

CHAMBER ACTION

1 The State Infrastructure Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to growth management; amending s.
7 163.3164, F.S.; revising a definition; amending s.
8 163.3177, F.S.; correcting a cross-reference; amending s.
9 163.31777, F.S.; revising requirements and procedures for
10 public schools interlocal agreements; amending s.
11 163.3180, F.S.; revising concurrency requirements and
12 procedures; providing sanctions; amending ss. 163.3184 and
13 339.2819, F.S.; correcting cross-references; amending s.
14 339.55, F.S.; deleting an annual appropriation from the
15 State Transportation Trust Fund for State Infrastructure
16 Bank purposes; amending s. 380.06, F.S.; revising certain
17 statutory exemption provisions for developments of
18 regional impact; amending s. 1013.33, F.S.; revising
19 requirements and procedures for coordination of planning
20 with local governing bodies; amending s. 1013.65, F.S.;
21 revising provisions relating to sources of appropriations
22 to the Public Education Capital Outlay and Debt Service
23 Trust Fund to delete an annual appropriation to the

HB 7167 CS

2006
CS

24 Classroom for Kids Program; amending s. 27, ch. 2005-290,
25 Laws of Florida; revising an appropriation from the State
26 Transportation Trust Fund for Florida Strategic Intermodal
27 System purposes; providing an effective date.

28

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

30

31 Section 1. Subsection (32) of section 163.3164, Florida
32 Statutes, is amended to read:

33 163.3164 Local Government Comprehensive Planning and Land
34 Development Regulation Act; definitions.--As used in this act:

35 (32) "Financial feasibility" means that sufficient
36 revenues are currently available or will be available from
37 committed funding sources for the first 3 years, or will be
38 available from committed or planned funding sources for years 4
39 and 5, of a 5-year capital improvement schedule for financing
40 capital improvements, such as ad valorem taxes, bonds, state and
41 federal funds, tax revenues, impact fees, and developer
42 contributions, which are adequate to fund the projected costs of
43 the capital improvements identified in the comprehensive plan
44 necessary to ensure that adopted level-of-service standards are
45 achieved and maintained within the period covered by the 5-year
46 schedule of capital improvements. The requirement that level-of-
47 service standards be achieved and maintained shall not apply if
48 the proportionate fair-share mitigation ~~proportionate share~~
49 process set forth in s. 163.3180(12) and (16) is used.

50 Section 2. Paragraph (c) of subsection (13) of section
51 163.3177, Florida Statutes, is amended to read:

HB 7167 CS

2006
CS

52 | 163.3177 Required and optional elements of comprehensive
53 | plan; studies and surveys.--

54 | (13) Local governments are encouraged to develop a
55 | community vision that provides for sustainable growth,
56 | recognizes its fiscal constraints, and protects its natural
57 | resources. At the request of a local government, the applicable
58 | regional planning council shall provide assistance in the
59 | development of a community vision.

60 | (c) As part of the workshops and public meetings, the
61 | local government must discuss strategies for addressing the
62 | topics discussed under paragraph (b), including:

63 | 1. Strategies to preserve open space and environmentally
64 | sensitive lands, and to encourage a healthy agricultural
65 | economy, including innovative planning and development
66 | strategies, such as the transfer of development rights;

67 | 2. Incentives for mixed-use development, including
68 | increased height and intensity standards for buildings that
69 | provide residential use in combination with office or commercial
70 | space;

71 | 3. Incentives for workforce housing;

72 | 4. Designation of an urban service boundary pursuant to
73 | subsection (14) ~~(2)~~; and

74 | 5. Strategies to provide mobility within the community and
75 | to protect the Strategic Intermodal System, including the
76 | development of a transportation corridor management plan under
77 | s. 337.273.

HB 7167 CS

2006
CS

78 Section 3. Subsections (1) and (2), paragraph (a) of
79 subsection (3), and subsection (4) of section 163.31777, Florida
80 Statutes, are amended to read:

81 163.31777 Public schools interlocal agreement.--

82 (1) (a) The district school board, county, and nonexempt
83 municipalities located within the geographic area of a school
84 district shall enter into an interlocal agreement ~~with the~~
85 ~~district school board~~ which jointly establishes the specific
86 ways in which the plans and processes of the district school
87 board and the local governments are to be coordinated. The
88 ~~interlocal agreements shall be submitted to the state land~~
89 ~~planning agency and the Office of Educational Facilities and the~~
90 ~~SMART Schools Clearinghouse in accordance with a schedule~~
91 ~~published by the state land planning agency.~~

