

1 A bill to be entitled
2 An act relating to growth management; amending
3 s. 163.3174, F.S.; requiring that the
4 membership of all local planning agencies or
5 equivalent agencies that review comprehensive
6 plan amendments and rezonings include a
7 nonvoting representative of the district school
8 board; amending s. 163.3177, F.S.; revising
9 elements of comprehensive plans; revising
10 provisions governing the regulation of
11 intensity of use in the future land use map;
12 providing for intergovernmental coordination
13 between local governments and district school
14 boards where a public-school-facilities element
15 has been adopted; requiring certain local
16 governments to prepare an inventory of
17 service-delivery interlocal agreements;
18 requiring local governments to provide the
19 Legislature with recommendations regarding
20 annexation; requiring local governments to
21 consider water-supply data and analysis in
22 their potable-water and conservation elements;
23 repealing s. 163.31775, F.S., which provides
24 for intergovernmental coordination element
25 rules; creating s. 163.31776, F.S.; providing
26 legislative intent and findings with respect to
27 a public educational facilities element;
28 providing for certain municipalities to be
29 exempt; requiring that the public educational
30 facilities element include certain provisions;
31 providing requirements for future land-use

1 maps; providing a process for adopting the
2 public educational facilities element; creating
3 s. 163.31777, F.S.; requiring certain local
4 governments and school boards to enter into a
5 public schools interlocal agreement; providing
6 a schedule; providing for the content of the
7 interlocal agreement; providing a waiver
8 procedure associated with school districts
9 having decreasing student population; providing
10 a procedure for adoption and administrative
11 challenge; providing sanctions for the failure
12 to enter an interlocal agreement; providing
13 that a public school's interlocal agreement may
14 only establish interlocal coordination
15 procedures unless specific goals, objectives,
16 and policies contained in the agreement are
17 incorporated into the plan; amending s.
18 163.3180, F.S.; providing an exemption from
19 concurrency for certain urban infill areas;
20 amending s. 163.3184, F.S.; revising
21 definitions; revising provisions governing the
22 process for adopting comprehensive plans and
23 plan amendments; amending s. 163.3187, F.S.;
24 conforming a cross-reference; authorizing the
25 adoption of a public educational facilities
26 element, notwithstanding certain limitations;
27 providing for plan amendment relating to
28 certain roadways in specified counties under
29 certain conditions; amending s. 163.3191, F.S.,
30 relating to evaluation and appraisal of
31 comprehensive plans; conforming provisions to

1 changes made by the act; requiring an
2 evaluation of whether the potable-water element
3 considers the appropriate water management
4 district's regional water supply plan and
5 includes a workplan for building new water
6 supply facilities; requiring local governments
7 within coastal high-hazard areas to address
8 certain issues in the evaluation and appraisal
9 of their comprehensive plans; amending s.
10 163.3215, F.S.; revising the methods for
11 challenging the consistency of a development
12 order with a comprehensive plan; redefining the
13 term "aggrieved or adversely affected party";
14 creating s. 163.3246, F.S.; creating a Local
15 Government Comprehensive Planning certification
16 Program to be administered by the Department of
17 Community Affairs; defining the purpose of the
18 certification area to designate areas that are
19 appropriate for urban growth within a 10-year
20 timeframe; providing for certification
21 criteria; specifying the contents of the
22 certification agreement; providing evaluation
23 criteria; authorizing the Department of
24 Community Affairs to adopt procedural rules;
25 providing for the revocation of certification
26 agreements; providing for the rights of
27 affected persons to challenge local government
28 compliance with certification agreements;
29 eliminating state and regional review of
30 certain local comprehensive plan amendments
31 within certified areas; providing exceptions;

1 providing for the periodic review of a local
2 government's certification by the Department of
3 Community Affairs; requiring the submission of
4 biennial reports to the Governor and
5 Legislature; providing for review of the
6 certification program by the Office of Program
7 Policy Analysis and Government Accountability;
8 amending s. 186.504, F.S.; adding an elected
9 school board member to the membership of each
10 regional planning council; amending s. 235.002,
11 F.S.; revising legislative intent; reenacting
12 and amending s. 235.15, F.S.; revising
13 requirements for educational plant surveys;
14 revising requirements for review and validation
15 of such surveys; amending s. 235.175, F.S.;
16 requiring school districts to adopt educational
17 facilities plans; amending s. 235.18, F.S.,
18 relating to capital outlay budgets of school
19 boards; conforming provisions; amending s.
20 235.185, F.S.; requiring school district
21 educational facilities plans; providing
22 definitions; specifying projections and other
23 information to be included in the plans;
24 providing requirements for the plans; requiring
25 district school boards to submit a tentative
26 plan to the local government; providing for
27 adopting and executing the plans; creating s.
28 235.1851, F.S.; providing legislative intent;
29 authorizing the creation of educational
30 facilities benefit districts pursuant to
31 interlocal agreement; providing for creation of

1 an educational facilities benefit district
2 through adoption of an ordinance; specifying
3 content of such ordinances; providing for the
4 creating entity to be the local general purpose
5 government within whose boundaries a majority
6 of the educational facilities benefit
7 district's lands are located; providing that
8 educational facilities benefit districts may
9 only be created with the consent of the
10 district school board, all affected local
11 general purpose governments, and all landowners
12 within the district; providing for the
13 membership of the governing boards of
14 educational facilities benefit districts;
15 providing the powers of educational facilities
16 benefit districts; authorizing community
17 development districts, created pursuant to ch.
18 190, F.S., to be eligible for financial
19 enhancements available to educational
20 facilities benefit districts; conditioning such
21 eligibility upon the establishment of an
22 interlocal agreement; creating s. 235.1852,
23 F.S.; providing funding for educational
24 facilities benefit districts and community
25 development districts; creating s. 235.1853,
26 F.S.; providing for the utilization of
27 educational facilities built pursuant to this
28 act; amending s. 235.188, F.S.; conforming
29 provisions; amending s. 235.19, F.S.; providing
30 that site planning and selection must be
31 consistent with interlocal agreements entered

1 between local governments and school boards;
2 amending s. 235.193, F.S.; requiring school
3 districts to enter certain interlocal
4 agreements with local governments; providing a
5 schedule; providing for the content of the
6 interlocal agreement; providing a waiver
7 procedure associated with school districts
8 having decreasing student population; providing
9 a procedure for adoption and administrative
10 challenge; providing sanctions for failure to
11 enter an agreement; providing that a public
12 school's interlocal agreement may not be used
13 by a local government as the sole basis for
14 denying a comprehensive plan amendment or
15 development order; providing requirements for
16 preparing a district educational facilities
17 report; repealing s. 235.194, F.S., relating to
18 the general educational facilities report;
19 amending s. 235.218, F.S.; requiring the SMART
20 Schools Clearinghouse to adopt measures for
21 evaluating the school district educational
22 facilities plans; amending s. 235.2197, F.S.;
23 correcting a statutory cross-reference;
24 amending ss. 235.321, 236.25, F.S.; conforming
25 provisions; amending s. 380.04, F.S.; revising
26 the definition of "development" with regard to
27 the transmission of electricity within an
28 existing right-of-way; amending s. 380.06,
29 F.S., relating to developments of regional
30 impact; removing a rebuttable presumption with
31 respect to application of the statewide

1 guidelines and standards and revising the fixed
2 thresholds; providing for designation of a lead
3 regional planning council; providing for
4 submission of biennial, rather than annual,
5 reports by the developer; authorizing
6 submission of a letter, rather than a report,
7 under certain circumstances; providing for
8 amendment of development orders with respect to
9 report frequency; revising provisions governing
10 substantial deviation standards for
11 developments of regional impact; providing that
12 certain renovation or redevelopment of a
13 previously approved development of regional
14 impact is not a substantial deviation;
15 providing a statutory exemption from the
16 development-of-regional-impact process for
17 petroleum storage facilities, certain
18 renovation or redevelopment, and certain
19 waterport or marina developments located in a
20 local government that has adopted a boating
21 facility siting plan; amending s. 380.0651,
22 F.S.; revising the guidelines and standards for
23 office development, and retail and service
24 development; providing application with respect
25 to developments that have received a
26 development-of-regional-impact development
27 order or that have an application for
28 development approval or notification of
29 proposed change pending; amending s. 163.3194,
30 F.S.; providing that a local government shall
31 not deny an application for a development

1 approval for a requested land use for certain
2 approved solid waste management facilities that
3 have previously received a land use
4 classification change allowing the requested
5 land use on the same property; providing
6 legislative intent with respect to the
7 inapplicability of specified portions of the
8 act to pending litigation or future appeals;
9 providing a legislative finding that the act is
10 a matter of great public importance; amending
11 s. 403.064, F.S.; requiring the reuse of
12 reclaimed water when feasible; requiring the
13 dissemination of public information regarding
14 the status of major water resources; repealing
15 s. 373.498, F.S., relating to disbursements
16 from the water resources development account;
17 amending s. 367.022, F.S.; providing an
18 exemption from regulation by the Florida Public
19 Service Commission for certain water suppliers
20 who provide nonpotable water for fireflow;
21 amending s. 373.1961, F.S.; providing
22 requirements for disbursements for alternative
23 water supply projects; repealing s. 403.804(3),
24 F.S., relating to obsolete provisions
25 concerning grants for water and wastewater
26 facilities; amending s. 373.4595, F.S.;
27 providing eligibility requirements for projects
28 that reduce nutrient outputs on private lands
29 for grants available from coordinating
30 agencies; providing additional entities
31 required to develop agricultural use plans

1 limiting residual applications based on
2 phosphorus loading; providing a deadline for
3 meeting phosphorus concentration limitations
4 established in the water management district's
5 WOD program; requiring certain entities to
6 develop and submit agricultural use plans
7 limiting septage applications based on
8 phosphorus loading to the Department of Health
9 by a specified date; providing a deadline for
10 meeting phosphorus concentrations limitations
11 established in the water management district's
12 WOD program; providing additional entities
13 required to develop conservation or nutrient
14 management plans limiting the land application
15 of manure based on phosphorus loading;
16 authorizing certain counties to apply for
17 amendment of enterprise zone boundary lines;
18 providing deadlines; prescribing conditions
19 applicable to the areas proposed for addition
20 to the enterprise zones; directing the Office
21 of Tourism, Trade, and Economic Development to
22 approve such amendments under certain
23 conditions; providing for application of this
24 act; creating s. 290.00686, F.S.; authorizing
25 the Office of Tourism, Trade, and Economic
26 Development to designate an enterprise zone in
27 Brevard County; providing requirements with
28 respect thereto; authorizing the City of
29 Pensacola to apply to the Office of Tourism,
30 Trade, and Economic Development to designate an
31 enterprise zone in the City of Pensacola;

1 authorizing the office to designate one
2 enterprise zone in the City of Pensacola;
3 providing requirements with respect thereto;
4 authorizing Leon County, or Leon County and the
5 City of Tallahassee jointly, to apply to the
6 Office of Tourism, Trade, and Economic
7 Development to designate an enterprise zone in
8 Leon County; authorizing the office to
9 designate one enterprise zone notwithstanding
10 certain limitations; providing requirements
11 with respect thereto; providing an effective
12 date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Subsection (1) of section 163.3174, Florida
17 Statutes, is amended to read:

18 163.3174 Local planning agency.--

19 (1) The governing body of each local government,
20 individually or in combination as provided in s. 163.3171,
21 shall designate and by ordinance establish a "local planning
22 agency," unless the agency is otherwise established by law.
23 Notwithstanding any special act to the contrary, all local
24 planning agencies or equivalent agencies that first review
25 rezoning and comprehensive plan amendments in each
26 municipality and county shall include a representative of the
27 school district appointed by the school board as a nonvoting
28 member of the local planning agency or equivalent agency to
29 attend those meetings at which the agency considers
30 comprehensive plan amendments and rezonings that would, if
31 approved, increase residential density on the property that is

1 the subject of the application. However, this subsection does
2 not prevent the governing body of the local government from
3 granting voting status to the school board member.The
4 governing body may designate itself as the local planning
5 agency pursuant to this subsection with the addition of a
6 nonvoting school board representative. The governing body
7 shall notify the state land planning agency of the
8 establishment of its local planning agency. All local planning
9 agencies shall provide opportunities for involvement by
10 ~~district school boards and~~ applicable community college
11 boards, which may be accomplished by formal representation,
12 membership on technical advisory committees, or other
13 appropriate means. The local planning agency shall prepare the
14 comprehensive plan or plan amendment after hearings to be held
15 after public notice and shall make recommendations to the
16 governing body regarding the adoption or amendment of the
17 plan. The agency may be a local planning commission, the
18 planning department of the local government, or other
19 instrumentality, including a countywide planning entity
20 established by special act or a council of local government
21 officials created pursuant to s. 163.02, provided the
22 composition of the council is fairly representative of all the
23 governing bodies in the county or planning area; however:
24 (a) If a joint planning entity is in existence on the
25 effective date of this act which authorizes the governing
26 bodies to adopt and enforce a land use plan effective
27 throughout the joint planning area, that entity shall be the
28 agency for those local governments until such time as the
29 authority of the joint planning entity is modified by law.

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

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

7 163.3177 Required and optional elements of
8 comprehensive plan; studies and surveys.--

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

25 (b) When all or a portion of the land in a local
26 government jurisdiction is or becomes part of a designated
27 area of critical state concern, the local government shall
28 clearly identify those portions of the local comprehensive
29 plan that shall be applicable to the critical area and shall
30 indicate the relationship of the proposed development of the
31 area to the rules for the area of critical state concern.

1 (6) In addition to the requirements of subsections
2 (1)-(5), the comprehensive plan shall include the following
3 elements:

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

1 regulations may be necessary to ensure development in accord
2 with the principles and standards of the comprehensive plan
3 and this act. In addition, for rural communities, the amount
4 of land designated for future planned industrial use shall be
5 based upon surveys and studies that reflect the need for job
6 creation, capital investment, and the necessity to strengthen
7 and diversify the local economies, and shall not be limited
8 solely by the projected population of the rural community. The
9 future land use plan of a county may also designate areas for
10 possible future municipal incorporation. The land use maps or
11 map series shall generally identify and depict historic
12 district boundaries and shall designate historically
13 significant properties meriting protection. The future land
14 use element must clearly identify the land use categories in
15 which public schools are an allowable use. When delineating
16 the land use categories in which public schools are an
17 allowable use, a local government shall include in the
18 categories sufficient land proximate to residential
19 development to meet the projected needs for schools in
20 coordination with public school boards and may establish
21 differing criteria for schools of different type or size.
22 Each local government shall include lands contiguous to
23 existing school sites, to the maximum extent possible, within
24 the land use categories in which public schools are an
25 allowable use. All comprehensive plans must comply with the
26 school siting requirements of this paragraph no later than
27 October 1, 1999. The failure by a local government to comply
28 with these school siting requirements by October 1, 1999, will
29 result in the prohibition of the local government's ability to
30 amend the local comprehensive plan, except for plan amendments
31 described in s. 163.3187(1)(b), until the school siting

1 requirements are met. Amendments ~~An amendment~~ proposed by a
2 local government for purposes of identifying the land use
3 categories in which public schools are an allowable use or for
4 adopting or amending the school-siting maps pursuant to s.
5 163.31776(3) are ~~is~~ exempt from the limitation on the
6 frequency of plan amendments contained in s. 163.3187. The
7 future land use element shall include criteria that ~~which~~
8 encourage the location of schools proximate to urban
9 residential areas to the extent possible and shall require
10 that the local government seek to collocate public facilities,
11 such as parks, libraries, and community centers, with schools
12 to the extent possible and to encourage the use of elementary
13 schools as focal points for neighborhoods. For schools serving
14 predominantly rural counties, defined as a county with a
15 population of 100,000 or fewer, an agricultural land use
16 category shall be eligible for the location of public school
17 facilities if the local comprehensive plan contains school
18 siting criteria and the location is consistent with such
19 criteria.

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

1 district as prime groundwater recharge areas for the Floridan
2 or Biscayne aquifers, pursuant to s. 373.0395. These areas
3 shall be given special consideration when the local government
4 is engaged in zoning or considering future land use for said
5 designated areas. For areas served by septic tanks, soil
6 surveys shall be provided which indicate the suitability of
7 soils for septic tanks. By January 1, 2005, or the Evaluation
8 and Appraisal Report adoption deadline established for the
9 local government pursuant to s. 163.3191(a), whichever date
10 occurs first, the element must consider the appropriate water
11 management district's regional water supply plan approved
12 pursuant to s. 373.0361. The element must include a workplan,
13 covering at least a 10-year planning period, for building
14 water supply facilities that are identified in the element as
15 necessary to serve existing and new development and for which
16 the local government is responsible.

