

By the Committee on Comprehensive Planning, Local and Military
Affairs

316-1218-02

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 where a
12 public-school-facilities element has been
13 adopted; requiring certain local governments to
14 prepare an inventory of service-delivery
15 interlocal agreements; requiring local
16 governments to provide the Legislature with
17 recommendations regarding annexation; requiring
18 local governments to consider water-supply data
19 and analysis in their potable-water and
20 conservation elements; repealing s. 163.31775,
21 F.S., which provides for intergovernmental
22 coordination element rules; creating s.
23 163.31776, F.S.; providing legislative intent
24 and findings with respect to a public
25 educational facilities element; providing for
26 certain municipalities to be exempt; requiring
27 that the public educational facilities element
28 include certain provisions; providing
29 requirements for future land-use maps;
30 providing a process for adopting the public
31 educational facilities element; creating

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

1 supply facilities; amending s. 186.504, F.S.;
2 adding an elected school board member to the
3 membership of each regional planning council;
4 amending s. 212.055, F.S.; providing for the
5 levy of the infrastructure sales surtax and the
6 school capital outlay surtax by a super
7 majority vote and requiring certain educational
8 facility planning prior to the levy of the
9 school capital outlay surtax; providing for the
10 uses of the surtax proceeds; amending s.
11 235.002, F.S.; revising legislative intent;
12 amending s. 235.15; revising requirements for
13 educational plant surveys; revising
14 requirements for review and validation of such
15 surveys; amending s. 235.175, F.S.; requiring
16 school districts to adopt educational
17 facilities plans; amending s. 235.18, F.S.,
18 relating to capital outlay budgets of school
19 boards; conforming provisions; amending s.
20 235.185, F.S.; requiring school district
21 educational facilities plans; providing
22 definitions; specifying projections and other
23 information to be included in the plans;
24 providing requirements for the plans; requiring
25 district school boards to submit a tentative
26 plan to the local government; providing for
27 adopting and executing the plans; amending s.
28 235.188, F.S.; conforming provisions; amending
29 s. 235.19, F.S.; providing that site planning
30 and selection must be consistent with
31 interlocal agreements entered between local

1 governments and school boards; amending s.
2 235.193, F.S.; requiring school districts to
3 enter certain interlocal agreements with local
4 governments; providing a schedule; providing
5 for the content of the interlocal agreement;
6 providing a waiver procedure associated with
7 school districts having decreasing student
8 population; providing a procedure for adoption
9 and administrative challenge; providing
10 sanctions for failure to enter an agreement;
11 providing that a public school's interlocal
12 agreement may not be used by a local government
13 as the sole basis for denying a comprehensive
14 plan amendment or development order; providing
15 requirements for preparing a district
16 educational facilities report; repealing s.
17 235.194, F.S., relating to the general
18 educational facilities report; amending s.
19 235.218, F.S.; requiring the SMART Schools
20 Clearinghouse to adopt measures for evaluating
21 the school district educational facilities
22 plans; amending s. 235.2197, F.S.; correcting a
23 statutory cross-reference; amending ss.
24 235.321, 236.25, F.S.; conforming provisions;
25 amending s. 380.06, F.S.; revising provisions
26 governing substantial-deviation standards for
27 developments of regional impact; providing for
28 designation of a lead regional planning
29 council; amending s. 380.0651, F.S.; revising
30 standards for determining the necessity for a
31 development-of-regional-impact review;

1 providing a legislative finding that the act is
2 a matter of great public importance; providing
3 an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

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

9 163.3174 Local planning agency.--

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

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

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

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

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

27 163.3177 Required and optional elements of
28 comprehensive plan; studies and surveys.--

29 (4)(a) Coordination of the local comprehensive plan
30 with the comprehensive plans of adjacent municipalities, the
31 county, adjacent counties, or the region; with the appropriate

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

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

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

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

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

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

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

8 (c) A general sanitary sewer, solid waste, drainage,
9 potable water, and natural groundwater aquifer recharge
10 element correlated to principles and guidelines for future
11 land use, indicating ways to provide for future potable water,
12 drainage, sanitary sewer, solid waste, and aquifer recharge
13 protection requirements for the area. The element may be a
14 detailed engineering plan including a topographic map
15 depicting areas of prime groundwater recharge. The element
16 shall describe the problems and needs and the general
17 facilities that will be required for solution of the problems
18 and needs. The element shall also include a topographic map
19 depicting any areas adopted by a regional water management
20 district as prime groundwater recharge areas for the Floridan
21 or Biscayne aquifers, pursuant to s. 373.0395. These areas
22 shall be given special consideration when the local government
23 is engaged in zoning or considering future land use for said
24 designated areas. For areas served by septic tanks, soil
25 surveys shall be provided which indicate the suitability of
26 soils for septic tanks. By January 1, 2005, or the Evaluation
27 and Appraisal Report adoption deadline established for the
28 local government pursuant to s. 163.3191(a), whichever date
29 occurs first, the element must consider the appropriate water
30 management district's regional water supply plan approved
31 pursuant to s. 373.0361. The element must include a workplan,

1 covering at least a 10-year planning period, for building
2 water supply facilities that are identified in the element as
3 necessary to serve existing and new development and for which
4 the local government is responsible.

5 (d) A conservation element for the conservation, use,
6 and protection of natural resources in the area, including
7 air, water, water recharge areas, wetlands, waterwells,
8 estuarine marshes, soils, beaches, shores, flood plains,
9 rivers, bays, lakes, harbors, forests, fisheries and wildlife,
10 marine habitat, minerals, and other natural and environmental
11 resources. Local governments shall assess their current, as
12 well as projected, water needs and sources for at least a
13 10-year period, considering the appropriate regional water
14 supply plan approved pursuant to s. 373.0361, or, in the
15 absence of an approved regional water supply plan, the
16 district water management plan adopted pursuant to s.
17 373.036(2). This information shall be submitted to the
18 appropriate agencies. The land use map or map series
19 contained in the future land use element shall generally
20 identify and depict the following:

- 21 1. Existing and planned waterwells and cones of
22 influence where applicable.
- 23 2. Beaches and shores, including estuarine systems.
- 24 3. Rivers, bays, lakes, flood plains, and harbors.
- 25 4. Wetlands.
- 26 5. Minerals and soils.

27
28 The land uses identified on such maps shall be consistent with
29 applicable state law and rules.

30 (h)1. An intergovernmental coordination element
31 showing relationships and stating principles and guidelines to

1 be used in the accomplishment of coordination of the adopted
2 comprehensive plan with the plans of school boards and other
3 units of local government providing services but not having
4 regulatory authority over the use of land, with the
5 comprehensive plans of adjacent municipalities, the county,
6 adjacent counties, or the region, ~~and~~ with the state
7 comprehensive plan and with the applicable regional water
8 supply plan approved pursuant to s. 373.0361, as the case may
9 require and as such adopted plans or plans in preparation may
10 exist. This element of the local comprehensive plan shall
11 demonstrate consideration of the particular effects of the
12 local plan, when adopted, upon the development of adjacent
13 municipalities, the county, adjacent counties, or the region,
14 or upon the state comprehensive plan, as the case may require.

15 a. The intergovernmental coordination element shall
16 provide for procedures to identify and implement joint
17 planning areas, especially for the purpose of annexation,
18 municipal incorporation, and joint infrastructure service
19 areas.

20 b. The intergovernmental coordination element shall
21 provide for recognition of campus master plans prepared
22 pursuant to s. 240.155.

23 c. The intergovernmental coordination element may
24 provide for a voluntary dispute resolution process as
25 established pursuant to s. 186.509 for bringing to closure in
26 a timely manner intergovernmental disputes. A local
27 government may develop and use an alternative local dispute
28 resolution process for this purpose.

29 2. The intergovernmental coordination element shall
30 further state principles and guidelines to be used in the
31 accomplishment of coordination of the adopted comprehensive

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

18 3. To foster coordination between special districts
19 and local general-purpose governments as local general-purpose
20 governments implement local comprehensive plans, each
21 independent special district must submit a public facilities
22 report to the appropriate local government as required by s.
23 189.415.

24 4.a. Local governments adopting a public educational
25 facilities element pursuant to s. 163.31776 must execute an
26 interlocal agreement with the district school board, the
27 county, and nonexempt municipalities, as defined by s.
28 163.31776(3), which includes the items listed in s.
29 163.31777(2). The local government shall amend the
30 intergovernmental coordination element to provide that
31 coordination between the local government and school board is

1 pursuant to the agreement and shall state the obligations of
2 the local government under the agreement.

