

By the Committee on Comprehensive Planning, Local and Military Affairs

316-512A-02

1                                   A bill to be entitled  
 2           An act relating to growth management; amending  
 3           s. 163.3174, F.S.; requiring that the  
 4           membership of all local planning agencies or  
 5           equivalent agencies that review comprehensive  
 6           plan amendments and rezonings include a  
 7           nonvoting representative of the district school  
 8           board; amending s. 163.3177, F.S.; revising  
 9           elements of comprehensive plans; providing for  
 10          intergovernmental coordination between local  
 11          governments and district school boards;  
 12          requiring local governments to consider  
 13          water-supply data and analysis in their potable  
 14          water and capital improvement elements;  
 15          repealing s. 163.31775, F.S., which provides  
 16          for intergovernmental coordination element  
 17          rules; creating s. 163.31776, F.S.; providing  
 18          legislative intent and findings with respect to  
 19          a public educational facilities element;  
 20          providing for certain municipalities to be  
 21          exempt; requiring that the public educational  
 22          facilities element include certain provisions;  
 23          providing requirements for future land-use  
 24          maps; providing a process for adopting the  
 25          element; amending s. 163.3180, F.S.; providing  
 26          an exemption from concurrency for certain urban  
 27          infill areas; amending s. 163.3184, F.S.;  
 28          revising definitions; revising provisions  
 29          governing the process for adopting  
 30          comprehensive plans and plan amendments;  
 31          amending s. 163.3187, F.S.; authorizing the

1 adoption of a public educational facilities  
2 element, notwithstanding certain limitations;  
3 amending s. 163.3191, F.S., relating to  
4 evaluation and appraisal of comprehensive  
5 plans; conforming provisions to changes made by  
6 the act; requiring an evaluation of the  
7 availability of potable water and whether  
8 future water supply development needs are  
9 addressed in the capital improvements element;  
10 amending s. 186.504, F.S.; adding an elected  
11 school board member to the membership of each  
12 regional planning council; amending s. 212.055,  
13 F.S.; providing for the levy of the  
14 infrastructure sales surtax and the school  
15 capital outlay surtax by a super majority vote  
16 and requiring certain educational facility  
17 planning prior to the levy of the school  
18 capital outlay surtax; amending s. 235.002,  
19 F.S.; revising legislative intent; amending s.  
20 235.15; revising requirements for educational  
21 plan surveys; revising requirements for review  
22 and validation of such surveys; amending s.  
23 235.175, F.S.; requiring school districts to  
24 adopt education facilities plans; amending s.  
25 235.18, F.S., relating to capital outlay  
26 budgets of school boards; conforming  
27 provisions; amending s. 235.185, F.S.;  
28 requiring school district educational  
29 facilities plans; providing definitions;  
30 specifying projections and other information to  
31 be included in the plans; providing

1 requirements for the plans; requiring district  
2 school boards to submit a tentative plan to the  
3 local government; providing for adopting and  
4 executing the plans; amending s. 235.118, F.S.;  
5 conforming provisions; amending s. 235.19,  
6 F.S.; providing that site planning and  
7 selection must be consistent with interlocal  
8 agreements entered between local governments  
9 and school boards; amending s. 235.193, F.S.;  
10 defining interlocal agreements with respect to  
11 public educational facilities elements and  
12 plans; providing requirements for preparing a  
13 district education facilities report; repealing  
14 s. 235.194, F.S., relating to the general  
15 educational facilities report; amending s.  
16 235.218, F.S.; requiring the SMART Schools  
17 Clearinghouse to adopt measures for evaluating  
18 the school district educational facilities  
19 plans; amending s. 235.2197, F.S.; correcting a  
20 statutory cross-reference; amending ss.  
21 235.321, 236.25, F.S.; conforming provisions;  
22 amending s. 380.06, F.S.; revising provisions  
23 governing substantial-deviation standards for  
24 developments of regional impact; providing for  
25 designation of a lead regional planning  
26 council; amending s. 380.0651, F.S.; revising  
27 standards for determining the necessity for a  
28 development-of-regional-impact review;  
29 requiring specified counties to adopt a  
30 service-delivery interlocal agreement with all  
31 municipalities, special districts, and the

1 school district; prescribing requirements for  
2 such agreements; providing an effective date.

3

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

5

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

8 163.3174 Local planning agency.--

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

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

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

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

22 Section 2. Subsections (3) and (4) and paragraphs (a),  
23 (c), and (h) of subsection (6) of section 163.3177, Florida  
24 Statutes, are amended to read:

25 163.3177 Required and optional elements of  
26 comprehensive plan; studies and surveys.--

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

31

1           1. A component which outlines principles for  
2 construction, extension, or increase in capacity of public  
3 facilities, as well as a component which outlines principles  
4 for correcting existing public facility deficiencies, which  
5 are necessary to implement the comprehensive plan. The  
6 components shall cover at least a 5-year period.

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

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

14           4. Standards for the management of debt.

15           (b) The capital improvements element shall include a  
16 schedule for building any water supply facilities that are  
17 identified in the potable water element as necessary to meet  
18 projected water demand to serve existing and new development.

19           ~~(c)~~(b) The capital improvements element shall be  
20 reviewed on an annual basis and modified as necessary in  
21 accordance with s. 163.3187 or s. 163.3189, except that  
22 corrections, updates, and modifications concerning costs;  
23 revenue sources; acceptance of facilities pursuant to  
24 dedications which are consistent with the plan; or the date of  
25 construction of any facility enumerated in the capital  
26 improvements element may be accomplished by ordinance and  
27 shall not be deemed to be amendments to the local  
28 comprehensive plan. All public facilities shall be consistent  
29 with the capital improvements element.

30           (4)(a) Coordination of the local comprehensive plan  
31 with the comprehensive plans of adjacent municipalities, the

1 county, adjacent counties, or the region; with the appropriate  
2 water management district's regional water supply plans  
3 adopted pursuant to s. 373.0361; with the district water  
4 management plans adopted pursuant to s. 373.036(2), or  
5 successive plans;with adopted rules pertaining to designated  
6 areas of critical state concern; and with the state  
7 comprehensive plan shall be a major objective of the local  
8 comprehensive planning process. To that end, in the  
9 preparation of a comprehensive plan or element thereof, and in  
10 the comprehensive plan or element as adopted, the governing  
11 body shall include a specific policy statement indicating the  
12 relationship of the proposed development of the area to the  
13 comprehensive plans of adjacent municipalities, the county,  
14 adjacent counties, or the region and to the state  
15 comprehensive plan, as the case may require and as such  
16 adopted plans or plans in preparation may exist.

17 (b) When all or a portion of the land in a local  
18 government jurisdiction is or becomes part of a designated  
19 area of critical state concern, the local government shall  
20 clearly identify those portions of the local comprehensive  
21 plan that shall be applicable to the critical area and shall  
22 indicate the relationship of the proposed development of the  
23 area to the rules for the area of critical state concern.

