

743-119AXB-06 Bill No. CS for SB's 1906 & 550, 1st Eng.
Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Russell, Murman, Byrd, Carassas, Alexander,
12 Goodlette, Bennett, and Attkisson offered the following:

14 **Amendment (with title amendment)**

15 Remove everything after the enacting clause

17 and insert:

18 Section 1. Paragraph (a) of subsection (3), paragraph
19 (a) of subsection (4), and paragraphs (a), (c), (d), and (h)
20 of subsection (6) of section 163.3177, Florida Statutes, are
21 amended to read:

22 163.3177 Required and optional elements of
23 comprehensive plan; studies and surveys.--

24 (3)(a) The comprehensive plan shall contain a capital
25 improvements element designed to consider the need for and the
26 location of public facilities in order to encourage the
27 efficient utilization of such facilities and set forth:

28 1. A component which outlines principles for
29 construction, extension, or increase in capacity of public
30 facilities, including potable water facilities compatible with
31 the applicable regional water supply plan developed pursuant

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1 to s. 373.0361,as well as a component which outlines
2 principles for correcting existing public facility
3 deficiencies, which are necessary to implement the
4 comprehensive plan. The components shall cover at least a
5 5-year period.

6 2. Estimated public facility costs, including a
7 delineation of when facilities will be needed, the general
8 location of the facilities, and projected revenue sources to
9 fund the facilities.

10 3. Standards to ensure the availability of public
11 facilities and the adequacy of those facilities including
12 acceptable levels of service.

13 4. Standards for the management of debt.

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

30 (6) In addition to the requirements of subsections
31 (1)-(5), the comprehensive plan shall include the following

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1 elements:

2 (a) A future land use plan element designating
3 proposed future general distribution, location, and extent of
4 the uses of land for residential uses, commercial uses,
5 industry, agriculture, recreation, conservation, education,
6 public buildings and grounds, other public facilities, and
7 other categories of the public and private uses of land. Each
8 future land use category must be defined in terms of uses
9 included and must include standards to be followed in the
10 control and distribution of population densities and building
11 and structure intensities.~~The future land use plan shall~~
12 ~~include standards to be followed in the control and~~
13 ~~distribution of population densities and building and~~
14 ~~structure intensities.~~ The proposed distribution, location,
15 and extent of the various categories of land use shall be
16 shown on a land use map or map series which shall be
17 supplemented by goals, policies, and measurable objectives.
18 ~~Each land use category shall be defined in terms of the types~~
19 ~~of uses included and specific standards for the density or~~
20 ~~intensity of use.~~ The future land use plan shall be based
21 upon surveys, studies, and data regarding the area, including
22 the amount of land required to accommodate anticipated growth;
23 the projected population of the area; the character of
24 undeveloped land; the availability of public services; the
25 need for redevelopment, including the renewal of blighted
26 areas and the elimination of nonconforming uses which are
27 inconsistent with the character of the community; and, in
28 rural communities, the need for job creation, capital
29 investment, and economic development that will strengthen and
30 diversify the community's economy. The future land use plan
31 may designate areas for future planned development use

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1 involving combinations of types of uses for which special
2 regulations may be necessary to ensure development in accord
3 with the principles and standards of the comprehensive plan
4 and this act. In addition, for rural communities, the amount
5 of land designated for future planned industrial use shall be
6 based upon surveys and studies that reflect the need for job
7 creation, capital investment, and the necessity to strengthen
8 and diversify the local economies, and shall not be limited
9 solely by the projected population of the rural community. The
10 future land use plan of a county may also designate areas for
11 possible future municipal incorporation. The land use maps or
12 map series shall generally identify and depict historic
13 district boundaries and shall designate historically
14 significant properties meriting protection. The future land
15 use element must clearly identify the land use categories in
16 which public schools are an allowable use. When delineating
17 the land use categories in which public schools are an
18 allowable use, a local government shall include in the
19 categories sufficient land proximate to residential
20 development to meet the projected needs for schools in
21 coordination with public school boards and may establish
22 differing criteria for schools of different type or size.
23 Each local government shall include lands contiguous to
24 existing school sites, to the maximum extent possible, within
25 the land use categories in which public schools are an
26 allowable use. All comprehensive plans must comply with the
27 school siting requirements of this paragraph no later than
28 October 1, 1999. The failure by a local government to comply
29 with these school siting requirements by October 1, 1999, will
30 result in the prohibition of the local government's ability to
31 amend the local comprehensive plan, except for plan amendments

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1 described in s. 163.3187(1)(b), until the school siting
2 requirements are met. An amendment proposed by a local
3 government for purposes of identifying the land use categories
4 in which public schools are an allowable use is exempt from
5 the limitation on the frequency of plan amendments contained
6 in s. 163.3187. The future land use element shall include
7 criteria which encourage the location of schools proximate to
8 urban residential areas to the extent possible and shall
9 require that the local government seek to collocate public
10 facilities, such as parks, libraries, and community centers,
11 with schools to the extent possible. For schools serving
12 predominantly rural counties, defined as a county with a
13 population of 100,000 or fewer, an agricultural land use
14 category shall be eligible for the location of public school
15 facilities if the local comprehensive plan contains school
16 siting criteria and the location is consistent with such
17 criteria.

18 (c) A general sanitary sewer, solid waste, drainage,
19 potable water, and natural groundwater aquifer recharge
20 element correlated to principles and guidelines for future
21 land use, indicating ways to provide for future potable water,
22 drainage, sanitary sewer, solid waste, and aquifer recharge
23 protection requirements for the area. The element may be a
24 detailed engineering plan including a topographic map
25 depicting areas of prime groundwater recharge. The element
26 shall describe the problems and needs and the general
27 facilities that will be required for solution of the problems
28 and needs. The element shall also include a topographic map
29 depicting any areas adopted by a regional water management
30 district as prime groundwater recharge areas for the Floridan
31 or Biscayne aquifers, pursuant to s. 373.0395. These areas

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1 shall be given special consideration when the local government
2 is engaged in zoning or considering future land use for said
3 designated areas. For areas served by septic tanks, soil
4 surveys shall be provided which indicate the suitability of
5 soils for septic tanks. By July 1, 2007, or the evaluation and
6 appraisal report adoption deadline established for the local
7 government pursuant to s. 163.3191(1)(a), whichever date
8 occurs first, the element must consider the appropriate water
9 management district's regional water supply plan approved
10 pursuant to s. 373.0361. The potable water element shall
11 include a work plan covering at least a 10-year planning
12 period for building water supply facilities that are
13 identified in the potable water element as necessary to meet
14 projected water demand to serve existing and new development
15 and for which the local government is responsible.

16 (d) A conservation element for the conservation, use,
17 and protection of natural resources in the area, including
18 air, water, water recharge areas, wetlands, waterwells,
19 estuarine marshes, soils, beaches, shores, flood plains,
20 rivers, bays, lakes, harbors, forests, fisheries and wildlife,
21 marine habitat, minerals, and other natural and environmental
22 resources. Local governments shall assess their current, as
23 well as projected, water needs and sources for at least a
24 10-year period, considering the appropriate regional water
25 supply plan approved pursuant to s. 373.0361 or the district
26 water management plan approved pursuant to s. 373.036(2) in
27 the absence of an approved regional water supply plan. This
28 information shall be submitted to the appropriate agencies.
29 The land use map or map series contained in the future land
30 use element shall generally identify and depict the following:

31 1. Existing and planned waterwells and cones of

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- 1 influence where applicable.
- 2 2. Beaches and shores, including estuarine systems.
- 3 3. Rivers, bays, lakes, flood plains, and harbors.
- 4 4. Wetlands.
- 5 5. Minerals and soils.
- 6

7 The land uses identified on such maps shall be consistent with
8 applicable state law and rules.

9 (h)1. An intergovernmental coordination element
10 showing relationships and stating principles and guidelines to
11 be used in the accomplishment of coordination of the adopted
12 comprehensive plan with the plans of school boards and other
13 units of local government providing services but not having
14 regulatory authority over the use of land, with the
15 comprehensive plans of adjacent municipalities, the county,
16 adjacent counties, or the region, ~~and~~ with the state
17 comprehensive plan, and with the applicable regional water
18 supply plan approved pursuant to s. 373.0361, as the case may
19 require and as such adopted plans or plans in preparation may
20 exist. This element of the local comprehensive plan shall
21 demonstrate consideration of the particular effects of the
22 local plan, when adopted, upon the development of adjacent
23 municipalities, the county, adjacent counties, or the region,
24 or upon the state comprehensive plan, as the case may require.

25 a. The intergovernmental coordination element shall
26 provide for procedures to identify and implement joint
27 planning areas, especially for the purpose of annexation,
28 municipal incorporation, and joint infrastructure service
29 areas.

30 b. The intergovernmental coordination element shall
31 provide for recognition of campus master plans prepared

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1 pursuant to s. 240.155.

2 c. The intergovernmental coordination element may
3 provide for a voluntary dispute resolution process as
4 established pursuant to s. 186.509 for bringing to closure in
5 a timely manner intergovernmental disputes. A local
6 government may develop and use an alternative local dispute
7 resolution process for this purpose.

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

28 3. To foster coordination between special districts
29 and local general-purpose governments as local general-purpose
30 governments implement local comprehensive plans, each
31 independent special district must submit a public facilities

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1 report to the appropriate local government as required by s.
2 189.415.

3 4. The state land planning agency shall establish a
4 schedule for phased completion and transmittal of plan
5 amendments to implement subparagraphs 1., 2., and 3. from all
6 jurisdictions so as to accomplish their adoption by December
7 31, 1999. A local government may complete and transmit its
8 plan amendments to carry out these provisions prior to the
9 scheduled date established by the state land planning agency.
10 The plan amendments are exempt from the provisions of s.
11 163.3187(1).

12 5. By January 1, 2004, any county having a population
13 greater than 100,000, and the municipalities and special
14 districts within that county, shall submit a report to the
15 Department of Community Affairs that:

16 a. Identifies all existing or proposed interlocal
17 service delivery agreements regarding the following:
18 education, sanitary sewer, public safety, solid waste,
19 drainage, potable water, parks and recreation, and
20 transportation facilities.

21 b. Identifies any deficits or duplication in the
22 provision of services within its jurisdiction, whether capital
23 or operational. Upon request, the Department of Community
24 Affairs shall provide technical assistance to the local
25 governments in identifying deficits or duplication.

26 6. Within 6 months after submission of the report, the
27 Department of Community Affairs shall, through the appropriate
28 regional planning council, coordinate a meeting of all local
29 governments within the regional planning area to discuss the
30 reports and potential strategies to remedy any identified
31 deficiencies or duplications.

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1 7. Each local government shall update its
2 intergovernmental coordination element based upon the findings
3 in the report submitted pursuant to subparagraph 5. The report
4 may be used as supporting data and analysis for the
5 intergovernmental coordination element.

6 8. By February 1, 2003, representatives of special
7 districts, municipalities, and counties shall provide to the
8 Legislature recommended statutory changes for annexation,
9 including any changes that address the delivery of local
10 government services in areas planned for annexation.

11 Section 2. Paragraph (1) is added to subsection (2) of
12 section 163.3191, Florida Statutes, to read:

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

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

20 (1) Consideration of the appropriate water management
21 district's regional water supply plan approved pursuant to s.
22 373.0361. The potable water element must be revised to include
23 a work plan covering at least a 10-year planning period for
24 building water supply facilities that are identified in the
25 potable water element as necessary to serve existing and new
26 development and for which the local government is responsible.

27 Section 3. Subsection (11) of section 367.022, Florida
28 Statutes, is amended to read:

29 367.022 Exemptions.--The following are not subject to
30 regulation by the commission as a utility nor are they subject
31 to the provisions of this chapter, except as expressly

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1 provided:

2 (11) Any person providing only nonpotable water for
3 irrigation or fireflow purposes in a geographic area where
4 potable water service is available from a governmentally or
5 privately owned utility or a private well.

6 Section 4. Section 403.064, Florida Statutes, is
7 amended to read:

8 403.064 Reuse of reclaimed water.--

9 (1) The encouragement and promotion of water
10 conservation, and reuse of reclaimed water, as defined by the
11 department, are state objectives and are considered to be in
12 the public interest. The Legislature finds that the reuse of
13 reclaimed water is a critical component of meeting the state's
14 existing and future water supply needs while sustaining
15 natural systems.The Legislature further finds that for those
16 wastewater treatment plants permitted and operated under an
17 approved reuse program by the department, the reclaimed water
18 shall be considered environmentally acceptable and not a
19 threat to public health and safety.

20 (2) All applicants for permits to construct or operate
21 a domestic wastewater treatment facility located within,
22 serving a population located within, or discharging within a
23 water resource caution area shall prepare a reuse feasibility
24 study as part of their application for the permit. Reuse
25 feasibility studies shall be prepared in accordance with
26 department guidelines adopted by rule and shall include, but
27 are not limited to:

28 (a) Evaluation of monetary costs and benefits for
29 several levels and types of reuse.

30 (b) Evaluation of water savings if reuse is
31 implemented.

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1 (c) Evaluation of rates and fees necessary to
2 implement reuse.

3 (d) Evaluation of environmental and water resource
4 benefits associated with reuse.

5 (e) Evaluation of economic, environmental, and
6 technical constraints.

7 (f) A schedule for implementation of reuse. The
8 schedule shall consider phased implementation.

9 (3) The permit applicant shall prepare a plan of study
10 for the reuse feasibility study consistent with the reuse
11 feasibility study guidelines adopted by department rule. The
12 plan of study shall include detailed descriptions of
13 applicable treatment and water supply alternatives to be
14 evaluated and the methods of analysis to be used. The plan of
15 study shall be submitted to the department for review and
16 approval.

17 (4)(3) The study required under subsection (2) shall
18 be performed by the applicant, and the applicant shall
19 determine the applicant's determination of feasibility of
20 reuse based upon the results of the study is final if the
21 study complies with the requirements of subsections ~~subsection~~
22 (2) and (3).

23 (5)(4) A reuse feasibility study is not required if:

24 (a) The domestic wastewater treatment facility has an
25 existing or proposed permitted or design capacity less than
26 0.1 million gallons per day; ~~or~~

27 (b) The permitted reuse capacity equals or exceeds the
28 total permitted capacity of the domestic wastewater treatment
29 facility; ~~or-~~

30 (c) The applicant is located within an area as defined
31 by s. 7.44. Any applicant exempt under this paragraph may

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1 elect to utilize the provisions of this section.

2 (6)~~(5)~~ A reuse feasibility study prepared under
3 subsection (2) satisfies a water management district
4 requirement to conduct a reuse feasibility study imposed on a
5 local government or utility that has responsibility for
6 wastewater management.

7 (7)~~(6)~~ Local governments may allow the use of
8 reclaimed water for inside activities, including, but not
9 limited to, toilet flushing, fire protection, and decorative
10 water features, as well as for outdoor uses, provided the
11 reclaimed water is from domestic wastewater treatment
12 facilities which are permitted, constructed, and operated in
13 accordance with department rules.