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

5 5. The state land planning agency shall establish a
6 schedule for phased completion and transmittal of plan
7 amendments to implement subparagraphs 1., 2., and 3. from all
8 jurisdictions so as to accomplish their adoption by December
9 31, 1999. A local government may complete and transmit its
10 plan amendments to carry out these provisions prior to the
11 scheduled date established by the state land planning agency.
12 The plan amendments are exempt from the provisions of s.
13 163.3187(1).

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

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

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

28 7. Within 6 months after submission of the report, the
29 Department of Community Affairs shall, through the appropriate
30 regional planning council, coordinate a meeting of all local
31 governments within the regional planning area to discuss the

1 reports and potential strategies to remedy any identified
2 deficiencies or duplications.

3 8. Each local government shall update its
4 intergovernmental coordination element based upon the findings
5 in the report submitted pursuant to subparagraph 6. The report
6 may be used as supporting data and analysis for the
7 intergovernmental coordination element.

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

13 Section 3. Section 163.31775, Florida Statutes, is
14 repealed.

15 Section 4. Section 163.31776, Florida Statutes, is
16 created to read:

17 163.31776 Public educational facilities element.--

18 (1) A county, in conjunction with the municipalities
19 within the county, may adopt an optional public educational
20 facilities element in cooperation with the applicable school
21 district. In order to enact an optional public educational
22 facilities element, the county and each municipality, unless
23 the municipality is exempt as defined in this subsection, must
24 adopt a consistent public educational facilities element and
25 enter the interlocal agreement pursuant to ss.

26 163.3177(6)(h)4. and 163.31777(2). A municipality is exempt if
27 it has no established need for a new school facility and it
28 meets the following criteria:

29 (a) The municipality has no public schools located
30 within its boundaries; and

31

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

8 (2) The public educational facilities element must be
9 based on data and analysis, including the interlocal agreement
10 defined by ss. 163.3177(6)(h)4. and 163.31777(2), and on the
11 educational facilities plan required by s. 235.185. Each local
12 government public educational facilities element within a
13 county must be consistent with the other elements and must
14 address:

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

19 (b) The need for and strategies for providing adequate
20 infrastructure necessary to support proposed schools,
21 including potable water, wastewater, drainage, solid waste,
22 transportation, and means by which to assure safe access to
23 schools, including sidewalks, bicycle paths, turn lanes, and
24 signalization.

25 (c) Colocation of other public facilities, such as
26 parks, libraries, and community centers, in proximity to
27 public schools.

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

31

1 (e) Use of public schools to serve as emergency
2 shelters.

3 (f) Consideration of the existing and planned capacity
4 of public schools when reviewing comprehensive plan amendments
5 and rezonings that are likely to increase residential
6 development and that are reasonably expected to have an impact
7 on the demand for public school facilities, with the review to
8 be based on uniform, level-of-service standards, availability
9 standards for public schools, and the financially feasible
10 5-year district facilities work program adopted by the school
11 board pursuant to s. 235.185.

12 (g) A uniform methodology for determining school
13 capacity consistent with the interlocal agreement entered
14 pursuant to ss. 163.3177(6)(h)4. and 163.3177(2).

15 (3) The future land-use map series must incorporate
16 maps that are the result of a collaborative process for
17 identifying school sites in the educational facilities plan
18 adopted by the school board pursuant to s. 235.185 and must
19 show the locations of existing public schools and the general
20 locations of improvements to existing schools or new schools
21 anticipated over the 5-year, 10-year, and 20-year time
22 periods, or such maps must constitute data and analysis in
23 support of the future land-use map series. Maps indicating
24 general locations of future schools or school improvements
25 should not prescribe a land use on a particular parcel of
26 land.

27 (4) The process for adopting a public educational
28 facilities element is as provided in s. 163.3184. The state
29 land planning agency shall submit a copy of the proposed public
30 school facilities element pursuant to the procedures outlined
31 in s. 163.3184(4) to the Office of Educational Facilities and

1 SMART Schools Clearinghouse of the Commissioner of Education
2 for review and comment.

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

6 Section 5. Section 163.31777, Florida Statutes, is
7 created to read:

8 163.31777 Public schools interlocal agreement.--

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

19 (b) The schedule must establish staggered due dates
20 for submission of interlocal agreements that are executed by
21 both the local government and district school board,
22 commencing on March 1, 2003 and concluding by December 1,
23 2004, and must set the same date for all governmental entities
24 within a school district. The schedule must begin with those
25 areas where both the number of districtwide capital-outlay
26 full-time-equivalent students equals 80 percent or more of the
27 current year's school capacity and the projected 5-year
28 student growth is 1,000 or greater, or where the projected
29 5-year student growth rate is 10 percent or greater.

30 (c) If the student population has declined over the
31 5-year period preceding the due date for submittal of an

1 updated interlocal agreement to the local government and the
2 district school board, the local government and the district
3 school board may petition the state land planning agency for a
4 waiver of one or more requirements of subsection (2). The
5 waiver must be granted if the procedures called for in
6 subsection (2) are unnecessary because of the school
7 district's declining school age population, considering the
8 5-year work program in the educational facilities plan
9 prepared pursuant to s. 235.185. The state land planning
10 agency may modify or revoke the waiver upon a finding that the
11 conditions upon which the waiver was granted no longer exist.
12 The district school board and local governments must submit an
13 interlocal agreement within 1 year after notification by the
14 state land planning agency that the conditions for a waiver no
15 longer exist.

16 (d) Interlocal agreements between local governments
17 and district school boards adopted pursuant to s. 163.3177
18 before the effective date of this section must be updated and
19 executed pursuant to the requirements of this section, if
20 necessary. Amendments to interlocal agreements adopted
21 pursuant to this section must be submitted to the state land
22 planning agency within 30 days after execution by the parties
23 for review consistent with this section. Local governments and
24 the district school board in each school district are
25 encouraged to adopt a single interlocal agreement to which all
26 join as parties. The state land planning agency shall assemble
27 and make available model interlocal agreements meeting the
28 requirements of this section and notify local governments and,
29 jointly with the Department of Education, the district school
30 boards of the requirements of this section, the dates for
31 compliance, and the sanctions for noncompliance. The state

1 land planning agency shall be available to informally review
2 proposed interlocal agreements. If the state land planning
3 agency has not received a proposed interlocal agreement for
4 informal review, the state land planning agency shall, at
5 least 60 days before the deadline for submission of the
6 executed agreement, renotify the local government and the
7 district school board of the upcoming deadline and the
8 potential for sanctions.

9 (2) At a minimum, the interlocal agreement must
10 address the following issues:

11 (a) A process by which each local government and the
12 district school board agree and base their plans on consistent
13 projections of the amount, type, and distribution of
14 population growth and student enrollment. The geographic
15 distribution of jurisdiction-wide growth forecasts is a major
16 objective of the process.

17 (b) A process to coordinate and share information
18 relating to existing and planned public school facilities,
19 including school renovations and closures, and local
20 government plans for development and redevelopment.

21 (c) Participation by affected local governments with
22 the district school board in the process of determining school
23 closures, significant renovations to existing schools, and new
24 school site selection before land acquisition. Local
25 governments shall advise the district school board as to the
26 consistency of the proposed closure, renovation, or new site
27 with the local comprehensive plan, including appropriate
28 circumstances and criteria under which a district school board
29 may request an amendment to the comprehensive plan for school
30 siting.

31

1 (d) A process for determining the need for and timing
2 of on-site and off-site improvements to support new, proposed
3 expansion, or redevelopment of existing schools. The process
4 must address identification of the party or parties
5 responsible for the improvements.

6 (e) Participation of the district school board in the
7 local government comprehensive-plan-amendment, rezoning, and
8 development-approval processes. The interlocal agreement must
9 express how the district school board will report on school
10 capacity available at the time of the projected impact on
11 schools. The report must be consistent with statutes and rules
12 regarding measurement of school facility capacity. It must
13 also identify how the district school board anticipates
14 meeting the public-school demand. In addition, if the local
15 governments that are party to the interlocal agreement are
16 adopting a public educational facilities element pursuant to
17 s. 163.31776, the interlocal agreement must also include
18 uniform level-of-service standards.

19 (f) Participation of the local governments in the
20 preparation of the annual update to the district school
21 board's 5-year district educational facilities plan prepared
22 pursuant to s. 235.185.

