other unit of local government or government  
12 agency in the state that has filed a written request with the  
13 governing body for the plan or plan amendment. The local  
14 government may request a review by the state land planning  
15 agency pursuant to subsection (6) at the time of the  
16 transmittal of an amendment.

17 (b) A local governing body shall not transmit portions  
18 of a plan or plan amendment unless it has previously provided  
19 to all state agencies designated by the state land planning  
20 agency a complete copy of its adopted comprehensive plan  
21 pursuant to subsection (7) and as specified in the agency's  
22 procedural rules. In the case of comprehensive plan  
23 amendments, the local governing body shall transmit to the  
24 state land planning agency, the appropriate regional planning  
25 council and water management district, the Department of  
26 Environmental Protection, the Department of State, and the  
27 Department of Transportation, and, in the case of municipal  
28 plans, to the appropriate county, and, in the case of county  
29 plans, to the Fish and Wildlife Conservation Commission and  
30 the Department of Agriculture and Consumer Services, the  
31 materials specified in the state land planning agency's

1 procedural rules and, in cases in which the plan amendment is  
2 a result of an evaluation and appraisal report adopted  
3 pursuant to s. 163.3191, a copy of the evaluation and  
4 appraisal report. Local governing bodies shall consolidate all  
5 proposed plan amendments into a single submission for each of  
6 the two plan amendment adoption dates during the calendar year  
7 pursuant to s. 163.3187.

8 (c) A local government may adopt a proposed plan  
9 amendment previously transmitted pursuant to this subsection,  
10 unless review is requested or otherwise initiated pursuant to  
11 subsection (6).

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

22 (4) INTERGOVERNMENTAL REVIEW.--The ~~if review of a~~  
23 ~~proposed comprehensive plan amendment is requested or~~  
24 ~~otherwise initiated pursuant to subsection (6), the state land~~  
25 ~~planning agency within 5 working days of determining that such~~  
26 ~~a review will be conducted shall transmit a copy of the~~  
27 ~~proposed plan amendment to various government agencies, as~~  
28 ~~appropriate, for response or comment, including, but not~~  
29 ~~limited to, the Department of Environmental Protection, the~~  
30 ~~Department of Transportation, the water management district,~~  
31 ~~and the regional planning council, and, in the case of~~

1 ~~municipal plans, to the county land planning agency.~~ These  
2 governmental agencies specified in paragraph (3)(a) shall  
3 provide comments to the state land planning agency within 30  
4 days after receipt by the state land planning agency of the  
5 complete proposed plan amendment. If the plan or plan  
6 amendment includes or relates to the public school facilities  
7 element required by s. 163.31776, the state land planning  
8 agency shall submit a copy to the Office of Educational  
9 Facilities of the Commissioner of Education for review and  
10 comment. The appropriate regional planning council shall also  
11 provide its written comments to the state land planning agency  
12 within 30 days after receipt by the state land planning agency  
13 of the complete proposed plan amendment and shall specify any  
14 objections, recommendations for modifications, and comments of  
15 any other regional agencies to which the regional planning  
16 council may have referred the proposed plan amendment. Written  
17 comments submitted by the public within 30 days after notice  
18 of transmittal by the local government of the proposed plan  
19 amendment will be considered as if submitted by governmental  
20 agencies. All written agency and public comments must be made  
21 part of the file maintained under subsection (2).

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

23 (a) The state land planning agency shall review a  
24 proposed plan amendment upon request of a regional planning  
25 council, affected person, or local government transmitting the  
26 plan amendment. The request from the regional planning council  
27 or affected person must be if the request is received within  
28 30 days after transmittal of the proposed plan amendment  
29 pursuant to subsection (3). ~~The agency shall issue a report~~  
30 ~~of its objections, recommendations, and comments regarding the~~  
31 ~~proposed plan amendment.~~ A regional planning council or

1 affected person requesting a review shall do so by submitting  
2 a written request to the agency with a notice of the request  
3 to the local government and any other person who has requested  
4 notice.

5 (b) The state land planning agency may review any  
6 proposed plan amendment regardless of whether a request for  
7 review has been made, if the agency gives notice to the local  
8 government, and any other person who has requested notice, of  
9 its intention to conduct such a review within 35 ~~30~~ days after  
10 receipt of transmittal of the complete proposed plan amendment  
11 ~~pursuant to subsection (3)~~.

