

1 A bill to be entitled
2 An act relating to growth management; amending
3 s. 163.3174, F.S.; requiring that local
4 planning agencies include a representative of
5 the district school board; repealing s.
6 163.3177(12), F.S., which provides requirements
7 for a public school facilities element of a
8 local government comprehensive plan adopted to
9 implement a school concurrency program;
10 amending s. 163.3177, F.S.; revising
11 requirements for the future land use element
12 and intergovernmental coordination element with
13 respect to planning for schools; creating s.
14 163.31776, F.S.; providing legislative intent
15 and findings; requiring that a local government
16 comprehensive plan include a public educational
17 facilities element; providing that the state
18 land planning agency shall establish a schedule
19 for adoption of such elements; exempting
20 certain municipalities from adopting such
21 elements; requiring local governments and the
22 school board to enter into an interlocal
23 agreement and providing requirements with
24 respect thereto; providing requirements for
25 such elements; providing requirements for
26 future land use maps; specifying the process
27 for adoption of such elements; specifying the
28 effect of a local government's failure to enter
29 into an interlocal agreement or transmit such
30 element according to the adopted schedule and
31 of a school board's failure to provide certain

1 information or to enter into an interlocal
2 agreement; creating s. 163.31777, F.S.;
3 requiring that local governments consider
4 public school facilities when considering
5 certain comprehensive plan amendments and
6 rezonings; requiring that the school board
7 provide a school capacity report; requiring
8 denial of such amendments or rezoning requests
9 under certain conditions; providing
10 requirements for proportionate share mitigation
11 of public school facility impacts; providing
12 for development agreements with respect
13 thereto; providing for certain credits;
14 amending s. 163.3180, F.S.; providing
15 requirements with respect to the public
16 educational facilities element when school
17 concurrency is imposed by local option;
18 removing school concurrency requirements
19 relating to intergovernmental coordination and
20 exemption for certain municipalities; revising
21 requirements relating to an interlocal
22 agreement for school concurrency; amending s.
23 163.3184, F.S.; including requirements for plan
24 amendments relating to the public educational
25 facilities element in the process for adoption
26 of comprehensive plan amendments; amending s.
27 163.3187, F.S.; providing that plan amendments
28 to adopt such elements and future land use map
29 amendments for school siting are not subject to
30 the statutory limits on the frequency of plan
31 amendments; amending s. 163.3191, F.S.;

1 conforming language; creating s. 163.3198,
2 F.S.; directing the state land planning agency
3 to develop fiscal analysis models for
4 determining the costs and revenues of proposed
5 development; providing requirements with
6 respect thereto; creating a commission to
7 oversee such development; providing for field
8 tests of the models developed; directing the
9 commission to make recommendations to the
10 Governor and Legislature regarding statewide
11 implementation of a uniform model and other
12 growth management issues; providing an
13 appropriation; amending s. 235.002, F.S.;
14 revising legislative intent and findings with
15 respect to educational facilities; amending s.
16 235.15, F.S.; removing specific need assessment
17 criteria for a school district's educational
18 plant survey and providing that the survey
19 shall be submitted as part of the district's
20 educational facilities plan; revising
21 provisions relating to certain deviation from
22 space need standards; providing for review and
23 validation of surveys by the Office of
24 Educational Facilities and SMART Schools
25 Clearinghouse; revising requirements relating
26 to certifications necessary for expenditure of
27 PECO funds; amending s. 235.175, F.S.;
28 providing legislative purpose with respect to
29 the district educational facilities plans;
30 amending s. 235.18, F.S.; conforming language;
31 amending s. 235.185, F.S.; providing

1 definitions; providing requirements for
2 preparation of an annual tentative educational
3 facilities plan by each school district;
4 providing requirements for the district's
5 facilities 5-year work program; providing for
6 submittal of the tentative plan to local
7 governments for review and comment; providing
8 for annual adoption of the plan; providing for
9 execution of the plan; removing provisions
10 relating to 10-year and 20-year work programs;
11 amending s. 235.188, F.S.; conforming language;
12 amending s. 235.19, F.S., relating to site
13 planning and selection; providing that said
14 section is superseded by an interlocal
15 agreement between a school board and local
16 government and the school board and local
17 government plans under certain conditions;
18 revising site selection requirements; removing
19 a requirement that the Commissioner of
20 Education prescribe recommended sizes for new
21 educational facility sites; amending s.
22 235.193, F.S.; requiring school districts and
23 local governments to enter into an interlocal
24 agreement and providing requirements with
25 respect thereto; specifying effect of failure
26 to enter into the interlocal agreement;
27 requiring the school board to provide a local
28 government certain information when it is
29 considering certain comprehensive plan
30 amendment or rezoning applications; revising
31 requirements relating to school board

1 responsibilities in planning with local
2 governments; revising requirements relating to
3 location of educational facilities; revising a
4 notice requirement regarding proposed use of
5 property for an educational facility; providing
6 for inclusion of an alternative process for
7 proposed facility review in the required
8 interlocal agreement; conforming language;
9 repealing s. 235.194, F.S., which requires
10 school boards to submit an annual general
11 educational facilities report to local
12 governments; amending ss. 235.218, 235.321, and
13 236.25, F.S.; conforming language; providing an
14 effective date.

15
16 WHEREAS, it is in the best interests of the people of
17 the State of Florida to ensure sound planning for new
18 population growth in Florida, and

19 WHEREAS, Florida's population is expected to increase
20 by 50 percent from 16 million to 24 million over the next
21 three decades, and the number of school-age children is
22 projected to increase sharply around 2020 as the baby boom
23 echo generation's children reach school age, with commensurate
24 impacts to the state's public infrastructure, including our
25 public educational facilities, and

26 WHEREAS, our growth management system should fully
27 integrate the planning of public educational facilities,
28 should accurately forecast the costs associated with the
29 construction, operation, and maintenance of infrastructure,
30 and should adequately address our existing infrastructure
31 deficits, and

1 WHEREAS, as we respond to new growth and continue to
2 address our existing infrastructure deficits, communities
3 should make land use decisions with the knowledge of all
4 relevant expenses and revenues associated with those
5 decisions, as the future health of our state economy and the
6 livability of our communities depends on appropriately
7 addressing our infrastructure needs, NOW, THEREFORE,

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Subsection (1) of section 163.3174, Florida
12 Statutes, is amended to read:

13 163.3174 Local planning agency.--

14 (1) The governing body of each local government,
15 individually or in combination as provided in s. 163.3171,
16 shall designate and by ordinance establish a "local planning
17 agency," unless the agency is otherwise established by law.
18 Each local planning agency shall include a representative of
19 the district school board as a member.The governing body may
20 designate itself as the local planning agency pursuant to this
21 subsection, with the addition of a representative of the
22 school board. The governing body shall notify the state land
23 planning agency of the establishment of its local planning
24 agency. All local planning agencies shall provide
25 opportunities for involvement by ~~district school boards and~~
26 applicable community college boards, which may be accomplished
27 by formal representation, membership on technical advisory
28 committees, or other appropriate means. The local planning
29 agency shall prepare the comprehensive plan or plan amendment
30 after hearings to be held after public notice and shall make
31 recommendations to the governing body regarding the adoption

1 or amendment of the plan. The agency may be a local planning
2 commission, the planning department of the local government,
3 or other instrumentality, including a countywide planning
4 entity established by special act or a council of local
5 government officials created pursuant to s. 163.02, provided
6 the composition of the council is fairly representative of all
7 the governing bodies in the county or planning area; however:

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

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

17 Section 2. Subsection (12) of section 163.3177,
18 Florida Statutes, is repealed, and paragraphs (a) and (h) of
19 subsection (6) of said section are amended to read:

20 163.3177 Required and optional elements of
21 comprehensive plan; studies and surveys.--

22 (6) In addition to the requirements of subsections
23 (1)-(5), the comprehensive plan shall include the following
24 elements:

25 (a) A future land use plan element designating
26 proposed future general distribution, location, and extent of
27 the uses of land for residential uses, commercial uses,
28 industry, agriculture, recreation, conservation, education,
29 public buildings and grounds, other public facilities, and
30 other categories of the public and private uses of land. The
31 future land use plan shall include standards to be followed in