14 (8)~~(7)~~ Permits issued by the department for domestic
15 wastewater treatment facilities shall be consistent with
16 requirements for reuse included in applicable consumptive use
17 permits issued by the water management district, if such
18 requirements are consistent with department rules governing
19 reuse of reclaimed water. This subsection applies only to
20 domestic wastewater treatment facilities which are located
21 within, or serve a population located within, or discharge
22 within water resource caution areas and are owned, operated,
23 or controlled by a local government or utility which has
24 responsibility for water supply and wastewater management.

25 (9)~~(8)~~ Local governments may and are encouraged to
26 implement programs for the reuse of reclaimed water. Nothing
27 in this chapter shall be construed to prohibit or preempt such
28 local reuse programs.

29 (10)~~(9)~~ A local government that implements a reuse
30 program under this section shall be allowed to allocate the
31 costs in a reasonable manner.

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1 (11)~~(10)~~ Pursuant to chapter 367, the Florida Public
2 Service Commission shall allow entities under its jurisdiction
3 which conduct studies or implement reuse projects, including,
4 but not limited to, any study required by subsection (2) or
5 facilities used for reliability purposes for a reclaimed water
6 reuse system, to recover the full, prudently incurred cost of
7 such studies and facilities through their rate structure.

8 (12)~~(11)~~ In issuing consumptive use permits, the
9 permitting agency shall consider the local reuse program.

10 (13)~~(12)~~ A local government shall require a developer,
11 as a condition for obtaining a development order, to comply
12 with the local reuse program.

13 (14)~~(13)~~ ~~If, After conducting a feasibility study~~
14 ~~under subsection (2), an applicant determines that reuse of~~
15 ~~reclaimed water is feasible,~~ domestic wastewater treatment
16 facilities that dispose of effluent by Class I deep well
17 injection, as defined in 40 C.F.R. part 144.6(a), must
18 implement reuse ~~according to the schedule for implementation~~
19 ~~contained in the study conducted under subsection (2),~~ to the
20 degree that reuse is ~~determined~~ feasible, based upon the
21 applicant's reuse feasibility study. Applicable permits issued
22 by the department shall be consistent with the requirements of
23 this subsection.

24 (a) This subsection does not limit the use of a Class
25 I deep well injection facility as backup for a reclaimed water
26 reuse system.

27 (b) This subsection applies only to domestic
28 wastewater treatment facilities located within, serving a
29 population located within, or discharging within a water
30 resource caution area.

31 (15)~~(14)~~ ~~If, After conducting a feasibility study~~

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1 under subsection (2), ~~an applicant determines that reuse of~~
2 ~~reclaimed water is feasible,~~ domestic wastewater treatment
3 facilities that dispose of effluent by surface water
4 discharges or by land application methods must implement reuse
5 ~~according to the schedule for implementation contained in the~~
6 ~~study conducted under subsection (2),~~ to the degree that reuse
7 is ~~determined~~ feasible, based upon the applicant's reuse
8 feasibility study. This subsection does not apply to surface
9 water discharges or land application systems which are
10 currently categorized as reuse under department rules.
11 Applicable permits issued by the department shall be
12 consistent with the requirements of this subsection.

13 (a) This subsection does not limit the use of a
14 surface water discharge or land application facility as backup
15 for a reclaimed water reuse system.

16 (b) This subsection applies only to domestic
17 wastewater treatment facilities located within, serving a
18 population located within, or discharging within a water
19 resource caution area.

20 Section 5. Paragraph (b) of subsection (3) of section
21 403.1835, Florida Statutes, is amended to read:

22 403.1835 Water pollution control financial
23 assistance.--

24 (3) The department may provide financial assistance
25 through any program authorized under s. 603 of the Federal
26 Water Pollution Control Act (Clean Water Act), Pub. L. No.
27 92-500, as amended, including, but not limited to, making
28 grants and loans, providing loan guarantees, purchasing loan
29 insurance or other credit enhancements, and buying or
30 refinancing local debt. This financial assistance must be
31 administered in accordance with this section and applicable

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1 federal authorities. The department shall administer all
2 programs operated from funds secured through the activities of
3 the Florida Water Pollution Control Financing Corporation
4 under s. 403.1837, to fulfill the purposes of this section.

5 (b) The department may make or request the corporation
6 to make loans, grants, and deposits to other entities eligible
7 to participate in the financial assistance programs authorized
8 under the Federal Water Pollution Control Act, or as a result
9 of other federal action, which entities may pledge any revenue
10 available to them to repay any funds borrowed. Notwithstanding
11 s. 18.10, the department may make deposits to financial
12 institutions that earn less than the prevailing rate for
13 United States Treasury securities with corresponding
14 maturities for the purpose of enabling such financial
15 institutions to make below-market interest rate loans to
16 entities qualified to receive loans under this section and the
17 rules of the department.

18 Section 6. In order to aid in the development of a
19 better understanding of the unique surface and groundwater
20 resources of this state, the water management districts shall
21 develop an information program designed to provide information
22 on existing hydrologic conditions of major surface and
23 groundwater sources in this state and suggestions for good
24 conservation practices within those areas. The program shall
25 be developed no later than December 31, 2002. Beginning
26 January 1, 2003, and on a regular basis no less than every 6
27 months thereafter, the information developed pursuant to this
28 section shall be distributed to every member of the Florida
29 Senate and the Florida House of Representatives and to local
30 print and broadcast news organizations. Each water management
31 district shall be responsible for the distribution of this

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1 information within its established geographic area.

2 Section 7. Subsection (3) of s. 403.804, Florida
3 Statutes, is repealed.

4 Section 8. Subsection (1) of section 163.3174, Florida
5 Statutes, is amended to read:

6 163.3174 Local planning agency.--

7 (1) The governing body of each local government,
8 individually or in combination as provided in s. 163.3171,
9 shall designate and by ordinance establish a "local planning
10 agency," unless the agency is otherwise established by law.
11 Notwithstanding any special act to the contrary, all local
12 planning agencies or equivalent agencies that first review
13 rezoning and comprehensive plan amendments in each
14 municipality and county shall include a representative of the
15 school district appointed by the school board as a nonvoting
16 member of the local planning agency or equivalent agency to
17 attend those meetings at which the agency considers
18 comprehensive plan amendments and rezonings that would, if
19 approved, increase residential density on the property that is
20 the subject of the application. However, this subsection does
21 not prevent the governing body of the local government from
22 granting voting status to the school board member.The
23 governing body may designate itself as the local planning
24 agency pursuant to this subsection with the addition of a
25 nonvoting school board representative. The governing body
26 shall notify the state land planning agency of the
27 establishment of its local planning agency. All local planning
28 agencies shall provide opportunities for involvement by
29 ~~district school boards and~~ applicable community college
30 boards, which may be accomplished by formal representation,
31 membership on technical advisory committees, or other

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

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

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

21 Section 9. Section 163.31776, Florida Statutes, is
22 created to read:

23 163.31776 Public schools interlocal agreement.--

24 (1)(a) The county and municipalities located within
25 the geographic area of a school district shall enter into an
26 interlocal agreement with the district school board which
27 jointly establishes the specific ways in which the plans and
28 processes of the district school board and the local
29 governments are to be coordinated. The interlocal agreements
30 shall be submitted to the state land planning agency, the
31 Office of Educational Facilities, and the SMART Schools

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1 Clearinghouse in accordance with a schedule published by the
2 state land planning agency.
3 (b) The schedule must establish staggered due dates
4 for submission of interlocal agreements that are executed by
5 both the local government and the district school board,
6 commencing on March 1, 2003, and concluding by December 1,
7 2004, and must set the same date for all governmental entities
8 within a school district. However, if the county where the
9 school district is located contains more than 20
10 municipalities, the state land planning agency may establish
11 staggered due dates for the submission of interlocal
12 agreements by these municipalities. The schedule must begin
13 with those areas where both the number of districtwide capital
14 outlay full-time equivalent students equals 80 percent or more
15 of the current year's school capacity and the projected 5-year
16 student growth is 1,000 or greater, or where the projected
17 5-year student growth rate is 10 percent or greater.
18 (c) If the student population has declined over the
19 5-year period preceding the due date for submittal of an
20 interlocal agreement by the local government and the district
21 school board, the local government and the district school
22 board may petition the state land planning agency for a waiver
23 of one or more of the requirements of subsection (2). The
24 waiver must be granted if the procedures called for in
25 subsection (2) are unnecessary because of the school
26 district's declining school age population, considering the
27 district's 5-year facilities work program prepared pursuant to
28 s. 235.185. The state land planning agency may modify or
29 revoke the waiver upon a finding that the conditions upon
30 which the waiver was granted no longer exist. The district
31 school board and local governments must submit an interlocal

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1 agreement within 1 year after notification by the state land
2 planning agency that the conditions for a waiver no longer
3 exist.

4 (d) Interlocal agreements between local governments
5 and district school boards adopted pursuant to s. 163.3177
6 before the effective date of this section must be updated and
7 executed pursuant to the requirements of this section, if
8 necessary. Amendments to interlocal agreements adopted
9 pursuant to this section must be submitted to the state land
10 planning agency within 30 days after execution by the parties
11 for review consistent with this section. Local governments and
12 the district school board in each school district are
13 encouraged to adopt a single interlocal agreement in which all
14 join as parties. The state land planning agency shall assemble
15 and make available model interlocal agreements meeting the
16 requirements of this section and notify local governments and,
17 jointly with the Department of Education, the district school
18 boards of the requirements of this section, the dates for
19 compliance, and the sanctions for noncompliance. The state
20 land planning agency shall be available to informally review
21 proposed interlocal agreements. If the state land planning
22 agency has not received a proposed interlocal agreement for
23 informal review, the state land planning agency shall, at
24 least 60 days before the deadline for submission of the
25 executed agreement, renotify the local government and the
26 district school board of the upcoming deadline and the
27 potential for sanctions.

28 (2) At a minimum, the interlocal agreement must
29 address the following issues:

30 (a) A process by which each local government and the
31 district school board agree and base their plans on consistent

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1 projections of the amount, type, and distribution of
2 population growth and student enrollment. The geographic
3 distribution of jurisdictionwide growth forecasts is a major
4 objective of the process.

5 (b) A process to coordinate and share information
6 relating to existing and planned public school facilities,
7 including school renovations and closures, and local
8 government plans for development and redevelopment.

9 (c) Participation by affected local governments with
10 the district school board in the process of evaluating
11 potential school closures, significant renovations to existing
12 schools, and new school site selection before land
13 acquisition. Local governments shall advise the district
14 school board as to the consistency of the proposed closure,
15 renovation, or new site with the local comprehensive plan,
16 including appropriate circumstances and criteria under which a
17 district school board may request an amendment to the
18 comprehensive plan for school siting.

19 (d) A process for determining the need for and timing
20 of onsite and offsite improvements to support new
21 construction, proposed expansion, or redevelopment of existing
22 schools. The process must address identification of the party
23 or parties responsible for the improvements.

24 (e) A process for the school board to inform the local
25 government regarding school capacity. The capacity reporting
26 must be consistent with laws and rules relating to measurement
27 of school facility capacity and must also identify how the
28 district school board will meet the public school demand based
29 on the facilities work program adopted pursuant to s. 235.185.

30 (f) Participation of the local governments in the
31 preparation of the annual update to the district school

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1 board's 5-year district facilities work program and
2 educational plant survey prepared pursuant to s. 235.185.

3 (g) A process for determining where and how joint use
4 of either school board or local government facilities can be
5 shared for mutual benefit and efficiency.

6 (h) A procedure for the resolution of disputes between
7 the district school board and local governments, which may
8 include the dispute resolution processes contained in chapters
9 164 and 186.

10 (i) An oversight process, including an opportunity for
11 public participation, for the implementation of the interlocal
12 agreement.

13
14 A signatory to the interlocal agreement may elect not to
15 include a provision meeting the requirements of paragraph (e);
16 however, such a decision may be made only after a public
17 hearing on such election, which may include the public hearing
18 in which a district school board or a local government adopts
19 the interlocal agreement. An interlocal agreement entered
20 into pursuant to this section must be consistent with the
21 adopted comprehensive plan and land development regulations of
22 any local government that is a signatory.

23 (3)(a) The Office of Educational Facilities and SMART
24 Schools Clearinghouse shall submit any comments or concerns
25 regarding the executed interlocal agreement to the state land
26 planning agency within 30 days after receipt of the executed
27 interlocal agreement. The state land planning agency shall
28 review the executed interlocal agreement to determine whether
29 the agreement is consistent with the requirements of
30 subsection (2), the adopted local government comprehensive
31 plan, and other requirements of law. Within 60 days after

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1 receipt of an executed interlocal agreement, the state land
2 planning agency shall publish a notice of intent in the
3 Florida Administrative Weekly and shall post a copy of the
4 notice on the agency's Internet site. The notice of intent
5 must state whether the interlocal agreement is consistent or
6 inconsistent with the requirements of subsection (2) and this
7 subsection, as appropriate.
8 (b) The state land planning agency's notice is subject
9 to challenge under chapter 120; however, an affected person,
10 as defined in s. 163.3184(1)(a), has standing to initiate the
11 administrative proceeding and this proceeding is the sole
12 means available to challenge the consistency of an interlocal
13 agreement required by this section with the criteria contained
14 in subsection (2) and this subsection. In order to have
15 standing, each person must have submitted oral or written
16 comments, recommendations, or objections to the local
17 government or the school board before the adoption of the
18 interlocal agreement by the school board and local government.
19 The district school board and local governments are parties to
20 any such proceeding. In such proceeding, when the state land
21 planning agency finds the interlocal agreement to be
22 consistent with the criteria in subsection (2) and this
23 subsection, the interlocal agreement shall be determined to be
24 consistent with subsection (2) and this subsection if the
25 local government's and school board's determination of
26 consistency is fairly debatable. When the state planning
27 agency finds the interlocal agreement to be inconsistent with
28 the requirements of subsection (2) and this subsection, the
29 local government's and school board's determination of
30 consistency shall be sustained unless it is shown by a
31 preponderance of the evidence that the interlocal agreement is

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1 inconsistent.

2 (c) If the state land planning agency enters a final
3 order that finds that the interlocal agreement is inconsistent
4 with the requirements of subsection (2) or this subsection,
5 the state land planning agency shall forward the agreement to
6 the Administration Commission, which may impose sanctions
7 against the local government pursuant to s. 163.3184(11) and
8 may impose sanctions against the district school board by
9 directing the Department of Education to withhold from the
10 district school board an equivalent amount of funds for school
11 construction available pursuant to s. 235.187, s. 235.216, s.
12 235.2195, or s. 235.42.

13 (4) If an executed interlocal agreement is not timely
14 submitted to the state land planning agency for review, the
15 state land planning agency shall, within 15 working days after
16 the deadline for submittal, issue to the local government and
17 the district school board a notice to show cause why sanctions
18 should not be imposed for failure to submit an executed
19 interlocal agreement by the deadline established by the
20 agency. The agency shall forward the notice and the responses
21 to the Administration Commission, which may enter a final
22 order citing the failure to comply and imposing sanctions
23 against the local government and district school board by
24 directing the appropriate agencies to withhold at least 5
25 percent of state funds pursuant to s. 163.3184(11) and by
26 directing the Department of Education to withhold from the
27 district school board at least 5 percent of funds for school
28 construction available pursuant to s. 235.187, s. 235.216, s.
29 235.2195, or s. 235.42.