12 (c) The state land planning agency shall establish by  
13 rule a schedule for receipt of comments from the various  
14 government agencies, as well as written public comments,  
15 pursuant to subsection (4). If the state land planning agency  
16 elects to review the amendment or the agency is required to  
17 review the amendment as specified in paragraph (a), the agency  
18 shall issue a report giving its objections, recommendations,  
19 and comments regarding the proposed amendment within 60 days  
20 after receipt of the complete proposed amendment by the state  
21 land planning agency.~~The state land planning agency shall~~  
22 ~~have 30 days to review comments from the various government~~  
23 ~~agencies along with a local government's comprehensive plan or~~  
24 ~~plan amendment. During that period, the state land planning~~  
25 ~~agency shall transmit in writing its comments to the local~~  
26 ~~government along with any objections and any recommendations~~  
27 ~~for modifications.~~ When a federal, state, or regional agency  
28 has implemented a permitting program, the state land planning  
29 agency shall not require a local government to duplicate or  
30 exceed that permitting program in its comprehensive plan or to  
31 implement such a permitting program in its land development

1 regulations. Nothing contained herein shall prohibit the  
2 state land planning agency in conducting its review of local  
3 plans or plan amendments from making objections,  
4 recommendations, and comments or making compliance  
5 determinations regarding densities and intensities consistent  
6 with the provisions of this part. In preparing its comments,  
7 the state land planning agency shall only base its  
8 considerations on written, and not oral, comments, from any  
9 source.

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

23 Section 7. Effective October 1, 2001, subsections (7),  
24 (8), and (15) and paragraph (d) of subsection (16) of section  
25 163.3184, Florida Statutes, as amended by this act, are  
26 amended to read:

27 163.3184 Process for adoption of comprehensive plan or  
28 plan amendment.--

29 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF  
30 PLAN OR AMENDMENTS AND TRANSMITTAL.--The local government  
31 shall review the written comments submitted to it by the state



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

29 (8) NOTICE OF INTENT.--

30 (a) Except as provided in s. 163.3187(3), the state  
31 land planning agency, upon receipt of a local government's

1 complete adopted comprehensive plan or plan amendment, shall  
2 have 45 days for review and to determine if the plan or plan  
3 amendment is in compliance with this act, unless the amendment  
4 is the result of a compliance agreement entered into under  
5 subsection (16), in which case the time period for review and  
6 determination shall be 30 days. If review was not conducted  
7 under subsection (6), the agency's determination must be based  
8 upon the plan amendment as adopted. If review was conducted  
9 under subsection (6), the agency's determination of compliance  
10 must be based only upon one or both of the following:

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

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

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

1 the amendment. Publication by the state land planning agency  
2 of a notice of intent in the newspaper designated by the local  
3 government shall be prima facie evidence of compliance with  
4 the publication requirements of this section.

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

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

24 (15) PUBLIC HEARINGS.--

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

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

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

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

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

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

31

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

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

12           (16) COMPLIANCE AGREEMENTS.--

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

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

31           163.3187 Amendment of adopted comprehensive plan.--

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

4 (k) A comprehensive plan amendment to adopt a public  
5 educational facilities element pursuant to s. 163.31776 and  
6 future land-use-map amendments for school siting may be  
7 approved notwithstanding statutory limits on the frequency of  
8 adopting plan amendments.

9 Section 9. Paragraph (k) of subsection (2) of section  
10 163.3191, Florida Statutes, is amended, and paragraph (l) is  
11 added to that subsection, to read:

12 163.3191 Evaluation and appraisal of comprehensive  
13 plan.--

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

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

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

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

16           Section 11. Section 163.3215, Florida Statutes, is  
17 amended to read:

18           163.3215 Standing to enforce local comprehensive plans  
19 through development orders.--

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

31

1 administrative appeals, if any, are exhausted, whichever is  
2 later.

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

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

21 ~~(b)~~ Suit under subsections (1) or (4) ~~this section~~  
22 shall be the sole action available to challenge the  
23 consistency of a development order with a comprehensive plan  
24 adopted under this part. The local government that issues  
25 that development order shall be named as the respondent.