24 (6) In addition to the requirements of subsections  
25 (1)-(5), the comprehensive plan shall include the following  
26 elements:

27 (a) A future land use plan element designating  
28 proposed future general distribution, location, and extent of  
29 the uses of land for residential uses, commercial uses,  
30 industry, agriculture, recreation, conservation, education,  
31 public buildings and grounds, other public facilities, and

1 other categories of the public and private uses of land. The  
2 future land use plan shall include standards to be followed in  
3 the control and distribution of population densities and  
4 building and structure intensities. The proposed  
5 distribution, location, and extent of the various categories  
6 of land use shall be shown on a land use map or map series  
7 which shall be supplemented by goals, policies, and measurable  
8 objectives. Each land use category shall be defined in terms  
9 of the types of uses included and specific standards for the  
10 density or intensity of use. The future land use plan shall  
11 be based upon surveys, studies, and data regarding the area,  
12 including the amount of land required to accommodate  
13 anticipated growth; the projected population of the area; the  
14 character of undeveloped land; the availability of ground  
15 water and surface water resources for present and future water  
16 supplies and the potential for development of alternative  
17 water supplies;the availability of public services; the need  
18 for redevelopment, including the renewal of blighted areas and  
19 the elimination of nonconforming uses which are inconsistent  
20 with the character of the community; and, in rural  
21 communities, the need for job creation, capital investment,  
22 and economic development that will strengthen and diversify  
23 the community's economy. The future land use plan may  
24 designate areas for future planned development use involving  
25 combinations of types of uses for which special regulations  
26 may be necessary to ensure development in accord with the  
27 principles and standards of the comprehensive plan and this  
28 act. In addition, for rural communities, the amount of land  
29 designated for future planned industrial use shall be based  
30 upon surveys and studies that reflect the need for job  
31 creation, capital investment, and the necessity to strengthen



1 and diversify the local economies, and shall not be limited  
2 solely by the projected population of the rural community. The  
3 future land use plan of a county may also designate areas for  
4 possible future municipal incorporation. The land use maps or  
5 map series shall generally identify and depict historic  
6 district boundaries and shall designate historically  
7 significant properties meriting protection. The future land  
8 use element must clearly identify the land use categories in  
9 which public schools are an allowable use. When delineating  
10 the land use categories in which public schools are an  
11 allowable use, a local government shall include in the  
12 categories sufficient land proximate to residential  
13 development to meet the projected needs for schools in  
14 coordination with public school boards and may establish  
15 differing criteria for schools of different type or size.  
16 Each local government shall include lands contiguous to  
17 existing school sites, to the maximum extent possible, within  
18 the land use categories in which public schools are an  
19 allowable use. ~~All comprehensive plans must comply with the~~  
20 ~~school siting requirements of this paragraph no later than~~  
21 ~~October 1, 1999. The failure by a local government to comply~~  
22 ~~with these school siting requirements by October 1, 1999, will~~  
23 ~~result in the prohibition of the local government's ability to~~  
24 ~~amend the local comprehensive plan, except for plan amendments~~  
25 ~~described in s. 163.3187(1)(b), until the school siting~~  
26 ~~requirements are met.~~Amendments An amendment proposed by a  
27 local government for purposes of identifying the land use  
28 categories in which public schools are an allowable use or for  
29 adopting or amending the school-siting maps pursuant to s.  
30 163.31776(5) are ~~is~~ exempt from the limitation on the  
31 frequency of plan amendments contained in s. 163.3187. The

1 future land use element shall include criteria ~~that~~ which  
2 encourage the location of schools proximate to urban  
3 residential areas to the extent possible and shall require  
4 that the local government seek to collocate public facilities,  
5 such as parks, libraries, and community centers, with schools  
6 to the extent possible and to encourage the use of elementary  
7 schools as focal points for neighborhoods. For schools serving  
8 predominantly rural counties, defined as a county with a  
9 population of 100,000 or fewer, an agricultural land use  
10 category shall be eligible for the location of public school  
11 facilities if the local comprehensive plan contains school  
12 siting criteria and the location is consistent with such  
13 criteria.

14 (c) A general sanitary sewer, solid waste, drainage,  
15 potable water, and natural groundwater aquifer recharge  
16 element correlated to principles and guidelines for future  
17 land use, indicating ways to provide for future potable water,  
18 drainage, sanitary sewer, solid waste, and aquifer recharge  
19 protection requirements for the area. The element may be a  
20 detailed engineering plan including a topographic map  
21 depicting areas of prime groundwater recharge. The element  
22 shall describe the problems and needs and the general  
23 facilities that will be required for solution of the problems  
24 and needs. The element shall also include a topographic map  
25 depicting any areas adopted by a regional water management  
26 district as prime groundwater recharge areas for the Floridan  
27 or Biscayne aquifers, pursuant to s. 373.0395. These areas  
28 shall be given special consideration when the local government  
29 is engaged in zoning or considering future land use for said  
30 designated areas. For areas served by septic tanks, soil  
31 surveys shall be provided which indicate the suitability of

1 soils for septic tanks. By January 1, 2005, or the Evaluation  
2 and Appraisal Report adoption deadline established for the  
3 local government pursuant to s. 163.3191(a), whichever date  
4 occurs first, the element must also include data and analysis,  
5 including, but not limited to, the appropriate water  
6 management district's regional water supply plan adopted  
7 pursuant to s. 373.0361, or the district water management plan  
8 adopted pursuant to s. 373.036(2), which evaluates the  
9 availability of potable water compared to population growth  
10 projected by the local government comprehensive plan.

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

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

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

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

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

30           3. To foster coordination between special districts  
31 and local general-purpose governments as local general-purpose

1 governments implement local comprehensive plans, each  
2 independent special district must submit a public facilities  
3 report to the appropriate local government as required by s.  
4 189.415.

5 4. For those local governments adopting a public  
6 educational facilities element pursuant to s. 163.31776, an  
7 interlocal agreement must be executed between the district  
8 school board, the county, and nonexempt municipalities, as  
9 defined by s. 163.31776(3). The interlocal agreement must  
10 include:

11 a. A description of how the coordination will be  
12 achieved between local governments and the school board of a  
13 uniform countywide school facility planning system based on  
14 the local government's educational facilities element and the  
15 school district's educational facility plan.

16 b. A process for determining and using uniform  
17 projections of the amount, type, and distribution of  
18 population growth and student enrollment.

19 c. A description of how the local governments and the  
20 school board will share information on existing and planned  
21 educational facilities and local government plans for  
22 development and redevelopment.

23 d. A process for the coordination of school siting  
24 decisions between the local governments and the school board  
25 which provides for the early involvement of the local  
26 government in the identification of potential sites by the  
27 school board and which includes criteria applied by the local  
28 government to a school board's request for a comprehensive  
29 plan amendment.

30 e. A process for school district participation in the  
31 review of comprehensive plan amendments and rezonings which

1 increase residential density and are reasonably expected to  
2 have an impact on public school facility demand which include:

3 I. The methodology and criteria for determining  
4 whether school facility capacity will be available at the time  
5 of projected demand;

6 II. Uniform, district-wide level-of-service standards  
7 for all public schools of the same type;

8 III. The adoption of capacity-determination  
9 methodologies, including student generation multipliers, into  
10 the local government's public educational facilities element  
11 and the school board's educational facilities plan; and

12 IV. A methodology for determining proportionate share  
13 mitigation.

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

23 Section 3. Section 163.31775, Florida Statutes, is  
24 repealed.

25 Section 4. Section 163.31776, Florida Statutes, is  
26 created to read:

27 163.31776 Public educational facilities element.--

28 (1) The intent of the Legislature is to establish a  
29 systematic process for school boards and local governments to:  
30  
31

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

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

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

12           (2) The Legislature finds that:

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

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

22           (3) A county, in conjunction with the municipalities  
23 within the county, may adopt an optional public educational  
24 facilities element in cooperation with the applicable school  
25 district. In order to enact an optional public educational  
26 facilities element, the county and each municipality, unless  
27 the municipality is exempt as defined in this subsection, must  
28 adopt a consistent public educational facilities element and  
29 enter the interlocal agreement pursuant to s. 163.3177(6)(h)4.  
30 A municipality is exempt if it meets all the following  
31 criteria:

1           (a) The municipality has issued development orders for  
2 fewer than 50 residential dwelling units during the last 5  
3 years, or it has generated fewer than 25 additional public  
4 school students during the last 5 years;

5           (b) The municipality has not annexed new land during  
6 the last 5 years in land-use categories that permit  
7 residential uses that may affect school attendance rates;

8           (c) The municipality has no public schools located  
9 with its boundaries;

10           (d) At least 80 percent of the developable land within  
11 the boundaries of the municipality has been built upon; and

12           (e) The municipality has not adopted a land-use  
13 amendment that increases residential density for more than 50  
14 residential units.