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

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

30
31

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

4 (3)(a) The Office of Educational Facilities and SMART
5 Schools Clearinghouse shall submit any comments or concerns
6 regarding the executed interlocal agreement to the state land
7 planning agency within 30 days after receipt of the executed
8 interlocal agreement. The state land planning agency shall
9 review the executed interlocal agreement to determine whether
10 it is consistent with the requirements of subsection (2), the
11 adopted local government comprehensive plan, and other
12 requirements of law. Within 60 days after receipt of an
13 executed interlocal agreement, the state land planning agency
14 shall publish a notice of intent in the Florida Administrative
15 Weekly and shall post a copy of the notice on the agency's
16 Internet site. The notice of intent must state whether the
17 interlocal agreement is consistent or inconsistent with the
18 requirements of subsection (2) and this subsection, as
19 appropriate.

20 (b) The state land planning agency's notice is subject
21 to challenge under chapter 120; however, an affected person,
22 as defined in 163.3184(1)(a), has standing to initiate the
23 administrative proceeding, and this proceeding is the sole
24 means available to challenge the consistency of an interlocal
25 agreement required by this section with the criteria contained
26 in subsection (2) and this subsection. In order to have
27 standing, each person must have submitted oral or written
28 comments, recommendations, or objections to the local
29 government or the school board before the adoption of the
30 interlocal agreement by the school board and local government.
31 The district school board and local governments are parties to

1 any such proceeding. In this proceeding, when the state land
2 planning agency finds the interlocal agreement to be
3 consistent with the criteria in subsection (2) and this
4 subsection, the interlocal agreement shall be determined to be
5 consistent with subsection (2) and this subsection if the
6 local government's and school board's determination of
7 consistency is fairly debatable. When the state planning
8 agency finds the interlocal agreement to be inconsistent with
9 the requirements of subsection (2) and this subsection, the
10 local government's and school board's determination of
11 consistency shall be sustained unless it is shown by a
12 preponderance of the evidence that the interlocal agreement is
13 inconsistent.

14 (c) If the state land planning agency enters a final
15 order that finds that the interlocal agreement is inconsistent
16 with the requirements of subsection (2) or this subsection, it
17 shall forward it to the Administration Commission, which may
18 impose sanctions against the local government pursuant to s.
19 163.3184(11) and may impose sanctions against the district
20 school board by directing the Department of Education to
21 withhold from the district school board an equivalent amount
22 of funds for school construction available pursuant to ss.
23 235.187, 235.216, 235.2195, and 235.42.

24 (4) If an executed interlocal agreement is not timely
25 submitted to the state land planning agency for review, the
26 state land planning agency shall, within 15 working days after
27 the deadline for submittal, issue to the local government and
28 the district school board a Notice to Show Cause why sanctions
29 should not be imposed for failure to submit an executed
30 interlocal agreement by the deadline established by the
31 agency. The agency shall forward the notice and the responses

1 to the Administration Commission, which may enter a final
2 order citing the failure to comply and imposing sanctions
3 against the local government and district school board by
4 directing the appropriate agencies to withhold at least 5
5 percent of state funds pursuant to s. 163.3184(11) and by
6 directing the Department of Education to withhold at least 5
7 percent of funds for school construction available pursuant to
8 ss. 235.187, 235.216, 235.2195, 235.42 from the district
9 school board.

10 (5) Any local government transmitting a public school
11 element to implement school concurrency pursuant to the
12 requirements of s. 163.3180 before the effective date of this
13 section is not required to amend the element or any interlocal
14 agreement to conform with the provisions of this section if
15 the element is adopted prior to or within 1 year after the
16 effective date of this section and remains in effect.

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

21 (a) The municipality has no public schools located
22 within its boundaries.

23 (b) The district school board's 5-year facilities work
24 program and the long-term 10-year and 20-year work programs,
25 as provided in s. 235.185, demonstrate that no new school
26 facility is needed in the municipality. In addition, the
27 district school board must verify in writing that no new
28 school facility will be needed in the municipality within the
29 5-year and 10-year timeframes.

30 (7) At the time of the evaluation and appraisal
31 report, each exempt municipality shall assess the extent to

1 which it continues to meet the criteria for exemption under
2 subsection (6). If the municipality continues to meet these
3 criteria and the district school board verifies in writing
4 that no new school facilities will be needed within the 5-year
5 and 10-year timeframes, the municipality shall continue to be
6 exempt from the interlocal-agreement requirement. Each
7 municipality exempt under subsection (6) must comply with the
8 provisions of this section within 1 year after the district
9 school board proposes, in its 5-year district facilities work
10 program, a new school within the municipality's jurisdiction.

11 (8) An interlocal agreement entered into pursuant to
12 this section must be consistent with the adopted comprehensive
13 plan and land development regulations of any general-purpose
14 local government that is a signatory. The agreement may only
15 establish interlocal coordination procedures between local
16 governments and a district school board unless specific goals,
17 objectives, and policies contained in the agreement are
18 incorporated into the local government's comprehensive plan.

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

21 163.3180 Concurrency.--

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

26 (b) The concurrency requirement as implemented in
27 local comprehensive plans does not apply to public transit
28 facilities. For the purposes of this paragraph, public
29 transit facilities include transit stations and terminals,
30 transit station parking, park-and-ride lots, intermodal public
31 transit connection or transfer facilities, and fixed bus,

1 guideway, and rail stations. As used in this paragraph, the
2 terms "terminals" and "transit facilities" do not include
3 airports or seaports or commercial or residential development
4 constructed in conjunction with a public transit facility.

5 (c) The concurrency requirement as implemented in
6 local government comprehensive plans may be waived by a local
7 government for urban infill and redevelopment areas designated
8 pursuant to s. 163.2517 if such a waiver does not endanger
9 public health or safety as defined by the local government in
10 its local government comprehensive plan.

11 Section 7. Subsections (1), (3), (4), (6), (7), (8),
12 and (15) and paragraph (d) of subsection (16) of section
13 163.3184, Florida Statutes, are amended to read:

14 163.3184 Process for adoption of comprehensive plan or
15 plan amendment.--

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

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

1 plan amendment and ending with the adoption of the plan or
2 plan amendment.

3 (b) "In compliance" means consistent with the
4 requirements of ss. 163.3177, 163.31776, when a local
5 government adopts an educational facilities element, 163.3178,
6 163.3180, 163.3191, and 163.3245, with the state comprehensive
7 plan, with the appropriate strategic regional policy plan, and
8 with chapter 9J-5, Florida Administrative Code, where such
9 rule is not inconsistent with this part and with the
10 principles for guiding development in designated areas of
11 critical state concern.

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

14 (a) Each local governing body shall transmit the
15 complete proposed comprehensive plan or plan amendment to the
16 state land planning agency, the appropriate regional planning
17 council and water management district, the Department of
18 Environmental Protection, the Department of State, and the
19 Department of Transportation, and, in the case of municipal
20 plans, to the appropriate county, and, in the case of county
21 plans, to the Fish and Wildlife Conservation Commission and
22 the Department of Agriculture and Consumer Services,
23 immediately following a public hearing pursuant to subsection
24 (15) as specified in the state land planning agency's
25 procedural rules. The local governing body shall also transmit
26 a copy of the complete proposed comprehensive plan or plan
27 amendment to any other unit of local government or government
28 agency in the state that has filed a written request with the
29 governing body for the plan or plan amendment. The local
30 government may request a review by the state land planning
31

1 agency pursuant to subsection (6) at the time of the
2 transmittal of an amendment.

3 (b) A local governing body shall not transmit portions
4 of a plan or plan amendment unless it has previously provided
5 to all state agencies designated by the state land planning
6 agency a complete copy of its adopted comprehensive plan
7 pursuant to subsection (7) and as specified in the agency's
8 procedural rules. In the case of comprehensive plan
9 amendments, the local governing body shall transmit to the
10 state land planning agency, the appropriate regional planning
11 council and water management district, the Department of
12 Environmental Protection, the Department of State,and the
13 Department of Transportation, and, in the case of municipal
14 plans, to the appropriate county, and, in the case of county
15 plans, to the Fish and Wildlife Conservation Commission and
16 the Department of Agriculture and Consumer Services,the
17 materials specified in the state land planning agency's
18 procedural rules and, in cases in which the plan amendment is
19 a result of an evaluation and appraisal report adopted
20 pursuant to s. 163.3191, a copy of the evaluation and
21 appraisal report. Local governing bodies shall consolidate all
22 proposed plan amendments into a single submission for each of
23 the two plan amendment adoption dates during the calendar year
24 pursuant to s. 163.3187.