30 (5) Any local government transmitting a public school
31 element to implement school concurrency pursuant to the

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1 requirements of s. 163.3180 before the effective date of this
2 section is not required to amend the element or any interlocal
3 agreement to conform with the provisions of this section if
4 the element is adopted prior to or within 1 year after the
5 effective date of this section and remains in effect.

6 (6) Except as provided in subsection (7),
7 municipalities having no established need for a new school
8 facility and meeting the following criteria are exempt from
9 the requirements of subsections (1), (2), and (3):

10 (a) The municipality has no public schools located
11 within its boundaries.

12 (b) The district school board's 5-year facilities work
13 program and the long-term 10-year and 20-year work programs,
14 as provided in s. 235.185, demonstrate that no new school
15 facility is needed in the municipality. In addition, the
16 district school board must verify in writing that no new
17 school facility will be needed in the municipality within the
18 5-year and 10-year timeframes.

19 (7) At the time of the evaluation and appraisal
20 report, each exempt municipality shall assess the extent to
21 which it continues to meet the criteria for exemption under
22 subsection (6). If the municipality continues to meet these
23 criteria and the district school board verifies in writing
24 that no new school facilities will be needed within the 5-year
25 and 10-year timeframes, the municipality shall continue to be
26 exempt from the interlocal agreement requirement. Each
27 municipality exempt under subsection (6) must comply with the
28 provisions of this section within 1 year after the district
29 school board proposes, in its 5-year district facilities work
30 program, a new school within the municipality's jurisdiction.

31 Section 10. Subsections (1), (2), and (3) of section

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1 235.19, Florida Statutes, are amended to read:

2 235.19 Site planning and selection.--

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

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

29 (3) Sites recommended for purchase, or purchased, in
30 accordance with chapter 230 or chapter 240 must meet standards
31 prescribed therein and such supplementary standards as the

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

14 Section 11. Section 235.193, Florida Statutes, is
15 amended to read:

16 235.193 Coordination of planning with local governing
17 bodies.--

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

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

13 (2)(a) The school board, county, and nonexempt
14 municipalities located within the geographic area of a school
15 district shall enter into an interlocal agreement that jointly
16 establishes the specific ways in which the plans and processes
17 of the district school board and the local governments are to
18 be coordinated. The interlocal agreements shall be submitted
19 to the state land planning agency, the Office of Educational
20 Facilities, and the SMART Schools Clearinghouse in accordance
21 with a schedule published by the state land planning agency.

22 (b) The schedule must establish staggered due dates
23 for submission of interlocal agreements that are executed by
24 both the local government and the district school board,
25 commencing on March 1, 2003, and concluding by December 1,
26 2004, and must set the same date for all governmental entities
27 within a school district. However, if the county where the
28 school district is located contains more than 20
29 municipalities, the state land planning agency may establish
30 staggered due dates for the submission of interlocal
31 agreements by these municipalities. The schedule must begin

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1 with those areas where both the number of districtwide capital
2 outlay full-time equivalent students equals 80 percent or more
3 of the current year's school capacity and the projected 5-year
4 student growth is 1,000 or greater, or where the projected
5 5-year student growth rate is 10 percent or greater.

6 (c) If the student population has declined over the
7 5-year period preceding the due date for submittal of an
8 interlocal agreement by the local government and the district
9 school board, the local government and the district school
10 board may petition the state land planning agency for a waiver
11 of one or more of the requirements of subsection (3). The
12 waiver must be granted if the procedures called for in
13 subsection (3) are unnecessary because of the school
14 district's declining school-age population, considering the
15 district's 5-year facilities work program prepared pursuant to
16 s. 235.185. The state land planning agency may modify or
17 revoke the waiver upon a finding that the conditions upon
18 which the waiver was granted no longer exist. The district
19 school board and local governments must submit an interlocal
20 agreement within 1 year after notification by the state land
21 planning agency that the conditions for a waiver no longer
22 exist.

23 (d) Interlocal agreements between local governments
24 and district school boards adopted pursuant to s. 163.3177
25 before the effective date of this subsection and subsections
26 (3)-(8) must be updated and executed pursuant to the
27 requirements of this subsection and subsections (3)-(8), if
28 necessary. Amendments to interlocal agreements adopted
29 pursuant to this subsection and subsections (3)-(8) must be
30 submitted to the state land planning agency within 30 days
31 after execution by the parties for review consistent with

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1 subsections (3) and (4). Local governments and the district
2 school board in each school district are encouraged to adopt a
3 single interlocal agreement in which all join as parties. The
4 state land planning agency shall assemble and make available
5 model interlocal agreements meeting the requirements of this
6 subsection and subsections (3)-(8) and shall notify local
7 governments and, jointly with the Department of Education, the
8 district school boards of the requirements of this subsection
9 and subsections (3)-(8), the dates for compliance, and the
10 sanctions for noncompliance. The state land planning agency
11 shall be available to informally review proposed interlocal
12 agreements. If the state land planning agency has not received
13 a proposed interlocal agreement for informal review, the state
14 land planning agency shall, at least 60 days before the
15 deadline for submission of the executed agreement, renotify
16 the local government and the district school board of the
17 upcoming deadline and the potential for sanctions.

18 (3) At a minimum, the interlocal agreement must
19 address the following issues:

20 (a) A process by which each local government and the
21 district school board agree and base their plans on consistent
22 projections of the amount, type, and distribution of
23 population growth and student enrollment. The geographic
24 distribution of jurisdictionwide growth forecasts is a major
25 objective of the process.

26 (b) A process to coordinate and share information
27 relating to existing and planned public school facilities,
28 including school renovations and closures, and local
29 government plans for development and redevelopment.

30 (c) Participation by affected local governments with
31 the district school board in the process of evaluating

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1 potential school closures, significant renovations to existing
2 schools, and new school site selection before land
3 acquisition. Local governments shall advise the district
4 school board as to the consistency of the proposed closure,
5 renovation, or new site with the local comprehensive plan,
6 including appropriate circumstances and criteria under which a
7 district school board may request an amendment to the
8 comprehensive plan for school siting.

9 (d) A process for determining the need for and timing
10 of onsite and offsite improvements to support new
11 construction, proposed expansion, or redevelopment of existing
12 schools. The process shall address identification of the party
13 or parties responsible for the improvements.

14 (e) A process for the school board to inform the local
15 government regarding school capacity. The capacity reporting
16 must be consistent with laws and rules regarding measurement
17 of school facility capacity and must also identify how the
18 district school board will meet the public school demand based
19 on the facilities work program adopted pursuant to s. 235.185.

20 (f) Participation of the local governments in the
21 preparation of the annual update to the school board's 5-year
22 district facilities work program and educational plant survey
23 prepared pursuant to s. 235.185.

24 (g) A process for determining where and how joint use
25 of either school board or local government facilities can be
26 shared for mutual benefit and efficiency.

27 (h) A procedure for the resolution of disputes between
28 the district school board and local governments, which may
29 include the dispute resolution processes contained in chapters
30 164 and 186.

31 (i) An oversight process, including an opportunity for

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1 public participation, for the implementation of the interlocal
2 agreement.

3
4 A signatory to the interlocal agreement may elect not to
5 include a provision meeting the requirements of paragraph (e);
6 however, such a decision may be made only after a public
7 hearing on such election, which may include the public hearing
8 in which a district school board or a local government adopts
9 the interlocal agreement. An interlocal agreement entered
10 into pursuant to this section must be consistent with the
11 adopted comprehensive plan and land development regulations of
12 any local government that is a signatory.

13 (4)(a) The Office of Educational Facilities and SMART
14 Schools Clearinghouse shall submit any comments or concerns
15 regarding the executed interlocal agreement to the state land
16 planning agency within 30 days after receipt of the executed
17 interlocal agreement. The state land planning agency shall
18 review the executed interlocal agreement to determine whether
19 the agreement is consistent with the requirements of
20 subsection (3), the adopted local government comprehensive
21 plan, and other requirements of law. Within 60 days after
22 receipt of an executed interlocal agreement, the state land
23 planning agency shall publish a notice of intent in the
24 Florida Administrative Weekly and shall post a copy of the
25 notice on the agency's Internet site. The notice of intent
26 must state that the interlocal agreement is consistent or
27 inconsistent with the requirements of subsection (3) and this
28 subsection as appropriate.

29 (b) The state land planning agency's notice is subject
30 to challenge under chapter 120; however, an affected person,
31 as defined in s. 163.3184(1)(a), has standing to initiate the

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1 administrative proceeding and this proceeding is the sole
2 means available to challenge the consistency of an interlocal
3 agreement required by this section with the criteria contained
4 in subsection (3) and this subsection. In order to have
5 standing, each person must have submitted oral or written
6 comments, recommendations, or objections to the local
7 government or the school board before the adoption of the
8 interlocal agreement by the district school board and local
9 government. The district school board and local governments
10 are parties to any such proceeding. In such proceeding, when
11 the state land planning agency finds the interlocal agreement
12 to be consistent with the criteria in subsection (3) and this
13 subsection, the interlocal agreement must be determined to be
14 consistent with subsection (3) and this subsection if the
15 local government's and school board's determination of
16 consistency is fairly debatable. When the state land planning
17 agency finds the interlocal agreement to be inconsistent with
18 the requirements of subsection (3) and this subsection, the
19 local government's and school board's determination of
20 consistency shall be sustained unless it is shown by a
21 preponderance of the evidence that the interlocal agreement is
22 inconsistent.

23 (c) If the state land planning agency enters a final
24 order that finds that the interlocal agreement is inconsistent
25 with the requirements of subsection (3) or this subsection,
26 the state land planning agency shall forward the agreement to
27 the Administration Commission, which may impose sanctions
28 against the local government pursuant to s. 163.3184(11) and
29 may impose sanctions against the district school board by
30 directing the Department of Education to withhold from the
31 district school board an equivalent amount of funds for school

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1 construction available pursuant to s. 235.187, s. 235.216, s.
2 235.2195, or s. 235.42.

3 (5) If an executed interlocal agreement is not timely
4 submitted to the state land planning agency for review, the
5 state land planning agency shall, within 15 working days after
6 the deadline for submittal, issue to the local government and
7 the district school board a notice to show cause why sanctions
8 should not be imposed for failure to submit an executed
9 interlocal agreement by the deadline established by the
10 agency. The agency shall forward the notice and the responses
11 to the Administration Commission, which may enter a final
12 order citing the failure to comply and imposing sanctions
13 against the local government and district school board by
14 directing the appropriate agencies to withhold at least 5
15 percent of state funds pursuant to s. 163.3184(11) and by
16 directing the Department of Education to withhold from the
17 district school board at least 5 percent of funds for school
18 construction available pursuant to s. 235.187, s. 235.216, s.
19 235.2195, or s. 235.42.

20 (6) Any local government transmitting a public school
21 element to implement school concurrency pursuant to the
22 requirements of s. 163.3180 before the effective date of this
23 section is not required to amend the element or any interlocal
24 agreement to conform with the provisions of subsections
25 (2)-(5), this subsection, and subsections (7) and (8) if the
26 element is adopted prior to or within 1 year after the
27 effective date of subsections (2)-(5), this subsection, and
28 subsections (7) and (8) and remains in effect.

29 (7) Except as provided in subsection (8),
30 municipalities having no established need for a new facility
31 and meeting the following criteria are exempt from the

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1 requirements of subsections (2), (3), and (4):

2 (a) The municipality has no public schools located
3 within its boundaries.

4 (b) The district school board's 5-year facilities work
5 program and the long-term 10-year and 20-year work programs,
6 as provided in s. 235.185, demonstrate that no new school
7 facility is needed in the municipality. In addition, the
8 district school board must verify in writing that no new
9 school facility will be needed in the municipality within the
10 5-year and 10-year timeframes.

11 (8) At the time of the evaluation and appraisal
12 report, each exempt municipality shall assess the extent to
13 which it continues to meet the criteria for exemption under
14 subsection (7). If the municipality continues to meet these
15 criteria and the district school board verifies in writing
16 that no new school facilities will be needed within the 5-year
17 and 10-year timeframes, the municipality shall continue to be
18 exempt from the interlocal agreement requirement. Each
19 municipality exempt under subsection (7) must comply with the
20 provisions of subsections (2)-(7) and this subsection within 1
21 year after the district school board proposes, in its 5-year
22 district facilities work program, a new school within the
23 municipality's jurisdiction.

24 (9)(2) A school board and the local governing body
25 must share and coordinate information related to existing and
26 planned public school facilities; proposals for development,
27 redevelopment, or additional development; and infrastructure
28 required to support the public school facilities, concurrent
29 with proposed development. A school board shall use
30 information produced by the demographic, revenue, and
31 education estimating conferences pursuant to s. 216.136

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

19 (10)(3) The location of public educational facilities
 20 shall be consistent with the comprehensive plan of the
 21 appropriate local governing body developed under part II of
 22 chapter 163 and consistent with the plan's implementing land
 23 development regulations, ~~to the extent that the regulations~~
 24 ~~are not in conflict with or the subject regulated is not~~
 25 ~~specifically addressed by this chapter or the State Uniform~~
 26 ~~Building Code, unless mutually agreed by the local government~~
 27 ~~and the board.~~

28 (11)(4) To improve coordination relative to potential
 29 educational facility sites, a board shall provide written
 30 notice to the local government that has regulatory authority
 31 over the use of the land consistent with an interlocal

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1 agreement entered into pursuant to subsections (2)-(8) at
2 least 60 days prior to acquiring or leasing property that may
3 be used for a new public educational facility. The local
4 government, upon receipt of this notice, shall notify the
5 board within 45 days if the site proposed for acquisition or
6 lease is consistent with the land use categories and policies
7 of the local government's comprehensive plan. This
8 preliminary notice does not constitute the local government's
9 determination of consistency pursuant to subsection (12)(5).
10 (12)(5) As early in the design phase as feasible and
11 consistent with an interlocal agreement entered into pursuant
12 to subsections (2)-(8), but no later than 90 days before
13 commencing construction, the district school board shall in
14 writing request a determination of consistency with the local
15 government's comprehensive plan. but at least before
16 commencing construction of a new public educational facility,
17 The local governing body that regulates the use of land shall
18 determine, in writing within 45 90 days after receiving the
19 necessary information and a school board's request for a
20 determination, whether a proposed public educational facility
21 is consistent with the local comprehensive plan and consistent
22 with local land development regulations, to the extent that
23 the regulations are not in conflict with or the subject
24 regulated is not specifically addressed by this chapter or the
25 State Uniform Building Code, unless mutually agreed. If the
26 determination is affirmative, school construction may commence
27 proceed and further local government approvals are not
28 required, except as provided in this section. Failure of the
29 local governing body to make a determination in writing within
30 90 days after a school board's request for a determination of
31 consistency shall be considered an approval of the school

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1 board's application.