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

- 3 1. Existing and planned waterwells and cones of
4 influence where applicable.
- 5 2. Beaches and shores, including estuarine systems.
- 6 3. Rivers, bays, lakes, flood plains, and harbors.
- 7 4. Wetlands.
- 8 5. Minerals and soils.

9

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

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

28 a. The intergovernmental coordination element shall
29 provide for procedures to identify and implement joint
30 planning areas, especially for the purpose of annexation,
31

1 municipal incorporation, and joint infrastructure service
2 areas.

3 b. The intergovernmental coordination element shall
4 provide for recognition of campus master plans prepared
5 pursuant to s. 240.155.

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

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

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

7 4.a. Local governments adopting a public educational
8 facilities element pursuant to s. 163.31776 must execute an
9 interlocal agreement with the district school board, the
10 county, and nonexempt municipalities, as defined by s.
11 163.31776(1), which includes the items listed in s.
12 163.31777(2). The local government shall amend the
13 intergovernmental coordination element to provide that
14 coordination between the local government and school board is
15 pursuant to the agreement and shall state the obligations of
16 the local government under the agreement.

17 b. Plan amendments that comply with this subparagraph
18 are exempt from the provisions of s. 163.3187(1).

19 5. The state land planning agency shall establish a
20 schedule for phased completion and transmittal of plan
21 amendments to implement subparagraphs 1., 2., and 3. from all
22 jurisdictions so as to accomplish their adoption by December
23 31, 1999. A local government may complete and transmit its
24 plan amendments to carry out these provisions prior to the
25 scheduled date established by the state land planning agency.
26 The plan amendments are exempt from the provisions of s.
27 163.3187(1).

28 6. By January 1, 2004, any county having a population
29 greater than 100,000, and the municipalities and special
30 districts within that county, shall submit a report to the
31 Department of Community Affairs which:

1 a. Identifies all existing or proposed interlocal
2 service-delivery agreements regarding the following:
3 education; sanitary sewer; public safety; solid waste;
4 drainage; potable water; parks and recreation; and
5 transportation facilities.

6 b. Identifies any deficits or duplication in the
7 provision of services within its jurisdiction, whether capital
8 or operational. Upon request, the Department of Community
9 Affairs shall provide technical assistance to the local
10 governments in identifying deficits or duplication.

11 7. Within 6 months after submission of the report, the
12 Department of Community Affairs shall, through the appropriate
13 regional planning council, coordinate a meeting of all local
14 governments within the regional planning area to discuss the
15 reports and potential strategies to remedy any identified
16 deficiencies or duplications.

17 8. Each local government shall update its
18 intergovernmental coordination element based upon the findings
19 in the report submitted pursuant to subparagraph 6. The report
20 may be used as supporting data and analysis for the
21 intergovernmental coordination element.

22 9. By February 1, 2003, representatives of
23 municipalities, counties, and special districts shall provide
24 to the Legislature recommended statutory changes for
25 annexation, including any changes that address the delivery of
26 local government services in areas planned for annexation.

27 Section 3. Section 163.31775, Florida Statutes, is
28 repealed.

29 Section 4. Section 163.31776, Florida Statutes, is
30 created to read:

31 163.31776 Public educational facilities element.--

1 (1) A county, in conjunction with the municipalities
2 within the county, may adopt an optional public educational
3 facilities element in cooperation with the applicable school
4 district. In order to enact an optional public educational
5 facilities element, the county and each municipality, unless
6 the municipality is exempt as defined in this subsection, must
7 adopt a consistent public educational facilities element and
8 enter the interlocal agreement pursuant to ss.

9 163.3177(6)(h)4. and 163.3177(2). A municipality is exempt if
10 it has no established need for a new school facility and it
11 meets the following criteria:

12 (a) The municipality has no public schools located
13 within its boundaries; and

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

21 (2) The public educational facilities element must be
22 based on data and analysis, including the interlocal agreement
23 defined by ss. 163.3177(6)(h)4. and 163.3177(2), and on the
24 educational facilities plan required by s. 235.185. Each local
25 government public educational facilities element within a
26 county must be consistent with the other elements and must
27 address:

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

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

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

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

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

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

24 (g) A uniform methodology for determining school
25 capacity consistent with the interlocal agreement entered
26 pursuant to ss. 163.3177(6)(h)4. and 163.31777(2).

27 (3) The future land-use map series must incorporate
28 maps that are the result of a collaborative process for
29 identifying school sites in the educational facilities plan
30 adopted by the school board pursuant to s. 235.185 and must
31 show the locations of existing public schools and the general

1 locations of improvements to existing schools or new schools
2 anticipated over the 5-year, 10-year, and 20-year time
3 periods, or such maps must constitute data and analysis in
4 support of the future land-use map series. Maps indicating
5 general locations of future schools or school improvements
6 should not prescribe a land use on a particular parcel of
7 land.

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

15 (5) Plan amendments to adopt a public educational
16 facilities element are exempt from the provisions of s.
17 163.3187(1).

18 Section 5. Section 163.31777, Florida Statutes, is
19 created to read:

20 163.31777 Public schools interlocal agreement.--

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

31

1 (b) The schedule must establish staggered due dates
2 for submission of interlocal agreements that are executed by
3 both the local government and the district school board,
4 commencing on March 1, 2003, and concluding by December 1,
5 2004, and must set the same date for all governmental entities
6 within a school district. However, if the county where the
7 school district is located contains more than 20
8 municipalities, the state land planning agency may establish
9 staggered due dates for the submission of interlocal
10 agreements by these municipalities. The schedule must begin
11 with those areas where both the number of districtwide
12 capital-outlay full-time-equivalent students equals 80 percent
13 or more of the current year's school capacity and the
14 projected 5-year student growth is 1,000 or greater, or where
15 the projected 5-year student growth rate is 10 percent or
16 greater.

17 (c) If the student population has declined over the
18 5-year period preceding the due date for submittal of an
19 interlocal agreement by the local government and the district
20 school board, the local government and the district school
21 board may petition the state land planning agency for a waiver
22 of one or more requirements of subsection (2). The waiver must
23 be granted if the procedures called for in subsection (2) are
24 unnecessary because of the school district's declining school
25 age population, considering the district's 5-year facilities
26 work program prepared pursuant to s. 235.185. The state land
27 planning agency may modify or revoke the waiver upon a finding
28 that the conditions upon which the waiver was granted no
29 longer exist. The district school board and local governments
30 must submit an interlocal agreement within 1 year after
31

1 notification by the state land planning agency that the
2 conditions for a waiver no longer exist.

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

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

29 (a) A process by which each local government and the
30 district school board agree and base their plans on consistent
31 projections of the amount, type, and distribution of

1 population growth and student enrollment. The geographic
2 distribution of jurisdiction-wide growth forecasts is a major
3 objective of the process.

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

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

18 (d) A process for determining the need for and timing
19 of on-site and off-site improvements to support new, proposed
20 expansion, or redevelopment of existing schools. The process
21 must address identification of the party or parties
22 responsible for the improvements.

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

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

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 into
20 pursuant to this section must be consistent with the adopted
21 comprehensive plan and land development regulations of any
22 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 it is consistent with the requirements of subsection (2), the
30 adopted local government comprehensive plan, and other
31 requirements of law. Within 60 days after receipt of an

1 executed interlocal agreement, the state land planning agency
2 shall publish a notice of intent in the Florida Administrative
3 Weekly and shall post a copy of the notice on the agency's
4 Internet site. The notice of intent must state whether the
5 interlocal agreement is consistent or inconsistent with the
6 requirements of subsection (2) and this subsection, as
7 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 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 this 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

1 preponderance of the evidence that the interlocal agreement is
2 inconsistent.

3 (c) If the state land planning agency enters a final
4 order that finds that the interlocal agreement is inconsistent
5 with the requirements of subsection (2) or this subsection, it
6 shall forward it to the Administration Commission, which may
7 impose sanctions against the local government pursuant to s.
8 163.3184(11) and may impose sanctions against the district
9 school board by directing the Department of Education to
10 withhold from the district school board an equivalent amount
11 of funds for school construction available pursuant to ss.
12 235.187, 235.216, 235.2195, and 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 ss. 235.187, 235.216,
29 235.2195, 235.42.

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

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.

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

3 163.3180 Concurrency.--

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

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

18 (c) The concurrency requirement, except as it relates
19 to transportation facilities, as implemented in local
20 government comprehensive plans may be waived by a local
21 government for urban infill and redevelopment areas designated
22 pursuant to s. 163.2517 if such a waiver does not endanger
23 public health or safety as defined by the local government in
24 its local government comprehensive plan. The waiver shall be
25 adopted as a plan amendment pursuant to the process set forth
26 in s. 163.3187(3)(a). A local government may grant a
27 concurrency exception pursuant to subsection (5) for
28 transportation facilities located within these urban infill
29 and redevelopment areas.

1 Section 7. Subsections (1), (3), (4), (6), (7), (8),
2 and (15) and paragraph (d) of subsection (16) of section
3 163.3184, Florida Statutes, are amended to read:

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

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

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

24 (b) "In compliance" means consistent with the
25 requirements of ss. 163.3177, 163.31776, when a local
26 government adopts an educational facilities element,163.3178,
27 163.3180, 163.3191, and 163.3245, with the state comprehensive
28 plan, with the appropriate strategic regional policy plan, and
29 with chapter 9J-5, Florida Administrative Code, where such
30 rule is not inconsistent with this part and with the

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) If the adopted plan amendment is unchanged from
2 the proposed plan amendment transmitted pursuant to subsection
3 (3) and an affected person as defined in paragraph (1)(a) did
4 not raise any objection, the state land planning agency did
5 not review the proposed plan amendment, and the state land
6 planning agency did not raise any objections during its review
7 pursuant to subsection (6), the local government may state in
8 the transmittal letter that the plan amendment is unchanged
9 and was not the subject of objections.

10 (8) NOTICE OF INTENT.--

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

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

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

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

3 (c)~~(b)~~1. ~~During the time period provided for in this~~
4 ~~subsection, the state land planning agency shall issue,~~
5 ~~through a senior administrator or the secretary, as specified~~
6 ~~in the agency's procedural rules, a notice of intent to find~~
7 ~~that the plan or plan amendment is in compliance or not in~~
8 ~~compliance. A notice of intent shall be issued by publication~~
9 ~~in the manner provided by this paragraph and by mailing a copy~~
10 ~~to the local government and to persons who request notice.~~
11 ~~The required advertisement shall be no less than 2 columns~~
12 ~~wide by 10 inches long, and the headline in the advertisement~~
13 ~~shall be in a type no smaller than 12 point. The advertisement~~
14 ~~shall not be placed in that portion of the newspaper where~~
15 ~~legal notices and classified advertisements appear. The~~
16 ~~advertisement shall be published in a newspaper which meets~~
17 ~~the size and circulation requirements set forth in paragraph~~
18 ~~(15)(c) and which has been designated in writing by the~~
19 ~~affected local government at the time of transmittal of the~~
20 ~~amendment. Publication by the state land planning agency of a~~
21 ~~notice of intent in the newspaper designated by the local~~
22 ~~government shall be prima facie evidence of compliance with~~
23 ~~the publication requirements of this section.~~

24 2. ~~For fiscal year 2001-2002 only, the provisions of~~
25 ~~this subparagraph shall supersede the provisions of~~
26 ~~subparagraph 1.~~During the time period provided for in this
27 subsection, the state land planning agency shall issue,
28 through a senior administrator or the secretary, as specified
29 in the agency's procedural rules, a notice of intent to find
30 that the plan or plan amendment is in compliance or not in
31 compliance. A notice of intent shall be issued by publication

1 in the manner provided by this paragraph and by mailing a copy
2 to the local government. The advertisement shall be placed in
3 that portion of the newspaper where legal notices appear. The
4 advertisement shall be published in a newspaper that meets the
5 size and circulation requirements set forth in paragraph
6 ~~(15)(e)~~ and that has been designated in writing by the
7 affected local government at the time of transmittal of the
8 amendment. Publication by the state land planning agency of a
9 notice of intent in the newspaper designated by the local
10 government shall be prima facie evidence of compliance with
11 the publication requirements of this section. The state land
12 planning agency shall post a copy of the notice of intent on
13 the agency's Internet site. The agency shall, no later than
14 the date the notice of intent is transmitted to the newspaper,
15 send by regular mail a courtesy informational statement to
16 persons who provide their names and addresses to the local
17 government at the transmittal hearing or at the adoption
18 hearing where the local government has provided the names and
19 addresses of such persons to the department at the time of
20 transmittal of the adopted amendment. The informational
21 statements shall include the name of the newspaper in which
22 the notice of intent will appear, the approximate date of
23 publication, the ordinance number of the plan or plan
24 amendment, and a statement that affected persons have 21 days
25 after the actual date of publication of the notice to file a
26 petition. ~~This subparagraph expires July 1, 2002.~~

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

31 (15) PUBLIC HEARINGS.--

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

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

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

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

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

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

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

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

18 (16) COMPLIANCE AGREEMENTS.--

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

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

3 Section 8. Paragraph (c) of subsection (1) of section
4 163.3187, Florida Statutes, is amended, and paragraphs (k) and
5 (l) are added to that subsection, to read:

6 163.3187 Amendment of adopted comprehensive plan.--

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

10 (c) Any local government comprehensive plan amendments
11 directly related to proposed small scale development
12 activities may be approved without regard to statutory limits
13 on the frequency of consideration of amendments to the local
14 comprehensive plan. A small scale development amendment may be
15 adopted only under the following conditions:

16 1. The proposed amendment involves a use of 10 acres
17 or fewer and:

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

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

1 Amendments adopted pursuant to paragraph (k) shall not be
2 counted toward the acreage limitations for small scale
3 amendments under this paragraph.

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

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

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

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

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

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

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

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

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

27 3. Small scale development amendments adopted pursuant
28 to this paragraph require only one public hearing before the
29 governing board, which shall be an adoption hearing as
30 described in s. 163.3184(7), and are not subject to the
31

1 requirements of s. 163.3184(3)-(6) unless the local government
2 elects to have them subject to those requirements.

3 (k) A local comprehensive plan amendment directly
4 related to providing transportation improvements to enhance
5 life safety on Controlled Access Major Arterial Highways
6 identified in the Florida Intrastate Highway System, in
7 counties as defined in s. 125.011, where such roadways have a
8 high incidence of traffic accidents resulting in serious
9 injury or death. Any such amendment shall not include any
10 amendment modifying the designation on a comprehensive
11 development plan land use map nor any amendment modifying the
12 allowable densities or intensities of any land.

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

18 Section 9. Paragraph (k) of subsection (2) of section
19 163.3191, Florida Statutes, is amended and paragraphs (l) and
20 (m) are added to that subsection to read:

21 163.3191 Evaluation and appraisal of comprehensive
22 plan.--

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

28 (k) The coordination of the comprehensive plan with
29 existing public schools and those identified in the applicable
30 educational 5-year school district facilities plan work
31 ~~program~~ adopted pursuant to s. 235.185. The assessment shall

1 address, where relevant, the success or failure of the
2 coordination of the future land use map and associated planned
3 residential development with public schools and their
4 capacities, as well as the joint decisionmaking processes
5 engaged in by the local government and the school board in
6 regard to establishing appropriate population projections and
7 the planning and siting of public school facilities. If the
8 issues are not relevant, the local government shall
9 demonstrate that they are not relevant.

10 (l) The evaluation must consider the appropriate water
11 management district's regional water supply plan approved
12 pursuant to s. 373.0361. The potable water element must be
13 revised to include a work plan, covering at least a 10-year
14 planning period, for building any water supply facilities that
15 are identified in the element as necessary to serve existing
16 and new development and for which the local government is
17 responsible.

18 (m) If any of the jurisdiction of the local government
19 is located within the coastal high-hazard area, an evaluation
20 of whether any past reduction in land use density impairs the
21 property rights of current residents when redevelopment
22 occurs, including, but not limited to, redevelopment following
23 a natural disaster. The property rights of current residents
24 shall be balanced with public safety considerations. The local
25 government must identify strategies to address redevelopment
26 feasibility and the property rights of affected residents.
27 These strategies may include the authorization of
28 redevelopment up to the actual built density in existence on
29 the property prior to the natural disaster or redevelopment.