1 the control and distribution of population densities and
2 building and structure intensities. The proposed
3 distribution, location, and extent of the various categories
4 of land use shall be shown on a land use map or map series
5 which shall be supplemented by goals, policies, and measurable
6 objectives. Each land use category shall be defined in terms
7 of the types of uses included and specific standards for the
8 density or intensity of use. The future land use plan shall
9 be based upon surveys, studies, and data regarding the area,
10 including the amount of land required to accommodate
11 anticipated growth; the projected population of the area; the
12 character of undeveloped land; the availability of public
13 services; the need for redevelopment, including the renewal of
14 blighted areas and the elimination of nonconforming uses which
15 are inconsistent with the character of the community; and, in
16 rural communities, the need for job creation, capital
17 investment, and economic development that will strengthen and
18 diversify the community's economy. The future land use plan
19 may designate areas for future planned development use
20 involving combinations of types of uses for which special
21 regulations may be necessary to ensure development in accord
22 with the principles and standards of the comprehensive plan
23 and this act. In addition, for rural communities, the amount
24 of land designated for future planned industrial use shall be
25 based upon surveys and studies that reflect the need for job
26 creation, capital investment, and the necessity to strengthen
27 and diversify the local economies, and shall not be limited
28 solely by the projected population of the rural community. The
29 future land use plan of a county may also designate areas for
30 possible future municipal incorporation. The land use maps or
31 map series shall generally identify and depict historic

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

1 possible, and shall include criteria which encourage using
2 elementary schools as focal points for neighborhoods. For
3 schools serving predominantly rural counties, defined as a
4 county with a population of 100,000 or fewer, an agricultural
5 land use category shall be eligible for the location of public
6 school facilities if the local comprehensive plan contains
7 school siting criteria and the location is consistent with
8 such criteria.

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

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

29 b. The intergovernmental coordination element shall
30 provide for recognition of campus master plans prepared
31 pursuant to s. 240.155.

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

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

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

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

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

12 5. Intergovernmental coordination between local
13 governments and the district school board shall be governed by
14 ss. 163.31776 and 163.31777.

15 Section 3. Section 163.31776, Florida Statutes, is
16 created to read:

17 163.31776 Public educational facilities element.--

18 (1) The intent of the Legislature is:

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

23 (b) To establish a systematic process for school
24 boards and local governments to cooperatively plan for the
25 provision of educational facilities to meet the current and
26 projected needs of the public education system population,
27 including the needs placed on the public education system as a
28 result of growth and development decisions by local
29 government.

30 (c) To establish a systematic process for local
31 governments and school boards to cooperatively identify and

1 meet the infrastructure needs of public schools to assure
2 healthy school environments and safe school access.

3 (2) The Legislature finds that:

4 (a) Public schools are a linchpin to the vitality of
5 our communities and play a significant role in thousands of
6 individual housing decisions which result in community growth
7 trends.

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

13 (3) A public educational facilities element shall be
14 adopted in cooperation with the applicable school district by
15 all local governments pursuant to a schedule established by
16 the state land planning agency so as to accomplish its
17 adoption by January 1, 2008. The initial counties and
18 municipalities in the schedule shall be those with the
19 greatest unmet demand for public school facilities, and they
20 shall transmit their public educational facilities element no
21 later than January 1, 2004. Criteria for determining the
22 greatest unmet demand for public school facilities shall be
23 established by rule by the state land planning agency. Each
24 municipality shall either adopt its own element or accept by
25 resolution or ordinance a public educational facilities
26 element adopted by the county which includes the
27 municipality's area of authority as defined by s. 163.3171;
28 however, a municipality shall be exempt from this requirement
29 if it meets all of the following criteria:

30 (a) The municipality has issued development orders for
31 fewer than 50 residential dwelling units during the preceding

1 5 years or it has generated fewer than 25 additional public
2 school students during the preceding 5 years.

3 (b) The municipality has not annexed new land during
4 the preceding 5 years in land use categories which permit
5 residential uses that may affect school attendance rates.

6 (c) The municipality has no public schools located
7 within its boundaries.

8 (d) At least 80 percent of the developable land within
9 the boundaries of the municipality has been built upon.

10 (e) The municipality has not adopted a land use
11 amendment which increases residential density for greater than
12 50 residential units.

13
14 Any municipality exempt under this subsection shall notify the
15 county and the school board of any planned annexation into
16 residential or proposed residential areas, and shall comply
17 with this subsection no later than 1 year following a change
18 in conditions which renders the municipality no longer
19 eligible for exemption, or no later than 1 year following the
20 identification of a proposed public school in the school
21 board's 5-year district facilities work program in the
22 municipality's jurisdiction.

23 (4) No later than 6 months prior to the deadline for
24 transmittal of a public educational facilities element, the
25 county, the participating municipalities, and the school board
26 shall enter into an interlocal agreement which establishes a
27 process to develop coordinated and consistent local government
28 public educational facilities elements and district
29 educational facilities plans, including a process:

30 (a) By which each local government and the school
31 district agree and base their plans on consistent projections

1 of the amount, type, and distribution of population growth and
2 student enrollment.

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

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

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

18 (e) For school district participation in the review of
19 residential development applications for comprehensive plan
20 amendments and rezonings which increase residential density
21 and which are reasonably expected to have an impact on public
22 school facility demand, pursuant to s. 163.31777. The
23 interlocal agreement shall express how the school board and
24 local governments will develop the methodology and the
25 criteria for determining if school facility capacity will not
26 be reasonably available at the time of projected school
27 impacts, including uniform, districtwide level-of-service
28 standards for all public schools of the same type and
29 availability standards for public schools. The interlocal
30 agreement shall ensure that consistent criteria and capacity
31 determination methodologies are adopted into the school

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

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

8 (5) The public educational facilities element shall be
9 based on data and analysis, including the interlocal agreement
10 required by subsection (4), and the educational facilities
11 plan required by s. 235.185. All local government public
12 educational facilities elements within a county shall be
13 consistent with each other and shall address the following:

14 (a) The need for and strategies and commitments to
15 address improvements to infrastructure, safety, and community
16 conditions in areas proximate to existing public schools.

17 (b) The need for and strategies for the provision of
18 adequate infrastructure necessary to support proposed schools,
19 including potable water, wastewater, drainage, and
20 transportation, and the need for other actions to ensure safe
21 access to schools, including provision of sidewalks, bicycle
22 paths, turn lanes, and signalization.

23 (c) Collocation of other public facilities such as
24 parks, libraries, and community centers with public schools.

25 (d) Location of schools proximate to residential areas
26 and use of public schools to complement patterns of
27 development, including using elementary schools as focal
28 points for neighborhoods.

29 (e) Use of public schools as emergency shelters.

30 (f) Consideration of the existing and planned capacity
31 of public schools when reviewing comprehensive plan amendments

1 and rezonings which would increase potential residential
2 development, with the review based on uniform districtwide
3 level-of-service standards for all public schools of the same
4 type and availability standards for public schools, and the
5 financially feasible 5-year district facilities work program
6 adopted by the school board pursuant to s. 235.185.

7 (g) A uniform methodology for determining
8 proportionate share mitigation consistent with the
9 requirements of s. 163.31777(4) and the interlocal agreement.

10 (6) The future land use map series shall either
11 incorporate maps which are the result of a collaborative
12 process for identifying school sites and are adopted in the
13 educational facilities plan promulgated by the school board
14 pursuant to s. 235.185 showing the locations of existing
15 public schools and the general locations of improvements to
16 existing schools or construction of new schools anticipated
17 over the 5-year, 10-year, and 20-year time periods, or such
18 maps shall be data and analysis in support of the future land
19 use map series. Maps indicating general locations of future
20 schools or school improvements shall not be deemed to
21 prescribe a land use on a particular parcel of land.

22 (7) The process for adoption of a public educational
23 facilities element shall be as provided in s. 163.3184. The
24 state land planning agency shall submit a copy of the proposed
25 public school facilities element pursuant to the procedures
26 outlined in s. 163.3184(4) to the Office of Educational
27 Facilities and SMART Schools Clearinghouse of the Office of
28 the Commissioner of Education for review and comment.