2 (13)~~(6)~~ A local governing body may not deny the site
3 applicant based on adequacy of the site plan as it relates
4 solely to the needs of the school. If the site is consistent
5 with the comprehensive plan's ~~future~~ land use policies and
6 categories in which public schools are identified as allowable
7 uses, the local government may not deny the application but it
8 may impose reasonable development standards and conditions in
9 accordance with s. 235.34(1) and consider the site plan and
10 its adequacy as it relates to environmental concerns, health,
11 safety and welfare, and effects on adjacent property.
12 Standards and conditions may not be imposed which conflict
13 with those established in this chapter or the Florida State
14 Uniform Building Code, unless mutually agreed and consistent
15 with the interlocal agreement required by subsections (2)-(8).

16 (14)~~(7)~~ This section does not prohibit a local
17 governing body and district school board from agreeing and
18 establishing an alternative process for reviewing a proposed
19 educational facility and site plan, and offsite impacts,
20 pursuant to an interlocal agreement adopted in accordance with
21 subsections (2)-(8).

22 (15)~~(8)~~ Existing schools shall be considered
23 consistent with the applicable local government comprehensive
24 plan adopted under part II of chapter 163. ~~The collocation of~~
25 ~~a new proposed public educational facility with an existing~~
26 ~~public educational facility, or the expansion of an existing~~
27 ~~public educational facility is not inconsistent with the local~~
28 ~~comprehensive plan, if the site is consistent with the~~
29 ~~comprehensive plan's future land use policies and categories~~
30 ~~in which public schools are identified as allowable uses, and~~
31 ~~levels of service adopted by the local government for any~~

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

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

12 (b) Proposed renovation or construction on existing
13 school sites, with the exception of construction that changes
14 the primary use of a facility, includes stadiums, or results
15 in a greater than 5 percent increase in student capacity, or
16 as mutually agreed, pursuant to an interlocal agreement
17 adopted in accordance with subsections (2)-(8).

18 Section 12. Section 163.3215, Florida Statutes, is
19 amended to read:

20 163.3215 Standing to enforce local comprehensive plans
21 through development orders.--

22 (1) Subsections (3) and (4) provide the exclusive
23 methods for an aggrieved or adversely affected party to appeal
24 and challenge the consistency of a development order with a
25 comprehensive plan adopted under this part. The local
26 government that issues the development order is to be named as
27 a respondent in all proceedings under this section. Subsection
28 (3) shall not apply to development orders for which a local
29 government has established a process consistent with the
30 requirements of subsection (4). A local government may decide
31 which types of development orders will proceed under

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1 subsection (4). Subsection (3) shall apply to all other
2 development orders that are not subject to subsection (4).
3 (2) As used in this section, the term "aggrieved or
4 adversely affected party" means any person or local government
5 that will suffer an adverse effect to an interest protected or
6 furthered by the local government comprehensive plan,
7 including interests related to health and safety, police and
8 fire protection service systems, densities or intensities of
9 development, transportation facilities, health care
10 facilities, equipment or services, and environmental or
11 natural resources. The alleged adverse interest may be shared
12 in common with other members of the community at large but
13 must exceed in degree the general interest in community good
14 shared by all persons. The term includes the owner, developer,
15 or applicant for a development order.
16 (3)(1) Any aggrieved or adversely affected party may
17 maintain a de novo ~~an~~ action for declaratory, injunctive, or
18 other relief against any local government to challenge any
19 decision of such local government granting or denying an
20 application for, or to prevent such local government from
21 taking any action on, a development order, as defined in s.
22 163.3164, which materially alters the use or density or
23 intensity of use on a particular piece of property which ~~that~~
24 is not consistent with the comprehensive plan adopted under
25 this part. The de novo action must be filed no later than 30
26 days following rendition of a development order or other
27 written decision, or when all local administrative appeals, if
28 any, are exhausted, whichever occurs later.
29 (4) If a local government elects to adopt or has
30 adopted an ordinance establishing, at a minimum, the
31 requirements listed in this subsection, the sole method by

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1 which an aggrieved and adversely affected party may challenge
2 any decision of local government granting or denying an
3 application for a development order, as defined in s.
4 163.3164, which materially alters the use or density or
5 intensity of use on a particular piece of property, on the
6 basis that it is not consistent with the comprehensive plan
7 adopted under this part, is by an appeal filed by a petition
8 for writ of certiorari filed in circuit court no later than 30
9 days following rendition of a development order or other
10 written decision of the local government, or when all local
11 administrative appeals, if any, are exhausted, whichever
12 occurs later. An action for injunctive or other relief may be
13 joined with the petition for certiorari. Principles of
14 judicial or administrative res judicata and collateral
15 estoppel apply to these proceedings. Minimum components of the
16 local process are as follows:

17 (a) The local process must make provision for notice
18 of an application for a development order that materially
19 alters the use or density or intensity of use on a particular
20 piece of property, including notice by publication or mailed
21 notice consistent with the provisions of s. 166.041(3)(c)2.b.
22 and c. and s. 125.66(4)(b)2. and 3., and must require
23 prominent posting at the job site. The notice must be given
24 within 10 days after the filing of an application for
25 development order; however, notice under this subsection is
26 not required for an application for a building permit or any
27 other official action of local government which does not
28 materially alter the use or density or intensity of use on a
29 particular piece of property. The notice must clearly
30 delineate that an aggrieved or adversely affected person has
31 the right to request a quasi-judicial hearing before the local

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1 government for which the application is made, must explain the
2 conditions precedent to the appeal of any development order
3 ultimately rendered upon the application, and must specify the
4 location where written procedures can be obtained that
5 describe the process, including how to initiate the
6 quasi-judicial process, the timeframes for initiating the
7 process, and the location of the hearing. The process may
8 include an opportunity for an alternative dispute resolution.

9 (b) The local process must provide a clear point of
10 entry consisting of a written preliminary decision, at a time
11 and in a manner to be established in the local ordinance, with
12 the time to request a quasi-judicial hearing running from the
13 issuance of the written preliminary decision; the local
14 government, however, is not bound by the preliminary decision.
15 A party may request a hearing to challenge or support a
16 preliminary decision.

17 (c) The local process must provide an opportunity for
18 participation in the process by an aggrieved or adversely
19 affected party, allowing a reasonable time for the party to
20 prepare and present a case for the quasi-judicial hearing.

21 (d) The local process must provide, at a minimum, an
22 opportunity for the disclosure of witnesses and exhibits prior
23 to hearing and an opportunity for the depositions of witnesses
24 to be taken.

25 (e) The local process may not require that a party be
26 represented by an attorney in order to participate in a
27 hearing.

28 (f) The local process must provide for a
29 quasi-judicial hearing before an impartial special master who
30 is an attorney who has at least 5 years' experience and who
31 shall, at the conclusion of the hearing, recommend written

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1 findings of fact and conclusions of law. The special master
2 shall have the power to swear witnesses and take their
3 testimony under oath, to issue subpoenas and other orders
4 regarding the conduct of the proceedings, and to compel entry
5 upon the land. The standard of review applied by the special
6 master in determining whether a proposed development order is
7 consistent with the comprehensive plan shall be strict
8 scrutiny in accordance with Florida law.

9 (g) At the quasi-judicial hearing, all parties must
10 have the opportunity to respond, to present evidence and
11 argument on all issues involved which are related to the
12 development order, and to conduct cross-examination and submit
13 rebuttal evidence. Public testimony must be allowed.

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

30 (i) An ex parte communication relating to the merits
31 of the matter under review may not be made to the special

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1 master. An ex parte communication relating to the merits of
2 the matter under review may not be made to the governing body
3 after a time to be established by the local ordinance, which
4 time must be no later than receipt of the special master's
5 recommended order by the governing body.

6 (j) At the option of the local government, the process
7 may require actions to challenge the consistency of a
8 development order with land development regulations to be
9 brought in the same proceeding.

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

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

26 ~~(b) Suit under this section shall be the sole action~~
27 ~~available to challenge the consistency of a development order~~
28 ~~with a comprehensive plan adopted under this part.~~

29 ~~(4) As a condition precedent to the institution of an~~
30 ~~action pursuant to this section, the complaining party shall~~
31 ~~first file a verified complaint with the local government~~

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

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

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

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1 incurred because of the filing of the pleading, motion, or
2 other paper, including a reasonable attorney's fee.

3 (7) In any proceeding ~~action~~ under subsection (3) or
4 subsection (4) ~~this section~~, no settlement shall be entered
5 into by the local government unless the terms of the
6 settlement have been the subject of a public hearing after
7 notice as required by this part.

8 (8) In any proceeding ~~suit~~ under subsection (3) or
9 subsection (4) ~~this section~~, the Department of Legal Affairs
10 may intervene to represent the interests of the state.

11 (9) Neither subsection (3) nor subsection (4) relieves
12 the local government of its obligations to hold public
13 hearings as required by law.

14 Section 13. Paragraph (c) of subsection (1) of section
15 163.3187, Florida Statutes, is amended, and paragraph (k) is
16 added to said subsection, to read:

17 163.3187 Amendment of adopted comprehensive plan.--

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

21 (c) Any local government comprehensive plan amendments
22 directly related to proposed small scale development
23 activities may be approved without regard to statutory limits
24 on the frequency of consideration of amendments to the local
25 comprehensive plan. A small scale development amendment may be
26 adopted only under the following conditions:

27 1. The proposed amendment involves a use of 10 acres
28 or fewer and:

29 a. The cumulative annual effect of the acreage for all
30 small scale development amendments adopted by the local
31 government shall not exceed:

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1 (I) A maximum of 120 acres in a local government that
2 contains areas specifically designated in the local
3 comprehensive plan for urban infill, urban redevelopment, or
4 downtown revitalization as defined in s. 163.3164, urban
5 infill and redevelopment areas designated under s. 163.2517,
6 transportation concurrency exception areas approved pursuant
7 to s. 163.3180(5), or regional activity centers and urban
8 central business districts approved pursuant to s.
9 380.06(2)(e); however, amendments under this paragraph may be
10 applied to no more than 60 acres annually of property outside
11 the designated areas listed in this sub-sub-subparagraph.
12 Amendments adopted pursuant to paragraph (k) shall not be
13 counted toward the acreage limitations for small scale
14 amendments under this paragraph.

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

18 (III) A maximum of 120 acres in a county established
19 pursuant to s. 9, Art. VIII of the State Constitution.

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

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

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

30 e. The property that is the subject of the proposed
31 amendment is not located within an area of critical state

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1 concern, unless the project subject to the proposed amendment
2 involves the construction of affordable housing units meeting
3 the criteria of s. 420.0004(3), and is located within an area
4 of critical state concern designated by s. 380.0552 or by the
5 Administration Commission pursuant to s. 380.05(1). Such
6 amendment is not subject to the density limitations of
7 sub-subparagraph f., and shall be reviewed by the state land
8 planning agency for consistency with the principles for
9 guiding development applicable to the area of critical state
10 concern where the amendment is located and shall not become
11 effective until a final order is issued under s. 380.05(6).

12 f. If the proposed amendment involves a residential
13 land use, the residential land use has a density of 10 units
14 or less per acre, except that this limitation does not apply
15 to small scale amendments described in sub-sub-subparagraph
16 a.(I) that are designated in the local comprehensive plan for
17 urban infill, urban redevelopment, or downtown revitalization
18 as defined in s. 163.3164, urban infill and redevelopment
19 areas designated under s. 163.2517, transportation concurrency
20 exception areas approved pursuant to s. 163.3180(5), or
21 regional activity centers and urban central business districts
22 approved pursuant to s. 380.06(2)(e).

23 2.a. A local government that proposes to consider a
24 plan amendment pursuant to this paragraph is not required to
25 comply with the procedures and public notice requirements of
26 s. 163.3184(15)(~~e~~) for such plan amendments if the local
27 government complies with the provisions in s. 125.66(4)(a) for
28 a county or in s. 166.041(3)(c) for a municipality. If a
29 request for a plan amendment under this paragraph is initiated
30 by other than the local government, public notice is required.

31 b. The local government shall send copies of the

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1 notice and amendment to the state land planning agency, the
2 regional planning council, and any other person or entity
3 requesting a copy. This information shall also include a
4 statement identifying any property subject to the amendment
5 that is located within a coastal high hazard area as
6 identified in the local comprehensive plan.

7 3. Small scale development amendments adopted pursuant
8 to this paragraph require only one public hearing before the
9 governing board, which shall be an adoption hearing as
10 described in s. 163.3184(7), and are not subject to the
11 requirements of s. 163.3184(3)-(6) unless the local government
12 elects to have them subject to those requirements.

13 (k) A local comprehensive plan amendment directly
14 related to providing transportation improvements to enhance
15 life safety on Controlled Access Major Arterial Highways
16 identified in the Florida Intrastate Highway System, in
17 counties as defined in s. 125.011, where such roadways have a
18 high incidence of traffic accidents resulting in serious
19 injury or death. Any such amendment shall not include any
20 amendment modifying the designation on a comprehensive
21 development plan land use map nor any amendment modifying the
22 allowable densities or intensities of any land.

23 Section 14. Paragraph (c) is added to subsection (4)
24 of section 163.3180, Florida Statutes, to read:

25 163.3180 Concurrency.--

26 (4)

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

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1 public health or safety as defined by the local government in
2 its local government comprehensive plan. The waiver shall be
3 adopted as a plan amendment pursuant to the process set forth
4 in s. 163.3187(3)(a). A local government may grant a
5 concurrency exception pursuant to subsection (5) for
6 transportation facilities located within these urban infill
7 and redevelopment areas.

8 Section 15. Paragraph (a) of subsection (1),
9 subsections (3), (4), (6), (7), (8), and (15), and paragraph
10 (d) of subsection (16) of section 163.3184, Florida Statutes,
11 are amended to read:

12 163.3184 Process for adoption of comprehensive plan or
13 plan amendment.--

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

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

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

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

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

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

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

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

27 (4) INTERGOVERNMENTAL REVIEW.--~~The if review of a~~
28 ~~proposed comprehensive plan amendment is requested or~~
29 ~~otherwise initiated pursuant to subsection (6), the state land~~
30 ~~planning agency within 5 working days of determining that such~~
31 ~~a review will be conducted shall transmit a copy of the~~

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

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

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

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1 ~~proposed plan amendment.~~ A regional planning council or
2 affected person requesting a review shall do so by submitting
3 a written request to the agency with a notice of the request
4 to the local government and any other person who has requested
5 notice.

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

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

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

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

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

26 (a) The local government shall review the written
27 comments submitted to it by the state land planning agency,
28 and any other person, agency, or government. Any comments,
29 recommendations, or objections and any reply to them shall be
30 public documents, a part of the permanent record in the
31 matter, and admissible in any proceeding in which the

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

25 (b) If the adopted plan amendment is unchanged from
26 the proposed plan amendment transmitted pursuant to subsection
27 (3) and an affected person as defined in paragraph (1)(a) did
28 not raise any objection, the state land planning agency did
29 not review the proposed plan amendment, and the state land
30 planning agency did not raise any objections during its review
31 pursuant to subsection (6), the local government may state in

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1 the transmittal letter that the plan amendment is unchanged
2 and was not the subject of objections.