30 Section 10. Section 163.3215, Florida Statutes, is
31 amended to read:

1 163.3215 Standing to enforce local comprehensive plans
2 through development orders.--

3 (1) Subsections (3) and (4) provide the exclusive
4 methods for an aggrieved or adversely affected party to appeal
5 and challenge the consistency of a development order with a
6 comprehensive plan adopted under this part. The local
7 government that issues the development order is to be named as
8 a respondent in all proceedings under this section. Subsection
9 (3) shall not apply to development orders for which a local
10 government has established a process consistent with the
11 requirements of subsection (4). A local government may decide
12 which types of development orders will proceed under
13 subsection (4). Subsection (3) shall apply to all other
14 development orders that are not subject to subsection (4).

15 (2) As used in this section, the term "aggrieved or
16 adversely affected party" means any person or local government
17 that will suffer an adverse effect to an interest protected or
18 furthered by the local government comprehensive plan,
19 including interests related to health and safety, police and
20 fire protection service systems, densities or intensities of
21 development, transportation facilities, health care
22 facilities, equipment or services, and environmental or
23 natural resources. The alleged adverse interest may be shared
24 in common with other members of the community at large but
25 must exceed in degree the general interest in community good
26 shared by all persons. The term includes the owner, developer,
27 or applicant for a development order.

28 (3)~~(1)~~ Any aggrieved or adversely affected party may
29 maintain a de novo ~~an~~ action for declaratory, injunctive, or
30 other relief against any local government to challenge any
31 decision of such local government granting or denying an

1 application for, or to prevent such local government from
2 taking any action on, a development order, as defined in s.
3 163.3164, which materially alters the use or density or
4 intensity of use on a particular piece of property which ~~that~~
5 is not consistent with the comprehensive plan adopted under
6 this part. The de novo action must be filed no later than 30
7 days following rendition of a development order or other
8 written decision, or when all local administrative appeals, if
9 any, are exhausted, whichever occurs later.

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) 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

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

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

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

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 ~~(4) As a condition precedent to the institution of an~~
11 ~~action pursuant to this section, the complaining party shall~~
12 ~~first file a verified complaint with the local government~~
13 ~~whose actions are complained of setting forth the facts upon~~
14 ~~which the complaint is based and the relief sought by the~~
15 ~~complaining party. The verified complaint shall be filed no~~
16 ~~later than 30 days after the alleged inconsistent action has~~
17 ~~been taken. The local government receiving the complaint~~
18 ~~shall respond within 30 days after receipt of the complaint.~~
19 ~~Thereafter, the complaining party may institute the action~~
20 ~~authorized in this section. However, the action shall be~~
21 ~~instituted no later than 30 days after the expiration of the~~
22 ~~30-day period which the local government has to take~~
23 ~~appropriate action. Failure to comply with this subsection~~
24 ~~shall not bar an action for a temporary restraining order to~~
25 ~~prevent immediate and irreparable harm from the actions~~
26 ~~complained of.~~

27 (5) Venue in any cases brought under this section
28 shall lie in the county or counties where the actions or
29 inactions giving rise to the cause of action are alleged to
30 have occurred.

31

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

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

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

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

27 Section 11. Section 163.3246, Florida Statutes, is
28 created to read:

29 163.3246 Local government comprehensive planning
30 certification program.--

31

1 (1) There is created the Local Government
2 Comprehensive Planning Certification Program to be
3 administered by the Department of Community Affairs. The
4 purpose of the program is to create a certification process
5 for local governments who identify a geographic area for
6 certification within which they commit to directing growth and
7 who, because of a demonstrated record of effectively adopting,
8 implementing, and enforcing its comprehensive plan, the level
9 of technical planning experience exhibited by the local
10 government, and a commitment to implement exemplary planning
11 practices, require less state and regional oversight of the
12 comprehensive plan amendment process. The purpose of the
13 certification area is to designate areas that are contiguous,
14 compact, and appropriate for urban growth and development
15 within a 10-year planning timeframe. Municipalities and
16 counties are encouraged to jointly establish the certification
17 area, and subsequently enter into joint certification
18 agreement with the department.

19 (2) In order to be eligible for certification under
20 the program, the local government must:

21 (a) Demonstrate a record of effectively adopting,
22 implementing, and enforcing its comprehensive plan;

23 (b) Demonstrate technical, financial, and
24 administrative expertise to implement the provisions of this
25 part without state oversight;

26 (c) Obtain comments from the state and regional review
27 agencies regarding the appropriateness of the proposed
28 certification;

29 (d) Hold at least one public hearing soliciting public
30 input concerning the local government's proposal for
31 certification; and

1 (e) Demonstrate that it has adopted programs in its
2 local comprehensive plan and land development regulations
3 which:

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

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

14 3. Achieve effective intergovernmental coordination
15 and address the extrajurisdictional effects of development
16 within the certified area.

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

21 5. Provide and maintain public urban and rural open
22 space and recreational opportunities.

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

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

29 8. Redevelop blighted areas.
30
31

1 9. Adopt a local mitigation strategy and have programs
2 to improve disaster preparedness and the ability to protect
3 lives and property, especially in coastal high-hazard areas.

4 10. Encourage clustered, mixed-use development that
5 incorporates greenspace and residential development within
6 walking distance of commercial development.

7 11. Encourage urban infill at appropriate densities
8 and intensities and separate urban and rural uses and
9 discourage urban sprawl while preserving public open space and
10 planning for buffer-type land uses and rural development
11 consistent with their respective character along and outside
12 the certification area.

13 12. Assure protection of key natural areas and
14 agricultural lands that are identified using state and local
15 inventories of natural areas. Key natural areas include, but
16 are not limited to:

17 a. Wildlife corridors.

18 b. Lands with high native biological diversity,
19 important areas for threatened and endangered species, species
20 of special concern, migratory bird habitat, and intact natural
21 communities.

22 c. Significant surface waters and springs, aquatic
23 preserves, wetlands, and outstanding Florida waters.

24 d. Water resources suitable for preservation of
25 natural systems and for water resource development.

26 e. Representative and rare native Florida natural
27 systems.

28 13. Ensure the cost-efficient provision of public
29 infrastructure and services.

30
31

1 (3) Portions of local governments located within areas
2 of critical state concern cannot be included in a
3 certification area.

4 (4) A local government or group of local governments
5 seeking certification of all or part of a jurisdiction or
6 jurisdictions must submit an application to the department
7 which demonstrates that the area sought to be certified meets
8 the criteria of subsections (2) and (5). The application shall
9 include copies of the applicable local government
10 comprehensive plan, land development regulations, interlocal
11 agreements, and other relevant information supporting the
12 eligibility criteria for designation. Upon receipt of a
13 complete application, the department must provide the local
14 government with an initial response to the application within
15 90 days after receipt of the application.

16 (5) If the local government meets the eligibility
17 criteria of subsection (2), the department shall certify all
18 or part of a local government by written agreement, which
19 shall be considered final agency action subject to challenge
20 under s. 120.569. The agreement must include the following
21 components:

22 (a) The basis for certification.

23 (b) The boundary of the certification area, which
24 encompasses areas that are contiguous, compact, appropriate
25 for urban growth and development, and in which public
26 infrastructure is existing or planned within a 10-year
27 planning timeframe. The certification area is required to
28 include sufficient land to accommodate projected population
29 growth, housing demand, including choice in housing types and
30 affordability, job growth and employment, appropriate
31 densities and intensities of use to be achieved in new

1 development and redevelopment, existing or planned
2 infrastructure, including transportation and central water and
3 sewer facilities. The certification area must be adopted as
4 part of the local government's comprehensive plan.

5 (c) A demonstration that the capital-improvements plan
6 governing the certified area is updated annually.

7 (d) A visioning plan or a schedule for the development
8 of a visioning plan.

9 (e) A description of baseline conditions related to
10 the evaluation criteria in paragraph (g) in the certified
11 area.

12 (f) A work program setting forth specific planning
13 strategies and projects that will be undertaken to achieve
14 improvement in the baseline conditions as measured by the
15 criteria identified in paragraph (g).

16 (g) Criteria to evaluate the effectiveness of the
17 certification process in achieving the community-development
18 goals for the certification area including:

19 1. Measuring the compactness of growth, expressed as
20 the ratio between population growth and land consumed;

21 2. Increasing residential density and intensities of
22 use;

23 3. Measuring and reducing vehicle miles traveled and
24 increasing the interconnectedness of the street system,
25 pedestrian access, and mass transit;

26 4. Measuring the balance between the location of jobs
27 and housing;

28 5. Improving the housing mix within the certification
29 area, including the provision of mixed-use neighborhoods,
30 affordable housing, and the creation of an affordable housing
31 program if such a program is not already in place;

1 6. Promoting mixed-use developments as an alternative
2 to single-purpose centers;

3 7. Promoting clustered development having dedicated
4 open space;

5 8. Linking commercial, educational, and recreational
6 uses directly to residential growth;

7 9. Reducing per capita water and energy consumption;

8 10. Prioritizing environmental features to be
9 protected and adopting measures or programs to protect
10 identified features;

11 11. Reducing hurricane shelter deficits and evacuation
12 times and implementing the adopted mitigation strategies; and

13 12. Improving coordination between the local
14 government and school board.

15 (h) A commitment to change any land development
16 regulations that restrict compact development and adopt
17 alternative design codes that encourage desirable densities
18 and intensities of use and patterns of compact development
19 identified in the agreement.

20 (i) A plan for increasing public participation in
21 comprehensive planning and land use decision making which
22 includes outreach to neighborhood and civic associations
23 through community planning initiatives.

24 (j) A demonstration that the intergovernmental
25 coordination element of the local government's comprehensive
26 plan includes joint processes for coordination between the
27 school board and local government pursuant to s.
28 163.3177(6)(h)2. and other requirements of law.

29 (k) A method of addressing the extrajurisdictional
30 effects of development within the certified area which is
31 integrated by amendment into the intergovernmental

1 coordination element of the local government comprehensive
2 plan.

3 (1) A requirement for the annual reporting to the
4 department of plan amendments adopted during the year, and the
5 progress of the local government in meeting the terms and
6 conditions of the certification agreement. Prior to the
7 deadline for the annual report, the local government must hold
8 a public hearing soliciting public input on the progress of
9 the local government in satisfying the terms of the
10 certification agreement.

11 (m) An expiration date that is no later than 10 years
12 after execution of the agreement.

13 (6) The department may enter up to eight new
14 certification agreements each fiscal year. The department
15 shall adopt procedural rules governing the application and
16 review of local government requests for certification. Such
17 procedural rules may establish a phased schedule for review of
18 local government requests for certification.

19 (7) The department shall revoke the local government's
20 certification if it determines that the local government is
21 not substantially complying with the terms of the agreement.

22 (8) An affected person, as defined by s.
23 163.3184(1)(a), may petition for administrative hearing
24 alleging that a local government is not substantially
25 complying with the terms of the agreement, using the
26 procedures and timeframes for notice and conditions precedent
27 described in s. 163.3213. Such a petition must be filed within
28 30 days after the annual public hearing required by paragraph
29 (5)(1).

30 (9)(a) Upon certification all comprehensive plan
31 amendments associated with the area certified must be adopted

1 and reviewed in the manner described in ss. 163.3184(1), (2),
2 (7), (14), (15), and (16) and 163.3187, such that state and
3 regional agency review is eliminated. The department may not
4 issue any objections, recommendations, and comments report on
5 proposed plan amendments or a notice of intent on adopted plan
6 amendments; however, affected persons, as defined by s.
7 163.3184(1)(a), may file a petition for administrative review
8 pursuant to the requirements of s. 163.3187(3)(a) to challenge
9 the compliance of an adopted plan amendment.

10 (b) Plan amendments that change the boundaries of the
11 certification area; propose a rural land stewardship area
12 pursuant to s. 163.3177(11)(d); propose an optional sector
13 plan pursuant to s. 163.3245; propose a school facilities
14 element; update a comprehensive plan based on an evaluation
15 and appraisal report; impact lands outside the certification
16 boundary; implement new statutory requirements that require
17 specific comprehensive plan amendments; or increase hurricane
18 evacuation times or the need for shelter capacity on lands
19 within the coastal high hazard area shall be reviewed pursuant
20 to ss. 163.3184 and 163.3187.

21 (10) A local government's certification shall be
22 reviewed by the local government and the department as part of
23 the evaluation and appraisal process pursuant to s. 163.3191.
24 Within 1 year after the deadline for the local government to
25 update its comprehensive plan based on the evaluation and
26 appraisal report, the department shall renew or revoke the
27 certification. The local government's failure to adopt a
28 timely evaluation and appraisal report, failure to adopt an
29 evaluation and appraisal report found to be sufficient, or
30 failure to timely adopt amendments based on an evaluation and
31 appraisal report found to be in compliance by the department

1 shall be cause for revoking the certification agreement. The
2 department's decision to renew or revoke shall be considered
3 agency action subject to challenge under s. 120.569.

4 (11) The department shall, by July 1 of each
5 odd-numbered year, submit to the Governor, the President of
6 the Senate, and the Speaker of the House of Representatives a
7 report listing certified local governments, evaluating the
8 effectiveness of the certification, and including any
9 recommendations for legislative actions.

10 (12) The Office of Program Policy Analysis and
11 Government Accountability shall prepare a report evaluating
12 the certification program, which shall be submitted to the
13 Governor, the President of the Senate, and the Speaker of the
14 House of Representatives by December 1, 2007.

15 Section 12. Paragraph (c) of subsection (2) and
16 subsection (3) of section 186.504, Florida Statutes, are
17 amended to read:

18 186.504 Regional planning councils; creation;
19 membership.--

20 (2) Membership on the regional planning council shall
21 be as follows:

22 (c) Representatives appointed by the Governor from the
23 geographic area covered by the regional planning council,
24 including an elected school board member from the geographic
25 area covered by the regional planning council, to be nominated
26 by the Florida School Board Association.

27 (3) Not less than two-thirds of the representatives
28 serving as voting members on the governing bodies of such
29 regional planning councils shall be elected officials of local
30 general-purpose governments chosen by the cities and counties
31 of the region, provided each county shall have at least one

1 vote. The remaining one-third of the voting members on the
2 governing board shall be appointed by the Governor, to include
3 one elected school board member, subject to confirmation by
4 the Senate, and shall reside in the region. No two appointees
5 of the Governor shall have their places of residence in the
6 same county until each county within the region is represented
7 by a Governor's appointee to the governing board. Nothing
8 contained in this section shall deny to local governing bodies
9 or the Governor the option of appointing either locally
10 elected officials or lay citizens provided at least two-thirds
11 of the governing body of the regional planning council is
12 composed of locally elected officials.

13 Section 13. Section 235.002, Florida Statutes, is
14 amended to read:

15 235.002 Intent.--

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

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

25 (a)(b) To Encourage the use of innovative designs,
26 construction techniques, and financing mechanisms in building
27 educational facilities for the purposes ~~purpose~~ of reducing
28 costs to the taxpayer, creating a more satisfactory
29 educational environment, ~~and~~ reducing the amount of time
30 necessary for design and construction to fill unmet needs, and

31

1 permitting the on-site and off-site improvements required by
2 law.

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

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

14 (d) Establish a systematic process of sharing
15 information between school boards and local governments on the
16 growth and development trends in their communities in order to
17 forecast future enrollment and school needs.

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

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

27 (2) The Legislature finds and declares that:

28 (a) Public schools are a linchpin to the vitality of
29 our communities and play a significant role in the thousands
30 of individual housing decisions that result in community
31 growth trends.

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

6 **(c)**~~(b)~~ The effective and efficient provision of public
7 educational facilities and services enhances ~~is essential to~~
8 ~~preserving and enhancing~~ the quality of life of the people of
9 this state.

10 **(d)**~~(c)~~ The provision of educational facilities often
11 impacts community infrastructure and services. Assuring
12 coordinated and cooperative provision of such facilities and
13 associated infrastructure and services is in the best interest
14 of the state.

15 Section 14. Notwithstanding subsection (7) of section
16 3 of chapter 2000-321, Laws of Florida, section 235.15,
17 Florida Statutes, shall not stand repealed on January 7, 2003,
18 as scheduled by that act, but that section is reenacted and
19 amended to read:

20 235.15 Educational plant survey; localized need
21 assessment; PECO project funding.--

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

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

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

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

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

5 1. The school district's survey must be submitted as a
6 part of the district educational facilities plan defined in s.
7 235.185.~~Each school district's educational plant survey must~~
8 ~~reflect the capacity of existing satisfactory facilities as~~
9 ~~reported in the Florida Inventory of School Houses.~~

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

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

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

1 established by the State Requirements for Educational
2 Facilities.