29 (8) If a local government fails to comply with the
30 requirement to transmit a public educational facilities
31 element or to enter into an interlocal agreement with the

1 school board pursuant to the schedule established by the state
2 land planning agency, the local government is prohibited from
3 amending the local comprehensive plan until the public
4 educational facilities element is adopted. If a local
5 government fails to comply with the requirements of this
6 section to enter into the interlocal agreement or to transmit
7 a public educational facilities element by the required date,
8 or if the Administration Commission finds that the public
9 educational facilities element is not in compliance, the local
10 government shall be subject to sanctions imposed by the
11 Administration Commission pursuant to s. 163.3184(11). The
12 failure of a local government or school board to enter into
13 the interlocal agreement shall not subject another local
14 government or school board to sanctions. The failure of a
15 school board to provide the required plans or information or
16 to enter into the interlocal agreement under this section
17 shall subject the school board to sanctions pursuant to s.
18 235.193(3). Any local government transmitting a public school
19 facilities element to implement school concurrency pursuant to
20 the requirements of s. 163.3180 prior to the effective date of
21 this act shall not be required to amend the element or any
22 interlocal agreement to conform with the provisions of this
23 section, if such amendment is ultimately determined to be in
24 compliance by the state land planning agency.

25 Section 4. Section 163.31777, Florida Statutes, is
26 created to read:

27 163.31777 Plan amendments and rezonings; consideration
28 of public school capacity.--

29 (1) Local governments shall consider public school
30 facilities when reviewing comprehensive plan amendments and
31 rezonings that propose to increase residential densities and

1 which are reasonably expected to have an impact on public
2 school facility demand.

3 (2) As part of the review of such a comprehensive plan
4 amendment or rezoning, the school board shall provide the
5 local government with a school capacity report based on the
6 district educational facilities plan adopted by the school
7 board pursuant to s. 235.185, which shall provide data and
8 analysis on the capacity and enrollment of affected schools
9 based on standards established by state or federal law or
10 judicial order, projected additional enrollment attributable
11 to the density increase from the amendment or rezoning,
12 programmed and financially feasible new public school
13 facilities or improvements for affected schools identified in
14 the educational facilities plan of the school board and the
15 expected date of availability of such facilities or
16 improvements, and available reasonable options for providing
17 public school facilities to students if the rezoning or
18 comprehensive plan amendment is approved. The options shall
19 include, but not be limited to, the school board's evaluation
20 of school schedule modification, school attendance zones
21 modification, school facility modification, and creation of
22 charter schools. The report shall be consistent with the
23 interlocal agreement, the public educational facilities
24 element, and this section.

25 (3) Following the effective dates of both the
26 interlocal agreement and the public educational facilities
27 element required by s. 163.31776, the local government shall
28 deny a comprehensive plan amendment or rezoning request which
29 would increase potential residential development if the school
30 facility capacity will not be reasonably available at the time
31 of projected school impacts as determined by the process and

1 methodology established in the public educational facilities
2 element; however, the application for a comprehensive plan
3 amendment or a rezoning shall not be disapproved based on lack
4 of school capacity if the applicant executes a legally binding
5 commitment to provide mitigation proportionate to the demand
6 for public school facilities to be created by actual
7 development of the property, including, but not limited to,
8 the options described in subsection (4). The school board's
9 determination of facility capacity shall constitute competent
10 substantial evidence to support the denial of such plan
11 amendment or rezoning request.

12 (4)(a) Options for proportionate share mitigation of
13 public school facility impacts from actual development of
14 property subject to a plan amendment or rezoning that
15 increases residential density shall be established in the
16 educational facilities plan and the public educational
17 facilities element. Such options shall include execution by
18 the applicant and the local government of a binding
19 development agreement pursuant to ss. 163.3220-163.3243 which
20 shall constitute a legally binding commitment to pay
21 proportionate share mitigation for the additional residential
22 units when approved by the local government in a development
23 order and actually developed on the property, taking into
24 account residential density allowed on the property prior to
25 the plan amendment or rezoning which increased overall
26 residential density. The district school board may be a party
27 to such an agreement. As a condition of its entry into such a
28 development agreement, the local government may require the
29 landowner to agree to continuing renewal of the agreement upon
30 its expiration.

31

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

10 (c) Any proportionate share mitigation shall be
11 directed by the school board toward a school capacity
12 improvement within the affected area which is identified in
13 the financially feasible 5-year district work plan.

14 Section 5. Subsection (13) of section 163.3180,
15 Florida Statutes, is amended to read:

16 163.3180 Concurrency.--

17 (13) School concurrency, if imposed by local option,
18 shall be established on a districtwide basis and shall include
19 all public schools in the district and all portions of the
20 district, whether located in a municipality or an
21 unincorporated area. The application of school concurrency to
22 development shall be based upon the adopted comprehensive
23 plan, as amended. All local governments within a county,
24 except as provided in s. 163.31776(3)paragraph (f), shall
25 adopt and transmit to the state land planning agency the
26 necessary plan amendments, along with the interlocal
27 agreement, for a compliance review pursuant to s. 163.3184(7)
28 and (8). School concurrency shall not become effective in a
29 county until all local governments, except as provided in s.
30 163.31776(3)paragraph (f), have adopted the necessary plan
31 amendments, which together with the interlocal agreement, are

1 determined to be in compliance with the requirements of this
2 part. The minimum requirements for school concurrency are the
3 following:

4 (a) Public educational ~~school~~ facilities element.--A
5 local government that elects to adopt public school
6 concurrency shall adopt and transmit to the state land
7 planning agency a plan or plan amendment which includes a
8 public educational ~~school~~ facilities element which is
9 consistent with the requirements of s. 163.31776(5)
10 ~~163.3177(12)~~and which is consistent with the following:

11 1. The element shall be based on data and analyses
12 that address how uniform, districtwide level-of-service
13 standards for all schools of the same type will be achieved
14 and maintained.

15 2. The element shall establish specific, measurable,
16 intermediate ends that are achievable and mark progress toward
17 the goal of school concurrency.

18 3. The element shall establish the way in which
19 programs and activities will be conducted to achieve an
20 identified goal.

21 4. The element shall address the procedure for an
22 annual update process.

23 5. All local government public educational facilities
24 elements which adopt public school concurrency within a county
25 must be consistent with each other as well as the requirements
26 of this part. Any local government transmitting a public
27 school facilities element for the purpose of adopting public
28 school concurrency prior to the effective date of this act
29 shall not be required to amend the element or any interlocal
30 agreement to conform with the provisions of s. 163.31776 or s.
31 163.31777.determined to be in compliance as defined in s.

1 ~~163.3184(1)(b). All local government public school facilities~~
2 ~~plan elements within a county must be consistent with each~~
3 ~~other as well as the requirements of this part.~~

4 (b) Level-of-service standards.--The Legislature
5 recognizes that an essential requirement for a concurrency
6 management system is the level of service at which a public
7 facility is expected to operate.

8 1. Local governments and school boards imposing school
9 concurrency shall exercise authority in conjunction with each
10 other to establish jointly adequate level-of-service
11 standards, as defined in chapter 9J-5, Florida Administrative
12 Code, necessary to implement the adopted local government
13 comprehensive plan, based on data and analysis.

14 2. Public school level-of-service standards shall be
15 included and adopted into the capital improvements element of
16 the local comprehensive plan and shall apply districtwide to
17 all schools of the same type. Types of schools may include
18 elementary, middle, and high schools as well as special
19 purpose facilities such as magnet schools.

20 3. Local governments and school boards shall have the
21 option to utilize tiered level-of-service standards to allow
22 time to achieve an adequate and desirable level of service as
23 circumstances warrant.

24 (c) Service areas.--The Legislature recognizes that an
25 essential requirement for a concurrency system is a
26 designation of the area within which the level of service will
27 be measured when an application for a residential development
28 permit is reviewed for school concurrency purposes. This
29 delineation is also important for purposes of determining
30 whether the local government has a financially feasible public
31 school capital facilities program that will provide schools

1 which will achieve and maintain the adopted level-of-service
2 standards.

3 1. In order to balance competing interests, preserve
4 the constitutional concept of uniformity, and avoid disruption
5 of existing educational and growth management processes, local
6 governments are encouraged to apply school concurrency to
7 development on a districtwide basis so that a concurrency
8 determination for a specific development will be based upon
9 the availability of school capacity districtwide.

10 2. For local governments applying school concurrency
11 on a less than districtwide basis, such as utilizing school
12 attendance zones or larger school concurrency service areas,
13 local governments and school boards shall have the burden to
14 demonstrate that the utilization of school capacity is
15 maximized to the greatest extent possible in the comprehensive
16 plan and amendment, taking into account transportation costs
17 and court-approved desegregation plans, as well as other
18 factors. In addition, in order to achieve concurrency within
19 the service area boundaries selected by local governments and
20 school boards, the service area boundaries, together with the
21 standards for establishing those boundaries, shall be
22 identified, included, and adopted as part of the comprehensive
23 plan. Any subsequent change to the service area boundaries
24 for purposes of a school concurrency system shall be by plan
25 amendment and shall be exempt from the limitation on the
26 frequency of plan amendments in s. 163.3187(1).