15           (4) The public educational facilities element must be  
16 based on data and analysis, including the interlocal agreement  
17 defined by s. 163.3177(6)(h)4., and on the educational  
18 facilities plan required by s. 235.185. Each local government  
19 public educational facilities element within a county must be  
20 consistent with the other elements and must address:

21           (a) The need for, strategies for, and commitments to  
22 addressing improvements to infrastructure, safety, and  
23 community conditions in areas proximate to existing public  
24 schools.

25           (b) The need for and strategies for providing adequate  
26 infrastructure necessary to support proposed schools,  
27 including potable water, wastewater, drainage, solid waste,  
28 transportation, and means by which to assure safe access to  
29 schools, including sidewalks, bicycle paths, turn lanes, and  
30 signalization.

31



1           (c) Colocation of other public facilities, such as  
2 parks, libraries, and community centers, in proximity to  
3 public schools.

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

7           (e) Use of public schools to serve as emergency  
8 shelters.

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

19           (g) A uniform methodology for determining school  
20 capacity and proportionate-share mitigation consistent with  
21 the interlocal agreement entered pursuant to s.  
22 163.3177(6)(h)4.

23           (5) The future land-use map series must incorporate  
24 maps that are the result of a collaborative process for  
25 identifying school sites in the educational facilities plan  
26 adopted by the school board pursuant to s. 235.185 and must  
27 show the locations of existing public schools and the general  
28 locations of improvements to existing schools or new schools  
29 anticipated over the 5-year, 10-year, and 20-year time  
30 periods, or such maps shall be data and analysis in support of  
31 the future land-use map series. Maps indicating general

1 locations of future schools or school improvements should not  
2 prescribe a land use on a particular parcel of land.

3 (6) The process for adopting a public educational  
4 facilities element is as provided in s. 163.3184. The state  
5 land planning agency shall submit a copy of the proposed public  
6 school facilities element pursuant to the procedures outlined  
7 in s. 163.3184(4) to the Office of Educational Facilities of  
8 the Commissioner of Education for review and comment.

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

11 163.3180 Concurrency.--

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

29 (6) STATE LAND PLANNING AGENCY REVIEW.--  
30 (a) The state land planning agency shall review a  
31 proposed plan amendment upon request of a regional planning

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

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

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

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

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

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



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

30 (8) NOTICE OF INTENT.--

31

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

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

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

17           (b)1. ~~During the time period provided for in this~~  
18 ~~subsection, the state land planning agency shall issue,~~  
19 ~~through a senior administrator or the secretary, as specified~~  
20 ~~in the agency's procedural rules, a notice of intent to find~~  
21 ~~that the plan or plan amendment is in compliance or not in~~  
22 ~~compliance. A notice of intent shall be issued by publication~~  
23 ~~in the manner provided by this paragraph and by mailing a copy~~  
24 ~~to the local government and to persons who request notice.~~  
25 ~~The required advertisement shall be no less than 2 columns~~  
26 ~~wide by 10 inches long, and the headline in the advertisement~~  
27 ~~shall be in a type no smaller than 12 point. The advertisement~~  
28 ~~shall not be placed in that portion of the newspaper where~~  
29 ~~legal notices and classified advertisements appear. The~~  
30 ~~advertisement shall be published in a newspaper which meets~~  
31 ~~the size and circulation requirements set forth in paragraph~~

1 ~~(15)(c) and which has been designated in writing by the~~  
2 ~~affected local government at the time of transmittal of the~~  
3 ~~amendment. Publication by the state land planning agency of a~~  
4 ~~notice of intent in the newspaper designated by the local~~  
5 ~~government shall be prima facie evidence of compliance with~~  
6 ~~the publication requirements of this section.~~

7       2. ~~For fiscal year 2001-2002 only, the provisions of~~  
8 ~~this subparagraph shall supersede the provisions of~~  
9 ~~subparagraph 1.~~ During the time period provided for in this  
10 subsection, the state land planning agency shall issue,  
11 through a senior administrator or the secretary, as specified  
12 in the agency's procedural rules, a notice of intent to find  
13 that the plan or plan amendment is in compliance or not in  
14 compliance. A notice of intent shall be issued by publication  
15 in the manner provided by this paragraph and by mailing a copy  
16 to the local government. The advertisement shall be placed in  
17 that portion of the newspaper where legal notices appear. The  
18 advertisement shall be published in a newspaper that meets the  
19 size and circulation requirements set forth in paragraph  
20 (15)(c) and that has been designated in writing by the  
21 affected local government at the time of transmittal of the  
22 amendment. Publication by the state land planning agency of a  
23 notice of intent in the newspaper designated by the local  
24 government shall be prima facie evidence of compliance with  
25 the publication requirements of this section. The state land  
26 planning agency shall post a copy of the notice of intent on  
27 the agency's Internet site. The agency shall, no later than  
28 the date the notice of intent is transmitted to the newspaper,  
29 send by regular mail a courtesy informational statement to  
30 persons who provide their names and addresses to the local  
31 government at the transmittal hearing or at the adoption

1 hearing where the local government has provided the names and  
2 addresses of such persons to the department at the time of  
3 transmittal of the adopted amendment. The informational  
4 statements shall include the name of the newspaper in which  
5 the notice of intent will appear, the approximate date of  
6 publication, the ordinance number of the plan or plan  
7 amendment, and a statement that affected persons have 21 days  
8 after the actual date of publication of the notice to file a  
9 petition. ~~This subparagraph expires July 1, 2002.~~

10 2. A local government that has an Internet site shall  
11 post a copy of the state land planning agency's notice of  
12 intent on the site within 5 days after receipt of the mailed  
13 copy of the agency's notice of intent.

14 (15) PUBLIC HEARINGS.--

15 (a) The procedure for transmittal of a complete  
16 proposed comprehensive plan or plan amendment pursuant to  
17 subsection (3) and for adoption of a comprehensive plan or  
18 plan amendment pursuant to subsection (7) shall be by  
19 affirmative vote of not less than a majority of the members of  
20 the governing body present at the hearing. The adoption of a  
21 comprehensive plan or plan amendment shall be by ordinance.  
22 For the purposes of transmitting or adopting a comprehensive  
23 plan or plan amendment, the notice requirements in chapters  
24 125 and 166 are superseded by this subsection, except as  
25 provided in this part.

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

29 1. The first public hearing shall be held at the  
30 transmittal stage pursuant to subsection (3). It shall be  
31

1 held on a weekday at least 7 days after the day that the first  
2 advertisement is published.

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

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

22           (d) The agency shall provide a model sign-in form for  
23 providing the list to the agency which may be used by the  
24 local government to satisfy the requirements of this  
25 subsection.

26           ~~(e)~~ (e) If the proposed comprehensive plan or plan  
27 amendment changes the actual list of permitted, conditional,  
28 or prohibited uses within a future land use category or  
29 changes the actual future land use map designation of a parcel  
30 or parcels of land, the required advertisements shall be in  
31

1 the format prescribed by s. 125.66(4)(b)2. for a county or by  
2 s. 166.041(3)(c)2.b. for a municipality.