25 (c) A local government may adopt a proposed plan
26 amendment previously transmitted pursuant to this subsection,
27 unless review is requested or otherwise initiated pursuant to
28 subsection (6).

29 (d) In cases in which a local government transmits
30 multiple individual amendments that can be clearly and legally
31 separated and distinguished for the purpose of determining

1 whether to review the proposed amendment, and the state land
2 planning agency elects to review several or a portion of the
3 amendments and the local government chooses to immediately
4 adopt the remaining amendments not reviewed, the amendments
5 immediately adopted and any reviewed amendments that the local
6 government subsequently adopts together constitute one
7 amendment cycle in accordance with s. 163.3187(1).

8 (4) INTERGOVERNMENTAL REVIEW.--~~If review of a proposed~~
9 ~~comprehensive plan amendment is requested or otherwise~~
10 ~~initiated pursuant to subsection (6), the state land planning~~
11 ~~agency within 5 working days of determining that such a review~~
12 ~~will be conducted shall transmit a copy of the proposed plan~~
13 ~~amendment to various government agencies, as appropriate, for~~
14 ~~response or comment, including, but not limited to, the~~
15 ~~Department of Environmental Protection, the Department of~~
16 ~~Transportation, the water management district, and the~~
17 ~~regional planning council, and, in the case of municipal~~
18 ~~plans, to the county land planning agency. The ~~These~~~~
19 ~~governmental agencies specified in paragraph (3)(a) shall~~
20 ~~provide comments to the state land planning agency within 30~~
21 ~~days after receipt by the state land planning agency of the~~
22 ~~complete proposed plan amendment. If the plan or plan~~
23 ~~amendment includes or relates to the public school facilities~~
24 ~~element pursuant to s. 163.31776, the state land planning~~
25 ~~agency shall submit a copy to the Office of Educational~~
26 ~~Facilities of the Commissioner of Education for review and~~
27 ~~comment.The appropriate regional planning council shall also~~
28 ~~provide its written comments to the state land planning agency~~
29 ~~within 30 days after receipt by the state land planning agency~~
30 ~~of the complete proposed plan amendment and shall specify any~~
31 ~~objections, recommendations for modifications, and comments of~~

1 any other regional agencies to which the regional planning
2 council may have referred the proposed plan amendment. Written
3 comments submitted by the public within 30 days after notice
4 of transmittal by the local government of the proposed plan
5 amendment will be considered as if submitted by governmental
6 agencies. All written agency and public comments must be made
7 part of the file maintained under subsection (2).

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

9 (a) The state land planning agency shall review a
10 proposed plan amendment upon request of a regional planning
11 council, affected person, or local government transmitting the
12 plan amendment. The request from the regional planning council
13 or affected person must be ~~if the request is~~ received within
14 30 days after transmittal of the proposed plan amendment
15 pursuant to subsection (3). ~~The agency shall issue a report~~
16 ~~of its objections, recommendations, and comments regarding the~~
17 ~~proposed plan amendment.~~ A regional planning council or
18 affected person requesting a review shall do so by submitting
19 a written request to the agency with a notice of the request
20 to the local government and any other person who has requested
21 notice.

22 (b) The state land planning agency may review any
23 proposed plan amendment regardless of whether a request for
24 review has been made, if the agency gives notice to the local
25 government, and any other person who has requested notice, of
26 its intention to conduct such a review within 35 ~~30~~ days after
27 receipt of transmittal of the complete proposed plan amendment
28 ~~pursuant to subsection (3).~~

29 (c) The state land planning agency shall establish by
30 rule a schedule for receipt of comments from the various
31 government agencies, as well as written public comments,

1 pursuant to subsection (4). If the state land planning agency
2 elects to review the amendment or the agency is required to
3 review the amendment as specified in paragraph (a), the agency
4 shall issue a report giving its objections, recommendations,
5 and comments regarding the proposed amendment within 60 days
6 after receipt of the complete proposed amendment by the state
7 land planning agency.~~The state land planning agency shall~~
8 ~~have 30 days to review comments from the various government~~
9 ~~agencies along with a local government's comprehensive plan or~~
10 ~~plan amendment. During that period, the state land planning~~
11 ~~agency shall transmit in writing its comments to the local~~
12 ~~government along with any objections and any recommendations~~
13 ~~for modifications.~~ When a federal, state, or regional agency
14 has implemented a permitting program, the state land planning
15 agency shall not require a local government to duplicate or
16 exceed that permitting program in its comprehensive plan or to
17 implement such a permitting program in its land development
18 regulations. Nothing contained herein shall prohibit the
19 state land planning agency in conducting its review of local
20 plans or plan amendments from making objections,
21 recommendations, and comments or making compliance
22 determinations regarding densities and intensities consistent
23 with the provisions of this part. In preparing its comments,
24 the state land planning agency shall only base its
25 considerations on written, and not oral, comments, from any
26 source.

27 (d) The state land planning agency review shall
28 identify all written communications with the agency regarding
29 the proposed plan amendment. If the state land planning agency
30 does not issue such a review, it shall identify in writing to
31 the local government all written communications received 30

1 days after transmittal. The written identification must
2 include a list of all documents received or generated by the
3 agency, which list must be of sufficient specificity to enable
4 the documents to be identified and copies requested, if
5 desired, and the name of the person to be contacted to request
6 copies of any identified document. The list of documents must
7 be made a part of the public records of the state land
8 planning agency.

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

11 (a) The local government shall review the written
12 comments submitted to it by the state land planning agency,
13 and any other person, agency, or government. Any comments,
14 recommendations, or objections and any reply to them shall be
15 public documents, a part of the permanent record in the
16 matter, and admissible in any proceeding in which the
17 comprehensive plan or plan amendment may be at issue. The
18 local government, upon receipt of written comments from the
19 state land planning agency, shall have 120 days to adopt or
20 adopt with changes the proposed comprehensive plan or s.
21 163.3191 plan amendments. In the case of comprehensive plan
22 amendments other than those proposed pursuant to s. 163.3191,
23 the local government shall have 60 days to adopt the
24 amendment, adopt the amendment with changes, or determine that
25 it will not adopt the amendment. The adoption of the proposed
26 plan or plan amendment or the determination not to adopt a
27 plan amendment, other than a plan amendment proposed pursuant
28 to s. 163.3191, shall be made in the course of a public
29 hearing pursuant to subsection (15). The local government
30 shall transmit the complete adopted comprehensive plan or
31 ~~adopted~~ plan amendment, including the names and addresses of

1 person compiled pursuant to paragraph (15)(c),to the state
2 land planning agency as specified in the agency's procedural
3 rules within 10 working days after adoption. The local
4 governing body shall also transmit a copy of the adopted
5 comprehensive plan or plan amendment to the regional planning
6 agency and to any other unit of local government or
7 governmental agency in the state that has filed a written
8 request with the governing body for a copy of the plan or plan
9 amendment.

10 (b) If the adopted plan amendment is unchanged from
11 the proposed plan amendment transmitted pursuant to subsection
12 (3) and an affected person as defined in paragraph (1)(a) did
13 not raise any objection, the state land planning agency did
14 not review the proposed plan amendment, and the state land
15 planning agency did not raise any objections during its review
16 pursuant to subsection (6), the local government may state in
17 the transmittal letter that the plan amendment is unchanged
18 and was not the subject of objections.

19 (8) NOTICE OF INTENT.--

20 (a) If the transmittal letter correctly states that
21 the plan amendment is unchanged and was not the subject of
22 review or objections pursuant to paragraph (7)(b), the state
23 land planning agency has 20 days within which to issue a
24 notice of intent that the plan amendment is in compliance.

25 (b)(a) Except as provided in paragraph (a) or in s.
26 163.3187(3), the state land planning agency, upon receipt of a
27 local government's complete adopted comprehensive plan or plan
28 amendment, shall have 45 days for review and to determine if
29 the plan or plan amendment is in compliance with this act,
30 unless the amendment is the result of a compliance agreement
31 entered into under subsection (16), in which case the time

1 period for review and determination shall be 30 days. If
2 review was not conducted under subsection (6), the agency's
3 determination must be based upon the plan amendment as
4 adopted. If review was conducted under subsection (6), the
5 agency's determination of compliance must be based only upon
6 one or both of the following:

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

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

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

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

1 amendment, and a statement that affected persons have 21 days
2 after the actual date of publication of the notice to file a
3 petition. ~~This subparagraph expires July 1, 2002.~~

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

8 (15) PUBLIC HEARINGS.--

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

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

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

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

31

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

16 (d) The agency shall provide a model sign-in form for
17 providing the list to the agency which may be used by the
18 local government to satisfy the requirements of this
19 subsection.