3 (8) NOTICE OF INTENT.--

4 (a) If the transmittal letter correctly states that
5 the plan amendment is unchanged and was not the subject of
6 review or objections pursuant to paragraph (7)(b), the state
7 land planning agency has 20 days after receipt of the
8 transmittal letter within which to issue a notice of intent
9 that the plan amendment is in compliance.

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

23 1. The stateland planning agency's written comments
24 to the local government pursuant to subsection (6); or

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

27 ~~(c)(b)1. During the time period provided for in this~~
28 ~~subsection, the state land planning agency shall issue,~~
29 ~~through a senior administrator or the secretary, as specified~~
30 ~~in the agency's procedural rules, a notice of intent to find~~
31 ~~that the plan or plan amendment is in compliance or not in~~

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1 ~~compliance. A notice of intent shall be issued by publication~~
2 ~~in the manner provided by this paragraph and by mailing a copy~~
3 ~~to the local government and to persons who request notice.~~
4 ~~The required advertisement shall be no less than 2 columns~~
5 ~~wide by 10 inches long, and the headline in the advertisement~~
6 ~~shall be in a type no smaller than 12 point. The advertisement~~
7 ~~shall not be placed in that portion of the newspaper where~~
8 ~~legal notices and classified advertisements appear. The~~
9 ~~advertisement shall be published in a newspaper which meets~~
10 ~~the size and circulation requirements set forth in paragraph~~
11 ~~(15)(c) and which has been designated in writing by the~~
12 ~~affected local government at the time of transmittal of the~~
13 ~~amendment. Publication by the state land planning agency of a~~
14 ~~notice of intent in the newspaper designated by the local~~
15 ~~government shall be prima facie evidence of compliance with~~
16 ~~the publication requirements of this section.~~

17 2. ~~For fiscal year 2001-2002 only, the provisions of~~
18 ~~this subparagraph shall supersede the provisions of~~
19 ~~subparagraph 1. During the time period provided for in this~~
20 ~~subsection, the state land planning agency shall issue,~~
21 ~~through a senior administrator or the secretary, as specified~~
22 ~~in the agency's procedural rules, a notice of intent to find~~
23 ~~that the plan or plan amendment is in compliance or not in~~
24 ~~compliance. A notice of intent shall be issued by publication~~
25 ~~in the manner provided by this paragraph and by mailing a copy~~
26 ~~to the local government. The advertisement shall be placed in~~
27 ~~that portion of the newspaper where legal notices appear. The~~
28 ~~advertisement shall be published in a newspaper that meets the~~
29 ~~size and circulation requirements set forth in paragraph~~
30 ~~(15)(e)(c) and that has been designated in writing by the~~
31 ~~affected local government at the time of transmittal of the~~

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1 amendment. Publication by the state land planning agency of a
2 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. The state land
5 planning agency shall post a copy of the notice of intent on
6 the agency's Internet site. The agency shall, no later than
7 the date the notice of intent is transmitted to the newspaper,
8 send by regular mail a courtesy informational statement to
9 persons who provide their names and addresses to the local
10 government at the transmittal hearing or at the adoption
11 hearing where the local government has provided the names and
12 addresses of such persons to the department at the time of
13 transmittal of the adopted amendment. The informational
14 statements shall include the name of the newspaper in which
15 the notice of intent will appear, the approximate date of
16 publication, the ordinance number of the plan or plan
17 amendment, and a statement that affected persons have 21 days
18 after the actual date of publication of the notice to file a
19 petition. ~~This subparagraph expires July 1, 2002.~~

20 2. 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 the 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.

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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 shall 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 (d) The agency shall provide a model sign-in form for

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1 providing the list to the agency that may be used by the local
2 government to satisfy the requirements of this subsection.

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

10 (16) COMPLIANCE AGREEMENTS.--

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

26 Section 16. Section 235.1851, Florida Statutes, is
27 created to read:

28 235.1851 Educational facilities benefit districts.--

29 (1) It is the intent of the Legislature to encourage
30 and authorize public cooperation among district school boards,
31 affected local general purpose governments, and benefited

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1 private interests in order to implement financing for timely
2 construction and maintenance of school facilities, including
3 facilities identified in individual district facilities work
4 programs or proposed by charter schools. It is the further
5 intent of the Legislature to provide efficient alternative
6 mechanisms and incentives to allow for sharing costs of
7 educational facilities necessary to accommodate new growth and
8 development among public agencies, including district school
9 boards, affected local general purpose governments, and
10 benefited private development interests.

11 (2) The Legislature hereby authorizes the creation of
12 educational facilities benefit districts pursuant to
13 interlocal cooperation agreements between a district school
14 board and all local general purpose governments within whose
15 jurisdiction a district is located. The purpose of
16 educational facilities benefit districts is to assist in
17 financing the construction and maintenance of educational
18 facilities.

19 (3)(a) An educational facilities benefit district may
20 be created pursuant to this act and chapters 125, 163, 166,
21 and 189. An educational facilities benefit district charter
22 may be created by a county or municipality by entering into an
23 interlocal agreement, as authorized by s. 163.01, with the
24 district school board and any local general purpose government
25 within whose jurisdiction a portion of the district is located
26 and adoption of an ordinance that includes all provisions
27 contained within s. 189.4041. The creating entity shall be
28 the local general purpose government within whose boundaries a
29 majority of the educational facilities benefit district's
30 lands are located.

31 (b) Creation of any educational facilities benefit

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1 district shall be conditioned upon the consent of the district
2 school board, all local general purpose governments within
3 whose jurisdiction any portion of the educational facilities
4 benefit district is located, and all landowners within the
5 district. The membership of the governing board of any
6 educational facilities benefit district shall include
7 representation of the district school board, each cooperating
8 local general purpose government, and the landowners within
9 the district. In the case of an educational facilities
10 benefit district's decision to create a charter school, the
11 board of directors of the charter school may constitute the
12 members of the governing board for the educational facilities
13 benefit district.

14 (4) The educational facilities benefit district shall
15 have, and its governing board may exercise, the following
16 powers:

17 (a) To finance and construct educational facilities
18 within the district's boundaries.

19 (b) To sue and be sued in the name of the district; to
20 adopt and use a seal and authorize the use of a facsimile
21 thereof; to acquire, by purchase, gift, devise, or otherwise,
22 and to dispose of real and personal property or any estate
23 therein; and to make and execute contracts and other
24 instruments necessary or convenient to the exercise of its
25 powers.

26 (c) To contract for the services of consultants to
27 perform planning, engineering, legal, or other appropriate
28 services of a professional nature. Such contracts shall be
29 subject to the public bidding or competitive negotiations
30 required of local general purpose governments.

31 (d) To borrow money and accept gifts; to apply for

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1 unused grants or loans of money or other property from the
2 United States, the state, a unit of local government, or any
3 person for any district purposes and enter into agreements
4 required in connection therewith; and to hold, use, and
5 dispose of such moneys or property for any district purposes
6 in accordance with the terms of the gift, grant, loan, or
7 agreement relating thereto.

8 (e) To adopt resolutions and polices prescribing the
9 powers, duties, and functions of the officers of the district,
10 the conduct of the business of the district, and the
11 maintenance of records and documents of the district.

12 (f) To maintain an office at such place or places as
13 it may designate within the district or within the boundaries
14 of the local general purpose government that created the
15 district.

16 (g) To lease as lessor or lessee to or from any
17 person, firm, corporation, association, or body, public or
18 private, any projects of the type that the district is
19 authorized to undertake and facilities or property of any
20 nature for use of the district to carry out any of the
21 purposes authorized by this act.

22 (h) To borrow money and issue bonds, certificates,
23 warrants, notes, or other evidence of indebtedness pursuant to
24 this act for periods not longer than 30 years, provided such
25 bonds, certificates, warrants, notes, or other indebtedness
26 shall only be guaranteed by non-ad valorem assessments legally
27 imposed by the district and other available sources of funds
28 provided in this act and shall not pledge the full faith and
29 credit of any local general purpose government or the district
30 school board.

31 (i) To cooperate with or contract with other

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1 governmental agencies as may be necessary, convenient,
2 incidental, or proper in connection with any of the powers,
3 duties, or purposes authorized by this act and to accept
4 funding from local and state agencies as provided in this act.

5 (j) To levy, impose, collect, and enforce non-ad
6 valorem assessments, as defined by s. 197.3632(1)(d), pursuant
7 to this act, chapters 125 and 166, and ss. 197.3631, 197.3632,
8 and 197.3635.

9 (k) To exercise all powers necessary, convenient,
10 incidental, or proper in connection with any of the powers,
11 duties, or purposes authorized by this act.

12 (5) As an alternative to the creation of an
13 educational facilities benefit district, the Legislature
14 hereby recognizes and encourages the consideration of
15 community development district creation pursuant to chapter
16 190 as a viable alternative for financing the construction and
17 maintenance of educational facilities as described in this
18 act. Community development districts are hereby granted the
19 authority to determine, order, levy, impose, collect, and
20 enforce non-ad valorem assessments for such purposes pursuant
21 to this act and chapters 170, 190, and 197. This authority is
22 in addition to any authority granted community development
23 districts under chapter 190. Community development districts
24 are therefore deemed eligible for the financial enhancements
25 available to educational facilities benefit districts
26 providing for financing the construction and maintenance of
27 educational facilities pursuant to s. 235.1852. In order to
28 receive such financial enhancements, a community development
29 district must enter into an interlocal agreement with the
30 district school board and affected local general purpose
31 governments that specifies the obligations of all parties to

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1 the agreement. Nothing in this act or in any interlocal
2 agreement entered into pursuant to this act shall require any
3 change in the method of election of a board of supervisors of
4 a community development district provided in chapter 190.

5 Section 17. Section 235.1852, Florida Statutes, is
6 created to read:

7 235.1852 Local funding for educational facilities
8 benefit districts or community development districts.--Upon
9 confirmation by a district school board of the commitment of
10 revenues by an educational facilities benefit district or
11 community development district necessary to construct and
12 maintain an educational facility contained within an
13 individual district facilities work program or proposed by an
14 approved charter school or a charter school applicant, the
15 following funds shall be provided to the educational
16 facilities benefit district or community development district
17 annually, beginning with the next fiscal year after
18 confirmation until the district's financial obligations are
19 completed:

20 (1) All educational facilities impact fee revenue
21 collected for new development within the educational
22 facilities benefit district or community development district.
23 Funds provided under this subsection shall be used to fund the
24 construction and capital maintenance costs of educational
25 facilities.

26 (2) For construction and capital maintenance costs not
27 covered by the funds provided under subsection (1), an annual
28 amount contributed by the district school board equal to
29 one-half of the remaining costs of construction and capital
30 maintenance of the educational facility. Any construction
31 costs above the cost-per-student criteria established for the

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1 SIT Program in s. 235.216(2) shall be funded exclusively by
2 the educational facilities benefit district or the community
3 development district. Funds contributed by a district school
4 board shall not be used to fund operational costs.

5
6 Educational facilities funded pursuant to this act may be
7 constructed on land that is owned by any person after the
8 district school board has acquired from the owner of the land
9 a long-term lease for the use of this land for a period of not
10 less than 40 years or the life expectancy of the permanent
11 facilities constructed thereon, whichever is longer. All
12 interlocal agreements entered into pursuant to this act shall
13 provide for ownership of educational facilities funded
14 pursuant to this act to revert to the district school board if
15 such facilities cease to be used for public educational
16 purposes prior to 40 years after construction or prior to the
17 end of the life expectancy of the educational facilities,
18 whichever is longer.

19 Section 18. Section 235.1853, Florida Statutes, is
20 created to read:

21 235.1853 Educational facilities benefit district or
22 community development district facility utilization.--The
23 student population of all facilities funded pursuant to this
24 act shall, to the greatest extent possible, reflect the
25 racial, ethnic, and socioeconomic balance of the school
26 district pursuant to state and federal law. However, to the
27 extent allowable pursuant to state and federal law, the
28 interlocal agreement providing for the establishment of the
29 educational facilities benefit district or the interlocal
30 agreement between the community development district and the
31 district school board and affected local general purpose

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1 governments may provide for the district school board to
2 establish school attendance zones that allow students residing
3 within a reasonable distance of facilities financed through
4 the interlocal agreement to attend such facilities.

5 Section 19. Paragraph (d) of subsection (2), paragraph
6 (b) of subsection (4), paragraph (a) of subsection (8),
7 subsection (12), paragraph (c) of subsection (15), subsection
8 (18), paragraphs (b), (c), (e), and (f) of subsection (19),
9 and paragraph (n) of subsection (25) of section 380.06,
10 Florida Statutes, are amended, and paragraphs (i), (j), and
11 (k) are added to subsection (24) of said section, to read:

12 380.06 Developments of regional impact.--

13 (2) STATEWIDE GUIDELINES AND STANDARDS.--

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

16 1. Fixed thresholds.--

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

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

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

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1 described in s. 380.0651(3)(c), (d), and (i), are not required
2 to undergo development-of-regional-impact review.

3 2. Rebuttable presumption ~~presumptions~~.--

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

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

11 (4) BINDING LETTER.--

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

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

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

29 (8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

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

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

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

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

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

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

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

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

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

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

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

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

29 8. The agreement shall include a disclosure by the
30 developer and all the owners of the land in the total proposed
31 development of all land or development within 5 miles of the

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1 total proposed development in which they have an interest and
2 shall describe such interest.

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

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

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

29 a. A final development order under this section has
30 been rendered that approves all of the development actually
31 constructed; or

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

8
9 In either event, when a developer proposes to abandon said
10 agreement, the developer shall give written notice and state
11 that he or she is no longer proposing a development of
12 regional impact and provide adequate documentation that he or
13 she has met the criteria for abandonment of the agreement to
14 the state land planning agency. Within 30 days of receipt of
15 adequate documentation of such notice, the state land planning
16 agency shall make its determination as to whether or not the
17 developer meets the criteria for abandonment. Once the state
18 land planning agency determines that the developer meets the
19 criteria for abandonment, the state land planning agency shall
20 issue a notice of abandonment which shall be recorded by the
21 developer in accordance with s. 28.222 with the clerk of the
22 circuit court for each county in which land covered by the
23 terms of the agreement is located.

24 (12) REGIONAL REPORTS.--

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

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1 identify regional issues based upon the following review
2 criteria and make recommendations to the local government on
3 these regional issues, specifically considering whether, and
4 the extent to which:

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

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

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

27 (b) At the request of the regional planning agency,
28 other appropriate agencies shall review the proposed
29 development and shall prepare reports and recommendations on
30 issues that are clearly within the jurisdiction of those
31 agencies. Such agency reports shall become part of the

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1 regional planning agency report; however, the regional
2 planning agency may attach dissenting views. When water
3 management district and Department of Environmental Protection
4 permits have been issued pursuant to chapter 373 or chapter
5 403, the regional planning council may comment on the regional
6 implications of the permits but may not offer conflicting
7 recommendations.