3 (16) COMPLIANCE AGREEMENTS.--

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

19 Section 7. Paragraph (k) is added to subsection (1) of  
20 section 163.3187, Florida Statutes, to read:

21 163.3187 Amendment of adopted comprehensive plan.--

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

25 (k) A comprehensive plan amendment to adopt a public  
26 educational facilities element pursuant to s. 163.31776 and  
27 future land-use-map amendments for school siting may be  
28 approved notwithstanding statutory limits on the frequency of  
29 adopting plan amendments.

30  
31

1           Section 8. Paragraph (k) of subsection (2) of section  
2 163.3191, Florida Statutes, is amended and paragraph (l) is  
3 added to that subsection to read:

4           163.3191 Evaluation and appraisal of comprehensive  
5 plan.--

6           (2) The report shall present an evaluation and  
7 assessment of the comprehensive plan and shall contain  
8 appropriate statements to update the comprehensive plan,  
9 including, but not limited to, words, maps, illustrations, or  
10 other media, related to:

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

24           (l) An evaluation, based on data and analysis,  
25 including, but not limited to, the appropriate water  
26 management district's regional water supply plan adopted  
27 pursuant to s. 373.0361, of the availability of potable water  
28 compared to population growth projected by the local  
29 government comprehensive plan and whether future water supply  
30 development needs are addressed in the capital improvements  
31 element.

1           Section 9. Paragraph (c) of subsection (2) and  
2 subsection (3) of section 186.504, Florida Statutes, are  
3 amended to read:

4           186.504 Regional planning councils; creation;  
5 membership.--

6           (2) Membership on the regional planning council shall  
7 be as follows:

8           (c) Representatives appointed by the Governor from the  
9 geographic area covered by the regional planning council,  
10 including an elected school board member from the geographic  
11 area covered by the regional planning council, to be nominated  
12 by the Florida School Board Association.

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

30  
31



1           Section 10. Paragraph (a) of subsection (2) and  
2 subsection (6) of section 212.055, Florida Statutes, are  
3 amended to read:

4           212.055 Discretionary sales surtaxes; legislative  
5 intent; authorization and use of proceeds.--It is the  
6 legislative intent that any authorization for imposition of a  
7 discretionary sales surtax shall be published in the Florida  
8 Statutes as a subsection of this section, irrespective of the  
9 duration of the levy. Each enactment shall specify the types  
10 of counties authorized to levy; the rate or rates which may be  
11 imposed; the maximum length of time the surtax may be imposed,  
12 if any; the procedure which must be followed to secure voter  
13 approval, if required; the purpose for which the proceeds may  
14 be expended; and such other requirements as the Legislature  
15 may provide. Taxable transactions and administrative  
16 procedures shall be as provided in s. 212.054.

17           (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

18           (a)1. The governing authority in each county may levy  
19 a discretionary sales surtax of 0.5 percent or 1 percent. The  
20 levy of the surtax shall be pursuant to ordinance enacted by a  
21 supermajority ~~majority~~ of the members of the county governing  
22 authority or pursuant to ordinance enacted by a majority of  
23 the members of the county governing authority and approved by  
24 a majority of the electors of the county voting in a  
25 referendum on the surtax. If the governing bodies of the  
26 municipalities representing a majority of the county's  
27 population adopt uniform resolutions establishing the rate of  
28 the surtax and calling for a referendum on the surtax, the  
29 levy of the surtax shall be placed on the ballot and shall  
30 take effect if approved by a majority of the electors of the  
31 county voting in the referendum on the surtax.

1           2. If the surtax was levied pursuant to a referendum  
2 held before July 1, 1993, the surtax may not be levied beyond  
3 the time established in the ordinance, or, if the ordinance  
4 did not limit the period of the levy, the surtax may not be  
5 levied for more than 15 years. The levy of such surtax may be  
6 extended only by approval of a majority of the electors of the  
7 county voting in a referendum on the surtax or pursuant to  
8 ordinance enacted by a supermajority vote of the members of  
9 the county governing authority.

10  
11 For purposes of this paragraph, the term "supermajority vote"  
12 means an affirmative vote of a majority of the membership of  
13 the governing authority plus one.

14           (6) SCHOOL CAPITAL OUTLAY SURTAX.--

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

20           (b) The resolution shall include a statement that  
21 provides a brief and general description of the school capital  
22 outlay projects to be funded by the surtax. If applicable, the  
23 resolution must state that the district school board has been  
24 recognized by the State Board of Education as having a Florida  
25 Frugal Schools Program. The statement shall conform to the  
26 requirements of s. 101.161 and shall be placed on the ballot  
27 by the governing body of the county. The following question  
28 shall be placed on the ballot:

29  
30           ....FOR THE                               ....CENTS TAX  
31           ....AGAINST THE                           ....CENTS TAX

1  
2       (c) As an alternative method of levying the  
3 discretionary sales surtax, the district school board may  
4 levy, pursuant to resolution adopted by a supermajority of the  
5 members of the school board, a discretionary sales surtax at a  
6 rate not to exceed 0.5 percent when the following conditions  
7 are met:

8           1. The district school board and local governments in  
9 the county where the school district is located have adopted  
10 the interlocal agreement and public educational facilities  
11 element required by s. 163.31776; and

12           2. The district school board has adopted a district  
13 educational facilities plan pursuant to s. 235.185.

14  
15 For purposes of this paragraph, the term "supermajority vote"  
16 means an affirmative vote of a majority of the membership of  
17 the school board plus one.

18       (d)(c) The resolution providing for the imposition of  
19 the surtax shall set forth a plan for use of the surtax  
20 proceeds for fixed capital expenditures or fixed capital costs  
21 associated with the construction, reconstruction, or  
22 improvement of school facilities and campuses which have a  
23 useful life expectancy of 5 or more years, and any land  
24 acquisition, land improvement, design, and engineering costs  
25 related thereto. Additionally, the plan shall include the  
26 costs of retrofitting and providing for technology  
27 implementation, including hardware and software, for the  
28 various sites within the school district. Surtax revenues may  
29 be used for the purpose of servicing bond indebtedness to  
30 finance projects authorized by this subsection, and any  
31 interest accrued thereto may be held in trust to finance such

1 projects. Neither the proceeds of the surtax nor any interest  
2 accrued thereto shall be used for operational expenses. If the  
3 district school board has been recognized by the State Board  
4 of Education as having a Florida Frugal Schools Program, the  
5 district's plan for use of the surtax proceeds must be  
6 consistent with this subsection and with uses assured under  
7 the Florida Frugal Schools Program.

8 (e)~~(d)~~ Any school board imposing the surtax shall  
9 implement a freeze on noncapital local school property taxes,  
10 at the millage rate imposed in the year prior to the  
11 implementation of the surtax, for a period of at least 3 years  
12 from the date of imposition of the surtax. This provision  
13 shall not apply to existing debt service or required state  
14 taxes.

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

18 Section 11. Section 235.002, Florida Statutes, is  
19 amended to read:

20 235.002 Intent.--

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

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

30 (a)~~(b)~~ To Encourage the use of innovative designs,  
31 construction techniques, and financing mechanisms in building

1 educational facilities for the purposes ~~purpose~~ of reducing  
2 costs to the taxpayer, creating a more satisfactory  
3 educational environment, ~~and~~ reducing the amount of time  
4 necessary for design and construction to fill unmet needs, and  
5 permitting the on-site and off-site improvements required by  
6 law.

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

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

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

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

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

31 (2) The Legislature finds and declares that:

1           (a) Public schools are a linchpin to the vitality of  
2 our communities and play a significant role in the thousands  
3 of individual housing decisions that result in community  
4 growth trends.