26 (4) If a local government elects to adopt or has  
27 adopted an ordinance establishing, at a minimum, the  
28 requirements listed in this subsection, then the sole action  
29 for an aggrieved and adversely affected party to challenge  
30 consistency of a development order with the comprehensive plan  
31 shall be by a petition for certiorari filed in circuit court



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

25 (a) Notice by publication and by mailed notice to all  
26 abutting property owners within 10 days of the filing of an  
27 application for development review, provided that notice under  
28 this subsection shall not be required for an application for a  
29 building permit. The notice must delineate that aggrieved or  
30 adversely affected persons have the right to request a  
31 quasi-judicial hearing, that the request need not be a formal

1 petition or complaint, how to initiate the quasi-judicial  
2 process and the time-frames for initiating the process. The  
3 local government shall include an opportunity for an  
4 alternative dispute resolution process and may include a stay  
5 of the formal quasi-judicial hearing for this purpose.

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

13 (c) An opportunity to participate in the process for  
14 an aggrieved or adversely affected party which provides a  
15 reasonable time to prepare and present a case for a  
16 quasi-judicial hearing.

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

19 (e) A quasi-judicial hearing before an independent  
20 special master who shall be an attorney with at least five  
21 years experience and who shall, at the conclusion of the  
22 hearing, recommend written findings of fact and conclusions of  
23 law.

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

29 (g) The standard of review applied by the special  
30 master shall be strict scrutiny in accordance with Florida  
31 law.

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

17           (i) No ex parte communication relating to the merits  
18 of the matter under review shall be made to the special  
19 master. No ex parte communication relating to the merits of  
20 the matter under review shall be made to the governing body  
21 after a time to be established by the local ordinance, but no  
22 later than receipt of the recommended order by the governing  
23 body.

24           (j) At the option of the local government this  
25 ordinance may require actions to challenge the consistency of  
26 a development order with land development regulations to be  
27 brought in the same proceeding.

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

30           (5) Venue in any cases brought under this section  
31 shall lie in the county or counties where the actions or

1 inactions giving rise to the cause of action are alleged to  
2 have occurred.

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

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

23 (8) In any suit under this section, the Department of  
24 Legal Affairs may intervene to represent the interests of the  
25 state.

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

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

31

1           163.3244 Sustainable communities demonstration  
2 project.--

3           (9) This section ~~is shall stand~~ repealed on June 30,  
4 ~~2002~~ 2001, and shall be reviewed by the Legislature prior to  
5 ~~that date.~~

6           Section 13. Subsections (2) and (3) of section  
7 186.504, Florida Statutes, are amended to read:

8           186.504 Regional planning councils; creation;  
9 membership.--

10          (2) Membership on the regional planning council shall  
11 be as follows:

12          (a) Representatives appointed by each of the member  
13 counties in the geographic area covered by the regional  
14 planning council.

15          (b) Representatives from other member local  
16 general-purpose governments in the geographic area covered by  
17 the regional planning council.

18          (c) Representatives appointed by the Governor from the  
19 geographic area covered by the regional planning council,  
20 including an elected school board member from the geographic  
21 area covered by the regional planning council, to be nominated  
22 by the Florida School Board Association.

23          (3) Not less than two-thirds of the representatives  
24 serving as voting members on the governing bodies of such  
25 regional planning councils shall be elected officials of local  
26 general-purpose governments chosen by the cities and counties  
27 of the region, provided each county shall have at least one  
28 vote. The remaining one-third of the voting members on the  
29 governing board shall be appointed by the Governor, to include  
30 one elected school board member, subject to confirmation by  
31 the Senate, and shall reside in the region. No two appointees

1 of the Governor shall have their places of residence in the  
2 same county until each county within the region is represented  
3 by a Governor's appointee to the governing board. Nothing  
4 contained in this section shall deny to local governing bodies  
5 or the Governor the option of appointing either locally  
6 elected officials or lay citizens provided at least two-thirds  
7 of the governing body of the regional planning council is  
8 composed of locally elected officials.

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

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

24 (6) SCHOOL CAPITAL OUTLAY SURTAX.--

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

30 (b) The resolution shall include a statement that  
31 provides a brief and general description of the school capital



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

22            (e)~~(d)~~ Any school board imposing the surtax shall  
23 implement a freeze on noncapital local school property taxes,  
24 at the millage rate imposed in the year prior to the  
25 implementation of the surtax, for a period of at least 3 years  
26 from the date of imposition of the surtax. This provision  
27 shall not apply to existing debt service or required state  
28 taxes.