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

27 (16) COMPLIANCE AGREEMENTS.--

28 (d) A local government may adopt a plan amendment
29 pursuant to a compliance agreement in accordance with the
30 requirements of paragraph (15)(a). The plan amendment shall be
31 exempt from the requirements of subsections (2)-(7). The

1 local government shall hold a single adoption public hearing
2 pursuant to the requirements of subparagraph (15)(b)2. and
3 paragraph (15)(e)~~(c)~~. Within 10 working days after adoption of
4 a plan amendment, the local government shall transmit the
5 amendment to the state land planning agency as specified in
6 the agency's procedural rules, and shall submit one copy to
7 the regional planning agency and to any other unit of local
8 government or government agency in the state that has filed a
9 written request with the governing body for a copy of the plan
10 amendment, and one copy to any party to the proceeding under
11 ss. 120.569 and 120.57 granted intervenor status.

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

14 163.3187 Amendment of adopted comprehensive plan.--

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

18 (k) A comprehensive plan amendment to adopt a public
19 educational facilities element pursuant to s. 163.31776 and
20 future land-use-map amendments for school siting may be
21 approved notwithstanding statutory limits on the frequency of
22 adopting plan amendments.

23 Section 9. Paragraph (k) of subsection (2) of section
24 163.3191, Florida Statutes, is amended and paragraph (1) is
25 added to that subsection to read:

26 163.3191 Evaluation and appraisal of comprehensive
27 plan.--

28 (2) The report shall present an evaluation and
29 assessment of the comprehensive plan and shall contain
30 appropriate statements to update the comprehensive plan,
31

1 including, but not limited to, words, maps, illustrations, or
2 other media, related to:

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

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

24 Section 10. Paragraph (c) of subsection (2) and
25 subsection (3) of section 186.504, Florida Statutes, are
26 amended to read:

27 186.504 Regional planning councils; creation;
28 membership.--

29 (2) Membership on the regional planning council shall
30 be as follows:

31

1 (c) Representatives appointed by the Governor from the
2 geographic area covered by the regional planning council,
3 including an elected school board member from the geographic
4 area covered by the regional planning council, to be nominated
5 by the Florida School Board Association.

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

23 Section 11. Paragraphs (a) and (d) of subsection (2)
24 and subsection (6) of section 212.055, Florida Statutes, are
25 amended to read:

26 212.055 Discretionary sales surtaxes; legislative
27 intent; authorization and use of proceeds.--It is the
28 legislative intent that any authorization for imposition of a
29 discretionary sales surtax shall be published in the Florida
30 Statutes as a subsection of this section, irrespective of the
31 duration of the levy. Each enactment shall specify the types

1 of counties authorized to levy; the rate or rates which may be
2 imposed; the maximum length of time the surtax may be imposed,
3 if any; the procedure which must be followed to secure voter
4 approval, if required; the purpose for which the proceeds may
5 be expended; and such other requirements as the Legislature
6 may provide. Taxable transactions and administrative
7 procedures shall be as provided in s. 212.054.

8 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

9 (a)1. The governing authority in each county may levy
10 a discretionary sales surtax of 0.5 percent or 1 percent. The
11 levy of the surtax shall be pursuant to ordinance enacted by a
12 supermajority ~~majority~~ of the members of the county governing
13 authority or pursuant to ordinance enacted by a majority of
14 the members of the county governing authority and approved by
15 a majority of the electors of the county voting in a
16 referendum on the surtax. If the governing bodies of the
17 municipalities representing a majority of the county's
18 population adopt uniform resolutions establishing the rate of
19 the surtax and calling for a referendum on the surtax, the
20 levy of the surtax shall be placed on the ballot and shall
21 take effect if approved by a majority of the electors of the
22 county voting in the referendum on the surtax.

23 2. If the surtax was levied pursuant to a referendum
24 held before July 1, 1993, the surtax may not be levied beyond
25 the time established in the ordinance, or, if the ordinance
26 did not limit the period of the levy, the surtax may not be
27 levied for more than 15 years. The levy of such surtax may be
28 extended only by approval of a majority of the electors of the
29 county voting in a referendum on the surtax or pursuant to
30 ordinance enacted by a supermajority vote of the members of
31 the county governing authority.

1
2 For purposes of this paragraph, the term "supermajority vote"
3 means an affirmative vote of a majority of the membership of
4 the governing authority plus one.

5 (d)1. The proceeds of the surtax authorized by this
6 subsection and approved by referendum and any interest accrued
7 thereto shall be expended by the school district or within the
8 county and municipalities within the county, or, in the case
9 of a negotiated joint county agreement, within another county,
10 to finance, plan, and construct infrastructure and to acquire
11 land for public recreation or conservation or protection of
12 natural resources and to finance the closure of county-owned
13 or municipally owned solid waste landfills that are already
14 closed or are required to close by order of the Department of
15 Environmental Protection. Any use of such proceeds or interest
16 for purposes of landfill closure prior to July 1, 1993, is
17 ratified. Neither the proceeds nor any interest accrued
18 thereto shall be used for operational expenses of any
19 infrastructure, except that any county with a population of
20 less than 75,000 that is required to close a landfill by order
21 of the Department of Environmental Protection may use the
22 proceeds or any interest accrued thereto for long-term
23 maintenance costs associated with landfill closure. Counties,
24 as defined in s. 125.011(1), and charter counties may, in
25 addition, use the proceeds and any interest accrued thereto to
26 retire or service indebtedness incurred for bonds issued prior
27 to July 1, 1987, for infrastructure purposes, and for bonds
28 subsequently issued to refund such bonds. Any use of such
29 proceeds or interest for purposes of retiring or servicing
30 indebtedness incurred for such refunding bonds prior to July
31 1, 1999, is ratified.

1 2. The proceeds of the surtax where the surtax is
2 levied by a supermajority vote of the governing body of the
3 county and any interest accrued thereto shall be expended by
4 the school district or within the county and municipalities
5 within the county for infrastructure located within the urban
6 service area that is identified in the local government
7 comprehensive plan of the county or municipality and is
8 identified in that local government's capital improvements
9 element adopted pursuant to s. 163.3177(3) or that is
10 identified in the school district's educational facilities
11 plan adopted pursuant to s. 235.185.

12 ~~3.2.~~ For the purposes of this paragraph,
13 "infrastructure" means:

14 a. Any fixed capital expenditure or fixed capital
15 outlay associated with the construction, reconstruction, or
16 improvement of public facilities which have a life expectancy
17 of 5 or more years and any land acquisition, land improvement,
18 design, and engineering costs related thereto.

19 b. A fire department vehicle, an emergency medical
20 service vehicle, a sheriff's office vehicle, a police
21 department vehicle, or any other vehicle, and such equipment
22 necessary to outfit the vehicle for its official use or
23 equipment that has a life expectancy of at least 5 years.

24 ~~4.3.~~ Notwithstanding any other provision of this
25 subsection, a discretionary sales surtax imposed or extended
26 after the effective date of this act may provide for an amount
27 not to exceed 15 percent of the local option sales surtax
28 proceeds to be allocated for deposit to a trust fund within
29 the county's accounts created for the purpose of funding
30 economic development projects of a general public purpose
31 targeted to improve local economies, including the funding of

1 the interlocal agreement and public educational facilities
2 element required by s. 163.31776;

3 2. The district school board has adopted a district
4 educational facilities plan pursuant to s. 235.185; and

5 3. The district's use of surtax proceeds for new
6 construction must not exceed the cost-per-student criteria
7 established for the SIT Program in s. 235.216(2).

8
9 For purposes of this paragraph, the term "supermajority vote"
10 means an affirmative vote of a majority of the membership of
11 the school board plus one.

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

31

1 consistent with this subsection and with uses assured under
2 the Florida Frugal Schools Program.