27 3. Where school capacity is available on a
28 districtwide basis but school concurrency is applied on a less
29 than districtwide basis in the form of concurrency service
30 areas, if the adopted level-of-service standard cannot be met
31 in a particular service area as applied to an application for

1 a development permit and if the needed capacity for the
2 particular service area is available in one or more contiguous
3 service areas, as adopted by the local government, then the
4 development order shall be issued and mitigation measures
5 shall not be exacted.

6 (d) Financial feasibility.--The Legislature recognizes
7 that financial feasibility is an important issue because the
8 premise of concurrency is that the public facilities will be
9 provided in order to achieve and maintain the adopted
10 level-of-service standard. This part and chapter 9J-5, Florida
11 Administrative Code, contain specific standards to determine
12 the financial feasibility of capital programs. These standards
13 were adopted to make concurrency more predictable and local
14 governments more accountable.

15 1. A comprehensive plan amendment seeking to impose
16 school concurrency shall contain appropriate amendments to the
17 capital improvements element of the comprehensive plan,
18 consistent with the requirements of s. 163.3177(3) and rule
19 9J-5.016, Florida Administrative Code. The capital
20 improvements element shall set forth a financially feasible
21 public school capital facilities program, established in
22 conjunction with the school board, that demonstrates that the
23 adopted level-of-service standards will be achieved and
24 maintained.

25 2. Such amendments shall demonstrate that the public
26 school capital facilities program meets all of the financial
27 feasibility standards of this part and chapter 9J-5, Florida
28 Administrative Code, that apply to capital programs which
29 provide the basis for mandatory concurrency on other public
30 facilities and services.

31

1 3. When the financial feasibility of a public school
2 capital facilities program is evaluated by the state land
3 planning agency for purposes of a compliance determination,
4 the evaluation shall be based upon the service areas selected
5 by the local governments and school board.

6 (e) Availability standard.--Consistent with the public
7 welfare, a local government may not deny a development permit
8 authorizing residential development for failure to achieve and
9 maintain the level-of-service standard for public school
10 capacity in a local option school concurrency system where
11 adequate school facilities will be in place or under actual
12 construction within 3 years after permit issuance.

13 ~~(f) Intergovernmental coordination.--~~

14 ~~1. When establishing concurrency requirements for~~
15 ~~public schools, a local government shall satisfy the~~
16 ~~requirements for intergovernmental coordination set forth in~~
17 ~~s. 163.3177(6)(h)1. and 2., except that a municipality is not~~
18 ~~required to be a signatory to the interlocal agreement~~
19 ~~required by s. 163.3177(6)(h)2. as a prerequisite for~~
20 ~~imposition of school concurrency, and as a nonsignatory, shall~~
21 ~~not participate in the adopted local school concurrency~~
22 ~~system, if the municipality meets all of the following~~
23 ~~criteria for having no significant impact on school~~
24 ~~attendance:~~

25 ~~a. The municipality has issued development orders for~~
26 ~~fewer than 50 residential dwelling units during the preceding~~
27 ~~5 years, or the municipality has generated fewer than 25~~
28 ~~additional public school students during the preceding 5~~
29 ~~years.~~

1 ~~b. The municipality has not annexed new land during~~
2 ~~the preceding 5 years in land use categories which permit~~
3 ~~residential uses that will affect school attendance rates.~~

4 ~~c. The municipality has no public schools located~~
5 ~~within its boundaries.~~

6 ~~d. At least 80 percent of the developable land within~~
7 ~~the boundaries of the municipality has been built upon.~~

8 ~~2. A municipality which qualifies as having no~~
9 ~~significant impact on school attendance pursuant to the~~
10 ~~criteria of subparagraph 1. must review and determine at the~~
11 ~~time of its evaluation and appraisal report pursuant to s.~~
12 ~~163.3191 whether it continues to meet the criteria. If the~~
13 ~~municipality determines that it no longer meets the criteria,~~
14 ~~it must adopt appropriate school concurrency goals,~~
15 ~~objectives, and policies in its plan amendments based on the~~
16 ~~evaluation and appraisal report, and enter into the existing~~
17 ~~interlocal agreement required by s. 163.3177(6)(h)2., in order~~
18 ~~to fully participate in the school concurrency system. If~~
19 ~~such a municipality fails to do so, it will be subject to the~~
20 ~~enforcement provisions of s. 163.3191.~~

21 (f)(g) Interlocal agreement for school
22 concurrency.--When establishing concurrency requirements for
23 public schools, a local government must enter into an
24 interlocal agreement which satisfies the requirements in s.
25 163.31776(4)~~163.3177(6)(h)1. and 2.~~and the requirements of
26 this subsection. The interlocal agreement shall acknowledge
27 both the school board's constitutional and statutory
28 obligations to provide a uniform system of free public schools
29 on a countywide basis, and the land use authority of local
30 governments, including their authority to approve or deny
31 comprehensive plan amendments and development orders. The

1 interlocal agreement shall be submitted to the state land
2 planning agency by the local government as a part of the
3 compliance review, along with the other necessary amendments
4 to the comprehensive plan required by this part. In addition
5 to the requirements of s. 163.31776(4)~~163.3177(6)(h)~~, the
6 interlocal agreement shall meet the following requirements:

7 1. Establish the mechanisms for coordinating the
8 development, adoption, and amendment of each local
9 government's public school facilities element with each other
10 and the plans of the school board to ensure a uniform
11 districtwide school concurrency system.

12 ~~2. Establish a process by which each local government~~
13 ~~and the school board shall agree and base their plans on~~
14 ~~consistent projections of the amount, type, and distribution~~
15 ~~of population growth and coordinate and share information~~
16 ~~relating to existing and planned public school facilities~~
17 ~~projections and proposals for development and redevelopment,~~
18 ~~and infrastructure required to support public school~~
19 ~~facilities.~~

20 ~~3. Establish a process for the development of siting~~
21 ~~criteria which encourages the location of public schools~~
22 ~~proximate to urban residential areas to the extent possible~~
23 ~~and seeks to collocate schools with other public facilities~~
24 ~~such as parks, libraries, and community centers to the extent~~
25 ~~possible.~~

26 2.4. Specify uniform, districtwide level-of-service
27 standards for public schools of the same type and the process
28 for modifying the adopted levels-of-service standards.

29 3.5. Establish a process for the preparation,
30 amendment, and joint approval by each local government and the
31 school board of a public school capital facilities program

1 which is financially feasible, and a process and schedule for
2 incorporation of the public school capital facilities program
3 into the local government comprehensive plans on an annual
4 basis.

5 4.6. Define the geographic application of school
6 concurrency. If school concurrency is to be applied on a less
7 than districtwide basis in the form of concurrency service
8 areas, the agreement shall establish criteria and standards
9 for the establishment and modification of school concurrency
10 service areas. The agreement shall also establish a process
11 and schedule for the mandatory incorporation of the school
12 concurrency service areas and the criteria and standards for
13 establishment of the service areas into the local government
14 comprehensive plans. The agreement shall ensure maximum
15 utilization of school capacity, taking into account
16 transportation costs and court-approved desegregation plans,
17 as well as other factors. The agreement shall also ensure the
18 achievement and maintenance of the adopted level-of-service
19 standards for the geographic area of application throughout
20 the 5 years covered by the public school capital facilities
21 plan and thereafter by adding a new fifth year during the
22 annual update.

23 5.7. Establish a uniform districtwide procedure for
24 implementing school concurrency which provides for:

- 25 a. The evaluation of development applications for
26 compliance with school concurrency requirements;
- 27 b. An opportunity for the school board to review and
28 comment on the effect of comprehensive plan amendments and
29 rezonings on the public school facilities plan; and
- 30 c. The monitoring and evaluation of the school
31 concurrency system.

1 ~~6.8.~~ Include provisions relating to termination,
2 suspension, and amendment of the agreement. The agreement
3 shall provide that if the agreement is terminated or
4 suspended, the application of school concurrency shall be
5 terminated or suspended.