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

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

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

1 (c) Review and validation.--The Office of Educational
2 Facilities and SMART Schools Clearinghouse ~~department~~ shall
3 review and validate the surveys of school districts, and
4 community colleges, and colleges and universities, and any
5 amendments thereto for compliance with the requirements of
6 this chapter and, ~~when required by the State Constitution,~~
7 shall recommend those in compliance for approval by the
8 Florida State Board of Education.

9 (2) Only the superintendent, ~~or the~~ college president,
10 or the university president shall certify to the Office of
11 Educational Facilities and SMART Schools Clearinghouse
12 ~~department~~ a project's compliance with the requirements for
13 expenditure of PECO funds prior to release of funds.

14 (a) Upon request for release of PECO funds for
15 planning purposes, certification must be made to the Office of
16 Educational Facilities and SMART Schools Clearinghouse
17 ~~department~~ that the need for and location of the facility are
18 in compliance with the board-approved survey recommendations,
19 ~~and~~ that the project meets the definition of a PECO project
20 and the limiting criteria for expenditures of PECO funding,
21 and that the plan is consistent with the local government
22 comprehensive plan.

23 (b) Upon request for release of construction funds,
24 certification must be made to the Office of Educational
25 Facilities and SMART Schools Clearinghouse ~~department~~ that the
26 need and location of the facility are in compliance with the
27 board-approved survey recommendations, that the project meets
28 the definition of a PECO project and the limiting criteria for
29 expenditures of PECO funding, and that the construction
30 documents meet the requirements of the Florida State Uniform
31

1 Building Code for Educational Facilities Construction or other
2 applicable codes as authorized in this chapter.

3 Section 15. Subsection (3) of section 235.175, Florida
4 Statutes, is amended to read:

5 235.175 SMART schools; Classrooms First; legislative
6 purpose.--

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

22 Section 16. Section 235.18, Florida Statutes, is
23 amended to read:

24 235.18 Annual capital outlay budget.--Each board,
25 ~~including the Board of Regents,~~ shall, each year, adopt a
26 capital outlay budget for the ensuing year in order that the
27 capital outlay needs of the board for the entire year may be
28 well understood by the public. This capital outlay budget
29 shall be a part of the annual budget and shall be based upon
30 and in harmony with the board's capital outlay plan
31 ~~educational plant and ancillary facilities plan~~. This budget

1 shall designate the proposed capital outlay expenditures by
2 project for the year from all fund sources. The board may not
3 expend any funds on any project not included in the budget, as
4 amended. Each district school board must prepare its tentative
5 district education facilities plan ~~facilities work program~~ as
6 required by s. 235.185 before adopting the capital outlay
7 budget.

8 Section 17. Section 235.185, Florida Statutes, is
9 amended to read:

10 235.185 School district educational facilities plan
11 ~~work program~~; definitions; preparation, adoption, and
12 amendment; long-term work programs.--

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

14 (a) "Adopted educational facilities plan" means the
15 comprehensive planning document that is adopted annually by
16 the district school board as provided in subsection (2) and
17 that contains the educational plant survey.

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

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

26 1. ~~To~~ Properly maintain the educational plant and
27 ancillary facilities of the district.

28 2. ~~To~~ Provide an adequate number of satisfactory
29 student stations for the projected student enrollment of the
30 district in K-12 programs in accordance with the goal in s.
31 235.062.

1 (c) "Tentative educational facilities plan" means the
2 comprehensive planning document prepared annually by the
3 district school board and submitted to the Office of
4 Educational Facilities and SMART Schools Clearinghouse and the
5 affected general-purpose local governments.

6 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL
7 FACILITIES PLAN ~~WORK PROGRAM~~.--

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

19 1. Projected student populations apportioned
20 geographically at the local level. The projections must be
21 based on information produced by the demographic, revenue, and
22 education estimating conferences pursuant to s. 216.136, where
23 available, as modified by the district based on development
24 data and agreement with the local governments and the Office
25 of Educational Facilities and SMART Schools Clearinghouse. The
26 projections must be apportioned geographically with assistance
27 from the local governments using local development trend data
28 and the school district student enrollment data.

29 2. An inventory of existing school facilities. Any
30 anticipated expansions or closures of existing school sites
31 over the 5-year, 10-year, and 20-year periods must be

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

7 3. Projections of facilities space needs, which may
8 not exceed the norm space and occupant design criteria
9 established in the State Requirements for Educational
10 Facilities.

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

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

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

- 27 a. Acceptable capacity;
- 28 b. Redistricting;
- 29 c. Busing;
- 30 d. Year-round schools;
- 31 e. Charter schools;

- 1 f. Magnet schools; and
2 g. Public-private partnerships.
3 7. The criteria and method, jointly determined by the
4 local government and the school board, for determining the
5 impact of proposed development to public school capacity.
6 (b) The plan must also include a financially feasible
7 district facilities work program for a 5-year period. The work
8 program must include:
9 1. A schedule of major repair and renovation projects
10 necessary to maintain the educational facilities ~~plant~~ and
11 ancillary facilities of the district.
12 2. A schedule of capital outlay projects necessary to
13 ensure the availability of satisfactory student stations for
14 the projected student enrollment in K-12 programs. This
15 schedule shall consider:
16 a. The locations, capacities, and planned utilization
17 rates of current educational facilities of the district. The
18 capacity of existing satisfactory facilities, as reported in
19 the Florida Inventory of School Houses must be compared to the
20 capital outlay full-time-equivalent student enrollment as
21 determined by the department, including all enrollment used in
22 the calculation of the distribution formula in s. 235.435(3).
23 b. The proposed locations of planned facilities,
24 whether those locations are consistent with the comprehensive
25 plans of all affected local governments, and recommendations
26 for infrastructure and other improvements to land adjacent to
27 existing facilities. The provisions of ss. 235.19 and
28 235.193(12), (13), and (14) must be addressed for new
29 facilities planned within the first 3 years of the work plan,
30 as appropriate.
31

1 c. Plans for the use and location of relocatable
2 facilities, leased facilities, and charter school facilities.

3 d. Plans for multitrack scheduling, grade level
4 organization, block scheduling, or other alternatives that
5 reduce the need for additional permanent student stations.

6 e. Information concerning average class size and
7 utilization rate by grade level within the district which that
8 will result if the tentative district facilities work program
9 is fully implemented. ~~The average shall not include~~
10 ~~exceptional student education classes or prekindergarten~~
11 ~~classes.~~

12 f. The number and percentage of district students
13 planned to be educated in relocatable facilities during each
14 year of the tentative district facilities work program. For
15 determining future needs, student capacity may not be assigned
16 to any relocatable classroom that is scheduled for elimination
17 or replacement with a permanent educational facility in the
18 current year of the adopted district educational facilities
19 plan and in the district facilities work program adopted under
20 this section. Those relocatable classrooms clearly identified
21 and scheduled for replacement in a school-board-adopted,
22 financially feasible, 5-year district facilities work program
23 shall be counted at zero capacity at the time the work program
24 is adopted and approved by the school board. However, if the
25 district facilities work program is changed and the
26 relocatable classrooms are not replaced as scheduled in the
27 work program, the classrooms must be reentered into the system
28 and be counted at actual capacity. Relocatable classrooms may
29 not be perpetually added to the work program or continually
30 extended for purposes of circumventing this section. All
31 relocatable classrooms not identified and scheduled for

1 replacement, including those owned, lease-purchased, or leased
2 by the school district, must be counted at actual student
3 capacity. The district educational facilities plan must
4 identify the number of relocatable student stations scheduled
5 for replacement during the 5-year survey period and the total
6 dollar amount needed for that replacement.

7 g. Plans for the closure of any school, including
8 plans for disposition of the facility or usage of facility
9 space, and anticipated revenues.

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

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

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

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

31

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

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

11 ~~(d)(c)~~ Provision shall be made for public comment
12 concerning the tentative district educational facilities plan
13 work program.

14 ~~(e)~~ The district school board shall coordinate with
15 each affected local government to ensure consistency between
16 the tentative district educational facilities plan and the
17 local government comprehensive plans of the affected local
18 governments during the development of the tentative district
19 educational facilities plan.

20 ~~(f)~~ Commencing on October 1, 2002, and not less than
21 once every 5 years thereafter, the district school board shall
22 contract with a qualified, independent third party to conduct
23 a financial management and performance audit of the
24 educational planning and construction activities of the
25 district. An audit conducted by the Office of Program Policy
26 Analysis and Government Accountability and the Auditor General
27 pursuant to s. 230.23025 satisfies this requirement.

28 ~~(3)~~ SUBMITTAL OF TENTATIVE DISTRICT EDUCATIONAL
29 FACILITIES PLAN TO LOCAL GOVERNMENT.--The district school
30 board shall submit a copy of its tentative district
31 educational facilities plan to all affected local governments

1 prior to adoption by the board. The affected local governments
2 shall review the tentative district educational facilities
3 plan and comment to the district school board on the
4 consistency of the plan with the local comprehensive plan,
5 whether a comprehensive plan amendment will be necessary for
6 any proposed educational facility, and whether the local
7 government supports a necessary comprehensive plan amendment.
8 If the local government does not support a comprehensive plan
9 amendment for a proposed educational facility, the matter
10 shall be resolved pursuant to the interlocal agreement when
11 required by ss. 163.3177(6)(h), 163.31777, and 235.193(2). The
12 process for the submittal and review shall be detailed in the
13 interlocal agreement when required pursuant to ss.
14 163.3177(6)(h), 163.31777, and 235.193(2).

15 (4)(3) ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN
16 ~~WORK PROGRAM.~~--Annually, the district school board shall
17 consider and adopt the tentative district educational
18 facilities plan ~~work program~~ completed pursuant to subsection
19 (2). Upon giving proper ~~public~~ notice to the public and local
20 governments and opportunity for public comment, the district
21 school board may amend the plan ~~program~~ to revise the priority
22 of projects, to add or delete projects, to reflect the impact
23 of change orders, or to reflect the approval of new revenue
24 sources which may become available. The adopted district
25 educational facilities plan ~~work program~~ shall:

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

28 (b) Set forth the proposed commitments and planned
29 expenditures of the district to address the educational
30 facilities needs of its students and to adequately provide for
31 the maintenance of the educational plant and ancillary

1 facilities, including safe access ways from neighborhoods to
2 schools.

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

11 ~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.~~--In addition to
12 ~~the adopted district facilities work program covering the~~
13 ~~5-year work program, the district school board shall adopt~~
14 ~~annually a 10-year and a 20-year work program which include~~
15 ~~the information set forth in subsection (2), but based upon~~
16 ~~enrollment projections and facility needs for the 10-year and~~
17 ~~20-year periods. It is recognized that the projections in the~~
18 ~~10-year and 20-year timeframes are tentative and should be~~
19 ~~used only for general planning purposes.~~

20 Section 18. Section 235.1851, Florida Statutes, is
21 created to read:

22 235.1851 Educational facilities benefit districts.--

23 (1) It is the intent of the Legislature to encourage
24 and authorize public cooperation among district school boards,
25 affected local general purpose governments, and benefited
26 private interests in order to implement financing for timely
27 construction and maintenance of school facilities, including
28 facilities identified in individual district facilities work
29 programs or proposed by charter schools. It is the further
30 intent of the Legislature to provide efficient alternative
31 mechanisms and incentives to allow for sharing costs of

1 educational facilities necessary to accommodate new growth and
2 development among public agencies, including district school
3 boards, affected local general purpose governments, and
4 benefited private development interests.

5 (2) The Legislature hereby authorizes the creation of
6 educational facilities benefit districts pursuant to
7 interlocal cooperation agreements between a district school
8 board and all local general purpose governments within whose
9 jurisdiction a district is located. The purpose of
10 educational facilities benefit districts is to assist in
11 financing the construction and maintenance of educational
12 facilities.

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

25 (b) Creation of any educational facilities benefit
26 district shall be conditioned upon the consent of the district
27 school board, all local general purpose governments within
28 whose jurisdiction any portion of the educational facilities
29 benefit district is located, and all landowners within the
30 district. The membership of the governing board of any
31 educational facilities benefit district shall include

1 representation of the district school board, each cooperating
2 local general purpose government, and the landowners within
3 the district. In the case of an educational facilities
4 benefit district's decision to create a charter school, the
5 board of directors of the charter school may constitute the
6 members of the governing board for the educational facilities
7 benefit district.

8 (4) The educational facilities benefit district shall
9 have, and its governing board may exercise, the following
10 powers:

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

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

20 (c) To contract for the services of consultants to
21 perform planning, engineering, legal, or other appropriate
22 services of a professional nature. Such contracts shall be
23 subject to the public bidding or competitive negotiations
24 required of local general purpose governments.

25 (d) To borrow money and accept gifts; to apply for
26 unused grants or loans of money or other property from the
27 United States, the state, a unit of local government, or any
28 person for any district purposes and enter into agreements
29 required in connection therewith; and to hold, use, and
30 dispose of such moneys or property for any district purposes
31

1 in accordance with the terms of the gift, grant, loan, or
2 agreement relating thereto.

3 (e) To adopt resolutions and polices prescribing the
4 powers, duties, and functions of the officers of the district,
5 the conduct of the business of the district, and the
6 maintenance of records and documents of the district.

7 (f) To maintain an office at such place or places as
8 it may designate within the district or within the boundaries
9 of the local general purpose government that created the
10 district.

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

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

26 (i) To cooperate with or contract with other
27 governmental agencies as may be necessary, convenient,
28 incidental, or proper in connection with any of the powers,
29 duties, or purposes authorized by this act and to accept
30 funding from local and state agencies as provided in this act.

31

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

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

8 (5) As an alternative to the creation of an
9 educational facilities benefit district, the Legislature
10 hereby recognizes and encourages the consideration of
11 community development district creation pursuant to chapter
12 190 as a viable alternative for financing the construction and
13 maintenance of educational facilities as described in this
14 act. Community development districts are granted the authority
15 to determine, order, levy, impose, collect, and enforce non-ad
16 valorem assessments for such purposes pursuant to this act and
17 chapters 170, 190, and 197. This authority is in addition to
18 any authority granted community development districts under
19 chapter 190. Community development districts are therefore
20 deemed eligible for the financial enhancements available to
21 educational facilities benefit districts providing for
22 financing the construction and maintenance of educational
23 facilities pursuant to s. 235.1852. In order to receive such
24 financial enhancements, a community development district must
25 enter into an interlocal agreement with the district school
26 board and affected local general purpose governments that
27 specifies the obligations of all parties to the agreement.
28 Nothing in this act or in any interlocal agreement entered
29 into pursuant to this act requires any change in the method of
30 election of a board of supervisors of a community development
31 district provided in chapter 190.

1 Section 19. Section 235.1852, Florida Statutes, is
2 created to read:

3 235.1852 Local funding for educational facilities
4 benefit districts or community development districts.--Upon
5 confirmation by a district school board of the commitment of
6 revenues by an educational facilities benefit district or
7 community development district necessary to construct and
8 maintain an educational facility contained within an
9 individual district facilities work program or proposed by an
10 approved charter school or a charter school applicant, the
11 following funds shall be provided to the educational
12 facilities benefit district or community development district
13 annually, beginning with the next fiscal year after
14 confirmation until the district's financial obligations are
15 completed:

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

22 (2) For construction and capital maintenance costs not
23 covered by the funds provided under subsection (1), an annual
24 amount contributed by the district school board equal to
25 one-half of the remaining costs of construction and capital
26 maintenance of the educational facility. Any construction
27 costs above the cost-per-student criteria established for the
28 SIT Program in s. 235.216(2) shall be funded exclusively by
29 the educational facilities benefit district or the community
30 development district. Funds contributed by a district school
31 board shall not be used to fund operational costs.

1
2 Educational facilities funded pursuant to this act may be
3 constructed on land that is owned by any person after the
4 district school board has acquired from the owner of the land
5 a long-term lease for the use of this land for a period of not
6 less than 40 years or the life expectancy of the permanent
7 facilities constructed thereon, whichever is longer. All
8 interlocal agreements entered into pursuant to this act shall
9 provide for ownership of educational facilities funded
10 pursuant to this act to revert to the district school board if
11 such facilities cease to be used for public educational
12 purposes prior to 40 years after construction or prior to the
13 end of the life expectancy of the educational facilities,
14 whichever is longer.