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



1           Section 15. Section 235.002, Florida Statutes, is  
2 amended to read:

3           235.002 Intent.--

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

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

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

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

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

1           (d) Establish a systematic process of sharing  
2 information between school boards and local governments on the  
3 growth and development trends in their communities in order to  
4 forecast future enrollment and school needs.

5           (e) Establish a systematic process by which school  
6 boards and local governments can cooperatively plan for the  
7 provision of educational facilities to meet the current and  
8 projected needs of the public education system, including the  
9 needs placed on the public education system as a result of  
10 growth and development decisions by local governments.

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

14           (2) The Legislature finds and declares that:

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

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

28           (d)~~(c)~~ The provision of educational facilities often  
29 impacts community infrastructure and services. Assuring  
30 coordinated and cooperative provision of such facilities and  
31

1 associated infrastructure and services is in the best interest  
2 of the state.

3 Section 16. Section 235.15, Florida Statutes, is  
4 amended to read:

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

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

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

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

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

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

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

1 ~~relocatable classrooms shall be established by rule of the~~  
2 ~~department.~~

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

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

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

1 enrollment cycle for the State University System approved by  
2 the Board of Regents.

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

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

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

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

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

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

13           235.175 SMART schools; Classrooms First; legislative  
14 purpose.--

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

30           Section 18. Section 235.18, Florida Statutes, is  
31 amended to read:



1           235.18 Annual capital outlay budget.--Each board,  
2 including the Board of Regents, shall, each year, adopt a  
3 capital outlay budget for the ensuing year in order that the  
4 capital outlay needs of the board for the entire year may be  
5 well understood by the public. This capital outlay budget  
6 shall be a part of the annual budget and shall be based upon  
7 and in harmony with the educational plant and ancillary  
8 facilities plan. This budget shall designate the proposed  
9 capital outlay expenditures by project for the year from all  
10 fund sources. The board may not expend any funds on any  
11 project not included in the budget, as amended. Each district  
12 school board must prepare its tentative district education  
13 facilities plan ~~facilities work program~~ as required by s.  
14 235.185 before adopting the capital outlay budget.

15           Section 19. Section 235.185, Florida Statutes, is  
16 amended to read:

17           235.185 School district educational facilities plan  
18 ~~work program~~; definitions; preparation, adoption, and  
19 amendment; long-term work programs.--

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

21           (a) "Adopted educational facilities plan" means the  
22 comprehensive planning document that is adopted annually by  
23 the district school board as provided in subsection (2) and  
24 that contains the educational plant survey.

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

28           (b) "~~Tentative~~ District facilities work program" means  
29 the 5-year listing of capital outlay projects, adopted by the  
30 district school board as provided in subparagraph (2)(a)2. and  
31

1 paragraph (2)(b) as part of the district educational  
2 facilities plan, which is required in order to:

3 1. ~~To~~ Properly maintain the educational plant and  
4 ancillary facilities of the district.

5 2. ~~To~~ Provide an adequate number of satisfactory  
6 student stations for the projected student enrollment of the  
7 district in K-12 programs in accordance with the goal in s.  
8 235.062.

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

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

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

27 1. Projected student populations apportioned  
28 geographically at the local level. The projections must be  
29 based on information produced by the demographic, revenue, and  
30 education estimating conferences pursuant to s. 216.136, where  
31 available, as modified by the district based on development

1 data and agreement with the local governments and the Office  
2 of Educational Facilities of the Commissioner of Education.  
3 The projections must be apportioned geographically with  
4 assistance from the local governments using local development  
5 trend data and the school district student enrollment data.

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

15 3. Projections of facilities space needs, which may  
16 not exceed the norm space and occupant design criteria  
17 established in the State Requirements for Educational  
18 Facilities.

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

22 5. The general location of public schools proposed to  
23 be constructed over the 5-year, 10-year, and 20-year time  
24 periods, including a listing of the proposed schools' site  
25 acreage needs and anticipated capacity and maps showing the  
26 general locations. The school board's identification of  
27 general locations of future school sites must be based on the  
28 school siting requirements of s. 163.3177(6)(a) and policies  
29 in the comprehensive plan which provide guidance for  
30 appropriate locations for school sites.