6 Section 6. Paragraph (b) of subsection (1) and
7 subsection (4) of section 163.3184, Florida Statutes, are
8 amended to read:

9 163.3184 Process for adoption of comprehensive plan or
10 plan amendment.--

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

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

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

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

19 Section 7. Paragraph (j) of subsection (1) of section
20 163.3187, Florida Statutes, is amended, and paragraph (k) is
21 added to said subsection, to read:

22 163.3187 Amendment of adopted comprehensive plan.--

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

26 (j) Any comprehensive plan amendment to establish
27 public school concurrency pursuant to s. 163.3180(13),
28 including, but not limited to, adoption of a public
29 educational ~~school~~ facilities element and adoption of
30 amendments to the capital improvements element and
31 intergovernmental coordination element. In order to ensure the

1 consistency of local government public educational ~~school~~
2 facilities elements within a county, such elements shall be
3 prepared and adopted on a similar time schedule.

4 (k) A comprehensive plan amendment to adopt a public
5 educational facilities element pursuant to s. 163.31776, and
6 future land use map amendments for school siting, may be
7 approved without regard to statutory limits on the frequency
8 of adoption of plan amendments.

9 Section 8. Paragraph (k) of subsection (2) of section
10 163.3191, Florida Statutes, is amended to read:

11 163.3191 Evaluation and appraisal of comprehensive
12 plan.--

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

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

31

1 Section 9. Section 163.3198, Florida Statutes, is
2 created to read:

3 163.3198 Development of a uniform fiscal impact
4 analysis model for evaluating the cost of infrastructure to
5 support development.--

6 (1) The Legislature finds that the quality of growth
7 in Florida could benefit greatly by the adoption of a uniform
8 fiscal impact analysis tool that could be used by local
9 governments to determine the costs and benefits of new
10 development. To facilitate informed decisionmaking and
11 accountability by local governments, the analysis model would
12 itemize and calculate the costs and fiscal impacts of
13 infrastructure needs created by proposed development, as well
14 as the anticipated revenues utilized for infrastructure
15 associated with the project. It is intended that the model be
16 a minimum base model for implementation by all local
17 governments. Local governments shall not be required to
18 implement the model until the Legislature approves such
19 implementation, nor shall local governments be prevented from
20 utilizing other fiscal or economic analysis tools before or
21 after adoption of the uniform fiscal analysis model. The
22 Legislature intends that the analysis will provide local
23 government decisionmakers with a clearer understanding of the
24 fiscal impact of the new development on the community and its
25 resources.

26 (2)(a) To oversee the development of a fiscal analysis
27 model by the state land planning agency, there is created a
28 commission consisting of nine members. The Governor, the
29 President of the Senate, and the Speaker of the House of
30 Representatives shall each appoint three members to the
31 commission, and the Governor shall designate one of his

1 appointees as chair. Appointments must be made by July 1,
2 2002, and each appointing authority shall consider ethnic and
3 gender balance when making appointments. The members of the
4 commission must have technical or practical expertise to bring
5 to bear on the design or implementation of the model. The
6 commission shall include representatives of municipalities,
7 counties, school boards, the development community, and public
8 interest groups.

9 (b) The commission shall have the responsibility to:

10 1. Direct the state land planning agency, and others,
11 in developing a fiscal analysis model.

12 2. Select one or more models to test through six pilot
13 projects conducted in six regionally diverse local government
14 jurisdictions selected by the commission.

15 3. Make changes to the models during the testing
16 period as needed.

17 4. Report to the Governor and the Legislature with
18 implementation recommendations.

19 (c) Each member may receive per diem and expenses for
20 travel, as provided in s. 112.061, while carrying out the
21 official business of the commission.

22 (d) The commission is assigned, for administrative
23 purposes, to the Department of Community Affairs.

24 (e) The commission shall meet at the call of the chair
25 and shall be dissolved upon the submittal of the report and
26 recommendations required by subsection (6).

27 (3)(a) The state land planning agency, as directed by
28 the commission, shall develop one or more fiscal analysis
29 models for determining the estimated costs and revenues of
30 proposed development. The analysis provided by the model
31 shall be a tool for government decisionmaking, shall not

1 constitute an automatic approval or disapproval of new
2 development, and shall apply to all public and private
3 projects and all land use categories. The model or models
4 selected for field testing shall be approved by the
5 commission.

6 (b) The model shall be capable of estimating the
7 capital, operating, and maintenance expenses and revenues for
8 infrastructure needs created by new development based on the
9 type, scale, and location of various land uses. For the
10 purposes of developing the model, estimated costs shall
11 include those associated with provision of school facilities,
12 transportation facilities, water supply, sewer, stormwater,
13 and solid waste services, and publicly provided
14 telecommunications services. Estimated revenues shall include
15 all revenues attributable to the proposed development which
16 are utilized to construct, operate, or maintain such
17 facilities and services. The model may be developed with
18 capabilities of estimating other costs and benefits directly
19 related to new development, including economic costs and
20 benefits. The Legislature recognizes the potential
21 limitations of such models in fairly quantifying important
22 quality of life issues such as the intangible benefits and
23 costs associated with development, including, but not limited
24 to, overall impact on community character, housing costs,
25 compatibility, and impacts on natural and historic resources,
26 and therefore affirms its intention that the model not be used
27 as the only determinate of the acceptability of new
28 development. In order to develop a model for testing through
29 pilot projects, the Legislature directs the commission to
30 focus on the infrastructure costs expressly identified in this
31 paragraph. The commission may authorize a local government

1 selected to conduct a pilot project to apply the fiscal
2 analysis model being tested to a public facility or service
3 other than those identified in this paragraph; however,
4 appropriately related revenues and benefits must also be
5 considered.

6 (c) The model shall be capable of identifying
7 infrastructure deficits or backlogs, and costs associated with
8 addressing such needs.

9 (d) As part of its development of a fiscal analysis
10 model, and as directed by the commission, the state land
11 planning agency shall develop a format by which the local
12 government shall report to its citizens, at least annually,
13 the cumulative fiscal impact of its local planning decisions.

14 (4) One or more fiscal analysis models shall be tested
15 in the field to evaluate their technical validity and
16 practical usefulness and the financial feasibility of local
17 government implementation. The field tests shall be conducted
18 as demonstration projects in six regionally diverse local
19 government jurisdictions.

20 (5) Data, findings, and feedback from the field tests
21 shall be presented to the commission at least every 3 months
22 following the initiation of each demonstration project. Based
23 on the feedback provided by the state land planning agency and
24 the local government partner of a demonstration project, the
25 commission may require the state land planning agency to
26 adjust or modify one or more models, including consideration
27 of appropriate thresholds and exemptions, and conduct
28 additional field testing if necessary.

29 (6) No later than February 1, 2004, the commission
30 shall transmit to the Governor, the President of the Senate,
31 and the Speaker of the House of Representatives a report

1 detailing the results of the demonstration projects. The
2 commission shall report its recommendations for statewide
3 implementation of a uniform fiscal analysis model. Any
4 recommendation to implement the model must be based on the
5 commission's determination that the model is technically
6 valid, financially feasible for local government
7 implementation, and practically useful for implementation as a
8 uniform fiscal analysis model. Should the commission determine
9 that a uniform fiscal analysis model is not technically valid,
10 financially feasible for local government implementation, and
11 practically useful for implementation as a uniform fiscal
12 analysis model, it shall recommend that the model or its
13 application be modified or not implemented. The report shall
14 also include recommendations for changes to any existing
15 growth management laws and policies necessary to implement the
16 model; recommendations for repealing existing growth
17 management laws, such as concurrency, that may no longer be
18 relevant or effective once the model is implemented;
19 recommendations for state technical and financial assistance
20 to help local governments in the implementation of the uniform
21 fiscal analysis model; recommendations addressing state and
22 local sources of additional infrastructure funding; and
23 recommendations for incentives to local governments to
24 encourage identification of areas in which infrastructure
25 development will be encouraged.

26 Section 10. There is appropriated to the Department of
27 Community Affairs from the General Revenue Fund \$500,000 to
28 implement s. 163.3198, Florida Statutes.

29 Section 11. Section 235.002, Florida Statutes, is
30 amended to read:

31 235.002 Intent.--

1 (1) The intent of the Legislature is:

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

10 (a)~~(b)~~ To encourage the use of innovative designs,
11 construction techniques, and financing mechanisms in building
12 educational facilities for the purpose of reducing costs to
13 the taxpayer, creating a more satisfactory educational
14 environment suited to the community in which the educational
15 facility is located, and reducing the amount of time necessary
16 for design, permitting of on-site and off-site improvements
17 required by law, and construction to fill unmet needs.