15 Section 20. Section 235.1853, Florida Statutes, is
16 created to read:

17 235.1853 Educational facilities benefit district or
18 community development district facility utilization.--The
19 student population of all facilities funded pursuant to this
20 act shall, to the greatest extent possible, reflect the
21 racial, ethnic, and socioeconomic balance of the school
22 district pursuant to state and federal law. However, to the
23 extent allowable pursuant to state and federal law, the
24 interlocal agreement providing for the establishment of the
25 educational facilities benefit district or the interlocal
26 agreement between the community development district and the
27 district school board and affected local general purpose
28 governments may provide for the district school board to
29 establish school attendance zones that allow students residing
30 within a reasonable distance of facilities financed through
31 the interlocal agreement to attend such facilities.

1 Section 21. Section 235.188, Florida Statutes, is
2 amended to read:

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

13 Section 22. Section 235.19, Florida Statutes, is
14 amended to read:

15 235.19 Site planning and selection.--

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

31

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

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

28 (4) It shall be the responsibility of the board to
29 provide adequate notice to appropriate municipal, county,
30 regional, and state governmental agencies for requested
31 traffic control and safety devices so they can be installed

1 and operating prior to the first day of classes or to satisfy
2 itself that every reasonable effort has been made in
3 sufficient time to secure the installation and operation of
4 such necessary devices prior to the first day of classes. It
5 shall also be the responsibility of the board to review
6 annually traffic control and safety device needs and to
7 request all necessary changes indicated by such review.

8 (5) Each board may request county and municipal
9 governments to construct and maintain sidewalks and bicycle
10 trails within a 2-mile radius of each educational facility
11 within the jurisdiction of the local government. When a board
12 discovers or is aware of an existing hazard on or near a
13 public sidewalk, street, or highway within a 2-mile radius of
14 a school site and the hazard endangers the life or threatens
15 the health or safety of students who walk, ride bicycles, or
16 are transported regularly between their homes and the school
17 in which they are enrolled, the board shall, within 24 hours
18 after discovering or becoming aware of the hazard, excluding
19 Saturdays, Sundays, and legal holidays, report such hazard to
20 the governmental entity within the jurisdiction of which the
21 hazard is located. Within 5 days after receiving notification
22 by the board, excluding Saturdays, Sundays, and legal
23 holidays, the governmental entity shall investigate the
24 hazardous condition and either correct it or provide such
25 precautions as are practicable to safeguard students until the
26 hazard can be permanently corrected. However, if the
27 governmental entity that has jurisdiction determines upon
28 investigation that it is impracticable to correct the hazard,
29 or if the entity determines that the reported condition does
30 not endanger the life or threaten the health or safety of
31 students, the entity shall, within 5 days after notification

1 by the board, excluding Saturdays, Sundays, and legal
2 holidays, inform the board in writing of its reasons for not
3 correcting the condition. The governmental entity, to the
4 extent allowed by law, shall indemnify the board from any
5 liability with respect to accidents or injuries, if any,
6 arising out of the hazardous condition.

7 (6) If the school board and local government have
8 entered into an interlocal agreement pursuant to s. 235.193(2)
9 and either s. 163.3177(6)(h)4. or s. 163.31777 or have
10 developed a process to ensure consistency between the local
11 government comprehensive plan and the school district
12 educational facilities plan, site planning and selection must
13 be consistent with the interlocal agreements and the plans.

14 Section 23. 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 facilities plan ~~plant survey~~ and applicable policies and
26 procedures of a board with the local comprehensive plan and
27 land development regulations of local governments ~~governing~~
28 ~~bodies~~. The planning must include the consideration of
29 allowing students to attend the school located nearest their
30 homes when a new housing development is constructed near a
31 county boundary and it is more feasible to transport the

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

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

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

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

24 (d) Interlocal agreements between local governments
25 and district school boards adopted pursuant to s. 163.3177
26 before the effective date of subsections (2)-(9) must be
27 updated and executed pursuant to the requirements of
28 subsections (2)-(9), if necessary. Amendments to interlocal
29 agreements adopted pursuant to subsections (2)-(9) must be
30 submitted to the state land planning agency within 30 days
31 after execution by the parties for review consistent with

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
6 subsections (2)-(9) and shall notify local governments and,
7 jointly with the Department of Education, the district school
8 boards of the requirements of subsections (2)-(9), the dates
9 for compliance, and the sanctions for noncompliance. The state
10 land planning agency shall be available to informally review
11 proposed interlocal agreements. If the state land planning
12 agency has not received a proposed interlocal agreement for
13 informal review, the state land planning agency shall, at
14 least 60 days before the deadline for submission of the
15 executed agreement, renotify the local government and the
16 district school board of the upcoming deadline and the
17 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 jurisdiction-wide 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

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 on-site and off-site 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

1 (i) An oversight process, including an opportunity for
2 public participation, for the implementation of the interlocal
3 agreement.

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

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

30 (b) The state land planning agency's notice is subject
31 to challenge under chapter 120; however, an affected person,

1 as defined in s. 163.3184(1)(a), has standing to initiate the
2 administrative proceeding and this proceeding is the sole
3 means available to challenge the consistency of an interlocal
4 agreement required by this section with the criteria contained
5 in subsection (3) and this subsection. In order to have
6 standing, each person must have submitted oral or written
7 comments, recommendations, or objections to the local
8 government or the school board before the adoption of the
9 interlocal agreement by the district school board and local
10 government. The district school board and local governments
11 are parties to any such proceeding. In this proceeding, when
12 the state land planning agency finds the interlocal agreement
13 to be consistent with the criteria in subsection (3) and this
14 subsection, the interlocal agreement must be determined to be
15 consistent with subsection (3) and this subsection if the
16 local government's and school board's determination of
17 consistency is fairly debatable. When the state land planning
18 agency finds the interlocal agreement to be inconsistent with
19 the requirements of subsection (3) and this subsection, the
20 local government's and school board's determination of
21 consistency shall be sustained unless it is shown by a
22 preponderance of the evidence that the interlocal agreement is
23 inconsistent.

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

1 equivalent amount of funds for school construction available
2 pursuant to ss. 235.187, 235.216, 235.2195, and 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 ss. 235.187, 235.216,
19 235.2195, and 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)-(8) if the element is adopted prior to or within 1 year
26 after the effective date of subsections (2)-(8) and remains in
27 effect.

28 (7) Except as provided in subsection (8),
29 municipalities having no established need for a new facility
30 and meeting the following criteria are exempt from the
31 requirements of subsections (2), (3) and (4):

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

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

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

23 (9)~~(2)~~ A school board and the local governing body
24 must share and coordinate information related to existing and
25 planned public school facilities; proposals for development,
26 redevelopment, or additional development; and infrastructure
27 required to support the public school facilities, concurrent
28 with proposed development. A school board shall use
29 information produced by the demographic, revenue, and
30 education estimating conferences pursuant to s. 216.136
31 ~~Department of Education enrollment projections~~ when preparing

1 the ~~5-year~~ district educational facilities plan ~~work program~~
2 pursuant to s. 235.185, as modified and agreed to by the local
3 governments, when provided by interlocal agreement, and the
4 Office of Educational Facilities and SMART Schools
5 Clearinghouse, in ~~and a school board shall affirmatively~~
6 ~~demonstrate in the educational facilities report~~ consideration
7 of local governments' population projections, to ensure that
8 the district educational facilities plan ~~5-year work program~~
9 not only reflects enrollment projections but also considers
10 applicable municipal and county growth and development
11 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 plan
17 ~~report~~ for the prior year required pursuant to s. 235.185 ~~s.~~
18 ~~235.194~~ unless the 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

1 agreement entered pursuant to subsections (2)-(8)at least 60
2 days prior to acquiring or leasing property that may be used
3 for a new public educational facility. The local government,
4 upon receipt of this notice, shall notify the board within 45
5 days if the site proposed for acquisition or lease is
6 consistent with the land use categories and policies of the
7 local government's comprehensive plan. This preliminary
8 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 pursuant to
12 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

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

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

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

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

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

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

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

19 Section 24. Section 235.194, Florida Statutes, is
20 repealed.

21 Section 25. Section 235.218, Florida Statutes, is
22 amended to read:

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

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

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

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

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

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

22 Section 26. Paragraph (c) of subsection (2) of section
23 235.2197, Florida Statutes, is amended to read:

24 235.2197 Florida Frugal Schools Program.--

25 (2) The "Florida Frugal Schools Program" is created to
26 recognize publicly each district school board that agrees to
27 build frugal yet functional educational facilities and that
28 implements "best financial management practices" when
29 planning, constructing, and operating educational facilities.
30 The Florida State ~~Board~~ of Education shall recognize a
31 district school board as having a Florida Frugal Schools

1 Program if the district requests recognition and satisfies two
2 or more of the following criteria:

3 (c) The district school board submits a plan to the
4 Commissioner of Education certifying how the revenues
5 generated by the levy of the capital outlay sales surtax
6 authorized by s. 212.055(6) will be spent. The plan must
7 include at least the following assurances about the use of the
8 proceeds of the surtax and any accrued interest:

9 1. The district school board will use the surtax and
10 accrued interest only for the fixed capital outlay purposes
11 identified by s. 212.055(6)(d) which will reduce school
12 overcrowding that has been validated by the Department of
13 Education, or for the repayment of bonded indebtedness related
14 to such capital outlay purposes.

15 2. The district school board will not spend the surtax
16 or accrued interest to pay for operational expenses or for the
17 construction, renovation, or remodeling of any administrative
18 building or any other ancillary facility that is not directly
19 related to the instruction, feeding, or transportation of
20 students enrolled in the public schools.

21 3. The district school board's use of the surtax and
22 accrued interest will be consistent with the best financial
23 management practices identified and approved under s.
24 230.23025.

25 4. The district school board will apply the
26 educational facilities contracting and construction techniques
27 authorized by s. 235.211 or other construction management
28 techniques to reduce the cost of educational facilities.

29 5. The district school board will discontinue the
30 surtax levy when the district has provided the
31 survey-recommended educational facilities that were determined

1 to be necessary to relieve school overcrowding; when the
2 district has satisfied any bonded indebtedness incurred for
3 such educational facilities; or when the district's other
4 sources of capital outlay funds are sufficient to provide such
5 educational facilities, whichever occurs first.

6 6. The district school board will use any excess
7 surtax collections or accrued interest to reduce the
8 discretionary outlay millage levied under s. 236.25(2).

9 Section 27. Section 235.321, Florida Statutes, is
10 amended to read:

11 235.321 Changes in construction requirements after
12 award of contract.--The board may, at its option and by
13 written policy duly adopted and entered in its official
14 minutes, authorize the superintendent or president or other
15 designated individual to approve change orders in the name of
16 the board for preestablished amounts. Approvals shall be for
17 the purpose of expediting the work in progress and shall be
18 reported to the board and entered in its official minutes. For
19 accountability, the school district shall monitor and report
20 the impact of change orders on its district educational
21 facilities plan ~~work program~~ pursuant to s. 235.185.

22 Section 28. Paragraph (d) of subsection (5) of section
23 236.25, Florida Statutes, is amended to read:

24 236.25 District school tax.--

25 (5)

26 (d) Notwithstanding any other provision of this
27 subsection, if through its adopted educational facilities plan
28 ~~work program~~ a district has clearly identified the need for an
29 ancillary plant, has provided opportunity for public input as
30 to the relative value of the ancillary plant versus an
31 educational plant, and has obtained public approval, the

1 district may use revenue generated by the millage levy
2 authorized by subsection (2) for the acquisition,
3 construction, renovation, remodeling, maintenance, or repair
4 of an ancillary plant.

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

17 Section 29. Subsection (3) of section 380.04, Florida
18 Statutes, is amended to read:

19 380.04 Definition of development.--

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

23 (a) Work by a highway or road agency or railroad
24 company for the maintenance or improvement of a road or
25 railroad track, if the work is carried out on land within the
26 boundaries of the right-of-way.

27 (b) Work by any utility and other persons engaged in
28 the distribution or transmission of electricity, gas, or
29 water, for the purpose of inspecting, repairing, renewing, or
30 constructing on established rights-of-way any sewers, mains,
31

1 pipes, cables, utility tunnels, power lines, towers, poles,
2 tracks, or the like.

3 (c) Work for the maintenance, renewal, improvement, or
4 alteration of any structure, if the work affects only the
5 interior or the color of the structure or the decoration of
6 the exterior of the structure.

7 (d) The use of any structure or land devoted to
8 dwelling uses for any purpose customarily incidental to
9 enjoyment of the dwelling.

10 (e) The use of any land for the purpose of growing
11 plants, crops, trees, and other agricultural or forestry
12 products; raising livestock; or for other agricultural
13 purposes.

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

17 (g) A change in the ownership or form of ownership of
18 any parcel or structure.

19 (h) The creation or termination of rights of access,
20 riparian rights, easements, covenants concerning development
21 of land, or other rights in land.

22 Section 30. Paragraph (d) of subsection (2), paragraph
23 (b) of subsection (4), paragraph (a) of subsection (8),
24 subsection (12), paragraph (c) of subsection (15), subsection
25 (18), and paragraphs (b), (e), and (f) of subsection (19) of
26 section 380.06, Florida Statutes, are amended, and paragraphs
27 (i), (j), and (k) are added to subsection (24) of that
28 section, to read:

29 380.06 Developments of regional impact.--

30 (2) STATEWIDE GUIDELINES AND STANDARDS.--

31

1 (d) The guidelines and standards shall be applied as
2 follows:

3 1. Fixed thresholds.--

4 a. A development that is at or below 100 ~~80~~ percent of
5 all numerical thresholds in the guidelines and standards shall
6 not be required to undergo development-of-regional-impact
7 review.

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

11 c. Projects certified under s. 403.973 which create at
12 least 100 jobs and meet the criteria of the Office of Tourism,
13 Trade, and Economic Development as to their impact on an
14 area's economy, employment, and prevailing wage and skill
15 levels that are at or below 100 percent of the numerical
16 thresholds for industrial plants, industrial parks,
17 distribution, warehousing or wholesaling facilities, office
18 development or multiuse projects other than residential, as
19 described in s. 380.0651(3)(c), (d), and (i), are not required
20 to undergo development-of-regional-impact review.

21 2. Rebuttable presumption ~~presumptions~~.--

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

25 ~~b.~~ It shall be presumed that a development that is at
26 100 percent or between 100 and 120 percent of a numerical
27 threshold shall be required to undergo
28 development-of-regional-impact review.

29 (4) BINDING LETTER.--

30 (b) Unless a developer waives the requirements of this
31 paragraph by agreeing to undergo

1 development-of-regional-impact review pursuant to this
2 section, the state land planning agency or local government
3 with jurisdiction over the land on which a development is
4 proposed may require a developer to obtain a binding letter
5 if:

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

9 ~~2. The development is between a presumptive numerical~~
10 ~~threshold and 20 percent below the numerical threshold and the~~
11 ~~local government or the state land planning agency is in doubt~~
12 ~~as to whether the character or magnitude of the development at~~
13 ~~the proposed location creates a likelihood that the~~
14 ~~development will have a substantial effect on the health,~~
15 ~~safety, or welfare of citizens of more than one county.~~

16 (8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

17 (a) A developer may enter into a written preliminary
18 development agreement with the state land planning agency to
19 allow a developer to proceed with a limited amount of the
20 total proposed development, subject to all other governmental
21 approvals and solely at the developer's own risk, prior to
22 issuance of a final development order. All owners of the land
23 in the total proposed development shall join the developer as
24 parties to the agreement. Each agreement shall include and be
25 subject to the following conditions:

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

29 2. The developer shall file an application for
30 development approval for the total proposed development within
31 3 months after execution of the agreement, unless the state

1 land planning agency agrees to a different time for good cause
2 shown. Failure to timely file an application and to otherwise
3 diligently proceed in good faith to obtain a final development
4 order shall constitute a breach of the preliminary development
5 agreement.

6 3. The agreement shall include maps and legal
7 descriptions of both the preliminary development area and the
8 total proposed development area and shall specifically
9 describe the preliminary development in terms of magnitude and
10 location. The area approved for preliminary development must
11 be included in the application for development approval and
12 shall be subject to the terms and conditions of the final
13 development order.

14 4. The preliminary development shall be limited to
15 lands that the state land planning agency agrees are suitable
16 for development and shall only be allowed in areas where
17 adequate public infrastructure exists to accommodate the
18 preliminary development, when such development will utilize
19 public infrastructure. The developer must also demonstrate
20 that the preliminary development will not result in material
21 adverse impacts to existing resources or existing or planned
22 facilities.