31

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

- 5           a. Acceptable capacity;
- 6           b. Redistricting;
- 7           c. Busing;
- 8           d. Year-round schools; and
- 9           e. Charter schools.

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

14           (b) The plan must also include a financially feasible  
15 district facilities work program for a 5-year period. The work  
16 program must include:

17           1. A schedule of major repair and renovation projects  
18 necessary to maintain the educational facilities ~~plant~~ and  
19 ancillary facilities of the district.

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

24           a. The locations, capacities, and planned utilization  
25 rates of current educational facilities of the district. The  
26 capacity of existing satisfactory facilities, as reported in  
27 the Florida Inventory of School Houses must be compared to the  
28 capital outlay full-time-equivalent student enrollment as  
29 determined by the department including all enrollment used in  
30 the calculation of the distribution formula in s. 235.435(3).

31

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

9           c. Plans for the use and location of relocatable  
10 facilities, leased facilities, and charter school facilities.

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

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

20           f. The number and percentage of district students  
21 planned to be educated in relocatable facilities during each  
22 year of the tentative district facilities work program. For  
23 determining future needs, student capacity may not be assigned  
24 to any relocatable classroom that is scheduled for elimination  
25 or replacement with a permanent educational facility in the  
26 current year of the adopted district educational facilities  
27 plan and in the district facilities work program adopted under  
28 this section. Those relocatable classrooms clearly identified  
29 and scheduled for replacement in a school-board-adopted,  
30 financially feasible, 5-year district facilities work program  
31 shall be counted at zero capacity at the time the work program

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

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

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

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

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

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

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

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

18           ~~(d)(e)~~ Provision shall be made for public comment  
19 concerning the tentative district educational facilities plan  
20 ~~work program~~.

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

27           ~~(f)~~ Commencing on October 1, 2001, and not less than  
28 once every 5 years thereafter, the district school board shall  
29 contract with a qualified, independent third party to conduct  
30 a financial management and performance audit of the  
31 educational planning and construction activities of the

1 district. An audit conducted by the Auditor General satisfies  
2 this requirement.

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

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



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

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

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

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

26 Section 20. Section 235.188, Florida Statutes, is  
27 amended to read:

28 235.188 Full bonding required to participate in  
29 programs.--Any district with unused bonding capacity in its  
30 Capital Outlay and Debt Service Trust Fund allocation that  
31 certifies in its district educational facilities plan work

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

7 Section 21. Section 235.19, Florida Statutes, is  
8 amended to read:

9 235.19 Site planning and selection.--

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

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

31

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

29  
30 Any school board entering into an interlocal agreement for the  
31 purpose of adopting public school concurrency prior to the

1 effective date of this act is not required to amend the  
2 interlocal agreement to conform to the provisions of this  
3 subsection if the comprehensive plan amendment adopting public  
4 school concurrency is ultimately determined to be in  
5 compliance.

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

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

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



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

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

30 ~~(7)(4)~~ (7) To improve coordination relative to potential  
31 educational facility sites, a board shall provide written

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

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

29 (9) ~~(6)~~ A local governing body may not deny the site  
30 applicant based on adequacy of the site plan as it relates  
31 solely to the needs of the school. If the site is consistent

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

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

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

1 Standards and conditions may not be imposed which conflict  
2 with those established in this chapter or the State Uniform  
3 Building Code, unless mutually agreed. Local government review  
4 or approval is not required for:

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

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

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

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

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

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

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

27 (b) Efficient finance and administration.

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

30 (d) Safety.

31

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

3 (f) Level of district local effort.

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

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

14 Section 25. Section 235.321, Florida Statutes, is  
15 amended to read:

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

27 Section 26. Paragraph (d) of subsection (5) of section  
28 236.25, Florida Statutes, is amended, and subsection (6) is  
29 added to that section, to read:

30 236.25 District school tax.--

31 (5)

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

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

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

1 Art. VII of the State Constitution. Millage elections  
2 conducted under the authority granted pursuant to this section  
3 are subject to ss. 236.31 and 236.32. Funds generated by such  
4 additional millage do not become a part of the calculation of  
5 the Florida Education Finance Program total potential funds in  
6 2001-2002 or any subsequent year and must not be incorporated  
7 in the calculation of any hold-harmless or other component of  
8 the Florida Education Finance Program formula in any year.