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

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

29 (d) To establish a systematic process of sharing
30 information between school boards and local governments on the
31

1 growth and development trends in their communities in order to
2 forecast future enrollment and school needs.

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

10 (f) To establish a systematic process for local
11 governments and school boards to cooperatively identify and
12 meet the infrastructure needs of public schools.

13 (2) The Legislature finds ~~and declares~~ that:

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

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

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

27 ~~(d)~~(e) The provision of educational facilities often
28 impacts community infrastructure and services. Assuring
29 coordinated and cooperative provision of such facilities and
30 associated infrastructure and services is in the best interest
31 of the state.

1 Section 12. Section 235.15, Florida Statutes, is
2 amended to read:

3 235.15 Educational plant survey; localized need
4 assessment; PECO project funding.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 Section 13. Subsection (3) of section 235.175, Florida
15 Statutes, is amended to read:

16 235.175 SMART schools; Classrooms First; legislative
17 purpose.--

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

1 Section 14. Section 235.18, Florida Statutes, is
2 amended to read:

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

17 Section 15. Section 235.185, Florida Statutes, is
18 amended to read:

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

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

23 (a) "Adopted educational ~~district~~ facilities plan ~~work~~
24 ~~program~~" means the comprehensive planning document ~~5-year work~~
25 ~~program~~ adopted annually by the district school board as
26 provided in subsection(4) which contains the educational
27 plant survey(3).

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

1 of the district educational facilities plan which are
2 required:

3 1. To properly repair and maintain the educational
4 plant and ancillary facilities of the district.

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

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

15 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL
16 FACILITIES PLAN;WORK PROGRAM.--

17 (a) Annually, prior to the adoption of the district
18 school budget, each school board shall prepare a tentative
19 district educational facilities plan ~~work program~~ that
20 includes long-range planning for facilities needs over 5-year,
21 10-year, and 20-year periods. The plan shall be developed in
22 coordination with the general purpose local governments and be
23 consistent with the local government comprehensive plans. The
24 plan shall:

25 1. Consider projected student populations apportioned
26 geographically at the local level. The projections shall be
27 based on information produced by the demographic, revenue, and
28 education estimating conferences pursuant to s. 216.136, where
29 available, as modified by the school district based on
30 development data and agreement with the local governments and
31 the Office of Educational Facilities and SMART Schools

1 Clearinghouse of the Office of the Commissioner of Education.
2 The projections shall be apportioned geographically with
3 assistance from the local governments, using local development
4 trend data and the school district student enrollment data.
5 2. Provide an inventory of existing school facilities.
6 Any anticipated expansions or closures of existing school
7 sites over the 5-year, 10-year, and 20-year periods shall be
8 identified. The inventory shall include an assessment of areas
9 proximate to existing schools and identification of the need
10 for improvements to infrastructure, safety, and conditions in
11 the community. The plan shall also provide a listing of major
12 repairs and renovation projects anticipated over the period of
13 the plan.
14 3. Include projections of facilities space needs,
15 which may not exceed the norm space and occupant design
16 criteria established in the State Requirements for Educational
17 Facilities.
18 4. Include information on leased, loaned, and donated
19 space and relocatables used for conducting the district's
20 instructional programs.
21 5. Describe the general location of public schools
22 proposed to be constructed over the 5-year, 10-year, and
23 20-year time periods, including a listing of the proposed
24 schools' site acreage needs and anticipated capacity and maps
25 showing general locations. The school board's identification
26 of general locations of future school sites shall be based on
27 the school siting requirements of s. 163.3177(6)(a) and
28 policies in the comprehensive plan which provide guidance for
29 appropriate locations for school sites.
30 6. Include the identification of options deemed
31 reasonable and approved by the school board that reduce the

1 need for additional permanent student stations. Such options
2 may include, but need not be limited to:
3 a. Acceptable capacity.
4 b. Redistricting.
5 c. Busing.
6 d. Year-round schools.
7 e. Charter schools.
8 7. Include the criteria and method jointly determined
9 by the local government and the school board for determining
10 the impact to public school capacity in response to a local
11 government request for a report pursuant to s. 235.193(4).
12 (b) The educational facilities plan shall also include
13 a financially feasible district facilities work program for a
14 5-year period. The work program shall include:
15 1. A schedule of major repair and renovation projects
16 necessary to maintain the educational facilities ~~plant~~ and
17 ancillary facilities of the district.
18 2. A schedule of capital outlay projects necessary to
19 ensure the availability of satisfactory student stations for
20 the projected student enrollment in K-12 programs. This
21 schedule shall consider:
22 a. The locations, capacities, and planned utilization
23 rates of current educational facilities of the district. The
24 capacity of existing satisfactory facilities, as reported in
25 the Florida Inventory of School Houses, shall be compared to
26 the capital outlay full-time equivalent student enrollment as
27 determined by the department, including all enrollment used in
28 the calculation of the distribution formula under s.
29 235.435(3).
30 b. The proposed locations of planned facilities,
31 whether those locations are consistent with the comprehensive

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

7 c. Plans for the use and location of relocatable
8 facilities, leased facilities, and charter school facilities.

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

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

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

1 scheduled in the work program, they must then be reentered
2 into the system for counting at actual capacity. Relocatables
3 may not be perpetually added to the work program and
4 continually extended for purposes of circumventing the intent
5 of this section. All relocatable classrooms not identified and
6 scheduled for replacement, including those owned,
7 lease-purchased, or leased by the school district, shall be
8 counted at actual student capacity. The district educational
9 facilities plan shall identify the number of relocatable
10 student stations scheduled for replacement during the 5-year
11 survey period and the total dollar amount needed for that
12 replacement.

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

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

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

30 4. A schedule of estimated capital outlay revenues
31 from each currently approved source which is estimated to be

1 available for expenditure on the projects included in the
2 ~~tentative~~ district facilities work program.

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

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

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

16 ~~(d)(c)~~ Provision shall be made for public comment
17 concerning the tentative district educational facilities plan
18 work program.

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

25 (3) SUBMITTAL OF TENTATIVE DISTRICT EDUCATIONAL
26 FACILITIES PLAN TO THE LOCAL GOVERNMENT.--The district school
27 board shall submit a copy of its tentative district
28 educational facilities plan to all affected local governments
29 prior to adoption by the board. The affected local governments
30 shall review the tentative district educational facilities
31 plan and comment to the district school board on the

1 consistency of the plan with the local comprehensive plan,
2 whether a comprehensive plan amendment will be necessary for
3 any proposed educational facility, and whether the local
4 government supports a necessary comprehensive plan amendment.
5 If the local government does not support a comprehensive plan
6 amendment for a proposed educational facility, the matter
7 shall be resolved pursuant to the interlocal agreement
8 required by ss. 163.31776(4) and 235.193(2). The process for
9 the submittal and review shall be detailed in the interlocal
10 agreement required pursuant to ss. 163.31776(4) and
11 235.193(2).

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

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

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

30 (5)~~(4)~~ EXECUTION OF ADOPTED DISTRICT EDUCATIONAL
31 FACILITIES PLAN ~~WORK PROGRAM.~~--The first year of the adopted

1 district educational facilities plan work program shall
2 constitute the capital outlay budget required in s. 235.18.
3 The adopted district facilities work program shall include the
4 information required in paragraph (2)(b)~~subparagraphs~~
5 ~~(2)(a)1., 2., and 3.~~, based upon projects actually funded in
6 the program.

7 ~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.--In addition to~~
8 ~~the adopted district facilities work program covering the~~
9 ~~5-year work program, the district school board shall adopt~~
10 ~~annually a 10-year and a 20-year work program which include~~
11 ~~the information set forth in subsection (2), but based upon~~
12 ~~enrollment projections and facility needs for the 10-year and~~
13 ~~20-year periods. It is recognized that the projections in the~~
14 ~~10-year and 20-year timeframes are tentative and should be~~
15 ~~used only for general planning purposes.~~

16 Section 16. Section 235.188, Florida Statutes, is
17 amended to read:

18 235.188 Full bonding required to participate in
19 programs.--Any district with unused bonding capacity in its
20 Capital Outlay and Debt Service Trust Fund allocation that
21 certifies in its district educational facilities plan work
22 program that it will not be able to meet all of its need for
23 new student stations within existing revenues must fully bond
24 its Capital Outlay and Debt Service Trust Fund allocation
25 before it may participate in Classrooms First, the School
26 Infrastructure Thrift (SIT) Program, or the Effort Index
27 Grants Program.