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

10           ~~(c)(b)~~ The effective and efficient provision of public  
11 educational facilities and services enhances ~~is essential to~~  
12 ~~preserving and enhancing~~ the quality of life of the people of  
13 this state.

14           ~~(d)(c)~~ The provision of educational facilities often  
15 impacts community infrastructure and services. Assuring  
16 coordinated and cooperative provision of such facilities and  
17 associated infrastructure and services is in the best interest  
18 of the state.

19           Section 12. Section 235.15, Florida Statutes, is  
20 amended to read:

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

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

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

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

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

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

6       1. The school district's survey must be submitted as a  
7 part of the district educational facilities plan defined in s.  
8 235.185. ~~Each school district's educational plant survey must~~  
9 ~~reflect the capacity of existing satisfactory facilities as~~  
10 ~~reported in the Florida Inventory of School Houses.~~  
11 ~~Projections of facility space needs may not exceed the norm~~  
12 ~~space and occupant design criteria established by the State~~  
13 ~~Requirements for Educational Facilities. Existing and~~  
14 ~~projected capital outlay full-time equivalent student~~  
15 ~~enrollment must be consistent with data prepared by the~~  
16 ~~department and must include all enrollment used in the~~  
17 ~~calculation of the distribution formula in s. 235.435(3). All~~  
18 ~~satisfactory relocatable classrooms, including those owned,~~  
19 ~~lease-purchased, or leased by the school district, shall be~~  
20 ~~included in the school district inventory of gross capacity of~~  
21 ~~facilities and must be counted at actual student capacity for~~  
22 ~~purposes of the inventory. For future needs determination,~~  
23 ~~student capacity shall not be assigned to any relocatable~~  
24 ~~classroom that is scheduled for elimination or replacement~~  
25 ~~with a permanent educational facility in the adopted 5-year~~  
26 ~~educational plant survey and in the district facilities work~~  
27 ~~program adopted under s. 235.185. Those relocatables clearly~~  
28 ~~identified and scheduled for replacement in a school board~~  
29 ~~adopted financially feasible 5-year district facilities work~~  
30 ~~program shall be counted at zero capacity at the time the work~~  
31 ~~program is adopted and approved by the school board. However,~~



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

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

1 established by the State Requirements for Educational  
2 Facilities.

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

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

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

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

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

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

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

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

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

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

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

22 Section 14. Section 235.18, Florida Statutes, is  
23 amended to read:

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

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

8 Section 15. Section 235.185, Florida Statutes, is  
9 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           7. The criteria and method, jointly determined by the  
2 local government and the school board, for determining the  
3 impact of proposed development to public school capacity.

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

7           1. A schedule of major repair and renovation projects  
8 necessary to maintain the educational facilities ~~plant~~ and  
9 ancillary facilities of the district.

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

14           a. The locations, capacities, and planned utilization  
15 rates of current educational facilities of the district. The  
16 capacity of existing satisfactory facilities, as reported in  
17 the Florida Inventory of School Houses must be compared to the  
18 capital outlay full-time-equivalent student enrollment as  
19 determined by the department, including all enrollment used in  
20 the calculation of the distribution formula in s. 235.435(3).

21           b. The proposed locations of planned facilities,  
22 whether those locations are consistent with the comprehensive  
23 plans of all affected local governments, and recommendations  
24 for infrastructure and other improvements to land adjacent to  
25 existing facilities. The provisions of ss. 235.19 and  
26 235.193(4), (5), and (6) must be addressed for new facilities  
27 planned within the first 3 years of the work plan, as  
28 appropriate.

29           c. Plans for the use and location of relocatable  
30 facilities, leased facilities, and charter school facilities.

31



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

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

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

1 capacity. The district educational facilities plan must  
2 identify the number of relocatable student stations scheduled  
3 for replacement during the 5-year survey period and the total  
4 dollar amount needed for that replacement.

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

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

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

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

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

29 6. A schedule of options for the generation of  
30 additional revenues by the district for expenditure on  
31 projects identified in the ~~tentative~~ district facilities work

1 program which are not funded under subparagraph 5. Additional  
2 anticipated revenues may include effort index grants, SIT  
3 Program awards, and Classrooms First funds.

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

8 ~~(d)(c)~~ Provision shall be made for public comment  
9 concerning the tentative district educational facilities plan  
10 ~~work program~~.

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

17 (f) Commencing on October 1, 2002, and not less than  
18 once every 5 years thereafter, the district school board shall  
19 contract with a qualified, independent third party to conduct  
20 a financial management and performance audit of the  
21 educational planning and construction activities of the  
22 district. An audit conducted by the Auditor General satisfies  
23 this requirement.

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

1 whether a comprehensive plan amendment will be necessary for  
2 any proposed educational facility, and whether the local  
3 government supports a necessary comprehensive plan amendment.  
4 If the local government does not support a comprehensive plan  
5 amendment for a proposed educational facility, the matter  
6 shall be resolved pursuant to the interlocal agreement  
7 required by ss. 163.3177(6)(h) and 235.193(2). The process for  
8 the submittal and review shall be detailed in the interlocal  
9 agreement required pursuant to ss. 163.3177(6)(h) and  
10 235.193(2).

11 (4)(3) ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN  
12 WORK PROGRAM.--Annually, the district school board shall  
13 consider and adopt the tentative district educational  
14 facilities plan work program completed pursuant to subsection  
15 (2). Upon giving proper public notice to the public and local  
16 governments and opportunity for public comment, the district  
17 school board may amend the plan program to revise the priority  
18 of projects, to add or delete projects, to reflect the impact  
19 of change orders, or to reflect the approval of new revenue  
20 sources which may become available. The adopted district  
21 educational facilities plan work program shall:

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

24 (b) Set forth the proposed commitments and planned  
25 expenditures of the district to address the educational  
26 facilities needs of its students and to adequately provide for  
27 the maintenance of the educational plant and ancillary  
28 facilities, including safe access ways from neighborhoods to  
29 schools.

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 educational facilities plan ~~work program~~  
4 shall include the information required in subparagraphs  
5 (2)(b)1., 2., and 3.~~(2)(a)1., 2., and 3.~~, based upon projects  
6 actually funded in the plan 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) Before acquiring property for sites, each board  
2 shall determine the location of proposed educational centers  
3 or campuses for the board. In making this determination, the  
4 board shall consider existing and anticipated site needs and  
5 the most economical and practicable locations of sites. The  
6 board shall coordinate with the long-range or comprehensive  
7 plans of local, regional, and state governmental agencies to  
8 assure the consistency ~~compatibility~~ of such plans ~~with site~~  
9 ~~planning~~. Boards are encouraged to locate district educational  
10 facilities ~~schools~~ proximate to urban residential areas to the  
11 extent possible, and shall seek to collocate district  
12 educational facilities ~~schools~~ with other public facilities,  
13 such as parks, libraries, and community centers, to the extent  
14 possible, and to encourage using elementary schools as focal  
15 points for neighborhoods.