9 Section 27. Section 236.31, Florida Statutes, is  
10 amended to read:

11 236.31 District millage elections.--

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

25 (2) The school board, pursuant to resolution adopted  
26 at a regular meeting, shall direct the county commissioners to  
27 call an election at which the electors within the school  
28 district may approve an ad valorem tax millage as authorized  
29 under s. 236.25(6). Such election may be held at any time,  
30 except that not more than one such election shall be held  
31 during any 12-month period. Any millage so authorized shall be

1 levied for a period not in excess of 4 years or until changed  
2 by another millage election, whichever is earlier. If any such  
3 election is invalidated by a court of competent jurisdiction,  
4 such invalidated election shall be considered not to have been  
5 held.

6 Section 28. Section 236.32, Florida Statutes, is  
7 amended to read:

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

10 236.32 Procedures for holding and conducting school  
11 district millage elections.--

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

16 (2) FORM OF BALLOT.--

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

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

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

29 (4) RESULTS OF ELECTION.--When the school board  
30 proposes one tax levy for operating expenses and another for  
31 the local capital improvement reserve fund, the results shall



1 be considered separately. The tax levy shall be levied only  
2 in case a majority of the electors participating in the  
3 election vote in favor of the proposed special millage.

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

8 380.06 Developments of regional impact.--

9 (2) STATEWIDE GUIDELINES AND STANDARDS.--

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

1 convention center of more than 250,000 gross square feet built  
2 prior to July 1, 1992. The applicable guidelines and standards  
3 shall be increased by 150 percent for development in any area  
4 designated by the Governor as a rural area of critical  
5 economic concern pursuant to s. 288.0656 during the effective  
6 period of the designation.~~The Administration Commission, upon~~  
7 ~~the recommendation of the state land planning agency, shall~~  
8 ~~implement this paragraph by rule no later than December 1,~~  
9 ~~1993. The increased guidelines and standards authorized by~~  
10 ~~this paragraph shall not be implemented until the~~  
11 ~~effectiveness of the rule which, among other things, shall set~~  
12 ~~forth the pertinent characteristics of urban central business~~  
13 ~~districts and regional activity centers.~~

14 (12) REGIONAL REPORTS.--

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

26 1. The development will have a favorable or  
27 unfavorable impact on state or regional resources or  
28 facilities identified in the applicable state or regional  
29 plans. For the purposes of this subsection, "applicable state  
30 plan" means the state comprehensive plan. For the purposes of  
31 this subsection, "applicable regional plan" means an adopted

1 comprehensive regional policy plan until the adoption of a  
2 strategic regional policy plan pursuant to s. 186.508, and  
3 thereafter means an adopted strategic regional policy plan.

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

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

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

29         (c) The regional planning agency shall afford the  
30 developer or any substantially affected party reasonable  
31 opportunity to present evidence to the regional planning

1 agency head relating to the proposed regional agency report  
2 and recommendations.

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

8 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

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

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

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

31

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

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

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

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

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

3 (19) SUBSTANTIAL DEVIATIONS.--

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

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

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

28 2. A new runway, a new terminal facility, a 25-percent  
29 lengthening of an existing runway, or a 25-percent increase in  
30 the number of gates of an existing terminal, but only if the  
31 increase adds at least three additional gates. However, if an

1 airport is located in two counties, a 10-percent lengthening  
2 of an existing runway or a 20-percent increase in the number  
3 of gates of an existing terminal is the applicable criteria.

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

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

8 5. An increase in the average annual acreage mined by  
9 5 percent or 10 acres, whichever is greater, or an increase in  
10 the average daily water consumption by a mining operation by 5  
11 percent or 300,000 gallons, whichever is greater. An increase  
12 in the size of the mine by 5 percent or 750 acres, whichever  
13 is less.

14 6. An increase in land area for office development by  
15 5 percent ~~or 6 acres, whichever is greater~~, or an increase of  
16 gross floor area of office development by 5 percent or 60,000  
17 gross square feet, whichever is greater.