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

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

18 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

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

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

31 3. Shall establish a date until which the local

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1 government agrees that the approved development of regional
2 impact shall not be subject to downzoning, unit density
3 reduction, or intensity reduction, unless the local government
4 can demonstrate that substantial changes in the conditions
5 underlying the approval of the development order have occurred
6 or the development order was based on substantially inaccurate
7 information provided by the developer or that the change is
8 clearly established by local government to be essential to the
9 public health, safety, or welfare.

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

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

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

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

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1 state land planning agency has not received the report, the
2 local government shall request in writing that the developer
3 submit the report within 30 days. The failure to submit the
4 report after 30 days shall result in the temporary suspension
5 of the development order by the local government. If no
6 additional development pursuant to the development order has
7 occurred since the submission of the previous report, then a
8 letter from the developer stating that no development has
9 occurred shall satisfy the requirement for a report.
10 Development orders that require annual reports may be amended
11 to require biennial reports at the option of the local
12 government.

13 (19) SUBSTANTIAL DEVIATIONS.--

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

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

27 2. A new runway, a new terminal facility, a 25-percent
28 lengthening of an existing runway, or a 25-percent increase in
29 the number of gates of an existing terminal, but only if the
30 increase adds at least three additional gates. However, if an
31 airport is located in two counties, a 10-percent lengthening

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1 of an existing runway or a 20-percent increase in the number
2 of gates of an existing terminal is the applicable criteria.

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

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

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

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

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

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

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

28 10. An increase in commercial development by ~~6 acres~~
29 ~~of land area or by~~ 50,000 square feet of gross floor area, ~~or~~
30 of parking spaces provided for customers for 300 cars or a
31 5-percent increase of either ~~any~~ of these, whichever is

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1 greater.

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

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

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

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

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

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

29
30 The substantial deviation numerical standards in subparagraphs
31 4., 6., 10., 14., excluding residential uses, and 15., are

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

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

29 (e)1. ~~A proposed change which, either individually or,~~
30 ~~if there were previous changes, cumulatively with those~~
31 ~~changes, is equal to or exceeds 40 percent of any numerical~~

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1 ~~crit~~erion in subparagraphs (b)1.-15., but which does not
 2 exceed such criterion, shall be presumed not to create a
 3 substantial deviation subject to further
 4 development of regional impact review. The presumption may be
 5 rebutted by clear and convincing evidence at the public
 6 hearing held by the local government pursuant to subparagraph
 7 ~~(f)5.~~

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

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

26 a. Changes in the name of the project, developer,
 27 owner, or monitoring official.

28 b. Changes to a setback that do not affect noise
 29 buffers, environmental protection or mitigation areas, or
 30 archaeological or historical resources.

31 c. Changes to minimum lot sizes.

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

3 e. Changes to the building design or orientation that
4 stay approximately within the approved area designated for
5 such building and parking lot, and which do not affect
6 historical buildings designated as significant by the Division
7 of Historical Resources of the Department of State.

8 f. Changes to increase the acreage in the development,
9 provided that no development is proposed on the acreage to be
10 added.

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

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

16 i. Any renovation or redevelopment of development
17 within a previously approved development of regional impact
18 which does not change land use or increase density or
19 intensity of use.

20 ~~j.i.~~ Any other change which the state land planning
21 agency agrees in writing is similar in nature, impact, or
22 character to the changes enumerated in sub-subparagraphs a.-i.
23 ~~a.-h.~~ and which does not create the likelihood of any
24 additional regional impact.

25
26 This subsection does not require a development order amendment
27 for any change listed in sub-subparagraphs a.-j.a.-i. unless
28 such issue is addressed either in the existing development
29 order or in the application for development approval, but, in
30 the case of the application, only if, and in the manner in
31 which, the application is incorporated in the development

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1 order.

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

8 4. Any submittal of a proposed change to a previously
9 approved development shall include a description of individual
10 changes previously made to the development, including changes
11 previously approved by the local government. The local
12 government shall consider the previous and current proposed
13 changes in deciding whether such changes cumulatively
14 constitute a substantial deviation requiring further
15 development-of-regional-impact review.

16 5. The following changes to an approved development of
17 regional impact shall be presumed to create a substantial
18 deviation. Such presumption may be rebutted by clear and
19 convincing evidence.

20 a. A change proposed for 15 percent or more of the
21 acreage to a land use not previously approved in the
22 development order. Changes of less than 15 percent shall be
23 presumed not to create a substantial deviation.

24 b. Except for the types of uses listed in subparagraph
25 (b)16., any change which would result in the development of
26 any area which was specifically set aside in the application
27 for development approval or in the development order for
28 preservation, buffers, or special protection, including
29 habitat for plant and animal species, archaeological and
30 historical sites, dunes, and other special areas.

31 c. Notwithstanding any provision of paragraph (b) to

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1 the contrary, a proposed change consisting of simultaneous
2 increases and decreases of at least two of the uses within an
3 authorized multiuse development of regional impact which was
4 originally approved with three or more uses specified in s.
5 380.0651(3)(c), (d), (f), and (g) and residential use.

6 (f)1. The state land planning agency shall establish
7 by rule standard forms for submittal of proposed changes to a
8 previously approved development of regional impact which may
9 require further development-of-regional-impact review. At a
10 minimum, the standard form shall require the developer to
11 provide the precise language that the developer proposes to
12 delete or add as an amendment to the development order.

13 2. The developer shall submit, simultaneously, to the
14 local government, the regional planning agency, and the state
15 land planning agency the request for approval of a proposed
16 change.

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

26 4. The appropriate regional planning agency or the
27 state land planning agency shall review the proposed change
28 and, no later than 45 days after submittal by the developer of
29 the proposed change, unless that time is extended by the
30 developer, and prior to the public hearing at which the
31 proposed change is to be considered, shall advise the local

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1 government in writing whether it objects to the proposed
2 change, shall specify the reasons for its objection, if any,
3 and shall provide a copy to the developer. ~~A change which is~~
4 ~~subject to the substantial deviation criteria specified in~~
5 ~~sub-subparagraph (e)5.c. shall not be subject to this~~
6 ~~requirement.~~

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

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

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1 1980, unless the change would result in a significant impact
2 to a regionally significant archaeological, historical, or
3 natural resource not previously identified in the original
4 development-of-regional-impact review.

5 (24) STATUTORY EXEMPTIONS.--

6 (i) Any proposed facility for the storage of any
7 petroleum product or any expansion of an existing facility is
8 exempt from the provisions of this section, if the facility is
9 consistent with a local comprehensive plan that is in
10 compliance with s. 163.3177 or is consistent with a
11 comprehensive port master plan that is in compliance with s.
12 163.3178.

13 (j) Any renovation or redevelopment within the same
14 land parcel which does not change land use or increase density
15 or intensity of use is exempt from the provisions of this
16 section.

17 (k)1. Any proposal to increase of create new
18 developments at a waterport or marina development is exempt
19 from the provisions of this section if located on a freshwater
20 river or water body with no navigable outlet to the Atlantic
21 Ocean or Gulf of Mexico, or if located west of the 84°24' West
22 longitude line.

23 2. Any waterport or marina development located within
24 a county or municipality within such county identified in the
25 Governor's and Cabinet's October 1989 policy directive or any
26 other counties or municipalities within such county designated
27 as a special risk county for manatee mortality by the Florida
28 Fish and Wildlife Conservation Commission by January 1, 2005,
29 is exempt from the provisions of this section if such county
30 or municipality has adopted a boating facility plan or policy
31 into the coastal management or land use element of its

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1 comprehensive plan. Any county or municipality not exempt from
2 subparagraph 1. that is not identified in the Governor's and
3 Cabinet's October 1989 policy directive or designated as a
4 substantial risk county or municipality shall be exempt from
5 the provisions of this section if such county or municipality
6 has adopted a boating facility siting plan or policy into the
7 coastal management or land use element of its comprehensive
8 plan. If no plan or policy is required by the commission
9 pursuant to law by January 1, 2005, any increase or new
10 development in such counties shall be exempt from the
11 provisions of this section. The adoption of boating facility
12 plans or policies into the comprehensive plan is exempt from
13 the provisions of s. 163.3187(1). Any subsequent change to a
14 boating facility siting plan or policy shall be treated as a
15 small scale development amendment as defined in s.
16 163.3187(1)(c).

17 3. Any waterport or marina development within
18 municipalities or counties with boating facility siting plans
19 adopted prior to July 1, 2002, is exempt from the provisions
20 of this section when its boating facility siting plan or
21 policy is adopted as part of the local government's
22 comprehensive plan as soon as practicable, but no later than
23 July 1, 2003.

24 (25) AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.--

25 (n) After a development order approving an areawide
26 development plan is received, changes shall be subject to the
27 provisions of subsection (19), except that the percentages and
28 numerical criteria shall be double those listed in paragraph
29 (19)(b) and the extension of the date of buildout of a
30 development, or any phase thereof, by less than 10 years shall
31 not create a substantial deviation.

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1 Section 20. Paragraphs (d) and (f) of subsection (3)
2 of section 380.0651, Florida Statutes, are amended to read:
3 380.0651 Statewide guidelines and standards.--
4 (3) The following statewide guidelines and standards
5 shall be applied in the manner described in s. 380.06(2) to
6 determine whether the following developments shall be required
7 to undergo development-of-regional-impact review:
8 (d) Office development.--Any proposed office building
9 or park operated under common ownership, development plan, or
10 management that:
11 1. Encompasses 300,000 or more square feet of gross
12 floor area; or
13 2. ~~Has a total site size of 30 or more acres; or~~
14 ~~3.~~ Encompasses more than 600,000 square feet of gross
15 floor area in a county with a population greater than 500,000
16 and only in a geographic area specifically designated as
17 highly suitable for increased threshold intensity in the
18 approved local comprehensive plan and in the strategic
19 regional policy plan.
20 (f) Retail and service development.--Any proposed
21 retail, service, or wholesale business establishment or group
22 of establishments which deals primarily with the general
23 public onsite, operated under one common property ownership,
24 development plan, or management that:
25 1. Encompasses more than 400,000 square feet of gross
26 area; or
27 2. ~~Occupies more than 40 acres of land; or~~
28 ~~3.~~ Provides parking spaces for more than 2,500 cars.
29 Section 21. (1) Nothing contained in this act
30 abridges or modifies any vested or other right or any duty or
31 obligation pursuant to any development order or agreement that

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1 is applicable to a development of regional impact on the
2 effective date of this act. A development that has received a
3 development-of-regional-impact development order pursuant to
4 s. 380.06, Florida Statutes, but is no longer required to
5 undergo development-of-regional-impact review by operation of
6 this act, shall be governed by the following procedures:

7 (a) The development shall continue to be governed by
8 the development-of-regional-impact development order and may
9 be completed in reliance upon and pursuant to the development
10 order. The development-of-regional-impact development order
11 may be enforced by the local government as provided by ss.
12 380.06(17) and 380.11, Florida Statutes.

13 (b) If requested by the developer or landowner, the
14 development-of-regional-impact development order may be
15 abandoned pursuant to the provisions of s. 380.06(26), Florida
16 Statutes.

17 (2) A development with an application for development
18 approval pending, and determined sufficient pursuant to s.
19 380.06(10), Florida Statutes, on the effective date of this
20 act, or a notification of proposed change pending on the
21 effective date of this act, may elect to continue such review
22 pursuant to s. 380.06, Florida Statutes. At the conclusion of
23 the pending review, including any appeals pursuant to s.
24 380.07, Florida Statutes, the resulting development order
25 shall be governed by the provisions of subsection (1).

26 Section 22. Subsection (2) of section 380.031, Florida
27 Statutes, is amended to read:

28 380.031 Definitions.--As used in this chapter:

29 (2)(a) "Developer" means any person, including a
30 governmental agency, undertaking any development as defined in
31 this chapter.

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1 (b) "Development" has the meaning given it in s.
2 163.3165.

3 Section 23. Section 380.04, Florida Statutes, is
4 repealed.

5 Section 24. Section 380.012, Florida Statutes, is
6 amended to read:

7 380.012 Short title.--Sections 380.012, 380.021,
8 380.031, ~~380.04~~, 380.05, 380.06, 380.07, and 380.08 shall be
9 known and may be cited as "The Florida Environmental Land and
10 Water Management Act of 1972."

11 Section 25. Subsection (4) of section 380.0677,
12 Florida Statutes, is amended to read:

13 380.0677 Green Swamp Land Authority.--

14 (4) APPLICATION FOR LAND PROTECTION AGREEMENT; LIST OF
15 PROPOSED ACQUISITIONS.--Owners of agricultural and other
16 property within the Green Swamp Area of Critical State Concern
17 shall have 3 years from the effective date of the land
18 authority's rules to apply to the land authority concerning
19 their interest in signing a land protection agreement
20 restricting some or all of their rights to their land. A land
21 protection agreement is a voluntarily negotiated instrument
22 which may provide compensation to a landowner in return for
23 the willingness of the landowner to accept restrictions or
24 conditions on the use of the parcel of land, including the
25 right to develop the land as defined in s. 163.3165 ~~380.04~~.
26 The agreement shall include provisions for compliance and
27 shall be recorded and indexed in the same manner as any other
28 instrument affecting the title to real property. A land
29 protection agreement signed by the fee simple owner does not
30 confer with it the right of public access to the real
31 property, unless public access is a right specified within the

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1 agreement. Selected applicants' properties shall be ranked on
2 the authority's list of proposed acquisitions. Work shall
3 continue on listed projects for which acquisition has begun
4 but not closed within the 3-year period, until the acquisition
5 is successfully completed. During the time the property
6 remains on the authority's list of proposed acquisitions, and
7 for 2 years thereafter, the property owner may not change the
8 current use of the property.

9 Section 26. Paragraph (c) of subsection (2) of section
10 288.975, Florida Statutes, is amended to read:

11 288.975 Military base reuse plans.--

12 (2) As used in this section, the term:

13 (c) "Base reuse activities" means development as
14 defined in s. 163.3165 ~~380.04~~ on a military base designated
15 for closure or closed by the Federal Government.

16 Section 27. Subsection (6) of section 163.3164,
17 Florida Statutes, is repealed.

18 Section 28. Section 163.3165, Florida Statutes, is
19 created to read:

20 163.3165 Definition of development.--

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

25 (2) The following activities or uses shall be taken
26 for the purposes of this chapter to involve "development" as
27 defined in this section:

28 (a) A reconstruction, alteration of the size, or
29 material change in the external appearance of a structure on
30 land.

31 (b) A change in the intensity of use of land, such as

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1 an increase in the number of dwelling units in a structure or
2 on land or a material increase in the number of businesses,
3 manufacturing establishments, offices, or dwelling units in a
4 structure or on land.

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

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

10 (e) Demolition of a structure.

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

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

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

17 (a) Work by a highway or road agency or railroad
18 company for the maintenance or improvement of a road or
19 railroad track, if the work is carried out on land within the
20 boundaries of the right-of-way.

21 (b) Work by any utility and other persons engaged in
22 the distribution or transmission of electricity, gas, or
23 water, for the purpose of inspecting, repairing, renewing, or
24 constructing on established rights-of-way any sewers, mains,
25 pipes, cables, utility tunnels, power lines, towers, poles,
26 tracks, or the like.