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

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

13 Section 12. Section 235.002, Florida Statutes, is
14 amended to read:

15 235.002 Intent.--

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

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

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

31

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

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

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

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

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

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

27 (2) The Legislature finds and declares that:

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

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

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

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

15 Section 13. Section 235.15, Florida Statutes, is
16 amended to read:

17 235.15 Educational plant survey; localized need
18 assessment; PECO project funding.--

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

1 Information used by the Office ~~Division~~ of Workforce and
2 Economic Development to establish facility needs must include,
3 but need not be limited to, labor market data, needs analysis,
4 and information submitted by the school district or community
5 college.

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

24 (b) Required need assessment criteria for district,
25 community college, college and state university plant
26 surveys.--~~Each Educational plant surveys survey completed~~
27 ~~after December 31, 1997,~~ must use uniform data sources and
28 criteria specified in this paragraph. ~~Each educational plant~~
29 ~~survey completed after June 30, 1995, and before January 1,~~
30 ~~1998, must be revised, if necessary, to comply with this~~

31

1 ~~paragraph.~~ Each revised educational plant survey and each new
2 educational plant survey supersedes previous surveys.

3 1. The school district's survey must be submitted as a
4 part of the district educational facilities plan defined in s.

5 235.185.~~Each school district's educational plant survey must~~
6 ~~reflect the capacity of existing satisfactory facilities as~~
7 ~~reported in the Florida Inventory of School Houses.~~

8 ~~Projections of facility space needs may not exceed the norm~~
9 ~~space and occupant design criteria established by the State~~

10 ~~Requirements for Educational Facilities. Existing and~~

11 ~~projected capital outlay full-time equivalent student~~

12 ~~enrollment must be consistent with data prepared by the~~

13 ~~department and must include all enrollment used in the~~

14 ~~calculation of the distribution formula in s. 235.435(3). All~~

15 ~~satisfactory relocatable classrooms, including those owned,~~

16 ~~lease-purchased, or leased by the school district, shall be~~

17 ~~included in the school district inventory of gross capacity of~~

18 ~~facilities and must be counted at actual student capacity for~~

19 ~~purposes of the inventory. For future needs determination,~~

20 ~~student capacity shall not be assigned to any relocatable~~

21 ~~classroom that is scheduled for elimination or replacement~~

22 ~~with a permanent educational facility in the adopted 5-year~~

23 ~~educational plant survey and in the district facilities work~~

24 ~~program adopted under s. 235.185. Those relocatables clearly~~

25 ~~identified and scheduled for replacement in a school board~~

26 ~~adopted financially feasible 5-year district facilities work~~

27 ~~program shall be counted at zero capacity at the time the work~~

28 ~~program is adopted and approved by the school board. However,~~

29 ~~if the district facilities work program is changed or altered~~

30 ~~and the relocatables are not replaced as scheduled in the work~~

31 ~~program, they must then be reentered into the system for~~

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

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

31

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

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

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

30 (c) Review and validation.--The Office of Educational
31 Facilities and SMART Schools Clearinghouse ~~department~~ shall

1 review and validate the surveys of school districts,~~and~~
2 community colleges, and colleges and universities,and any
3 amendments thereto for compliance with the requirements of
4 this chapter and,~~when required by the State Constitution,~~
5 shall recommend those in compliance for approval by the
6 Florida State Board of Education.

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

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

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

31

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

3 235.175 SMART schools; Classrooms First; legislative
4 purpose.--

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

20 Section 15. Section 235.18, Florida Statutes, is
21 amended to read:

22 235.18 Annual capital outlay budget.--Each board,
23 ~~including the Board of Regents,~~ shall, each year, adopt a
24 capital outlay budget for the ensuing year in order that the
25 capital outlay needs of the board for the entire year may be
26 well understood by the public. This capital outlay budget
27 shall be a part of the annual budget and shall be based upon
28 and in harmony with the board's capital outlay plan
29 ~~educational plant and ancillary facilities plan~~. This budget
30 shall designate the proposed capital outlay expenditures by
31 project for the year from all fund sources. The board may not

1 expend any funds on any project not included in the budget, as
2 amended. Each district school board must prepare its tentative
3 district education facilities plan ~~facilities work program~~ as
4 required by s. 235.185 before adopting the capital outlay
5 budget.

6 Section 16. Section 235.185, Florida Statutes, is
7 amended to read:

8 235.185 School district educational facilities plan
9 ~~work program~~; definitions; preparation, adoption, and
10 amendment; long-term work programs.--

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

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

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

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

24 1. ~~To~~ Properly maintain the educational plant and
25 ancillary facilities of the district.

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

30 (c) "Tentative educational facilities plan" means the
31 comprehensive planning document prepared annually by the

1 district school board and submitted to the Office of
2 Educational Facilities and SMART Schools Clearinghouse and the
3 affected general-purpose local governments.

4 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL
5 FACILITIES ~~PLAN~~ ~~WORK PROGRAM~~.--

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

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

27 2. An inventory of existing school facilities. Any
28 anticipated expansions or closures of existing school sites
29 over the 5-year, 10-year, and 20-year periods must be
30 identified. The inventory must include an assessment of areas
31 proximate to existing schools and identification of the need

1 for improvements to infrastructure, safety, including safe
2 access routes, and conditions in the community. The plan must
3 also provide a listing of major repairs and renovation
4 projects anticipated over the period of the plan.

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

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

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

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

25 a. Acceptable capacity;

26 b. Redistricting;

27 c. Busing;

28 d. Year-round schools;

29 e. Charter schools;

30 f. Magnet schools; and

31 g. Public-private partnerships.

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(12), (13), and (14) must be addressed for new
27 facilities planned within the first 3 years of the work plan,
28 as 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 Office of Program Policy
23 Analysis and Government Accountability and the Auditor General
24 pursuant to s. 230.23025 satisfies this requirement.

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

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

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

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

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

31

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

9 ~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.--In addition to~~
10 ~~the adopted district facilities work program covering the~~
11 ~~5-year work program, the district school board shall adopt~~
12 ~~annually a 10-year and a 20-year work program which include~~
13 ~~the information set forth in subsection (2), but based upon~~
14 ~~enrollment projections and facility needs for the 10-year and~~
15 ~~20-year periods. It is recognized that the projections in the~~
16 ~~10-year and 20-year timeframes are tentative and should be~~
17 ~~used only for general planning purposes.~~

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

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

30 Section 18. Section 235.19, Florida Statutes, is
31 amended to read:

1 235.19 Site planning and selection.--

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

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

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

1 of the students. Each site must be well drained and suitable
2 for outdoor educational purposes as appropriate for the
3 educational program or collocated with facilities to serve
4 this purpose. As provided in s. 333.03, the site must not be
5 located within any path of flight approach of any airport.
6 Insofar as is practicable, the site must not adjoin a
7 right-of-way of any railroad or through highway and must not
8 be adjacent to any factory or other property from which noise,
9 odors, or other disturbances, or at which conditions, would be
10 likely to interfere with the educational program. To the
11 extent practicable, sites must be chosen which will provide
12 safe access from neighborhoods to 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 s. 235.193(2)
25 and either s. 163.3177(6)(h)4. or s. 163.31777 or have
26 developed a process to ensure consistency between the local
27 government comprehensive plan and the school district
28 educational facilities plan, site planning and selection must
29 be consistent with the interlocal agreements and the plans.

30 Section 19. 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)(a) The school board, county, and nonexempt
30 municipalities located within the geographic area of a school
31 district shall enter into an interlocal agreement that jointly

1 establishes the specific ways in which the plans and processes
2 of the district school board and the local governments are to
3 be coordinated. The interlocal agreements shall be submitted
4 to the state land planning agency and the Office of
5 Educational Facilities and the SMART Schools Clearinghouse in
6 accordance with a schedule published by the state land
7 planning agency.