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

21 8. An increase of development at a waterport of wet  
22 storage for 20 watercraft, dry storage for 30 watercraft, or  
23 wet/dry storage for 60 watercraft in an area identified in the  
24 state marina siting plan as an appropriate site for additional  
25 waterport development or a 5-percent increase in watercraft  
26 storage capacity, whichever is greater.

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

29 10. An increase in commercial development by ~~6 acres~~  
30 ~~of land area or by~~ 50,000 square feet of gross floor area, or  
31 of parking spaces provided for customers for 300 cars or a

1 5-percent increase of either ~~any~~ of these, whichever is  
2 greater.

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

5 12. An increase in a recreational vehicle park area by  
6 5 percent or 100 vehicle spaces, whichever is less.

7 13. A decrease in the area set aside for open space of  
8 5 percent or 20 acres, whichever is less.

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

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

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

30  
31



1 The substantial deviation numerical standards in subparagraphs  
2 4., 6., 10., 14., excluding residential uses, and 15., are  
3 increased by 100 percent for a project certified under s.  
4 403.973 which creates jobs and meets criteria established by  
5 the Office of Tourism, Trade, and Economic Development as to  
6 its impact on an area's economy, employment, and prevailing  
7 wage and skill levels. The substantial deviation numerical  
8 standards in subparagraphs 4., 6., 9., 10., 11., and 14. are  
9 increased by 50 percent for a project located wholly within an  
10 urban infill and redevelopment area designated on the  
11 applicable adopted local comprehensive plan future land use  
12 map and not located within the coastal high hazard area.

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

31

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

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

22           1.2. Except for a development order rendered pursuant  
23 to subsection (22) or subsection (25), a proposed change to a  
24 development order that individually or cumulatively with any  
25 previous change is less than ~~40 percent~~ of any numerical  
26 criterion contained in subparagraphs (b)1.-15. and does not  
27 exceed any other criterion, or that involves an extension of  
28 the buildout date of a development, or any phase thereof, of  
29 less than 5 years is not a substantial deviation, is not  
30 subject to the public hearing requirements of subparagraph  
31 (f)3., and is not subject to a determination pursuant to

1 subparagraph (f)5. Notice of the proposed change shall be  
2 made to the regional planning council and the state land  
3 planning agency. Such notice shall include a description of  
4 previous individual changes made to the development, including  
5 changes previously approved by the local government, and shall  
6 include appropriate amendments to the development order.

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

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

1 character to the changes enumerated in sub-subparagraphs a.-h.  
2 and which does not create the likelihood of any additional  
3 regional impact.

4  
5 This subsection does not require a development order amendment  
6 for any change listed in sub-subparagraphs a.-i. unless such  
7 issue is addressed either in the existing development order or  
8 in the application for development approval, but, in the case  
9 of the application, only if, and in the manner in which, the  
10 application is incorporated in the development order.

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

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

25         5. The following changes to an approved development of  
26 regional impact shall be presumed to create a substantial  
27 deviation. Such presumption may be rebutted by clear and  
28 convincing evidence.

29             a. A change proposed for 15 percent or more of the  
30 acreage to a land use not previously approved in the  
31

1 development order. Changes of less than 15 percent shall be  
2 presumed not to create a substantial deviation.

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

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

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

23           2. The developer shall submit, simultaneously, to the  
24 local government, the regional planning agency, and the state  
25 land planning agency the request for approval of a proposed  
26 change.

27           3. No sooner than 30 days but no later than 45 days  
28 after submittal by the developer to the local government, the  
29 state land planning agency, and the appropriate regional  
30 planning agency, the local government shall give 15 days'  
31 notice and schedule a public hearing to consider the change

1 that the developer asserts does not create a substantial  
2 deviation. This public hearing shall be held within 90 days  
3 after submittal of the proposed changes, unless that time is  
4 extended by the developer.

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

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

25 6. If the local government determines that the  
26 proposed change does not require further  
27 development-of-regional-impact review and is otherwise  
28 approved, or if the proposed change is not subject to a  
29 hearing and determination pursuant to subparagraphs 3. and 5.  
30 and is otherwise approved, the local government shall issue an  
31 amendment to the development order incorporating the approved

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

15 (g) If a proposed change requires further  
16 development-of-regional-impact review pursuant to this  
17 section, the review shall be conducted subject to the  
18 following additional conditions:

19 1. The development-of-regional-impact review conducted  
20 by the appropriate regional planning agency shall address only  
21 those issues raised by the proposed change except as provided  
22 in subparagraph 2.