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

27           (3) Sites recommended for purchase, or purchased, in  
28 accordance with chapter 230 or chapter 240 must meet standards  
29 prescribed therein and such supplementary standards as the  
30 school board ~~commissioner~~ prescribes to promote the  
31 educational interests of the students. Each site must be well

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

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

24 (5) Each board may request county and municipal  
25 governments to construct and maintain sidewalks and bicycle  
26 trails within a 2-mile radius of each educational facility  
27 within the jurisdiction of the local government. When a board  
28 discovers or is aware of an existing hazard on or near a  
29 public sidewalk, street, or highway within a 2-mile radius of  
30 a school site and the hazard endangers the life or threatens  
31 the health or safety of students who walk, ride bicycles, or

1 are transported regularly between their homes and the school  
2 in which they are enrolled, the board shall, within 24 hours  
3 after discovering or becoming aware of the hazard, excluding  
4 Saturdays, Sundays, and legal holidays, report such hazard to  
5 the governmental entity within the jurisdiction of which the  
6 hazard is located. Within 5 days after receiving notification  
7 by the board, excluding Saturdays, Sundays, and legal  
8 holidays, the governmental entity shall investigate the  
9 hazardous condition and either correct it or provide such  
10 precautions as are practicable to safeguard students until the  
11 hazard can be permanently corrected. However, if the  
12 governmental entity that has jurisdiction determines upon  
13 investigation that it is impracticable to correct the hazard,  
14 or if the entity determines that the reported condition does  
15 not endanger the life or threaten the health or safety of  
16 students, the entity shall, within 5 days after notification  
17 by the board, excluding Saturdays, Sundays, and legal  
18 holidays, inform the board in writing of its reasons for not  
19 correcting the condition. The governmental entity, to the  
20 extent allowed by law, shall indemnify the board from any  
21 liability with respect to accidents or injuries, if any,  
22 arising out of the hazardous condition.

23 (6) If the school board and local government have  
24 entered into an interlocal agreement pursuant to ss.  
25 163.3177(6)(h)4. and 235.193(2) and have developed a process  
26 to ensure consistency between the local government  
27 comprehensive plan and the school district educational  
28 facilities plan, site planning and selection must be  
29 consistent with the interlocal agreements and the plans.

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



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. In  
25 addition, all parties to the planning process must consult  
26 with state and local road departments to assist in  
27 implementing the Safe Paths to Schools program administered by  
28 the Department of Transportation.

29           (2) When a county and nonexempt municipalities elect  
30 to adopt an educational facilities element pursuant to s.  
31 163.31776, and adopt an interlocal agreement pursuant to s.

1 163.3177(6)(h)4., the school board, county, and nonexempt  
2 municipalities shall enter into an interlocal agreement that  
3 establishes a process for developing a coordinated and  
4 consistent local government public educational facilities  
5 element and a district educational facilities plan. The  
6 interlocal agreement must include:

7 (a) A description of how the coordination will be  
8 achieved between local governments and the school board of a  
9 uniform countywide school facility planning system based on  
10 the local government's educational facilities element and the  
11 school district's educational facility plan.

12 (b) A process for determining and using uniform  
13 projections of the amount, type, and distribution of  
14 population growth and student enrollment.

15 (c) A description of how the local governments and the  
16 school board will share information on existing and planned  
17 educational facilities and local government plans for  
18 development and redevelopment.

19 (d) A process for the coordination of school siting  
20 decisions between the local governments and the school board  
21 which provides for the early involvement of the local  
22 government in the identification of potential sites by the  
23 school board and which includes criteria applied by the local  
24 government to a school board's request for a comprehensive  
25 plan amendment.

26 (e) A process for school district participation in the  
27 review of comprehensive plan amendments and rezonings that  
28 increase residential density and that are reasonably expected  
29 to have an impact on public school facility demand which  
30 includes:

31

1           1. The methodology and criteria for determining  
2 whether school facility capacity will be available at the time  
3 of projected demand;

4           2. Uniform, district-wide level-of-service standards  
5 for all public schools of the same type;

6           3. The adoption of capacity-determination  
7 methodologies, including student generation multipliers, into  
8 the local government's public educational facilities element  
9 and the school board's educational facilities plan; and

10           4. A methodology for determining proportionate share  
11 mitigation.

12           (f) A dispute resolution process.

13           (3)(2) A school board and the local governing body  
14 must share and coordinate information related to existing and  
15 planned public school facilities; proposals for development,  
16 redevelopment, or additional development; and infrastructure  
17 required to support the public school facilities, concurrent  
18 with proposed development. A school board shall use  
19 information produced by the demographic, revenue, and  
20 education estimating conferences pursuant to s. 216.136  
21 ~~Department of Education enrollment projections~~ when preparing  
22 the ~~5-year~~ district educational facilities plan work program  
23 pursuant to s. 235.185, as modified and agreed to by the local  
24 governments, when provided by interlocal agreement, and the  
25 Office of Educational Facilities and SMART Schools  
26 Clearinghouse, in ~~and a school board shall affirmatively~~  
27 ~~demonstrate in the educational facilities report~~ consideration  
28 of local governments' population projections, to ensure that  
29 the district educational facilities plan 5-year work program  
30 not only reflects enrollment projections but also considers  
31 applicable municipal and county growth and development

1 projections. The projections must be apportioned  
2 geographically with assistance from the local governments  
3 using local government trend data and the school district  
4 student enrollment data.A school board is precluded from  
5 siting a new school in a jurisdiction where the school board  
6 has failed to provide the annual educational facilities plan  
7 ~~report~~ for the prior year required pursuant to s. 235.185 ~~s.~~  
8 ~~235.194~~ unless the failure is corrected.

9 ~~(4)(3)~~ (4) The location of public educational facilities  
10 shall be consistent with the comprehensive plan of the  
11 appropriate local governing body developed under part II of  
12 chapter 163 and consistent with the plan's implementing land  
13 development regulations, ~~to the extent that the regulations~~  
14 ~~are not in conflict with or the subject regulated is not~~  
15 ~~specifically addressed by this chapter or the State Uniform~~  
16 ~~Building Code, unless mutually agreed by the local government~~  
17 ~~and the board.~~

18 ~~(5)(4)~~ (5) To improve coordination relative to potential  
19 educational facility sites, a board shall provide written  
20 notice to the local government that has regulatory authority  
21 over the use of the land at least 120 ~~60~~ days prior to  
22 acquiring or leasing property that may be used for a new  
23 public educational facility. The local government, upon  
24 receipt of this notice, shall notify the board within 45 days  
25 if the site proposed for acquisition or lease is consistent  
26 with the land use categories and policies of the local  
27 government's comprehensive plan. This preliminary notice does  
28 not constitute the local government's determination of  
29 consistency pursuant to subsection ~~(6)(5)~~ (6).

30 ~~(6)(5)~~ (6) As early in the design phase as feasible, but  
31 at least before commencing construction of a new public

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

17 (7)~~(6)~~ A local governing body may not deny the site  
18 applicant based on adequacy of the site plan as it relates  
19 solely to the needs of the school. If the site is consistent  
20 with the comprehensive plan's ~~future~~ land use policies and  
21 categories in which public schools are identified as allowable  
22 uses, the local government may not deny the application but it  
23 may impose reasonable development standards and conditions in  
24 accordance with s. 235.34(1) and consider the site plan and  
25 its adequacy as it relates to environmental concerns, health,  
26 safety and welfare, and effects on adjacent property.  
27 Standards and conditions may not be imposed which conflict  
28 with those established in this chapter or the Florida State  
29 ~~Uniform~~ Building Code, unless mutually agreed.

30 (8)~~(7)~~ This section does not prohibit a local  
31 governing body and district school board from agreeing and

1 establishing an alternative process for reviewing a proposed  
2 educational facility and site plan, and offsite impacts,  
3 pursuant to an interlocal agreement adopted in accordance with  
4 this section.

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

24 (a) The placement of temporary or portable classroom  
25 facilities; or

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

31

1           Section 19. Section 235.194, Florida Statutes, is  
2 repealed.

3           Section 20. Section 235.218, Florida Statutes, is  
4 amended to read:

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

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

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

24           (2) The office ~~clearinghouse~~ shall establish annual  
25 performance objectives and standards that can be used to  
26 evaluate district performance and productivity.