28 Section 17. Section 235.19, Florida Statutes, is
29 amended to read:

30 235.19 Site planning and selection.--
31

1 (1) If the school board and local government have
2 entered into an interlocal agreement pursuant to ss.
3 163.31776(4) and 235.193(2) and have developed a process to
4 ensure consistency between the local government comprehensive
5 plan and the school district educational facilities plan and a
6 method to coordinate decisionmaking and approval activities
7 relating to school planning and site selection, the provisions
8 of this section are superseded by the interlocal agreement and
9 the plans of the local government and the school board.

10 ~~(2)(1)~~ Before acquiring property for sites, each board
11 shall determine the location of proposed educational centers
12 or campuses for the board. In making this determination, the
13 board shall consider existing and anticipated site needs and
14 the most economical and practicable locations of sites. The
15 board shall coordinate with the long-range or comprehensive
16 plans of local, regional, and state governmental agencies to
17 assure the consistency ~~compatibility~~ of such plans ~~with site~~
18 ~~planning~~. Boards are encouraged to locate schools proximate to
19 urban residential areas to the extent possible, and shall seek
20 to collocate schools with other public facilities, such as
21 parks, libraries, and community centers, to the extent
22 possible, and to encourage using elementary schools as focal
23 points for neighborhoods.

24 ~~(3)(2)~~ Each new site selected must be adequate in size
25 to meet the educational needs of the students to be served on
26 that site by the original educational facility or future
27 expansions of the facility through renovation or the addition
28 of relocatables. ~~The Commissioner of Education shall prescribe~~
29 ~~by rule recommended sizes for new sites according to~~
30 ~~categories of students to be housed and other appropriate~~
31 ~~factors determined by the commissioner. Less than recommended~~

1 ~~site sizes are allowed if the board, by a two-thirds majority,~~
2 ~~recommends such a site and finds that it can provide an~~
3 ~~appropriate and equitable educational program on the site.~~

4 (4)~~(3)~~ Sites recommended for purchase, or purchased,
5 in accordance with chapter 230 or chapter 240 must meet
6 standards prescribed therein and such supplementary standards
7 as the school board ~~commissioner~~ prescribes to promote the
8 educational interests of the students. Each site must be well
9 drained and either suitable for outdoor educational purposes
10 as appropriate for the educational program or collocated with
11 facilities to serve this purpose. As provided in s. 333.03,
12 the site must not be located within any path of flight
13 approach of any airport. Insofar as is practicable, the site
14 must not adjoin a right-of-way of any railroad or through
15 highway and must not be adjacent to any factory or other
16 property from which noise, odors, or other disturbances, or at
17 which conditions, would be likely to interfere with the
18 educational program.

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

30 (6)~~(5)~~ Each board may request county and municipal
31 governments to construct and maintain sidewalks and bicycle

1 trails within a 2-mile radius of each educational facility
2 within the jurisdiction of the local government. When a board
3 discovers or is aware of an existing hazard on or near a
4 public sidewalk, street, or highway within a 2-mile radius of
5 a school site and the hazard endangers the life or threatens
6 the health or safety of students who walk, ride bicycles, or
7 are transported regularly between their homes and the school
8 in which they are enrolled, the board shall, within 24 hours
9 after discovering or becoming aware of the hazard, excluding
10 Saturdays, Sundays, and legal holidays, report such hazard to
11 the governmental entity within the jurisdiction of which the
12 hazard is located. Within 5 days after receiving notification
13 by the board, excluding Saturdays, Sundays, and legal
14 holidays, the governmental entity shall investigate the
15 hazardous condition and either correct it or provide such
16 precautions as are practicable to safeguard students until the
17 hazard can be permanently corrected. However, if the
18 governmental entity that has jurisdiction determines upon
19 investigation that it is impracticable to correct the hazard,
20 or if the entity determines that the reported condition does
21 not endanger the life or threaten the health or safety of
22 students, the entity shall, within 5 days after notification
23 by the board, excluding Saturdays, Sundays, and legal
24 holidays, inform the board in writing of its reasons for not
25 correcting the condition. The governmental entity, to the
26 extent allowed by law, shall indemnify the board from any
27 liability with respect to accidents or injuries, if any,
28 arising out of the hazardous condition.

29 Section 18. Section 235.193, Florida Statutes, is
30 amended to read:

31

1 235.193 Coordination of planning with local governing
2 bodies.--

3 (1) It is the policy of this state to require the
4 coordination of planning between boards and local governing
5 bodies to ensure that plans for the construction and opening
6 of public educational facilities are facilitated and
7 coordinated in time and place with plans for residential
8 development, concurrently with other necessary services. Such
9 planning shall include the integration of the educational
10 facilities plan ~~plant survey~~ and applicable policies and
11 procedures of a board with the local comprehensive plan and
12 land development regulations of local governments ~~governing~~
13 ~~bodies~~. The planning must include the consideration of
14 allowing students to attend the school located nearest their
15 homes when a new housing development is constructed near a
16 county boundary and it is more feasible to transport the
17 students a short distance to an existing facility in an
18 adjacent county than to construct a new facility or transport
19 students longer distances in their county of residence. The
20 planning must also consider the effects of the location of
21 public education facilities, including the feasibility of
22 keeping central city facilities viable, in order to encourage
23 central city redevelopment and the efficient use of
24 infrastructure and to discourage uncontrolled urban sprawl.

25 (2) No later than 6 months prior to the deadline
26 established by the state land planning agency pursuant to s.
27 163.31776(3) for the transmittal of a public educational
28 facilities element by general purpose local governments, the
29 school district, the county, and the participating
30 municipalities shall enter into an interlocal agreement which
31 establishes a process to develop coordinated and consistent

1 local government public educational facilities elements and
2 district educational facilities plans, including a process:
3 (a) By which each local government and the school
4 district agree and base their plans on consistent projections
5 of the amount, type, and distribution of population growth and
6 student enrollment.
7 (b) To coordinate and share information relating to
8 existing and planned public school facilities and local
9 government plans for development and redevelopment.
10 (c) To ensure that school siting decisions by the
11 school board are consistent with the local comprehensive plan,
12 including appropriate circumstances and criteria under which a
13 school district may request an amendment to the comprehensive
14 plan for school siting, and for early involvement by the local
15 government as the school board identifies potential school
16 sites.
17 (d) To coordinate and provide formal comments during
18 the development, adoption, and amendment of each local
19 government's public educational facilities element and the
20 educational facilities plan of the school district to ensure a
21 uniform countywide school facility planning system.
22 (e) For school district participation in the review of
23 residential development applications for comprehensive plan
24 amendments and rezonings which increase residential density
25 and which are reasonably expected to have an impact on public
26 school facility demand pursuant to s. 163.31777. The
27 interlocal agreement shall express how the school board and
28 local governments will develop the methodology and the
29 criteria for determining if school facility capacity will not
30 be reasonably available at the time of projected school
31 impacts, including uniform, districtwide level-of-service

1 standards for all public schools of the same type and
2 availability standards for public schools. The interlocal
3 agreement shall ensure that consistent criteria and capacity
4 determination methodologies are adopted into the school
5 board's district educational facilities plan and the local
6 government's public educational facilities element. The
7 interlocal agreement shall also set forth the process and
8 uniform methodology for determining proportionate share
9 mitigation pursuant to s. 163.31777.

10 (f) For the resolution of disputes between the school
11 district and local governments.

12
13 Any school board that has entered into an interlocal agreement
14 for the purpose of adopting public school concurrency prior to
15 the effective date of this act is not required to amend the
16 interlocal agreement to conform to this subsection if the
17 comprehensive plan amendment adopting public school
18 concurrency is ultimately determined to be in compliance.

19 (3) Failure to enter into an interlocal agreement
20 shall result in the withholding of funds for school
21 construction available pursuant to ss. 235.187, 235.216,
22 235.2195, and 235.42, and the school district shall be
23 prohibited from siting schools. Before the Office of
24 Educational Facilities and SMART Schools Clearinghouse of the
25 Office of the Commissioner of Education withholds any funds,
26 the office shall provide the school board with a notice of
27 intent to withhold funds, which the school board may dispute
28 pursuant to chapter 120. The office shall withhold funds when
29 a final order is issued finding that the school board has
30 failed to enter into an interlocal agreement which meets the
31 requirements of subsection (2).