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

18 (c) If the student population has declined over the
19 5-year period preceding the due date for submittal of an
20 updated interlocal agreement to the local government and the
21 district school board, the local government and district
22 school board may petition the state land planning agency for a
23 waiver of one or more of the requirements of subsection (3).
24 The waiver must be granted if the procedures called for in
25 subsection (3) are unnecessary because of the school
26 district's declining school age population, considering the
27 5-year work program in the educational facilities plan
28 prepared pursuant to s. 235.185. The state land planning
29 agency may modify or revoke the waiver upon a finding that the
30 conditions upon which the waiver was granted no longer exist.
31 The district school board and local governments must submit an

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

4 (d) Interlocal agreements between local governments
5 and district school boards adopted pursuant to s. 163.3177
6 before the effective date of subsections (2)-(9) must be
7 updated and executed pursuant to the requirements of
8 subsections (2)-(9), if necessary. Amendments to interlocal
9 agreements adopted pursuant to subsections (2)-(9) must be
10 submitted to the state land planning agency within 30 days
11 after execution by the parties for review consistent with
12 subsections (3) and (4). Local governments and the district
13 school board in each school district are encouraged to adopt a
14 single interlocal agreement to which all join as parties. The
15 state land planning agency shall assemble and make available
16 model interlocal agreements meeting the requirements of
17 subsections (2)-(9) and shall notify local governments and,
18 jointly with the Department of Education, the district school
19 boards of the requirements of subsections (2)-(9), the dates
20 for compliance, and the sanctions for noncompliance. The state
21 land planning agency shall be available to informally review
22 proposed interlocal agreements. If the state land planning
23 agency has not received a proposed interlocal agreement for
24 informal review, the state land planning agency shall, at
25 least 60 days before the deadline for submission of the
26 executed agreement, renotify the local government and the
27 district school board of the upcoming deadline and the
28 potential for sanctions.

29 (3) At a minimum, the interlocal agreement must
30 address the following issues:

31

1 (a) A process by which each local government and the
2 district school board agree and base their plans on consistent
3 projections of the amount, type, and distribution of
4 population growth and student enrollment. The geographic
5 distribution of jurisdiction-wide growth forecasts is a major
6 objective of the process.

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

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

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

26 (e) Participation of the district school board in the
27 local government comprehensive-plan-amendment, rezoning, and
28 development-approval processes. The interlocal agreement must
29 express how the district school board will report on school
30 capacity available at the time of the projected impact on
31 schools. The report must be consistent with statutes and rules

1 regarding measurement of school facility capacity. It must
2 also identify how the district school board anticipates
3 meeting the public-school demand. In addition, if the local
4 governments that are party to the interlocal agreement are
5 adopting a public educational facilities element pursuant to
6 s. 163.31776, the interlocal agreement must also include
7 uniform level-of-service standards.

8 (f) Participation of the local governments in the
9 preparation of the annual update to the school board's 5-year
10 district educational facilities plan prepared pursuant to s.
11 235.185.

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

15 (h) A procedure for the resolution of disputes between
16 the district school board and local governments, which may
17 include the dispute-resolution processes contained in chapters
18 164 and 186.

19 (i) An oversight process, including an opportunity for
20 public participation, for the implementation of the interlocal
21 agreement.

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

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

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

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

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

28 (6) Any local government transmitting a public school
29 element to implement school concurrency pursuant to the
30 requirements of s. 163.3180 before the effective date of this
31 section is not required to amend the element or any interlocal

1 agreement to conform with the provisions of subsections
2 (2)-(9) if the element is adopted prior to or within 1 year
3 after the effective date of subsections (2)-(9)and remains in
4 effect.

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

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

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

18 (8) At the time of the evaluation and appraisal
19 report, each exempt municipality shall assess the extent to
20 which it continues to meet the criteria for exemption under
21 subsection (7). If the municipality continues to meet these
22 criteria and the district school board verifies in writing
23 that no new school facilities will be needed within the 5-year
24 and 10-year timeframes, the municipality shall continue to be
25 exempt from the interlocal-agreement requirement. Each
26 municipality exempt under subsection (7) must comply with the
27 provisions of subsections (2)-(9) within 1 year after the
28 district school board proposes, in its 5-year district
29 facilities work program, a new school within the
30 municipality's jurisdiction.

31

1 (9) An interlocal agreement entered into pursuant to
2 this section must be consistent with the adopted comprehensive
3 plan and land development regulations of any general-purpose
4 local government that is a signatory. The agreement may only
5 establish interlocal coordination procedures between local
6 governments and a district school board unless specific goals,
7 objectives, and policies contained in the agreement are
8 incorporated into the local government's comprehensive plan.

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

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

5 (11)~~(3)~~ The location of public educational facilities
6 shall be consistent with the comprehensive plan of the
7 appropriate local governing body developed under part II of
8 chapter 163 and consistent with the plan's implementing land
9 development regulations, ~~to the extent that the regulations~~
10 ~~are not in conflict with or the subject regulated is not~~
11 ~~specifically addressed by this chapter or the State Uniform~~
12 ~~Building Code, unless mutually agreed by the local government~~
13 ~~and the board.~~

14 (12)~~(4)~~ To improve coordination relative to potential
15 educational facility sites, a board shall provide written
16 notice to the local government that has regulatory authority
17 over the use of the land consistent with an interlocal
18 agreement entered pursuant to subsections (2)-(9) at least 60
19 days prior to acquiring or leasing property that may be used
20 for a new public educational facility. The local government,
21 upon receipt of this notice, shall notify the board within 45
22 days if the site proposed for acquisition or lease is
23 consistent with the land use categories and policies of the
24 local government's comprehensive plan. This preliminary
25 notice does not constitute the local government's
26 determination of consistency pursuant to subsection (13)~~(5)~~.

27 (13)~~(5)~~ As early in the design phase as feasible and
28 consistent with an interlocal agreement entered pursuant to
29 subsections (2)-(9), but no later than 90 days before
30 commencing construction, the district school board shall in
31 writing request a determination of consistency with the local

1 ~~government's comprehensive plan.~~but at least before
2 ~~commencing construction of a new public educational facility,~~
3 The local governing body that regulates the use of land shall
4 determine, in writing within 45 ~~90~~ days after receiving the
5 necessary information and a school board's request for a
6 determination, whether a proposed public educational facility
7 is consistent with the local comprehensive plan and consistent
8 with local land development regulations,~~to the extent that~~
9 ~~the regulations are not in conflict with or the subject~~
10 ~~regulated is not specifically addressed by this chapter or the~~
11 ~~State Uniform Building Code, unless mutually agreed.~~ If the
12 determination is affirmative, school construction may commence
13 ~~proceed~~ and further local government approvals are not
14 required, except as provided in this section. Failure of the
15 local governing body to make a determination in writing within
16 90 days after a school board's request for a determination of
17 consistency shall be considered an approval of the school
18 board's application.

19 (14)~~(6)~~ A local governing body may not deny the site
20 applicant based on adequacy of the site plan as it relates
21 solely to the needs of the school. If the site is consistent
22 with the comprehensive plan's ~~future~~ land use policies and
23 categories in which public schools are identified as allowable
24 uses, the local government may not deny the application but it
25 may impose reasonable development standards and conditions in
26 accordance with s. 235.34(1) and consider the site plan and
27 its adequacy as it relates to environmental concerns, health,
28 safety and welfare, and effects on adjacent property.
29 Standards and conditions may not be imposed which conflict
30 with those established in this chapter or the Florida State
31

1 ~~Uniform~~ Building Code, unless mutually agreed and consistent
2 with the interlocal agreement required by subsections (2)-(9).

3 (15)(7) This section does not prohibit a local
4 governing body and district school board from agreeing and
5 establishing an alternative process for reviewing a proposed
6 educational facility and site plan, and offsite impacts,
7 pursuant to an interlocal agreement adopted in accordance with
8 subsections (2)-(9).

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

28 (a) The placement of temporary or portable classroom
29 facilities; or

30 (b) Proposed renovation or construction on existing
31 school sites, with the exception of construction that changes

1 the primary use of a facility, includes stadiums, or results
2 in a greater than 5 percent increase in student capacity, or
3 as mutually agreed.

4 Section 20. Section 235.194, Florida Statutes, is
5 repealed.

6 Section 21. Section 235.218, Florida Statutes, is
7 amended to read:

8 235.218 School district educational facilities plan
9 ~~work program~~ performance and productivity standards;
10 development; measurement; application.--

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

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

27 (2) The office ~~clearinghouse~~ shall establish annual
28 performance objectives and standards that can be used to
29 evaluate district performance and productivity.

30 (3) The office ~~clearinghouse~~ shall conduct ongoing
31 evaluations of district educational facilities program

1 performance and productivity, using the measures adopted under
2 this section. If, using these measures, the office
3 ~~clearinghouse~~ finds that a district failed to perform
4 satisfactorily, the office ~~clearinghouse~~ must recommend to the
5 district school board actions to be taken to improve the
6 district's performance.

7 Section 22. Paragraph (c) of subsection (2) of section
8 235.2197, Florida Statutes, is amended to read:

9 235.2197 Florida Frugal Schools Program.--

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

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

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

31

1 2. The district school board will not spend the surtax
2 or accrued interest to pay for operational expenses or for the
3 construction, renovation, or remodeling of any administrative
4 building or any other ancillary facility that is not directly
5 related to the instruction, feeding, or transportation of
6 students enrolled in the public schools.