27 (c) Work for the maintenance, renewal, improvement, or
28 alteration of any structure, if the work affects only the
29 interior or the color of the structure or the decoration of
30 the exterior of the structure.

31 (d) The use of any structure or land devoted to

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1 dwelling uses for any purpose customarily incidental to
2 enjoyment of the dwelling.

3 (e) The use of any land for the purpose of growing
4 plants, crops, trees, and other agricultural or forestry
5 products; raising livestock; or for other agricultural
6 purposes.

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

10 (g) A change in the ownership or form of ownership of
11 any parcel or structure.

12 (h) The creation or termination of rights of access,
13 riparian rights, easements, covenants concerning development
14 of land, or other rights in land.

15 (4) "Development," as designated in an ordinance,
16 rule, or development permit, includes all other development
17 customarily associated with it unless otherwise specified.
18 When appropriate to the context, "development" refers to the
19 act of developing or to the result of development. Reference
20 to any specific operation is not intended to mean that the
21 operation or activity, when part of other operations or
22 activities, is not development. Reference to particular
23 operations is not intended to limit the generality of
24 subsection (1).

25 Section 29. Section 186.515, Florida Statutes, is
26 amended to read:

27 186.515 Creation of regional planning councils under
28 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and
29 186.515 is intended to repeal or limit the provisions of
30 chapter 163; however, the local general-purpose governments
31 serving as voting members of the governing body of a regional

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1 planning council created pursuant to ss. 186.501-186.507,
2 186.513, and 186.515 are not authorized to create a regional
3 planning council pursuant to chapter 163 unless an agency,
4 other than a regional planning council created pursuant to ss.
5 186.501-186.507, 186.513, and 186.515, is designated to
6 exercise the powers and duties in any one or more of ss.
7 163.3164(18)~~(19)~~ and 380.031(15); in which case, such a
8 regional planning council is also without authority to
9 exercise the powers and duties in s. 163.3164(19) or s.
10 380.031(15).

11 Section 30. Paragraph (a) of subsection (16) of
12 section 287.042, Florida Statutes, is amended to read:

13 287.042 Powers, duties, and functions.--The department
14 shall have the following powers, duties, and functions:

15 (16)(a) To enter into joint agreements with
16 governmental agencies, as defined in s. 163.3164(9)~~(10)~~ for
17 the purpose of pooling funds for the purchase of commodities
18 or information technology that can be used by multiple
19 agencies. However, the department shall consult with the State
20 Technology Office on joint agreements that involve the
21 purchase of information technology. Agencies entering into
22 joint purchasing agreements with the department or the State
23 Technology Office shall authorize the department or the State
24 Technology Office to contract for such purchases on their
25 behalf.

26 Section 31. Paragraph (a) of subsection (2) of section
27 288.975, Florida Statutes, is amended to read:

28 288.975 Military base reuse plans.--

29 (2) As used in this section, the term:

30 (a) "Affected local government" means a local
31 government adjoining the host local government and any other

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1 unit of local government that is not a host local government
2 but that is identified in a proposed military base reuse plan
3 as providing, operating, or maintaining one or more public
4 facilities as defined in s. 163.3164(23)~~(24)~~ on lands within
5 or serving a military base designated for closure by the
6 Federal Government.

7 Section 32. Subsection (5) of section 369.303, Florida
8 Statutes, is amended to read:

9 369.303 Definitions.--As used in this part:

10 (5) "Land development regulation" means a regulation
11 covered by the definition in s. 163.3164(22)~~(23)~~ and any of
12 the types of regulations described in s. 163.3202.

13 Section 33. Subsection (16) of section 420.9071,
14 Florida Statutes, is amended to read:

15 420.9071 Definitions.--As used in ss.
16 420.907-420.9079, the term:

17 (16) "Local housing incentive strategies" means local
18 regulatory reform or incentive programs to encourage or
19 facilitate affordable housing production, which include at a
20 minimum, assurance that permits as defined in s. 163.3164(6)
21 ~~(7)~~ and ~~(7)~~~~(8)~~ for affordable housing projects are expedited
22 to a greater degree than other projects; an ongoing process
23 for review of local policies, ordinances, regulations, and
24 plan provisions that increase the cost of housing prior to
25 their adoption; and a schedule for implementing the incentive
26 strategies. Local housing incentive strategies may also
27 include other regulatory reforms, such as those enumerated in
28 s. 420.9076 and adopted by the local governing body.

29 Section 34. Paragraph (a) of subsection (4) of section
30 420.9076, Florida Statutes, is amended to read:

31 420.9076 Adoption of affordable housing incentive

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1 strategies; committees.--

2 (4) The advisory committee shall review the
3 established policies and procedures, ordinances, land
4 development regulations, and adopted local government
5 comprehensive plan of the appointing local government and
6 shall recommend specific initiatives to encourage or
7 facilitate affordable housing while protecting the ability of
8 the property to appreciate in value. Such recommendations may
9 include the modification or repeal of existing policies,
10 procedures, ordinances, regulations, or plan provisions; the
11 creation of exceptions applicable to affordable housing; or
12 the adoption of new policies, procedures, regulations,
13 ordinances, or plan provisions. At a minimum, each advisory
14 committee shall make recommendations on affordable housing
15 incentives in the following areas:

16 (a) The processing of approvals of development orders
17 or permits, as defined in s. 163.3164(6)(7)and(7)(8), for
18 affordable housing projects is expedited to a greater degree
19 than other projects.

20 Section 35. Subsection (6) is added to s. 163.3194,
21 Florida Statutes to read:

22 163.3194 Legal status of comprehensive plan.--

23 (1)(a) After a comprehensive plan, or element or
24 portion thereof, has been adopted in conformity with this act,
25 all development undertaken by, and all actions taken in regard
26 to development orders by, governmental agencies in regard to
27 land covered by such plan or element shall be consistent with
28 such plan or element as adopted.

29 (b) All land development regulations enacted or
30 amended shall be consistent with the adopted comprehensive
31 plan, or element or portion thereof, and any land development

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1 regulations existing at the time of adoption which are not
2 consistent with the adopted comprehensive plan, or element or
3 portion thereof, shall be amended so as to be consistent. If
4 a local government allows an existing land development
5 regulation which is inconsistent with the most recently
6 adopted comprehensive plan, or element or portion thereof, to
7 remain in effect, the local government shall adopt a schedule
8 for bringing the land development regulation into conformity
9 with the provisions of the most recently adopted comprehensive
10 plan, or element or portion thereof. During the interim
11 period when the provisions of the most recently adopted
12 comprehensive plan, or element or portion thereof, and the
13 land development regulations are inconsistent, the provisions
14 of the most recently adopted comprehensive plan, or element or
15 portion thereof, shall govern any action taken in regard to an
16 application for a development order.

17 (2) After a comprehensive plan for the area, or
18 element or portion thereof, is adopted by the governing body,
19 no land development regulation, land development code, or
20 amendment thereto shall be adopted by the governing body until
21 such regulation, code, or amendment has been referred either
22 to the local planning agency or to a separate land development
23 regulation commission created pursuant to local ordinance, or
24 to both, for review and recommendation as to the relationship
25 of such proposal to the adopted comprehensive plan, or element
26 or portion thereof. Said recommendation shall be made within a
27 reasonable time, but no later than within 2 months after the
28 time of reference. If a recommendation is not made within the
29 time provided, then the governing body may act on the
30 adoption.

31 (3)(a) A development order or land development

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1 regulation shall be consistent with the comprehensive plan if
2 the land uses, densities or intensities, and other aspects of
3 development permitted by such order or regulation are
4 compatible with and further the objectives, policies, land
5 uses, and densities or intensities in the comprehensive plan
6 and if it meets all other criteria enumerated by the local
7 government.

8 (b) A development approved or undertaken by a local
9 government shall be consistent with the comprehensive plan if
10 the land uses, densities or intensities, capacity or size,
11 timing, and other aspects of the development are compatible
12 with and further the objectives, policies, land uses, and
13 densities or intensities in the comprehensive plan and if it
14 meets all other criteria enumerated by the local government.

15 (4)(a) A court, in reviewing local governmental action
16 or development regulations under this act, may consider, among
17 other things, the reasonableness of the comprehensive plan, or
18 element or elements thereof, relating to the issue justiciably
19 raised or the appropriateness and completeness of the
20 comprehensive plan, or element or elements thereof, in
21 relation to the governmental action or development regulation
22 under consideration. The court may consider the relationship
23 of the comprehensive plan, or element or elements thereof, to
24 the governmental action taken or the development regulation
25 involved in litigation, but private property shall not be
26 taken without due process of law and the payment of just
27 compensation.

28 (b) It is the intent of this act that the
29 comprehensive plan set general guidelines and principles
30 concerning its purposes and contents and that this act shall
31 be construed broadly to accomplish its stated purposes and

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1 objectives.

2 (5) The tax-exempt status of lands classified as
3 agricultural under s. 193.461 shall not be affected by any
4 comprehensive plan adopted under this act as long as the land
5 meets the criteria set forth in s. 193.461.

6 (6) If a proposed solid waste management facility is
7 permitted by the Department of Environmental Protection to
8 receive materials from the construction or demolition of a
9 road or other transportation facility, a local government may
10 not deny an application for a development approval for a
11 requested land use that would accommodate such a facility,
12 provided the local government previously approved a land use
13 classification change to a local comprehensive plan or
14 approved a rezoning to a category allowing such land use on
15 the parcel, and the requested land use was disclosed during
16 the previous comprehensive plan or rezoning hearing as being
17 an express purpose of the land use changes.

18 Section 36. Paragraph (c) of subsection (3) of section
19 373.4595, Florida Statutes, is amended to read:

20 373.4595 Lake Okeechobee Protection Program.--

21 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
22 program for Lake Okeechobee that achieves phosphorus load
23 reductions for Lake Okeechobee shall be immediately
24 implemented as specified in this subsection. The program shall
25 address the reduction of phosphorus loading to the lake from
26 both internal and external sources. Phosphorus load reductions
27 shall be achieved through a phased program of implementation.
28 Initial implementation actions shall be technology-based,
29 based upon a consideration of both the availability of
30 appropriate technology and the cost of such technology, and
31 shall include phosphorus reduction measures at both the source

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1 and the regional level. The initial phase of phosphorus load
2 reductions shall be based upon the district's Technical
3 Publication 81-2 and the district's WOD program, with
4 subsequent phases of phosphorus load reductions based upon the
5 total maximum daily loads established in accordance with s.
6 403.067. In the development and administration of the Lake
7 Okeechobee Protection Program, the coordinating agencies shall
8 maximize opportunities provided by federal cost-sharing
9 programs and opportunities for partnerships with the private
10 sector.

11 (c) Lake Okeechobee Watershed Phosphorus Control
12 Program.--The Lake Okeechobee Watershed Phosphorus Control
13 Program is designed to be a multifaceted approach to reducing
14 phosphorus loads by improving the management of phosphorus
15 sources within the Lake Okeechobee watershed through continued
16 implementation of existing regulations and best management
17 practices, development and implementation of improved best
18 management practices, improvement and restoration of the
19 hydrologic function of natural and managed systems, and
20 utilization of alternative technologies for nutrient
21 reduction. The coordinating agencies shall facilitate the
22 application of federal programs that offer opportunities for
23 water quality treatment, including preservation, restoration,
24 or creation of wetlands on agricultural lands.

25 1. Agricultural nonpoint source best management
26 practices, developed in accordance with s. 403.067 and
27 designed to achieve the objectives of the Lake Okeechobee
28 Protection Program, shall be implemented on an expedited
29 basis. By March 1, 2001, the coordinating agencies shall
30 develop an interagency agreement pursuant to ss. 373.046 and
31 373.406(5) that assures the development of best management

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1 practices that complement existing regulatory programs and
2 specifies how those best management practices are implemented
3 and verified. The interagency agreement shall address measures
4 to be taken by the coordinating agencies during any best
5 management practice reevaluation performed pursuant to
6 sub-subparagraph d. The department shall use best professional
7 judgment in making the initial determination of best
8 management practice effectiveness.

9 a. As provided in s. 403.067(7)(d), by October 1,
10 2000, the Department of Agriculture and Consumer Services, in
11 consultation with the department, the district, and affected
12 parties, shall initiate rule development for interim measures,
13 best management practices, conservation plans, nutrient
14 management plans, or other measures necessary for Lake
15 Okeechobee phosphorus load reduction. The rule shall include
16 thresholds for requiring conservation and nutrient management
17 plans and criteria for the contents of such plans. Development
18 of agricultural nonpoint source best management practices
19 shall initially focus on those priority basins listed in
20 subparagraph (b)1. The Department of Agriculture and Consumer
21 Services, in consultation with the department, the district,
22 and affected parties, shall conduct an ongoing program for
23 improvement of existing and development of new interim
24 measures or best management practices for the purpose of
25 adoption of such practices by rule.

26 b. Where agricultural nonpoint source best management
27 practices or interim measures have been adopted by rule of the
28 Department of Agriculture and Consumer Services, the owner or
29 operator of an agricultural nonpoint source addressed by such
30 rule shall either implement interim measures or best
31 management practices or demonstrate compliance with the

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1 district's WOD program by conducting monitoring prescribed by
2 the department or the district. Owners or operators of
3 agricultural nonpoint sources who implement interim measures
4 or best management practices adopted by rule of the Department
5 of Agriculture and Consumer Services shall be subject to the
6 provisions of s. 403.067(7). The Department of Agriculture and
7 Consumer Services, in cooperation with the department and the
8 district, shall provide technical and financial assistance for
9 implementation of agricultural best management practices,
10 subject to the availability of funds.

11 c. The district or department shall conduct monitoring
12 at representative sites to verify the effectiveness of
13 agricultural nonpoint source best management practices.

14 d. Where water quality problems are detected for
15 agricultural nonpoint sources despite the appropriate
16 implementation of adopted best management practices, the
17 Department of Agriculture and Consumer Services, in
18 consultation with the other coordinating agencies and affected
19 parties, shall institute a reevaluation of the best management
20 practices and make appropriate changes to the rule adopting
21 best management practices.

22 2. Nonagricultural nonpoint source best management
23 practices, developed in accordance with s. 403.067 and
24 designed to achieve the objectives of the Lake Okeechobee
25 Protection Program, shall be implemented on an expedited
26 basis. By March 1, 2001, the department and the district shall
27 develop an interagency agreement pursuant to ss. 373.046 and
28 373.406(5) that assures the development of best management
29 practices that complement existing regulatory programs and
30 specifies how those best management practices are implemented
31 and verified. The interagency agreement shall address measures

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1 to be taken by the department and the district during any best
2 management practice reevaluation performed pursuant to
3 sub-subparagraph d.