1 (4) The school board shall provide the local
2 government a school capacity report when the local government
3 notifies the school board that it is reviewing an application
4 for a comprehensive plan amendment or a rezoning which seeks
5 to increase residential density. The report shall provide
6 data and analysis as required by s. 163.31777(2) for the local
7 government's review of such proposed plan amendment or
8 rezoning.

9 ~~(5)(2)~~ A school board and the local governing body
10 must share and coordinate information related to existing and
11 planned public school facilities; proposals for development,
12 redevelopment, or additional development; and infrastructure
13 required to support the public school facilities, concurrent
14 with proposed development. A school board shall use
15 information produced by the demographic, revenue, and
16 education estimating conferences pursuant to s. 216.136
17 ~~Department of Education enrollment projections~~ when preparing
18 the ~~5-year~~ district educational facilities plan work program
19 pursuant to s. 235.185 ~~in,~~ and a school board shall
20 ~~affirmatively demonstrate in the educational facilities report~~
21 consideration of local governments' population projections to
22 ensure that the educational facilities plan 5-year work
23 ~~program~~ not only reflects enrollment projections but also
24 considers applicable municipal and county growth and
25 development projections. The school board may modify the
26 information produced by the estimating conferences with the
27 approval of the local governments and the Office of
28 Educational Facilities and SMART Schools Clearinghouse of the
29 Office of the Commissioner of Education. The projections shall
30 be apportioned geographically with assistance from the local
31 governments using local development trend data and the school

1 district student enrollment data.A school board is precluded
2 from siting a new school in a jurisdiction where the school
3 board has failed to provide the annual educational facilities
4 plan report for the prior year required pursuant to s. 235.185
5 ~~235.194~~ unless the failure is corrected.

6 ~~(6)(3)~~ The location of public educational facilities
7 shall be consistent with the comprehensive plan of the
8 appropriate local governing body developed under part II of
9 chapter 163 and consistent with the plan's implementing land
10 development regulations, ~~to the extent that the regulations~~
11 ~~are not in conflict with or the subject regulated is not~~
12 ~~specifically addressed by this chapter or the State Uniform~~
13 ~~Building Code, unless mutually agreed by the local government~~
14 ~~and the board.~~

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

27 ~~(8)(5)~~ As early in the design phase as feasible, but
28 at least before commencing construction of a new public
29 educational facility, the local governing body that regulates
30 the use of land shall determine, in writing within 90 days
31 after receiving the necessary information and a school board's

1 request for a determination, whether a proposed public
2 educational facility is consistent with the local
3 comprehensive plan and consistent with local land development
4 regulations, to the extent that the regulations are not in
5 conflict with or the subject regulated is not specifically
6 addressed by this chapter or the State Uniform Building Code,
7 unless mutually agreed. If the determination is affirmative,
8 school construction may proceed and further local government
9 approvals are not required, except as provided in this
10 section. Failure of the local governing body to make a
11 determination in writing within 90 days after a school board's
12 request for a determination of consistency shall be considered
13 an approval of the school board's application.

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

27 (10)~~(7)~~ This section does not prohibit a local
28 governing body and district school board from agreeing and
29 establishing an alternative process for reviewing a proposed
30 educational facility and site plan, and offsite impacts

31

1 pursuant to an interlocal agreement adopted in accordance with
2 this section.

3 (11)(8) Existing schools shall be considered
4 consistent with the applicable local government comprehensive
5 plan adopted under part II of chapter 163. ~~The collocation of~~
6 ~~a new proposed public educational facility with an existing~~
7 ~~public educational facility, or the expansion of an existing~~
8 ~~public educational facility is not inconsistent with the local~~
9 ~~comprehensive plan, if the site is consistent with the~~
10 ~~comprehensive plan's future land use policies and categories~~
11 ~~in which public schools are identified as allowable uses, and~~
12 ~~levels of service adopted by the local government for any~~
13 ~~facilities affected by the proposed location for the new~~
14 ~~facility are maintained.~~ If a board submits an application to
15 expand an existing school site, the local governing body may
16 impose reasonable development standards and conditions on the
17 expansion only, and in a manner consistent with s. 235.34(1).
18 Standards and conditions may not be imposed which conflict
19 with those established in this chapter or the State Uniform
20 Building Code, unless mutually agreed. Local government review
21 or approval is not required for:

22 (a) The placement of temporary or portable classroom
23 facilities; or

24 (b) Proposed renovation or construction on existing
25 school sites, with the exception of construction that changes
26 the primary use of a facility, includes stadiums, or results
27 in a greater than 5 percent increase in student capacity, or
28 as mutually agreed.

29 Section 19. Section 235.194, Florida Statutes, is
30 repealed.

31

1 Section 20. Section 235.218, Florida Statutes, is
2 amended to read:

3 235.218 School district educational facilities plan
4 ~~work program~~ performance and productivity standards;
5 development; measurement; application.--

6 (1) The SMART Schools Clearinghouse shall develop and
7 adopt measures for evaluating the performance and productivity
8 of school district educational facilities plans ~~work programs~~.
9 The measures may be both quantitative and qualitative and
10 must, to the maximum extent practical, assess those factors
11 that are within the districts' control. The measures must, at
12 a minimum, assess performance in the following areas:

- 13 (a) Frugal production of high-quality projects.
14 (b) Efficient finance and administration.
15 (c) Optimal school and classroom size and utilization
16 rate.
17 (d) Safety.
18 (e) Core facility space needs and cost-effective
19 capacity improvements that consider demographic projections.
20 (f) Level of district local effort.

21 (2) The clearinghouse shall establish annual
22 performance objectives and standards that can be used to
23 evaluate district performance and productivity.

24 (3) The clearinghouse shall conduct ongoing
25 evaluations of district educational facilities plan ~~program~~
26 performance and productivity, using the measures adopted under
27 this section. If, using these measures, the clearinghouse
28 finds that a district failed to perform satisfactorily, the
29 clearinghouse must recommend to the district school board
30 actions to be taken to improve the district's performance.

31

1 Section 21. Section 235.321, Florida Statutes, is
2 amended to read:

3 235.321 Changes in construction requirements after
4 award of contract.--The board may, at its option and by
5 written policy duly adopted and entered in its official
6 minutes, authorize the superintendent or president or other
7 designated individual to approve change orders in the name of
8 the board for preestablished amounts. Approvals shall be for
9 the purpose of expediting the work in progress and shall be
10 reported to the board and entered in its official minutes. For
11 accountability, the school district shall monitor and report
12 the impact of change orders on its district educational
13 facilities plan ~~work program~~ pursuant to s. 235.185.

14 Section 22. Paragraph (d) of subsection (5) of section
15 236.25, Florida Statutes, is amended to read:

16 236.25 District school tax.--

17 (5)

18 (d) Notwithstanding any other provision of this
19 subsection, if through its adopted educational facilities plan
20 ~~work program~~ a district has clearly identified the need for an
21 ancillary plant, has provided opportunity for public input as
22 to the relative value of the ancillary plant versus an
23 educational plant, and has obtained public approval, the
24 district may use revenue generated by the millage levy
25 authorized by subsection (2) for the construction, renovation,
26 remodeling, maintenance, or repair of an ancillary plant.

27
28 A district that violates these expenditure restrictions shall
29 have an equal dollar reduction in funds appropriated to the
30 district under s. 236.081 in the fiscal year following the
31 audit citation. The expenditure restrictions do not apply to

1 any school district that certifies to the Commissioner of
2 Education that all of the district's instructional space needs
3 for the next 5 years can be met from capital outlay sources
4 that the district reasonably expects to receive during the
5 next 5 years or from alternative scheduling or construction,
6 leasing, rezoning, or technological methodologies that exhibit
7 sound management.

8 Section 23. This act shall take effect upon becoming a
9 law.

10
11 *****

12 HOUSE SUMMARY

13 Requires that a local government comprehensive plan
14 include a public educational facilities element and
15 provides requirements with respect thereto. Requires that
16 local governments consider public school facilities when
17 considering certain comprehensive plan amendments and
18 rezonings based on information provided by the school
19 board, and provides for denial of such requests if school
20 facility capacity will not be available, unless the
21 applicant commits to provide mitigation. Directs the
22 state land planning agency to develop a fiscal analysis
23 model for determining the costs and revenues of proposed
24 development, under the supervision of a commission.
25 Provides for field testing and submission of
26 recommendations to the Governor and Legislature. Provides
27 requirements for preparation of an annual educational
28 facilities plan by each school district, to include the
29 educational plant survey and the 5-year district
30 facilities work program.

31 See bill for details.