7 3. The district school board's use of the surtax and
8 accrued interest will be consistent with the best financial
9 management practices identified and approved under s.
10 230.23025.

11 4. The district school board will apply the
12 educational facilities contracting and construction techniques
13 authorized by s. 235.211 or other construction management
14 techniques to reduce the cost of educational facilities.

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

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

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

28 235.321 Changes in construction requirements after
29 award of contract.--The board may, at its option and by
30 written policy duly adopted and entered in its official
31 minutes, authorize the superintendent or president or other

1 designated individual to approve change orders in the name of
2 the board for preestablished amounts. Approvals shall be for
3 the purpose of expediting the work in progress and shall be
4 reported to the board and entered in its official minutes. For
5 accountability, the school district shall monitor and report
6 the impact of change orders on its district educational
7 facilities plan ~~work program~~ pursuant to s. 235.185.

8 Section 24. Paragraph (d) of subsection (5) of section
9 236.25, Florida Statutes, is amended to read:

10 236.25 District school tax.--

11 (5)

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

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

1 leasing, rezoning, or technological methodologies that exhibit
2 sound management.

3 Section 25. Subsection (12), paragraph (c) of
4 subsection (15) and subsections (18) and (19) of section
5 380.06, Florida Statutes, are amended to read:

6 380.06 Developments of regional impact.--

7 (12) REGIONAL REPORTS.--

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

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

28 2. The development will significantly impact adjacent
29 jurisdictions. At the request of the appropriate local
30 government, regional planning agencies may also review and
31

1 comment upon issues that affect only the requesting local
2 government.

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

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

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

28 (d) When the location of a proposed development
29 involves land within the boundaries of multiple regional
30 planning councils, the state land planning agency shall

31

1 designate a lead regional planning council. The lead regional
2 planning council shall prepare the regional report.

3 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

4 (c) The development order shall include findings of
5 fact and conclusions of law consistent with subsections (13)
6 and (14). The development order:

7 1. Shall specify the monitoring procedures and the
8 local official responsible for assuring compliance by the
9 developer with the development order.

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

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

26 4. Shall specify the requirements for the biennial
27 ~~annual~~ report designated under subsection (18), including the
28 date of submission, parties to whom the report is submitted,
29 and contents of the report, based upon the rules adopted by
30 the state land planning agency. Such rules shall specify the
31

1 scope of any additional local requirements that may be
2 necessary for the report.

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

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

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

30 (19) SUBSTANTIAL DEVIATIONS.--

31

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

28
29 The substantial deviation numerical standards in subparagraphs
30 4., 6., 10., 14., excluding residential uses, and 15., are
31 increased by 100 percent for a project certified under s.

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

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

28 (d) A change in the plan of development of an approved
29 development of regional impact resulting from requirements
30 imposed by the Department of Environmental Protection or any
31 water management district created by s. 373.069 or any of

1 their successor agencies or by any appropriate federal
2 regulatory agency shall be submitted to the local government
3 pursuant to this subsection. The change shall be presumed not
4 to create a substantial deviation subject to further
5 development-of-regional-impact review. The presumption may be
6 rebutted by clear and convincing evidence at the public
7 hearing held by the local government.

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

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

1 changes previously approved by the local government, and shall
2 include appropriate amendments to the development order.

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

5 a. Changes in the name of the project, developer,
6 owner, or monitoring official.

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

10 c. Changes to minimum lot sizes.

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

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

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

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

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

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

31

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

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

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

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

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

29 b. Except for the types of uses listed in subparagraph
30 (b)16., any change which would result in the development of
31 any area which was specifically set aside in the application

1 for development approval or in the development order for
2 preservation, buffers, or special protection, including
3 habitat for plant and animal species, archaeological and
4 historical sites, dunes, and other special areas.

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

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

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

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

31

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

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

21 6. If the local government determines that the
22 proposed change does not require further
23 development-of-regional-impact review and is otherwise
24 approved, or if the proposed change is not subject to a
25 hearing and determination pursuant to subparagraphs 3. and 5.
26 and is otherwise approved, the local government shall issue an
27 amendment to the development order incorporating the approved
28 change and conditions of approval relating to the change. The
29 decision of the local government to approve, with or without
30 conditions, or to deny the proposed change that the developer
31 asserts does not require further review shall be subject to

1 the appeal provisions of s. 380.07. However, the state land
2 planning agency may not appeal the local government decision
3 if it did not comply with subparagraph 4. The state land
4 planning agency may not appeal a change to a development order
5 made pursuant to subparagraph (e)1. or 2. for developments of
6 regional impact approved after January 1, 1980, unless the
7 change would result in a significant impact to a regionally
8 significant archaeological, historical, or natural resource
9 not previously identified in the original
10 development-of-regional-impact review.

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

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

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

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

31

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

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

16 Section 26. Paragraphs (d) and (f) of subsection (3)
17 of section 380.0651, Florida Statutes, are amended to read:

18 380.0651 Statewide guidelines and standards.--

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

23 (d) Office development.--Any proposed office building
24 or park operated under common ownership, development plan, or
25 management that:

26 1. Encompasses 300,000 or more square feet of gross
27 floor area; or

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

29 2.3. Encompasses more than 600,000 square feet of
30 gross floor area in a county with a population greater than
31 500,000 and only in a geographic area specifically designated

1 as highly suitable for increased threshold intensity in the
2 approved local comprehensive plan and in the strategic
3 regional policy plan.

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

9 1. Encompasses more than 400,000 square feet of gross
10 area; or

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

12 2.3. Provides parking spaces for more than 2,500 cars.

13 Section 27. The Legislature finds that the integration
14 of the growth management system and the planning of public
15 educational facilities is a matter of great public importance.

16 Section 28. This act shall take effect upon becoming a
17 law.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 382

4 The committee substitute:

5 Deletes requirement in SB 382 that local government's amend
6 their capital improvements element and future land use plan to
7 consider water availability and include a schedule for
8 building needed water supply facilities; instead, the CS
9 requires the potable water element to include a 10-year (or
10 more) workplan for building water supply facilities that are
11 identified as necessary to serve existing and new development
12 and for which local government is responsible.

13 While SB 382 provides for an optional public schools
14 interlocal agreement and public schools facility element, the
15 CS requires all local governments and school boards to enter
16 into a public school interlocal agreement unless they qualify
17 for a waiver based on declining school population. Requires
18 DCA to establish compliance schedule from 3/1/2003 to
19 12/1/2004. States required contents of the interlocal
20 agreement.

21 Specifies that the adoption, review and challenge of the
22 interlocal agreements are outside local government
23 comprehensive planning process. Instead, DCA & DOE review the
24 agreements and DCA issues notice of intent regarding whether
25 contents of agreement consistent with requirements. DCA's
26 notice may be challenged under chapter 120; however, standing
27 to challenge notice is "affected person" standard of
28 163.3184(1)(a).

29 Provides sanctions where the interlocal agreement is not
30 timely submitted. Sanctions include withholding of revenue
31 sharing dollars by the Administration Commission of revenue
32 sharing dollars and at least 5% of state school construction
33 funds that would be available to the school district.

34 Includes qualification that the public school's interlocal
35 agreement may only establish interlocal coordination
36 procedures unless specific goals, objectives and policies
37 contained in the agreement are incorporated into the local
38 comprehensive plan.

39 Adds an additional streamlining provision for adopted
40 comprehensive plan amendments where an affected person did not
41 object to the amendment nor did DCA review or raise objections
42 to the amendment, and the amendment has remained unchanged
43 from original transmittal to DCA. For these amendments, DCA
44 has 20 days to issue a notice that the plan amendment is in
45 compliance, rather than the 45 day period set forth in current
46 law.

47 Adds identical language in s. 235.193, F.S., regarding the
48 public school interlocal agreement as is contained in s.
49 163.31777, F.S., including contents of agreement, procedure
50 for waiver, sanctions, and limitations on the use of
51 agreement.

1 Requires local governments and special districts within
2 counties with a population greater than 100,000 to submit to
3 the Department of Community Affairs, by January 1, 2004, an
4 inventory of existing or proposed interlocal service-delivery
5 agreements, identifying any deficits or duplication in the
6 provision of services. By 2/1/2003, cities and counties shall
7 submit recommendations regarding annexation law to the Florida
8 Legislature.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31