23 5. The preliminary development agreement may allow
24 development which is:

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

28 b. Less than 120 percent of any applicable threshold
29 if the developer demonstrates that such development is part of
30 a proposed downtown development of regional impact specified
31 in subsection (22) or part of any areawide development of

1 regional impact specified in subsection (25) and that the
2 development is consistent with subparagraph 4.

3 6. The developer and owners of the land may not claim
4 vested rights, or assert equitable estoppel, arising from the
5 agreement or any expenditures or actions taken in reliance on
6 the agreement to continue with the total proposed development
7 beyond the preliminary development. The agreement shall not
8 entitle the developer to a final development order approving
9 the total proposed development or to particular conditions in
10 a final development order.

11 7. The agreement shall not prohibit the regional
12 planning agency from reviewing or commenting on any regional
13 issue that the regional agency determines should be included
14 in the regional agency's report on the application for
15 development approval.

16 8. The agreement shall include a disclosure by the
17 developer and all the owners of the land in the total proposed
18 development of all land or development within 5 miles of the
19 total proposed development in which they have an interest and
20 shall describe such interest.

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

27 10. A notice of the preliminary development agreement
28 shall be recorded by the developer in accordance with s.
29 28.222 with the clerk of the circuit court for each county in
30 which land covered by the terms of the agreement is located.
31 The notice shall include a legal description of the land

1 covered by the agreement and shall state the parties to the
2 agreement, the date of adoption of the agreement and any
3 subsequent amendments, the location where the agreement may be
4 examined, and that the agreement constitutes a land
5 development regulation applicable to portions of the land
6 covered by the agreement. The provisions of the agreement
7 shall inure to the benefit of and be binding upon successors
8 and assigns of the parties in the agreement.

9 11. Except for those agreements which authorize
10 preliminary development for substantial deviations pursuant to
11 subsection (19), a developer who no longer wishes to pursue a
12 development of regional impact may propose to abandon any
13 preliminary development agreement executed after January 1,
14 1985, including those pursuant to s. 380.032(3), provided at
15 the time of abandonment:

16 a. A final development order under this section has
17 been rendered that approves all of the development actually
18 constructed; or

19 b. The amount of development is less than 100 ~~80~~
20 percent of all numerical thresholds of the guidelines and
21 standards, and the state land planning agency determines in
22 writing that the development to date is in compliance with all
23 applicable local regulations and the terms and conditions of
24 the preliminary development agreement and otherwise adequately
25 mitigates for the impacts of the development to date.

26
27 In either event, when a developer proposes to abandon said
28 agreement, the developer shall give written notice and state
29 that he or she is no longer proposing a development of
30 regional impact and provide adequate documentation that he or
31 she has met the criteria for abandonment of the agreement to

1 the state land planning agency. Within 30 days of receipt of
2 adequate documentation of such notice, the state land planning
3 agency shall make its determination as to whether or not the
4 developer meets the criteria for abandonment. Once the state
5 land planning agency determines that the developer meets the
6 criteria for abandonment, the state land planning agency shall
7 issue a notice of abandonment which shall be recorded by the
8 developer in accordance with s. 28.222 with the clerk of the
9 circuit court for each county in which land covered by the
10 terms of the agreement is located.

11 (12) REGIONAL REPORTS.--

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

23 1. The development will have a favorable or
24 unfavorable impact on state or regional resources or
25 facilities identified in the applicable state or regional
26 plans. For the purposes of this subsection, "applicable state
27 plan" means the state comprehensive plan. For the purposes of
28 this subsection, "applicable regional plan" means an adopted
29 comprehensive regional policy plan until the adoption of a
30 strategic regional policy plan pursuant to s. 186.508, and
31 thereafter means an adopted strategic regional policy plan.

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

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

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

26 (c) The regional planning agency shall afford the
27 developer or any substantially affected party reasonable
28 opportunity to present evidence to the regional planning
29 agency head relating to the proposed regional agency report
30 and recommendations.

31

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

6 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

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

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

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

29 4. Shall specify the requirements for the biennial
30 ~~annual~~ report designated under subsection (18), including the
31 date of submission, parties to whom the report is submitted,

1 and contents of the report, based upon the rules adopted by
2 the state land planning agency. Such rules shall specify the
3 scope of any additional local requirements that may be
4 necessary for the report.

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

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

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

1 (19) SUBSTANTIAL DEVIATIONS.--

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

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

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

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

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

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

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

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

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

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

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

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

23 12. An increase in a recreational vehicle park area by
24 5 percent or 100 vehicle spaces, whichever is less.

25 13. A decrease in the area set aside for open space of
26 5 percent or 20 acres, whichever is less.

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

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

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

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

17
18 The substantial deviation numerical standards in subparagraphs
19 4., 6., 10., 14., excluding residential uses, and 15., are
20 increased by 100 percent for a project certified under s.
21 403.973 which creates jobs and meets criteria established by
22 the Office of Tourism, Trade, and Economic Development as to
23 its impact on an area's economy, employment, and prevailing
24 wage and skill levels. The substantial deviation numerical
25 standards in subparagraphs 4., 6., 9., 10., 11., and 14. are
26 increased by 50 percent for a project located wholly within an
27 urban infill and redevelopment area designated on the
28 applicable adopted local comprehensive plan future land use
29 map and not located within the coastal high hazard area.

30 ~~(e)1. A proposed change which, either individually or,~~
31 ~~if there were previous changes, cumulatively with those~~

1 ~~changes, is equal to or exceeds 40 percent of any numerical~~
2 ~~criterion in subparagraphs (b)1.-15., but which does not~~
3 ~~exceed such criterion, shall be presumed not to create a~~
4 ~~substantial deviation subject to further~~
5 ~~development of regional impact review. The presumption may be~~
6 ~~rebutted by clear and convincing evidence at the public~~
7 ~~hearing held by the local government pursuant to subparagraph~~
8 ~~(f)5.~~

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

25 2. The following changes, individually or cumulatively
26 with any previous changes, are not substantial deviations:
27 a. Changes in the name of the project, developer,
28 owner, or monitoring official.
29 b. Changes to a setback that do not affect noise
30 buffers, environmental protection or mitigation areas, or
31 archaeological or historical resources.

- 1 c. Changes to minimum lot sizes.
- 2 d. Changes in the configuration of internal roads that
3 do not affect external access points.
- 4 e. Changes to the building design or orientation that
5 stay approximately within the approved area designated for
6 such building and parking lot, and which do not affect
7 historical buildings designated as significant by the Division
8 of Historical Resources of the Department of State.
- 9 f. Changes to increase the acreage in the development,
10 provided that no development is proposed on the acreage to be
11 added.
- 12 g. Changes to eliminate an approved land use, provided
13 that there are no additional regional impacts.
- 14 h. Changes required to conform to permits approved by
15 any federal, state, or regional permitting agency, provided
16 that these changes do not create additional regional impacts.
- 17 i. Any renovation or redevelopment of development
18 within a previously approved development of regional impact
19 which does not change land use or increase density or
20 intensity of use.
- 21 ~~(j) i.~~ Any other change which the state land planning
22 agency agrees in writing is similar in nature, impact, or
23 character to the changes enumerated in sub-subparagraphs a.-i.
24 ~~a.-h.~~ and which does not create the likelihood of any
25 additional regional impact.

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

1 which, the application is incorporated in the development
2 order.

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

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

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

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

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

1 c. Notwithstanding any provision of paragraph (b) to
2 the contrary, a proposed change consisting of simultaneous
3 increases and decreases of at least two of the uses within an
4 authorized multiuse development of regional impact which was
5 originally approved with three or more uses specified in s.
6 380.0651(3)(c), (d), (f), and (g) and residential use.

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

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

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

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

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

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

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

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

6 (24) STATUTORY EXEMPTIONS.--

7 (i) Any proposed facility for the storage of any
8 petroleum product or any expansion of an existing facility is
9 exempt from the provisions of this section, if the facility is
10 consistent with a local comprehensive plan that is in
11 compliance with s. 163.3177 or is consistent with a
12 comprehensive port master plan that is in compliance with s.
13 163.3178.

14 (j) Any renovation or redevelopment within the same
15 land parcel which does not change land use or increase density
16 or intensity of use.

17 (k)1. Any waterport or marina development is exempt
18 from the provisions of this section if the relevant county or
19 municipality has adopted a boating facility siting plan or
20 policy which includes applicable criteria, considering such
21 factors as natural resources, manatee protection needs and
22 recreation and economic demands as generally outlined in the
23 Bureau of Protected Species Management Boat Facility Siting
24 Guide, dated August 2000, into the coastal management or land
25 use element of its comprehensive plan. The adoption of boating
26 facility siting plans or policies into the comprehensive plan
27 is exempt from the provisions of s. 163.3187(1). Any waterport
28 or marina development within the municipalities or counties
29 with boating facility siting plans or policies that meet the
30 above criteria, adopted prior to April 1, 2002, are exempt
31 from the provisions of this section, when their boating

1 facility siting plan or policy is adopted as part of the
2 relevant local government's comprehensive plan.

3 2. Within six months of the effective date of this
4 law, the Department of Community Affairs, in conjunction with
5 the Department of Environmental Protection and the Florida
6 Fish and Wildlife Conservation Commission, shall provide
7 technical assistance and guidelines, including model plans,
8 policies and criteria to local governments for the development
9 of their siting plans.

10 Section 31. Paragraphs (d) and (f) of subsection (3)
11 of section 380.0651, Florida Statutes, are amended to read:

12 380.0651 Statewide guidelines and standards.--

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

17 (d) Office development.--Any proposed office building
18 or park operated under common ownership, development plan, or
19 management that:

20 1. Encompasses 300,000 or more square feet of gross
21 floor area; or

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

23 ~~3. Encompasses more than 600,000 square feet of gross~~
24 ~~floor area in a county with a population greater than 500,000~~
25 ~~and only in a geographic area specifically designated as~~
26 ~~highly suitable for increased threshold intensity in the~~
27 ~~approved local comprehensive plan and in the strategic~~
28 ~~regional policy plan.~~

29 (f) Retail and service development.--Any proposed
30 retail, service, or wholesale business establishment or group
31 of establishments which deals primarily with the general

1 public onsite, operated under one common property ownership,
2 development plan, or management that:

3 1. Encompasses more than 400,000 square feet of gross
4 area; or

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

6 3. Provides parking spaces for more than 2,500 cars.

7 Section 32. (1) Nothing contained in this act
8 abridges or modifies any vested or other right or any duty or
9 obligation pursuant to any development order or agreement that
10 is applicable to a development of regional impact on the
11 effective date of this act. A development that has received a
12 development-of-regional-impact development order pursuant to
13 section 380.06, Florida Statutes, but is no longer required to
14 undergo development-of-regional-impact review by operation of
15 this act, shall be governed by the following procedures:

16 (a) The development shall continue to be governed by
17 the development-of-regional-impact development order and may
18 be completed in reliance upon and pursuant to the development
19 order. The development-of-regional-impact development order
20 may be enforced by the local government as provided by
21 sections 380.06(17) and 380.11, Florida Statutes.

22 (b) If requested by the developer or landowner, the
23 development-of-regional-impact development order may be
24 abandoned pursuant to the process in s. 380.06(26).

25 (2) A development with an application for development
26 approval pending, and determined sufficient pursuant to
27 section 380.06(10), Florida Statutes, on the effective date of
28 this act, or a notification of proposed change pending on the
29 effective date of this act, may elect to continue such review
30 pursuant to section 380.06, Florida Statutes. At the
31 conclusion of the pending review, including any appeals

1 pursuant to section 380.07, Florida Statutes, the resulting
2 development order shall be governed by the provisions of
3 subsection (1).

4 Section 33. Subsection (6) is added to s. 163.3194,
5 Florida Statutes, to read:

6 163.3194 Legal status of comprehensive plan.--

7 (1)(a) After a comprehensive plan, or element or
8 portion thereof, has been adopted in conformity with this act,
9 all development undertaken by, and all actions taken in regard
10 to development orders by, governmental agencies in regard to
11 land covered by such plan or element shall be consistent with
12 such plan or element as adopted.

13 (b) All land development regulations enacted or
14 amended shall be consistent with the adopted comprehensive
15 plan, or element or portion thereof, and any land development
16 regulations existing at the time of adoption which are not
17 consistent with the adopted comprehensive plan, or element or
18 portion thereof, shall be amended so as to be consistent. If
19 a local government allows an existing land development
20 regulation which is inconsistent with the most recently
21 adopted comprehensive plan, or element or portion thereof, to
22 remain in effect, the local government shall adopt a schedule
23 for bringing the land development regulation into conformity
24 with the provisions of the most recently adopted comprehensive
25 plan, or element or portion thereof. During the interim
26 period when the provisions of the most recently adopted
27 comprehensive plan, or element or portion thereof, and the
28 land development regulations are inconsistent, the provisions
29 of the most recently adopted comprehensive plan, or element or
30 portion thereof, shall govern any action taken in regard to an
31 application for a development order.

1 (2) After a comprehensive plan for the area, or
2 element or portion thereof, is adopted by the governing body,
3 no land development regulation, land development code, or
4 amendment thereto shall be adopted by the governing body until
5 such regulation, code, or amendment has been referred either
6 to the local planning agency or to a separate land development
7 regulation commission created pursuant to local ordinance, or
8 to both, for review and recommendation as to the relationship
9 of such proposal to the adopted comprehensive plan, or element
10 or portion thereof. Said recommendation shall be made within a
11 reasonable time, but no later than within 2 months after the
12 time of reference. If a recommendation is not made within the
13 time provided, then the governing body may act on the
14 adoption.

15 (3)(a) A development order or land development
16 regulation shall be consistent with the comprehensive plan if
17 the land uses, densities or intensities, and other aspects of
18 development permitted by such order or regulation are
19 compatible with and further the objectives, policies, land
20 uses, and densities or intensities in the comprehensive plan
21 and if it meets all other criteria enumerated by the local
22 government.

23 (b) A development approved or undertaken by a local
24 government shall be consistent with the comprehensive plan if
25 the land uses, densities or intensities, capacity or size,
26 timing, and other aspects of the development are compatible
27 with and further the objectives, policies, land uses, and
28 densities or intensities in the comprehensive plan and if it
29 meets all other criteria enumerated by the local government.

30 (4)(a) A court, in reviewing local governmental action
31 or development regulations under this act, may consider, among

1 other things, the reasonableness of the comprehensive plan, or
2 element or elements thereof, relating to the issue justiciably
3 raised or the appropriateness and completeness of the
4 comprehensive plan, or element or elements thereof, in
5 relation to the governmental action or development regulation
6 under consideration. The court may consider the relationship
7 of the comprehensive plan, or element or elements thereof, to
8 the governmental action taken or the development regulation
9 involved in litigation, but private property shall not be
10 taken without due process of law and the payment of just
11 compensation.

12 (b) It is the intent of this act that the
13 comprehensive plan set general guidelines and principles
14 concerning its purposes and contents and that this act shall
15 be construed broadly to accomplish its stated purposes and
16 objectives.

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

21 (6) If a proposed solid waste management facility is
22 permitted by the Department of Environmental Protection to
23 receive materials from the construction or demolition of a
24 road or other transportation facility, a local government may
25 not deny an application for a development approval for a
26 requested land use that would accommodate such a facility,
27 provided the local government previously approved a land use
28 classification change to a local comprehensive plan or
29 approved a rezoning to a category allowing such land use on
30 the parcel, and the requested land use was disclosed during
31

1 the previous comprehensive plan or rezoning hearing as being
2 an express purpose of the land use changes.

3 Section 34. It is the intent of the Legislature that
4 section 5 or section 23 of this act shall not affect the
5 outcome of any litigation pending on the effective date of
6 this act, including any future appeals. It is the further
7 intent of the Legislature that section 5 or section 23 of this
8 act do not serve as legal authority support of any party to
9 such litigation or any appeal thereof.

10 Section 35. It is the intent of the Legislature that
11 section 10 of this act shall not affect the outcome of
12 Pinecrest Lakes, Inc. v. Schidel, 795 So.2d 191 (Fla. 4th DCA
13 2001), rehearing denied, 802 So.2d 486.

14 Section 36. The Legislature finds that the integration
15 of the growth management system and the planning of public
16 educational facilities is a matter of great public importance.