27           (3) The office ~~clearinghouse~~ shall conduct ongoing  
28 evaluations of district educational facilities program  
29 performance and productivity, using the measures adopted under  
30 this section. If, using these measures, the office  
31 ~~clearinghouse~~ finds that a district failed to perform

1 satisfactorily, the office ~~clearinghouse~~ must recommend to the  
2 district school board actions to be taken to improve the  
3 district's performance.

4 Section 21. Paragraph (c) of subsection (2) of section  
5 235.2197, Florida Statutes, is amended to read:

6 235.2197 Florida Frugal Schools Program.--

7 (2) The "Florida Frugal Schools Program" is created to  
8 recognize publicly each district school board that agrees to  
9 build frugal yet functional educational facilities and that  
10 implements "best financial management practices" when  
11 planning, constructing, and operating educational facilities.  
12 The Florida State Board of Education shall recognize a  
13 district school board as having a Florida Frugal Schools  
14 Program if the district requests recognition and satisfies two  
15 or more of the following criteria:

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

22 1. The district school board will use the surtax and  
23 accrued interest only for the fixed capital outlay purposes  
24 identified by s. 212.055(6)(d) which will reduce school  
25 overcrowding that has been validated by the Department of  
26 Education, or for the repayment of bonded indebtedness related  
27 to such capital outlay purposes.

28 2. The district school board will not spend the surtax  
29 or accrued interest to pay for operational expenses or for the  
30 construction, renovation, or remodeling of any administrative  
31 building or any other ancillary facility that is not directly



1 related to the instruction, feeding, or transportation of  
2 students enrolled in the public schools.

3 3. The district school board's use of the surtax and  
4 accrued interest will be consistent with the best financial  
5 management practices identified and approved under s.  
6 230.23025.

7 4. The district school board will apply the  
8 educational facilities contracting and construction techniques  
9 authorized by s. 235.211 or other construction management  
10 techniques to reduce the cost of educational facilities.

11 5. The district school board will discontinue the  
12 surtax levy when the district has provided the  
13 survey-recommended educational facilities that were determined  
14 to be necessary to relieve school overcrowding; when the  
15 district has satisfied any bonded indebtedness incurred for  
16 such educational facilities; or when the district's other  
17 sources of capital outlay funds are sufficient to provide such  
18 educational facilities, whichever occurs first.

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

22 Section 22. Section 235.321, Florida Statutes, is  
23 amended to read:

24 235.321 Changes in construction requirements after  
25 award of contract.--The board may, at its option and by  
26 written policy duly adopted and entered in its official  
27 minutes, authorize the superintendent or president or other  
28 designated individual to approve change orders in the name of  
29 the board for preestablished amounts. Approvals shall be for  
30 the purpose of expediting the work in progress and shall be  
31 reported to the board and entered in its official minutes. For

1 accountability, the school district shall monitor and report  
2 the impact of change orders on its district educational  
3 facilities plan ~~work program~~ pursuant to s. 235.185.

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

6 236.25 District school tax.--

7 (5)

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

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

30  
31

1           Section 24. Subsection (12), paragraph (c) of  
2 subsection (15) and subsections (18) and (19) of section  
3 380.06, Florida Statutes, are amended to read:

4           380.06 Developments of regional impact.--

5           (12) REGIONAL REPORTS.--

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

17           1. The development will have a favorable or  
18 unfavorable impact on state or regional resources or  
19 facilities identified in the applicable state or regional  
20 plans. For the purposes of this subsection, "applicable state  
21 plan" means the state comprehensive plan. For the purposes of  
22 this subsection, "applicable regional plan" means an adopted  
23 comprehensive regional policy plan until the adoption of a  
24 strategic regional policy plan pursuant to s. 186.508, and  
25 thereafter means an adopted strategic regional policy plan.

26           2. The development will significantly impact adjacent  
27 jurisdictions. At the request of the appropriate local  
28 government, regional planning agencies may also review and  
29 comment upon issues that affect only the requesting local  
30 government.

31

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

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

21           (c) The regional planning agency shall afford the  
22 developer or any substantially affected party reasonable  
23 opportunity to present evidence to the regional planning  
24 agency head relating to the proposed regional agency report  
25 and recommendations.

26           (d) When the location of a proposed development  
27 involves land within the boundaries of multiple regional  
28 planning councils, the state land planning agency shall  
29 designate a lead regional planning council. The lead regional  
30 planning council shall prepare the regional report.

31           (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

1 (c) The development order shall include findings of  
2 fact and conclusions of law consistent with subsections (13)  
3 and (14). The development order:

4 1. Shall specify the monitoring procedures and the  
5 local official responsible for assuring compliance by the  
6 developer with the development order.

7 2. Shall establish compliance dates for the  
8 development order, including a deadline for commencing  
9 physical development and for compliance with conditions of  
10 approval or phasing requirements, and shall include a  
11 termination date that reasonably reflects the time required to  
12 complete the development.

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

23 4. Shall specify the requirements for the biennial  
24 ~~annual~~ report designated under subsection (18), including the  
25 date of submission, parties to whom the report is submitted,  
26 and contents of the report, based upon the rules adopted by  
27 the state land planning agency. Such rules shall specify the  
28 scope of any additional local requirements that may be  
29 necessary for the report.

30  
31

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

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

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

28           (19) SUBSTANTIAL DEVIATIONS.--

29           (a) Any proposed change to a previously approved  
30 development which creates a reasonable likelihood of  
31 additional regional impact, or any type of regional impact

1 created by the change not previously reviewed by the regional  
2 planning agency, shall constitute a substantial deviation and  
3 shall cause the development to be subject to further  
4 development-of-regional-impact review. There are a variety of  
5 reasons why a developer may wish to propose changes to an  
6 approved development of regional impact, including changed  
7 market conditions. The procedures set forth in this  
8 subsection are for that purpose.

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

17 1. An increase in the number of parking spaces at an  
18 attraction or recreational facility by 5 percent or 300  
19 spaces, whichever is greater, or an increase in the number of  
20 spectators that may be accommodated at such a facility by 5  
21 percent or 1,000 spectators, whichever is greater.

22 2. A new runway, a new terminal facility, a 25-percent  
23 lengthening of an existing runway, or a 25-percent increase in  
24 the number of gates of an existing terminal, but only if the  
25 increase adds at least three additional gates. However, if an  
26 airport is located in two counties, a 10-percent lengthening  
27 of an existing runway or a 20-percent increase in the number  
28 of gates of an existing terminal is the applicable criteria.

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

31

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

3           5. An increase in the average annual acreage mined by  
4 5 percent or 10 acres, whichever is greater, or an increase in  
5 the average daily water consumption by a mining operation by 5  
6 percent or 300,000 gallons, whichever is greater. An increase  
7 in the size of the mine by 5 percent or 750 acres, whichever  
8 is less.

9           6. An increase in land area for office development by  
10 5 percent ~~or 6 acres, whichever is greater~~, or an increase of  
11 gross floor area of office development by 5 percent or 60,000  
12 gross square feet, whichever is greater.

13           7. An increase in the storage capacity for chemical or  
14 petroleum storage facilities by 5 percent, 20,000 barrels, or  
15 7 million pounds, whichever is greater.

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

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

24           10. An increase in commercial development by ~~6 acres~~  
25 ~~of land area or by~~ 50,000 square feet of gross floor area, or  
26 of parking spaces provided for customers for 300 cars or a  
27 5-percent increase of either ~~any~~ of these, whichever is  
28 greater.