4 a. The department and the district are directed to
5 work with the University of Florida's Institute of Food and
6 Agricultural Sciences to develop appropriate nutrient
7 application rates for all nonagricultural soil amendments in
8 the watershed. As provided in s. 403.067(7)(c), by January 1,
9 2001, the department, in consultation with the district and
10 affected parties, shall develop interim measures, best
11 management practices, or other measures necessary for Lake
12 Okeechobee phosphorus load reduction. Development of
13 nonagricultural nonpoint source best management practices
14 shall initially focus on those priority basins listed in
15 subparagraph (b)1. The department, the district, and affected
16 parties shall conduct an ongoing program for improvement of
17 existing and development of new interim measures or best
18 management practices. The district shall adopt
19 technology-based standards under the district's WOD program
20 for nonagricultural nonpoint sources of phosphorus.

21 b. Where nonagricultural nonpoint source best
22 management practices or interim measures have been developed
23 by the department and adopted by the district, the owner or
24 operator of a nonagricultural nonpoint source shall implement
25 interim measures or best management practices and be subject
26 to the provisions of s. 403.067(7). The department and
27 district shall provide technical and financial assistance for
28 implementation of nonagricultural nonpoint source best
29 management practices, subject to the availability of funds.

30 c. The district or the department shall conduct
31 monitoring at representative sites to verify the effectiveness

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1 of nonagricultural nonpoint source best management practices.

2 d. Where water quality problems are detected for
3 nonagricultural nonpoint sources despite the appropriate
4 implementation of adopted best management practices, the
5 department and the district shall institute a reevaluation of
6 the best management practices.

7 3. The provisions of subparagraphs 1. and 2. shall not
8 preclude the department or the district from requiring
9 compliance with water quality standards or with current best
10 management practices requirements set forth in any applicable
11 regulatory program authorized by law for the purpose of
12 protecting water quality. Additionally, subparagraphs 1. and
13 2. are applicable only to the extent that they do not conflict
14 with any rules promulgated by the department that are
15 necessary to maintain a federally delegated or approved
16 program.

17 4. Projects which reduce the phosphorus load
18 originating from domestic wastewater systems within the Lake
19 Okeechobee watershed shall be given funding priority in the
20 department's revolving loan program under s. 403.1835. The
21 department shall coordinate and provide assistance to those
22 local governments seeking financial assistance for such
23 priority projects.

24 5. Projects that make use of private lands to reduce
25 nutrient loadings or concentrations within a basin by one or
26 more of the following methods: restoring the natural
27 hydrology of the basin, restoring wildlife habitat or impacted
28 wetlands, reducing peak flows after storm events, increasing
29 aquifer recharge, or protecting range and timberland from
30 conversion to development, are eligible for grants available
31 under this section from the coordinating agencies. For

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1 projects of otherwise equal priority, special funding priority
2 will be given to those projects that make best use of the
3 methods outlined above that involve public-private
4 partnerships or that obtain federal match money. Preference
5 ranking above the special funding priority will be given to
6 projects located in a rural area of critical economic concern
7 designated by the Governor. Grant applications may be
8 submitted by any person, and eligible projects may include,
9 but are not limited to, the purchase of conservation and
10 flowage easements, hydrologic restoration of wetlands,
11 creating treatment wetlands, development of a management plan
12 for natural resources, and financial support to implement a
13 management plan.

14 6.5-a. The department shall require all entities
15 disposing of domestic wastewater residuals within the Lake
16 Okeechobee watershed and the remaining areas of Okeechobee,
17 Glades, and Hendry Counties to develop and submit to the
18 department ~~by July 1, 2001,~~an agricultural use plan that
19 limits applications based upon phosphorus loading. By July 1,
20 2005,phosphorus concentrations ~~loading~~ originating from these
21 application sites shall not exceed the limits established in
22 the district's WOD program.

23 b. Private and government-owned utilities within
24 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
25 River, Okeechobee, Highlands, Hendry, and Glades counties that
26 dispose of wastewater residual sludge from utility operations
27 and septic removal by land spreading in the Lake Okeechobee
28 watershed may use a line item on local sewer rates to cover
29 wastewater residual treatment and disposal if such disposal
30 and treatment is done by approved alternative treatment
31 methodology at a facility located within the areas designated

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1 by the Governor as rural areas of critical economic concern
2 pursuant to s. 288.0656. This additional line item is an
3 environmental protection disposal fee above the present sewer
4 rate and shall not be considered a part of the present sewer
5 rate to customers, notwithstanding provisions to the contrary
6 in chapter 367. The fee shall be established by the county
7 commission or its designated assignee in the county in which
8 the alternative method treatment facility is located. The fee
9 shall be calculated to be no higher than that necessary to
10 recover the facility's prudent cost of providing the service.
11 Upon request by an affected county commission, the Florida
12 Public Service Commission will provide assistance in
13 establishing the fee. Further, for utilities and utility
14 authorities that use the additional line item environmental
15 protection disposal fee, such fee shall not be considered a
16 rate increase under the rules of the Public Service Commission
17 and shall be exempt from such rules. Utilities using the
18 provisions of this section may immediately include in their
19 sewer invoicing the new environmental protection disposal fee.
20 Proceeds from this environmental protection disposal fee shall
21 be used for treatment and disposal of wastewater residuals,
22 including any treatment technology that helps reduce the
23 volume of residuals that require final disposal, but such
24 proceeds shall not be used for transportation or shipment
25 costs for disposal or any costs relating to the land
26 application of residuals in the Lake Okeechobee watershed.
27 c. No less frequently than once every 3 years, the
28 Florida Public Service Commission or the county commission
29 through the services of an independent auditor shall perform a
30 financial audit of all facilities receiving compensation from
31 an environmental protection disposal fee. The Florida Public

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1 Service Commission or the county commission through the
2 services of an independent auditor shall also perform an audit
3 of the methodology used in establishing the environmental
4 protection disposal fee. The Florida Public Service Commission
5 or the county commission shall, within 120 days after
6 completion of an audit, file the audit report with the
7 President of the Senate and the Speaker of the House of
8 Representatives and shall provide copies to the county
9 commissions of the counties set forth in sub-subparagraph b.
10 The books and records of any facilities receiving compensation
11 from an environmental protection disposal fee shall be open to
12 the Florida Public Service Commission and the Auditor General
13 for review upon request.

14 7. The Department of Health shall require all entities
15 disposing of septage within the Lake Okeechobee watershed and
16 the remaining areas of Okeechobee, Glades, and Hendry Counties
17 to develop and submit to that agency, by July 1, 2003, an
18 agricultural use plan that limits applications based upon
19 phosphorus loading. By July 1, 2005, phosphorus
20 concentrations originating from these application sites shall
21 not exceed the limits established in the district's WOD
22 program.

23 ~~8.6. By July 1, 2001,~~The Department of Agriculture
24 and Consumer Services shall initiate rulemaking requiring
25 entities within the Lake Okeechobee watershed and the
26 remaining areas of Okeechobee, Glades, and Hendry Counties
27 which land-apply animal manure to develop conservation or
28 nutrient management plans that limit application, based upon
29 phosphorus loading. Such rules may include criteria and
30 thresholds for the requirement to develop a conservation or
31 nutrient management plan, requirements for plan approval, and

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1 recordkeeping requirements.

2 ~~9.7.~~ Prior to authorizing a discharge into works of
3 the district, the district shall require responsible parties
4 to demonstrate that proposed changes in land use will not
5 result in increased phosphorus loading over that of existing
6 land uses.

7 ~~10.8.~~ The district, the department, or the Department
8 of Agriculture and Consumer Services, as appropriate, shall
9 implement those alternative nutrient reduction technologies
10 determined to be feasible pursuant to subparagraph (d)6.

11 Section 37. Nothing in this act is intended to affect
12 the outcome of any litigation pending as of the effective date
13 of the act, including future appeals. It is further the
14 intent of the Legislature that this act shall not serve as
15 legal authority in support of any party to such litigation and
16 appeals.

17 Section 38. The Legislature finds that the integration
18 of the growth management system and the planning of public
19 educational facilities is a matter of great public importance.

20 Section 39. This act shall take effect upon becoming a
21 law.

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

25 And the title is amended as follows:

26 remove: the entire title

27

28 and insert:

29 A bill to be entitled
30 An act relating to growth management; amending
31 s. 163.3177, F.S.; specifying additional

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1 requirements for comprehensive plans relating
2 to water resources, water supplies, and water
3 supply plans; requiring a water-use-related
4 element of future land use plans to be based on
5 data regarding the availability of sufficient
6 water supplies for present and future growth;
7 revising provisions governing regulation of
8 intensity of use; requiring certain local
9 governments to prepare an inventory of service
10 delivery interlocal agreements; requiring local
11 governments to provide the Legislature with
12 recommendations regarding annexation; amending
13 s. 163.3191, F.S.; requiring the evaluation and
14 appraisal report for building water supply
15 facilities to include a work plan; amending s.
16 367.022, F.S.; exempting the use of nonpotable
17 water for fireflow purposes from regulation as
18 a utility; amending s. 403.064, F.S.; providing
19 legislative intent regarding reuse of reclaimed
20 water; revising requirements for feasibility
21 study and implementation by permit applicants;
22 providing an exemption from feasibility study
23 requirements for applicants located in Monroe
24 County; amending s. 403.1835, F.S.; providing
25 for low-interest loans to provide certain water
26 pollution control financial assistance;
27 requiring water management districts to develop
28 and distribute certain water sources and
29 conservation information; repealing s.
30 403.804(3), F.S., relating to Environmental
31 Regulation Commission approval of grants for

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1 construction of wastewater or water treatment
2 works; amending s. 163.3174, F.S.; requiring
3 that the membership of all local planning
4 agencies or equivalent agencies that review
5 comprehensive plan amendments and rezonings
6 include a nonvoting representative of the
7 district school board; creating s. 163.31776,
8 F.S.; requiring certain local governments and
9 school boards to enter into a public schools
10 interlocal agreement; providing a schedule;
11 providing for the content of the interlocal
12 agreement; providing a waiver procedure
13 associated with school districts having
14 decreasing student population; providing a
15 procedure for adoption and administrative
16 challenge; providing sanctions for the failure
17 to enter an interlocal agreement; amending s.
18 235.19, F.S.; revising certain site planning
19 and selection criteria; amending s. 235.193,
20 F.S.; requiring school districts to enter
21 certain interlocal agreements with local
22 governments; providing a schedule; providing
23 for the content of the interlocal agreement;
24 providing a waiver procedure associated with
25 school districts having decreasing student
26 population; providing a procedure for adoption
27 and administrative challenge; providing
28 sanctions for failure to enter an agreement;
29 amending s. 163.3215, F.S.; revising the
30 methods for challenging the consistency of a
31 development order with a comprehensive plan;

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1 redefining the term "aggrieved or adversely
2 affected party"; amending s. 163.3187, F.S.;
3 providing for plan amendment relating to
4 certain roadways in specified counties under
5 certain conditions; correcting a cross
6 reference; amending s. 163.3180, F.S.;
7 providing for the waiver of concurrency
8 requirements; amending s. 163.3184, F.S.;
9 revising definitions; revising provisions
10 governing the process for adopting
11 comprehensive plans and plan amendments;
12 creating s. 235.1851, F.S.; providing
13 legislative intent; authorizing the creation of
14 educational facilities benefit districts
15 pursuant to interlocal agreement; providing for
16 creation of an educational facilities benefit
17 district through adoption of an ordinance;
18 specifying content of such ordinances;
19 providing for the creating entity to be the
20 local general purpose government within whose
21 boundaries a majority of the educational
22 facilities benefit district's lands are
23 located; providing that educational facilities
24 benefit districts may only be created with the
25 consent of the district school board, all
26 affected local general purpose governments, and
27 all landowners within the district; providing
28 for the membership of the governing boards of
29 educational facilities benefit districts;
30 providing the powers of educational facilities
31 benefit districts; authorizing community

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1 development districts, created pursuant to ch.
2 190, F.S., to be eligible for financial
3 enhancements available to educational
4 facilities benefit districts; conditioning such
5 eligibility upon the establishment of an
6 interlocal agreement; creating s. 235.1852,
7 F.S.; providing funding for educational
8 facilities benefit districts and community
9 development districts; creating s. 235.1853,
10 F.S.; providing for the utilization of
11 educational facilities built pursuant to this
12 act; amending s. 380.06, F.S., relating to
13 developments of regional impact; removing a
14 rebuttable presumption with respect to
15 application of the statewide guidelines and
16 standards and revising the fixed thresholds;
17 providing for designation of a lead regional
18 planning council; providing for submission of
19 biennial, rather than annual, reports by the
20 developer; authorizing submission of a letter,
21 rather than a report, under certain
22 circumstances; providing for amendment of
23 development orders with respect to report
24 frequency; revising provisions governing
25 substantial deviation standards for
26 developments of regional impact; providing that
27 an extension of the date of buildout of less
28 than a specified number of years is not a
29 substantial deviation; providing that certain
30 renovation or redevelopment of a previously
31 approved development of regional impact is not

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1 a substantial deviation; providing a statutory
2 exemption from the
3 development-of-regional-impact process for
4 petroleum storage facilities, certain
5 renovation or redevelopment, and certain
6 waterport and marina development under
7 specified conditions; amending s. 380.0651,
8 F.S.; revising the guidelines and standards for
9 office development and retail and service
10 development; providing application with respect
11 to developments that have received a
12 development-of-regional-impact development
13 order or that have an application for
14 development approval or notification of
15 proposed change pending; amending s. 380.031,
16 F.S.; providing a definition of "development"
17 for purposes of ch. 380, F.S.; repealing s.
18 380.04, F.S., relating to the definition of
19 development; amending ss. 380.012, 380.0677,
20 and 288.975, F.S.; conforming cross references;
21 repealing s. 163.3164(6), F.S., relating to the
22 Local Government Comprehensive Planning and
23 Land Development Act; deleting the definition
24 of "development"; creating s. 163.3165, F.S.;
25 providing a definition of "development";
26 amending ss. 186.515, 287.042, 288.975,
27 369.303, 420.9071, and 420.9076, F.S.;
28 conforming cross references; providing
29 legislative intent as to pending litigation and
30 associated appeals; providing a legislative
31 finding that the act is a matter of great

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1 public importance; amending s. 163.3194, F.S.;
2 providing that a local government shall not
3 deny an application for a development approval
4 for a requested land use for certain approved
5 solid waste management facilities that have
6 previously received a land use classification
7 change allowing the requested land use on the
8 same property; amending s. 373.4595, F.S.;
9 providing eligibility requirements for projects
10 that reduce nutrient outputs on private lands
11 for grants available from coordinating
12 agencies; providing additional entities
13 required to develop agricultural use plans
14 limiting residual applications based on
15 phosphorus loading; providing a deadline for
16 meeting phosphorus concentration limitations
17 established in the water management district's
18 WOD program; requiring certain entities to
19 develop and submit agricultural use plans
20 limiting septage applications based on
21 phosphorus loading to the Department of Health
22 by a specified date; providing a deadline for
23 meeting phosphorus concentrations limitations
24 established in the water management district's
25 WOD program; providing additional entities
26 required to develop conservation or nutrient
27 management plans limiting the land application
28 of manure based on phosphorus loading;
29 providing legislative intent as to pending
30 litigation and associated appeals; providing a
31 legislative finding that the act is a matter of

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great public importance; providing an effective
date.