17 Section 37. Section 403.064, Florida Statutes, is
18 amended to read:

19 403.064 Reuse of reclaimed water.--

20 (1) The encouragement and promotion of water
21 conservation, and reuse of reclaimed water, as defined by the
22 department, are state objectives and are considered to be in
23 the public interest. The Legislature finds that the reuse of
24 reclaimed water is a critical component of meeting the state's
25 existing and future water supply needs while sustaining
26 natural systems.The Legislature further finds that for those
27 wastewater treatment plants permitted and operated under an
28 approved reuse program by the department, the reclaimed water
29 shall be considered environmentally acceptable and not a
30 threat to public health and safety.

31

1 (2) All applicants for permits to construct or operate
2 a domestic wastewater treatment facility located within,
3 serving a population located within, or discharging within a
4 water resource caution area shall prepare a reuse feasibility
5 study as part of their application for the permit. Reuse
6 feasibility studies shall be prepared in accordance with
7 department guidelines adopted by rule and shall include, but
8 are not limited to:

9 (a) Evaluation of monetary costs and benefits for
10 several levels and types of reuse.

11 (b) Evaluation of water savings if reuse is
12 implemented.

13 (c) Evaluation of rates and fees necessary to
14 implement reuse.

15 (d) Evaluation of environmental and water resource
16 benefits associated with reuse.

17 (e) Evaluation of economic, environmental, and
18 technical constraints.

19 (f) A schedule for implementation of reuse. The
20 schedule shall consider phased implementation.

21 (3) The permit applicant shall prepare a plan of study
22 for the reuse feasibility study consistent with the reuse
23 feasibility study guidelines adopted by department rule. The
24 plan of study shall include detailed descriptions of
25 applicable treatment and water supply alternatives to be
26 evaluated and the methods of analysis to be used. The plan of
27 study shall be submitted to the department for review and
28 approval.

29 ~~(4)~~~~(3)~~ The study required under subsection (2) shall
30 be performed by the applicant, and, if the study shows that
31 the reuse is feasible, the applicant must give significant

1 consideration to its implementation ~~the applicant's~~
2 ~~determination of feasibility is final~~ if the study complies
3 with the requirements of subsections ~~subsection~~ (2) and (3).

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

5 (a) The domestic wastewater treatment facility has an
6 existing or proposed permitted or design capacity less than
7 0.1 million gallons per day; or

8 (b) The permitted reuse capacity equals or exceeds the
9 total permitted capacity of the domestic wastewater treatment
10 facility.

11 (6)~~(5)~~ A reuse feasibility study prepared under
12 subsection (2) satisfies a water management district
13 requirement to conduct a reuse feasibility study imposed on a
14 local government or utility that has responsibility for
15 wastewater management.

16 (7)~~(6)~~ Local governments may allow the use of
17 reclaimed water for inside activities, including, but not
18 limited to, toilet flushing, fire protection, and decorative
19 water features, as well as for outdoor uses, provided the
20 reclaimed water is from domestic wastewater treatment
21 facilities which are permitted, constructed, and operated in
22 accordance with department rules.

23 (8)~~(7)~~ Permits issued by the department for domestic
24 wastewater treatment facilities shall be consistent with
25 requirements for reuse included in applicable consumptive use
26 permits issued by the water management district, if such
27 requirements are consistent with department rules governing
28 reuse of reclaimed water. This subsection applies only to
29 domestic wastewater treatment facilities which are located
30 within, or serve a population located within, or discharge
31 within water resource caution areas and are owned, operated,

1 or controlled by a local government or utility which has
2 responsibility for water supply and wastewater management.

3 (9)~~(8)~~ Local governments may and are encouraged to
4 implement programs for the reuse of reclaimed water. Nothing
5 in this chapter shall be construed to prohibit or preempt such
6 local reuse programs.

7 (10)~~(9)~~ A local government that implements a reuse
8 program under this section shall be allowed to allocate the
9 costs in a reasonable manner.

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

17 (12)~~(11)~~ In issuing consumptive use permits, the
18 permitting agency shall consider the local reuse program.

19 (13)~~(12)~~ A local government shall require a developer,
20 as a condition for obtaining a development order, to comply
21 with the local reuse program.

22 (14)~~(13)~~ ~~If, After conducting a feasibility study~~
23 ~~under subsection (2), an applicant determines that reuse of~~
24 ~~reclaimed water is feasible, domestic wastewater treatment~~
25 ~~facilities that dispose of effluent by Class I deep well~~
26 ~~injection, as defined in 40 C.F.R. part 144.6(a), must~~
27 ~~implement reuse according to the schedule for implementation~~
28 ~~contained in the study conducted under subsection (2), to the~~
29 ~~degree that reuse is determined feasible, based upon the~~
30 applicant's reuse feasibility study. Applicable permits issued
31

1 by the department shall be consistent with the requirements of
2 this subsection.

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

6 (b) This subsection applies only to domestic
7 wastewater treatment facilities located within, serving a
8 population located within, or discharging within a water
9 resource caution area.

10 ~~(15)(14) If,~~ After conducting a feasibility study
11 under subsection (2), ~~an applicant determines that reuse of~~
12 ~~reclaimed water is feasible,~~ domestic wastewater treatment
13 facilities that dispose of effluent by surface water
14 discharges or by land application methods must implement reuse
15 ~~according to the schedule for implementation contained in the~~
16 ~~study conducted under subsection (2),~~ to the degree that reuse
17 is ~~determined~~ feasible, based upon the applicant's reuse
18 feasibility study. This subsection does not apply to surface
19 water discharges or land application systems which are
20 currently categorized as reuse under department rules.
21 Applicable permits issued by the department shall be
22 consistent with the requirements of this subsection.

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

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

30 Section 38. In order to aid in the development of a
31 better understanding of the unique surface and groundwater

1 resources of this state, the water management districts shall
2 develop an information program designed to provide information
3 concerning existing hydrologic conditions of major surface and
4 groundwater sources in this state and suggestions for good
5 conservation practices within those areas. The program shall
6 be developed by December 31, 2002. Beginning January 1, 2003,
7 and on a regular basis no less than every 6 months thereafter,
8 the information developed pursuant to this section shall be
9 distributed to every member of the Florida Senate and the
10 Florida House of Representatives and to local print and
11 broadcast news organizations. Each water management district
12 shall be responsible for the distribution of this information
13 within its established geographic area.

14 Section 39. Subsection (11) of section 367.022,
15 Florida Statutes, is amended to read:

16 367.022 Exemptions.--The following are not subject to
17 regulation by the commission as a utility nor are they subject
18 to the provisions of this chapter, except as expressly
19 provided:

20 (11) Any person providing only nonpotable water for
21 irrigation or fireflow purposes in a geographic area where
22 potable water service is available from a governmentally or
23 privately owned utility or a private well.

24 Section 40. Subsection (2) of section 373.1961,
25 Florida Statutes, is amended to read:

26 373.1961 Water production.--

27 (2) The Legislature finds that, due to a combination
28 of factors, vastly increased demands have been placed on
29 natural supplies of fresh water, and that, absent increased
30 development of alternative water supplies, such demands may
31 increase in the future. The Legislature also finds that

1 potential exists in the state for the production of
2 significant quantities of alternative water supplies,
3 including reclaimed water, and that water production includes
4 the development of alternative water supplies, including
5 reclaimed water, for appropriate uses. It is the intent of
6 the Legislature that utilities develop reclaimed water
7 systems, where reclaimed water is the most appropriate
8 alternative water supply option, to deliver reclaimed water to
9 as many users as possible through the most cost-effective
10 means, and to construct reclaimed water system infrastructure
11 to their owned or operated properties and facilities where
12 they have reclamation capability. It is also the intent of the
13 Legislature that the water management districts which levy ad
14 valorem taxes for water management purposes should share a
15 percentage of those tax revenues with water providers and
16 users, including local governments, water, wastewater, and
17 reuse utilities, municipal, industrial, and agricultural water
18 users, and other public and private water users, to be used to
19 supplement other funding sources in the development of
20 alternative water supplies. The Legislature finds that public
21 moneys or services provided to private entities for such uses
22 constitute public purposes which are in the public interest.
23 In order to further the development and use of alternative
24 water supply systems, including reclaimed water systems, the
25 Legislature provides the following:

26 (a) The governing boards of the water management
27 districts where water resource caution areas have been
28 designated shall include in their annual budgets an amount for
29 the development of alternative water supply systems, including
30 reclaimed water systems, pursuant to the requirements of this
31 subsection. Beginning in 1996, such amounts shall be made

1 available to water providers and users no later than December
2 31 of each year, through grants, matching grants, revolving
3 loans, or the use of district lands or facilities pursuant to
4 the requirements of this subsection and guidelines established
5 by the districts.

6 (b) It is the intent of the Legislature that for each
7 reclaimed water utility, or any other utility, which receives
8 funds pursuant to this subsection, the appropriate
9 rate-setting authorities should develop rate structures for
10 all water, wastewater, and reclaimed water and other
11 alternative water supply utilities in the service area of the
12 funded utility, which accomplish the following:

13 1. Provide meaningful progress toward the development
14 and implementation of alternative water supply systems,
15 including reclaimed water systems;

16 2. Promote the conservation of fresh water withdrawn
17 from natural systems;

18 3. Provide for an appropriate distribution of costs
19 for all water, wastewater, and alternative water supply
20 utilities, including reclaimed water utilities, among all of
21 the users of those utilities; and

22 4. Prohibit rate discrimination within classes of
23 utility users.

24 (c) In order to be eligible for funding pursuant to
25 this subsection, a project must be consistent with a local
26 government comprehensive plan and the governing body of the
27 local government must require all appropriate new facilities
28 within the project's service area to connect to and use the
29 project's alternative water supplies. The appropriate local
30 government must provide written notification to the
31

1 appropriate district that the proposed project is consistent
2 with the local government comprehensive plan.

3 (d) Any and all revenues disbursed pursuant to this
4 subsection shall be applied only for the payment of capital or
5 infrastructure costs for the construction of alternative water
6 supply systems that provide alternative water supplies ~~for~~
7 ~~uses within one or more water resource caution areas.~~

8 (e) By January 1 of each year, the governing boards
9 shall make available written guidelines for the disbursal of
10 revenues pursuant to this subsection. Such guidelines shall
11 include at minimum:

12 1. An application process and a deadline for filing
13 applications annually.

14 2. A process for determining project eligibility
15 pursuant to the requirements of paragraphs (c) and (d).

16 3. A process and criteria for funding projects
17 pursuant to this subsection that cross district boundaries or
18 that serve more than one district.

19 (f) The governing board of each water management
20 district shall establish an alternative water supplies grants
21 advisory committee to recommend to the governing board
22 projects for funding pursuant to this subsection. The
23 advisory committee members shall include, but not be limited
24 to, one or more representatives of county, municipal, and
25 investor-owned private utilities, and may include, but not be
26 limited to, representatives of agricultural interests and
27 environmental interests. Each committee member shall
28 represent his or her interest group as a whole and shall not
29 represent any specific entity. The committee shall apply the
30 guidelines and project eligibility criteria established by the
31 governing board in reviewing proposed projects. After one or

1 more hearings to solicit public input on eligible projects,
2 the committee shall rank the eligible projects and shall
3 submit them to the governing board for final funding approval.
4 The advisory committee may submit to the governing board more
5 projects than the available grant money would fund.

6 (g) All revenues made available annually pursuant to
7 this subsection must be encumbered ~~disbursed~~ annually by the
8 governing board if it approves projects sufficient to expend
9 the available revenues. Funds must be disbursed within 36
10 months after encumbrance.

11 (h) For purposes of this subsection, alternative water
12 supplies are supplies of water that have been reclaimed after
13 one or more public supply, municipal, industrial, commercial,
14 or agricultural uses, or are supplies of stormwater, or
15 brackish or salt water, that have been treated in accordance
16 with applicable rules and standards sufficient to supply the
17 intended use.

18 (i) This subsection shall not be subject to the
19 rulemaking requirements of chapter 120.

20 (j) By January 30 of each year, each water management
21 district shall submit an annual report to the Governor, the
22 President of the Senate, and the Speaker of the House of
23 Representatives which accounts for the disbursal of all
24 budgeted amounts pursuant to this subsection. Such report
25 shall describe all projects funded and shall account
26 separately for moneys provided through grants, matching
27 grants, revolving loans, and the use of district lands or
28 facilities.

29 (k) The Florida Public Service Commission shall allow
30 entities under its jurisdiction constructing alternative water
31 supply facilities, including but not limited to aquifer

1 storage and recovery wells, to recover the full, prudently
2 incurred cost of such facilities through their rate structure.
3 Every component of an alternative water supply facility
4 constructed by an investor-owned utility shall be recovered in
5 current rates.

6 Section 41. Section 373.498 and subsection (3) of
7 section 403.804, Florida Statutes, are repealed.

8 Section 42. Paragraph (c) of subsection (3) of section
9 373.4595, Florida Statutes, is amended to read:

10 373.4595 Lake Okeechobee Protection Program.--

11 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
12 program for Lake Okeechobee that achieves phosphorus load
13 reductions for Lake Okeechobee shall be immediately
14 implemented as specified in this subsection. The program shall
15 address the reduction of phosphorus loading to the lake from
16 both internal and external sources. Phosphorus load reductions
17 shall be achieved through a phased program of implementation.
18 Initial implementation actions shall be technology-based,
19 based upon a consideration of both the availability of
20 appropriate technology and the cost of such technology, and
21 shall include phosphorus reduction measures at both the source
22 and the regional level. The initial phase of phosphorus load
23 reductions shall be based upon the district's Technical
24 Publication 81-2 and the district's WOD program, with
25 subsequent phases of phosphorus load reductions based upon the
26 total maximum daily loads established in accordance with s.
27 403.067. In the development and administration of the Lake
28 Okeechobee Protection Program, the coordinating agencies shall
29 maximize opportunities provided by federal cost-sharing
30 programs and opportunities for partnerships with the private
31 sector.

1 (c) Lake Okeechobee Watershed Phosphorus Control
2 Program.--The Lake Okeechobee Watershed Phosphorus Control
3 Program is designed to be a multifaceted approach to reducing
4 phosphorus loads by improving the management of phosphorus
5 sources within the Lake Okeechobee watershed through continued
6 implementation of existing regulations and best management
7 practices, development and implementation of improved best
8 management practices, improvement and restoration of the
9 hydrologic function of natural and managed systems, and
10 utilization of alternative technologies for nutrient
11 reduction. The coordinating agencies shall facilitate the
12 application of federal programs that offer opportunities for
13 water quality treatment, including preservation, restoration,
14 or creation of wetlands on agricultural lands.

15 1. Agricultural nonpoint source best management
16 practices, developed in accordance with s. 403.067 and
17 designed to achieve the objectives of the Lake Okeechobee
18 Protection Program, shall be implemented on an expedited
19 basis. By March 1, 2001, the coordinating agencies shall
20 develop an interagency agreement pursuant to ss. 373.046 and
21 373.406(5) that assures the development of best management
22 practices that complement existing regulatory programs and
23 specifies how those best management practices are implemented
24 and verified. The interagency agreement shall address measures
25 to be taken by the coordinating agencies during any best
26 management practice reevaluation performed pursuant to
27 sub-subparagraph d. The department shall use best professional
28 judgment in making the initial determination of best
29 management practice effectiveness.

30 a. As provided in s. 403.067(7)(d), by October 1,
31 2000, the Department of Agriculture and Consumer Services, in

1 consultation with the department, the district, and affected
2 parties, shall initiate rule development for interim measures,
3 best management practices, conservation plans, nutrient
4 management plans, or other measures necessary for Lake
5 Okeechobee phosphorus load reduction. The rule shall include
6 thresholds for requiring conservation and nutrient management
7 plans and criteria for the contents of such plans. Development
8 of agricultural nonpoint source best management practices
9 shall initially focus on those priority basins listed in
10 subparagraph (b)1. The Department of Agriculture and Consumer
11 Services, in consultation with the department, the district,
12 and affected parties, shall conduct an ongoing program for
13 improvement of existing and development of new interim
14 measures or best management practices for the purpose of
15 adoption of such practices by rule.

16 b. Where agricultural nonpoint source best management
17 practices or interim measures have been adopted by rule of the
18 Department of Agriculture and Consumer Services, the owner or
19 operator of an agricultural nonpoint source addressed by such
20 rule shall either implement interim measures or best
21 management practices or demonstrate compliance with the
22 district's WOD program by conducting monitoring prescribed by
23 the department or the district. Owners or operators of
24 agricultural nonpoint sources who implement interim measures
25 or best management practices adopted by rule of the Department
26 of Agriculture and Consumer Services shall be subject to the
27 provisions of s. 403.067(7). The Department of Agriculture and
28 Consumer Services, in cooperation with the department and the
29 district, shall provide technical and financial assistance for
30 implementation of agricultural best management practices,
31 subject to the availability of funds.