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

31



1           12. An increase in a recreational vehicle park area by  
2 5 percent or 100 vehicle spaces, whichever is less.

3           13. A decrease in the area set aside for open space of  
4 5 percent or 20 acres, whichever is less.

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

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

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

26  
27 The substantial deviation numerical standards in subparagraphs  
28 4., 6., 10., 14., excluding residential uses, and 15., are  
29 increased by 100 percent for a project certified under s.  
30 403.973 which creates jobs and meets criteria established by  
31 the Office of Tourism, Trade, and Economic Development as to

1 its impact on an area's economy, employment, and prevailing  
2 wage and skill levels. The substantial deviation numerical  
3 standards in subparagraphs 4., 6., 9., 10., 11., and 14. are  
4 increased by 50 percent for a project located wholly within an  
5 urban infill and redevelopment area designated on the  
6 applicable adopted local comprehensive plan future land use  
7 map and not located within the coastal high hazard area.

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

26 (d) A change in the plan of development of an approved  
27 development of regional impact resulting from requirements  
28 imposed by the Department of Environmental Protection or any  
29 water management district created by s. 373.069 or any of  
30 their successor agencies or by any appropriate federal  
31 regulatory agency shall be submitted to the local government

1 pursuant to this subsection. The change shall be presumed not  
2 to create a substantial deviation subject to further  
3 development-of-regional-impact review. The presumption may be  
4 rebutted by clear and convincing evidence at the public  
5 hearing held by the local government.

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

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

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

3           a. Changes in the name of the project, developer,  
4 owner, or monitoring official.

5           b. Changes to a setback that do not affect noise  
6 buffers, environmental protection or mitigation areas, or  
7 archaeological or historical resources.

8           c. Changes to minimum lot sizes.

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

11           e. Changes to the building design or orientation that  
12 stay approximately within the approved area designated for  
13 such building and parking lot, and which do not affect  
14 historical buildings designated as significant by the Division  
15 of Historical Resources of the Department of State.

16           f. Changes to increase the acreage in the development,  
17 provided that no development is proposed on the acreage to be  
18 added.

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

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

24           i. Any other change which the state land planning  
25 agency agrees in writing is similar in nature, impact, or  
26 character to the changes enumerated in sub-subparagraphs a.-h.  
27 and which does not create the likelihood of any additional  
28 regional impact.

29

30 This subsection does not require a development order amendment  
31 for any change listed in sub-subparagraphs a.-i. unless such

1 issue is addressed either in the existing development order or  
2 in the application for development approval, but, in the case  
3 of the application, only if, and in the manner in which, the  
4 application is incorporated in the development order.

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

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

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

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

27 b. Except for the types of uses listed in subparagraph  
28 (b)16., any change which would result in the development of  
29 any area which was specifically set aside in the application  
30 for development approval or in the development order for  
31 preservation, buffers, or special protection, including

1 habitat for plant and animal species, archaeological and  
2 historical sites, dunes, and other special areas.

3 c. Notwithstanding any provision of paragraph (b) to  
4 the contrary, a proposed change consisting of simultaneous  
5 increases and decreases of at least two of the uses within an  
6 authorized multiuse development of regional impact which was  
7 originally approved with three or more uses specified in s.  
8 380.0651(3)(c), (d), (f), and (g) and residential use.

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

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

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

29 4. The appropriate regional planning agency or the  
30 state land planning agency shall review the proposed change  
31 and, no later than 45 days after submittal by the developer of

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

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

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

1 planning agency may not appeal a change to a development order  
2 made pursuant to subparagraph (e)1. or 2. for developments of  
3 regional impact approved after January 1, 1980, unless the  
4 change would result in a significant impact to a regionally  
5 significant archaeological, historical, or natural resource  
6 not previously identified in the original  
7 development-of-regional-impact review.

8 (g) If a proposed change requires further  
9 development-of-regional-impact review pursuant to this  
10 section, the review shall be conducted subject to the  
11 following additional conditions:

12 1. The development-of-regional-impact review conducted  
13 by the appropriate regional planning agency shall address only  
14 those issues raised by the proposed change except as provided  
15 in subparagraph 2.

16 2. The regional planning agency shall consider, and  
17 the local government shall determine whether to approve,  
18 approve with conditions, or deny the proposed change as it  
19 relates to the entire development. If the local government  
20 determines that the proposed change, as it relates to the  
21 entire development, is unacceptable, the local government  
22 shall deny the change.

23 3. If the local government determines that the  
24 proposed change, as it relates to the entire development,  
25 should be approved, any new conditions in the amendment to the  
26 development order issued by the local government shall address  
27 only those issues raised by the proposed change.

28 4. Development within the previously approved  
29 development of regional impact may continue, as approved,  
30 during the development-of-regional-impact review in those  
31



1 portions of the development which are not affected by the  
2 proposed change.

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

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

15 380.0651 Statewide guidelines and standards.--

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

20 (d) Office development.--Any proposed office building  
21 or park operated under common ownership, development plan, or  
22 management that:

23 1. Encompasses 300,000 or more square feet of gross  
24 floor area; or

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

26 2.3. Encompasses more than 600,000 square feet of  
27 gross floor area in a county with a population greater than  
28 500,000 and only in a geographic area specifically designated  
29 as highly suitable for increased threshold intensity in the  
30 approved local comprehensive plan and in the strategic  
31 regional policy plan.

1 (f) Retail and service development.--Any proposed  
2 retail, service, or wholesale business establishment or group  
3 of establishments which deals primarily with the general  
4 public onsite, operated under one common property ownership,  
5 development plan, or management that:

6 1. Encompasses more than 400,000 square feet of gross  
7 area; or

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

9 ~~2.3.~~ Provides parking spaces for more than 2,500 cars.

10 Section 26. Requirement of interlocal service  
11 provision agreements.--

12 (1) By January 1, 2007, counties having a population  
13 over 100,000 shall negotiate and adopt a service-delivery  
14 interlocal agreement or agreements with all of the  
15 municipalities within the county, with those special districts  
16 providing a service listed in paragraph (a), and with the  
17 school district which:

18 (a) Identifies the current providers of the following  
19 services; education, sanitary sewer, public safety, solid  
20 waste, drainage, potable water, parks and recreation, and  
21 transportation facilities.

22 (b) Describes the existing organization of such  
23 services and the means of financing such services and  
24 designates the entities that will provide the services over a  
25 20-year planning period, including any anticipated changes  
26 caused by annexation.

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

30 (d) Identifies opportunities for the joint financing  
31 of capital outlay projects.

1           (e) Identifies any areas that the municipalities plan  
2 to annex within the next 5 years and establishes a plan for  
3 service delivery within the areas to be annexed or a process  
4 for resolving service-delivery issues associated with  
5 annexation.

6           (f) Provides specific procedures for amending the  
7 interlocal agreement.

8           (2) Each county shall submit a copy of its interlocal  
9 agreement to the Department of Community Affairs by February  
10 15, 2007.

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

14           Section 27. This act shall take effect upon becoming a  
15 law.

16  
17           \*\*\*\*\*

18           SENATE SUMMARY

19           Provides for coordination of local governments in  
20 educational facilities planning. Requires that the  
21 membership of local planning agencies include a nonvoting  
22 member of the district school board. Adds an elected  
23 school board member to each regional planning council.  
24 Revises the process for adopting comprehensive plans and  
25 plan amendments. Requires school districts to adopt  
26 educational facilities plans. Provides for the levy of  
27 the infrastructure sales surtax and the school capital  
28 outlay surtax by a supermajority vote. Revises  
29 substantial deviation standards for developments of  
30 regional impact. (See bill for details.)  
31