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

30 3. If the local government determines that the  
31 proposed change, as it relates to the entire development,

1 should be approved, any new conditions in the amendment to the  
2 development order issued by the local government shall address  
3 only those issues raised by the proposed change.

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

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

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

21 380.0651 Statewide guidelines and standards.--

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

26 (d) Office development.--Any proposed office building  
27 or park operated under common ownership, development plan, or  
28 management that:

29 1. Encompasses 300,000 or more square feet of gross  
30 floor area; or

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



1           ~~2.3.~~ Encompasses more than 600,000 square feet of  
2 gross floor area in a county with a population greater than  
3 500,000 and only in a geographic area specifically designated  
4 as highly suitable for increased threshold intensity in the  
5 approved local comprehensive plan and in the strategic  
6 regional policy plan.

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

12           1. Encompasses more than 400,000 square feet of gross  
13 area; or

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

15           ~~2.3.~~ Provides parking spaces for more than 2,500 cars.

16           Section 31. Requirement of interlocal service  
17 provision agreements.--

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

23           (a) Identifies the current providers of the following  
24 services; education, sanitary sewer, public safety, solid  
25 waste, drainage, potable water, parks and recreation, and  
26 transportation facilities.

27           (b) Describes the existing organization of such  
28 services and the means of financing such services and  
29 designates the entities that will provide the services over  
30 the next 20 years, including any anticipated changes caused by  
31 annexation.

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

4           (d) Identifies opportunities for the joint financing  
5 of capital outlay projects.

6           (e) Identifies any areas that the municipalities plan  
7 to annex within the next 5 years and establishes a plan for  
8 service delivery within the areas to be annexed or a process  
9 for resolving service-delivery issues associated with  
10 annexation.

11           (f) Provides specific procedures for amending the  
12 interlocal agreement.

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

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

19           Section 32. The sum of \$500,000 is appropriated from  
20 the General Revenue Fund to the Department of Community  
21 Affairs for the purpose of funding the Urban Infill and  
22 Redevelopment Assistance Grant Program established under  
23 section 163.2523, Florida Statutes, during the 2001-2002  
24 fiscal year.

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

28           Section 34. (1) The Legislative Committee on  
29 Intergovernmental Relations is directed to conduct a study of  
30 the existing bonding capacity of counties, municipalities, and  
31 school boards. The study shall include, but is not limited to:

1 possible methods of strengthening their credit ratings and  
2 interest rates; feasibility of increasing their borrowing  
3 capacity to the extent of their authorized millage or revenue;  
4 and more flexible use of bond proceeds, especially for small  
5 municipalities and counties.

6 (2) The Legislative Committee on Intergovernmental  
7 Relations is required to report its findings and  
8 recommendations to the Governor and Legislature by January 1,  
9 2002. The recommendations must specifically include proposed  
10 legislation, if applicable, for additional county,  
11 municipality, and school board bonding capacity.

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

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

1           163.356 Creation of community redevelopment agency.--  
2           (1) Upon a finding of necessity as set forth in s.  
3 163.355, and upon a further finding that there is a need for a  
4 community redevelopment agency to function in the county or  
5 municipality to carry out the community redevelopment purposes  
6 of this part, any county or municipality may create a public  
7 body corporate and politic to be known as a "community  
8 redevelopment agency." A charter county having a population  
9 less than or equal to 1.6 million may create, by a vote of at  
10 least a majority plus one of the entire governing body of the  
11 charter county, more than one community redevelopment agency.  
12 Each such agency shall be constituted as a public  
13 instrumentality, and the exercise by a community redevelopment  
14 agency of the powers conferred by this part shall be deemed  
15 and held to be the performance of an essential public  
16 function. ~~The~~ Community redevelopment agencies ~~agency~~ of a  
17 county have ~~has~~ the power to function within the corporate  
18 limits of a municipality only as, if, and when the governing  
19 body of the municipality has by resolution concurred in the  
20 community redevelopment plan or plans proposed by the  
21 governing body of the county.

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