1 c. The district or department shall conduct monitoring
2 at representative sites to verify the effectiveness of
3 agricultural nonpoint source best management practices.

4 d. Where water quality problems are detected for
5 agricultural nonpoint sources despite the appropriate
6 implementation of adopted best management practices, the
7 Department of Agriculture and Consumer Services, in
8 consultation with the other coordinating agencies and affected
9 parties, shall institute a reevaluation of the best management
10 practices and make appropriate changes to the rule adopting
11 best management practices.

12 2. Nonagricultural nonpoint source best management
13 practices, developed in accordance with s. 403.067 and
14 designed to achieve the objectives of the Lake Okeechobee
15 Protection Program, shall be implemented on an expedited
16 basis. By March 1, 2001, the department and the district shall
17 develop an interagency agreement pursuant to ss. 373.046 and
18 373.406(5) that assures the development of best management
19 practices that complement existing regulatory programs and
20 specifies how those best management practices are implemented
21 and verified. The interagency agreement shall address measures
22 to be taken by the department and the district during any best
23 management practice reevaluation performed pursuant to
24 sub-subparagraph d.

25 a. The department and the district are directed to
26 work with the University of Florida's Institute of Food and
27 Agricultural Sciences to develop appropriate nutrient
28 application rates for all nonagricultural soil amendments in
29 the watershed. As provided in s. 403.067(7)(c), by January 1,
30 2001, the department, in consultation with the district and
31 affected parties, shall develop interim measures, best

1 management practices, or other measures necessary for Lake
2 Okeechobee phosphorus load reduction. Development of
3 nonagricultural nonpoint source best management practices
4 shall initially focus on those priority basins listed in
5 subparagraph (b)1. The department, the district, and affected
6 parties shall conduct an ongoing program for improvement of
7 existing and development of new interim measures or best
8 management practices. The district shall adopt
9 technology-based standards under the district's WOD program
10 for nonagricultural nonpoint sources of phosphorus.

11 b. Where nonagricultural nonpoint source best
12 management practices or interim measures have been developed
13 by the department and adopted by the district, the owner or
14 operator of a nonagricultural nonpoint source shall implement
15 interim measures or best management practices and be subject
16 to the provisions of s. 403.067(7). The department and
17 district shall provide technical and financial assistance for
18 implementation of nonagricultural nonpoint source best
19 management practices, subject to the availability of funds.

20 c. The district or the department shall conduct
21 monitoring at representative sites to verify the effectiveness
22 of nonagricultural nonpoint source best management practices.

23 d. Where water quality problems are detected for
24 nonagricultural nonpoint sources despite the appropriate
25 implementation of adopted best management practices, the
26 department and the district shall institute a reevaluation of
27 the best management practices.

28 3. The provisions of subparagraphs 1. and 2. shall not
29 preclude the department or the district from requiring
30 compliance with water quality standards or with current best
31 management practices requirements set forth in any applicable

1 regulatory program authorized by law for the purpose of
2 protecting water quality. Additionally, subparagraphs 1. and
3 2. are applicable only to the extent that they do not conflict
4 with any rules promulgated by the department that are
5 necessary to maintain a federally delegated or approved
6 program.

7 4. Projects which reduce the phosphorus load
8 originating from domestic wastewater systems within the Lake
9 Okeechobee watershed shall be given funding priority in the
10 department's revolving loan program under s. 403.1835. The
11 department shall coordinate and provide assistance to those
12 local governments seeking financial assistance for such
13 priority projects.

14 5. Projects that make use of private lands to reduce
15 nutrient loadings or concentrations within a basin by one or
16 more of the following methods: restoring the natural
17 hydrology of the basin, restoring wildlife habitat or impacted
18 wetlands, reducing peak flows after storm events, increasing
19 aquifer recharge, or protecting range and timberland from
20 conversion to development, are eligible for grants available
21 under this section from the coordinating agencies. For
22 projects of otherwise equal priority, special funding priority
23 will be given to those projects that make best use of the
24 methods outlined above that involve public-private
25 partnerships or that obtain federal match money. Preference
26 ranking above the special funding priority will be given to
27 projects located in a rural area of critical economic concern
28 designated by the Governor. Grant applications may be
29 submitted by any person, and eligible projects may include,
30 but are not limited to, the purchase of conservation and
31 flowage easements, hydrologic restoration of wetlands,

1 creating treatment wetlands, development of a management plan
2 for natural resources, and financial support to implement a
3 management plan.

4 6.5.a. The department shall require all entities
5 disposing of domestic wastewater residuals within the Lake
6 Okeechobee watershed and the remaining areas of Okeechobee,
7 Glades, and Hendry Counties to develop and submit to the
8 department ~~by July 1, 2001,~~an agricultural use plan that
9 limits applications based upon phosphorus loading. By July 1,
10 2005,phosphorus concentrations ~~loading~~ originating from these
11 application sites shall not exceed the limits established in
12 the district's WOD program.

13 b. Private and government-owned utilities within
14 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
15 River, Okeechobee, Highlands, Hendry, and Glades counties that
16 dispose of wastewater residual sludge from utility operations
17 and septic removal by land spreading in the Lake Okeechobee
18 watershed may use a line item on local sewer rates to cover
19 wastewater residual treatment and disposal if such disposal
20 and treatment is done by approved alternative treatment
21 methodology at a facility located within the areas designated
22 by the Governor as rural areas of critical economic concern
23 pursuant to s. 288.0656. This additional line item is an
24 environmental protection disposal fee above the present sewer
25 rate and shall not be considered a part of the present sewer
26 rate to customers, notwithstanding provisions to the contrary
27 in chapter 367. The fee shall be established by the county
28 commission or its designated assignee in the county in which
29 the alternative method treatment facility is located. The fee
30 shall be calculated to be no higher than that necessary to
31 recover the facility's prudent cost of providing the service.

1 Upon request by an affected county commission, the Florida
2 Public Service Commission will provide assistance in
3 establishing the fee. Further, for utilities and utility
4 authorities that use the additional line item environmental
5 protection disposal fee, such fee shall not be considered a
6 rate increase under the rules of the Public Service Commission
7 and shall be exempt from such rules. Utilities using the
8 provisions of this section may immediately include in their
9 sewer invoicing the new environmental protection disposal fee.
10 Proceeds from this environmental protection disposal fee shall
11 be used for treatment and disposal of wastewater residuals,
12 including any treatment technology that helps reduce the
13 volume of residuals that require final disposal, but such
14 proceeds shall not be used for transportation or shipment
15 costs for disposal or any costs relating to the land
16 application of residuals in the Lake Okeechobee watershed.

17 c. No less frequently than once every 3 years, the
18 Florida Public Service Commission or the county commission
19 through the services of an independent auditor shall perform a
20 financial audit of all facilities receiving compensation from
21 an environmental protection disposal fee. The Florida Public
22 Service Commission or the county commission through the
23 services of an independent auditor shall also perform an audit
24 of the methodology used in establishing the environmental
25 protection disposal fee. The Florida Public Service Commission
26 or the county commission shall, within 120 days after
27 completion of an audit, file the audit report with the
28 President of the Senate and the Speaker of the House of
29 Representatives and shall provide copies to the county
30 commissions of the counties set forth in sub-subparagraph b.
31 The books and records of any facilities receiving compensation

1 from an environmental protection disposal fee shall be open to
2 the Florida Public Service Commission and the Auditor General
3 for review upon request.

4 7. The Department of Health shall require all entities
5 disposing of septage within the Lake Okeechobee watershed and
6 the remaining areas of Okeechobee, Glades, and Hendry Counties
7 to develop and submit to that agency, by July 1, 2003, an
8 agricultural use plan that limits applications based upon
9 phosphorus loading. By July 1, 2005, phosphorus
10 concentrations originating from these application sites shall
11 not exceed the limits established in the district's WOD
12 program.

13 ~~8.6. By July 1, 2001,~~The Department of Agriculture
14 and Consumer Services shall initiate rulemaking requiring
15 entities within the Lake Okeechobee watershed and the
16 remaining areas of Okeechobee, Glades, and Hendry Counties
17 which land-apply animal manure to develop conservation or
18 nutrient management plans that limit application, based upon
19 phosphorus loading. Such rules may include criteria and
20 thresholds for the requirement to develop a conservation or
21 nutrient management plan, requirements for plan approval, and
22 recordkeeping requirements.

23 ~~9.7.~~ Prior to authorizing a discharge into works of
24 the district, the district shall require responsible parties
25 to demonstrate that proposed changes in land use will not
26 result in increased phosphorus loading over that of existing
27 land uses.

28 ~~10.8.~~ The district, the department, or the Department
29 of Agriculture and Consumer Services, as appropriate, shall
30 implement those alternative nutrient reduction technologies
31 determined to be feasible pursuant to subparagraph (d)6.

1 Section 43. Notwithstanding any provisions in section
2 290.0055, Florida Statutes, regarding the size of an
3 enterprise zone, a county as defined in section 125.011(1),
4 Florida Statutes, may apply to the Office of Tourism, Trade,
5 and Economic Development before October 1, 2002, to amend the
6 boundary lines of its existing enterprise zone in order to add
7 an area not exceeding 4 square miles. The area proposed for
8 addition to the enterprise zone under this section must be
9 contiguous to a portion of the existing enterprise zone and
10 must be part of a revitalization area that has been targeted
11 for assistance by the county or by a municipality within the
12 county. The area proposed for addition to the enterprise zone
13 also must contain a high concentration of individuals who have
14 immigrated to this state from Haiti. The Office of Tourism,
15 Trade, and Economic Development shall approve an amendment to
16 the enterprise zone boundary lines, effective January 1, 2003,
17 provided that the area proposed for addition to the enterprise
18 zone is consistent with the criteria and conditions imposed by
19 section 290.0055, Florida Statutes, upon the establishment of
20 enterprise zones, including the requirement that the area
21 suffer from pervasive poverty, unemployment, and general
22 distress.

23 Section 44. Notwithstanding any provisions in section
24 290.0055, Florida Statutes, regarding the size of an
25 enterprise zone, a county as defined in section 125.011(1),
26 Florida Statutes, may apply to the Office of Tourism, Trade,
27 and Economic Development before October 1, 2002, to amend the
28 boundary lines of its existing enterprise zone in order to add
29 an area not exceeding 4 square miles. The area proposed for
30 addition to the enterprise zone under this section must be
31 contiguous to a portion of the existing enterprise zone and

1 must be part of a revitalization area that has been targeted
2 for assistance by a commission authorized in section 163.06,
3 Florida Statutes. The Office of Tourism, Trade, and Economic
4 Development shall approve an amendment to the enterprise zone
5 boundary lines, effective January 1, 2003, provided that the
6 area proposed for addition to the enterprise zone is
7 consistent with the criteria and conditions imposed by section
8 290.0055, Florida Statutes, upon the establishment of
9 enterprise zones, including the requirement that the area
10 suffer from pervasive poverty, unemployment, and general
11 distress. The area proposed for addition to the enterprise
12 zone under this section may not include any property used for
13 the benefit of a professional sports franchise. Any portion of
14 the area designated under this section by the Office of
15 Tourism, Trade, and Economic Development as an addition to an
16 enterprise zone shall automatically lose its status as part of
17 an enterprise zone if such portion subsequently includes
18 property used for the benefit of a professional sports
19 franchise.

20 Section 45. Sections of this act authorizing a county
21 as defined in section 125.011(1), Florida Statutes, to amend
22 and expand the boundary lines of an existing enterprise zone
23 are not mutually exclusive.

24 Section 46. Section 290.00686, Florida Statutes, is
25 created to read:

26 290.00686 Enterprise zone designation for Brevard
27 County, Cocoa, or Brevard County and Cocoa.--Brevard County,
28 the City of Cocoa, or Brevard County and the City of Cocoa
29 jointly, may apply to the Office of Tourism, Trade, and
30 Economic Development for designation of one enterprise zone
31 encompassing an area which includes the boundaries of the

1 three community redevelopment areas established pursuant to
2 part III of chapter 163. The application must be submitted by
3 December 31, 2002, and must comply with the requirements of
4 section 290.0055. Notwithstanding the provisions of section
5 290.0065 limiting the total number of enterprise zones
6 designated and the number of enterprise zones within a
7 population category, the Office of Tourism, Trade, and
8 Economic Development may designate one enterprise zone under
9 this section. The Office of Tourism, Trade, and Economic
10 Development shall establish the initial effective date of the
11 enterprise zone designated pursuant to this section.

12 Section 47. Enterprise zone designation for the City
13 of Pensacola.--The City of Pensacola may apply to the Office
14 of Tourism, Trade, and Economic Development for designation of
15 one enterprise zone within the city, which zone encompasses an
16 area up to 10 contiguous square miles. The application must
17 be submitted by December 31, 2002, and must comply with the
18 requirements of section 290.0055, Florida Statutes, except
19 subsection (3) thereof. Notwithstanding the provisions of
20 section 290.0065, Florida Statutes, limiting the total number
21 of enterprise zones designated and the number of enterprise
22 zones within a population category, the Office of Tourism,
23 Trade, and Economic Development may designate one enterprise
24 zone under this section. The Office of Tourism, Trade, and
25 Economic Development shall establish the initial effective
26 date of the enterprise zone designated pursuant to this
27 section.

28 Section 48. Enterprise zone designation for Leon
29 County.--Leon County, or Leon County and the City of
30 Tallahassee jointly, may apply to the Office of Tourism,
31 Trade, and Economic Development for designation of one

1 enterprise zone, the selected area of which shall not exceed
2 20 square miles and shall have a continuous boundary, or
3 consist of not more than three noncontiguous areas per section
4 290.0055(4)(a), Florida Statutes. The enterprise zone shall
5 encompass an area or areas within the following Census tracts
6 for Leon County pursuant to the 1990 Census:

7
8 Census tract 1, block group 1; census tract 2, block group 1;
9 census tract 2, block group 3; census tract 2, block group 4;
10 census tract 3, block group 1; census tract 4, block group 1;
11 census tract 4, block group 2; census tract 5, block group 1;
12 census tract 5, block group 2; census tract 6, block group 1;
13 census tract 6, block group 2; census tract 6, block group 3;
14 census tract 6, block group 4; census tract 7, block group 1;
15 census tract 7, block group 2; census tract 7, block group 3;
16 census tract 10.01, block group 1; census tract 10.01, block
17 group 2; census tract 10.01, block group 3; census tract
18 11.01, block group 1; census tract 11.01, block group 2;
19 census tract 11.01, block group 3; census tract 11.02, block
20 group 1; census tract 11.02, block group 3; census tract 12,
21 block group 1; census tract 13, block group 1; census tract
22 13, block group 2; census tract 14, block group 1; census
23 tract 14, block group 2; census tract 14, block group 3;
24 census tract 14, block group 4; census tract 14, block group
25 5; census tract 15, block group 1; census tract 16.01, block
26 group 1; census tract 18, block group 3; census tract 18,
27 block group 4; census tract 19, block group 1; census tract
28 19, block group 3; census tract 19, block group 4; census
29 tract 20.01, block group 1; census tract 20.01, block group 2;
30 census tract 20.01, block group 3; census tract 20.01, block
31 group 4; census tract 20.01, block group 5; census tract

1 20.02, block group 1; census tract 20.02, block group 2;
2 census tract 20.02, block group 3; census tract 20.02, block
3 group 5; census tract 21, block group 1; census tract 21,
4 block group 3; census tract 21, block group 4; census tract
5 21, block group 5; census tract 21, block group 7; census
6 tract 22.01, block group 1; census tract 23.01, block group 3;
7 census tract 23.01, block group 5; census tract 26.02, block
8 group 4.

9
10 The application must be submitted by December 31, 2002, and
11 must comply with the requirements of section 290.0055, Florida
12 Statutes. Notwithstanding the provisions of section 290.0065,
13 Florida Statutes, limiting the total number of enterprise
14 zones designated and the number of enterprise zones within a
15 population category, the Office of Tourism, Trade, and
16 Economic Development may designate one enterprise zone under
17 this section. The Office of Tourism, Trade, and Economic
18 Development shall establish the initial effective date of the
19 enterprise zone designated pursuant to this section.

20 Section 49. This act shall take effect upon becoming a
21 law.