92 ~~(b) The schedule must establish staggered due dates for~~
93 ~~submission of interlocal agreements that are executed by both~~
94 ~~the local government and the district school board, commencing~~
95 ~~on March 1, 2003, and concluding by December 1, 2004, and must~~
96 ~~set the same date for all governmental entities within a school~~
97 ~~district. However, if the county where the school district is~~
98 ~~located contains more than 20 municipalities, the state land~~
99 ~~planning agency may establish staggered due dates for the~~
100 ~~submission of interlocal agreements by these municipalities. The~~
101 ~~schedule must begin with those areas where both the number of~~
102 ~~districtwide capital outlay full-time equivalent students equals~~
103 ~~80 percent or more of the current year's school capacity and the~~
104 ~~projected 5-year student growth is 1,000 or greater, or where~~

HB 7167 CS

2006
CS

105 | ~~the projected 5-year student growth rate is 10 percent or~~
106 | ~~greater.~~

107 | **(b)**~~(e)~~ If the student population has declined over the 5-
108 | year period preceding the due date for submittal of an
109 | interlocal agreement by the local government and the district
110 | school board, the local government and the district school board
111 | may petition the state land planning agency for a waiver of one
112 | or more requirements of subsection (2). The waiver must be
113 | granted if the procedures called for in subsection (2) are
114 | unnecessary because of the school district's declining school
115 | age population, considering the district's 5-year facilities
116 | work program prepared pursuant to s. 1013.35. The state land
117 | planning agency may modify or revoke the waiver upon a finding
118 | that the conditions upon which the waiver was granted no longer
119 | exist. The district school board and local governments must
120 | submit an interlocal agreement within 1 year after notification
121 | by the state land planning agency that the conditions for a
122 | waiver no longer exist.

123 | **(c)**~~(d)~~ ~~Interlocal agreements between local governments and~~
124 | ~~district school boards adopted pursuant to s. 163.3177 before~~
125 | ~~the effective date of this section must be updated and executed~~
126 | ~~pursuant to the requirements of this section, if necessary.~~
127 | ~~Amendments to interlocal agreements adopted pursuant to this~~
128 | ~~section must be submitted to the state land planning agency~~
129 | ~~within 30 days after execution by the parties for review~~
130 | ~~consistent with this section.~~ Local governments and the district
131 | school board in each school district are encouraged to adopt a
132 | single updated interlocal agreement to which all join as

HB 7167 CS

2006
CS

133 parties. The state land planning agency shall assemble and make
 134 available model interlocal agreements meeting the requirements
 135 of this section and notify local governments and, jointly with
 136 the Department of Education, the district school boards of the
 137 requirements of this section, the dates for compliance, and the
 138 sanctions for noncompliance. The state land planning agency
 139 shall be available to informally review proposed interlocal
 140 agreements. If the state land planning agency has not received a
 141 proposed interlocal agreement for informal review, the state
 142 land planning agency shall, at least 60 days before the deadline
 143 for submission of the executed agreement, renotify the local
 144 government and the district school board of the upcoming
 145 deadline and the potential for sanctions.

146 (2) The interlocal agreement must acknowledge the school
 147 board's constitutional and statutory obligations to provide a
 148 uniform system of free public schools on a countywide basis and
 149 the land use authority of local governments, including the
 150 authority to approve or deny comprehensive plan amendments and
 151 development orders. ~~At a minimum,~~ The interlocal agreement must
 152 ~~address interlocal agreement requirements in s. 163.3180(13)(g),~~
 153 ~~except for exempt local governments as provided in s.~~
 154 ~~163.3177(12), and must~~ address the following issues:

155 (a) Mechanisms for coordinating the development, adoption,
 156 and amendment of each local government's public school
 157 facilities element with each other local government that is a
 158 party to the agreements and the plans of the school board to
 159 ensure a uniform districtwide school concurrency system.

HB 7167 CS

2006
CS

160 (b) A process for developing siting criteria that
161 encourages the location of public schools proximate to urban
162 residential areas to the extent possible and seeks to collocate
163 schools with other public facilities, including, but not limited
164 to, parks, libraries, and community centers, to the extent
165 possible.

166 (c) Uniform, districtwide, level-of-service standards for
167 public schools of the same type and a process for modifying
168 adopted level-of-service standards.

169 (d) A process for establishing a financially feasible
170 public school capital facilities program and a process and
171 schedule for incorporation of the public school capital
172 facilities program into the local government comprehensive plans
173 on an annual basis.

174 (e) If school concurrency is to be applied on a less than
175 districtwide basis in the form of concurrency service areas,
176 criteria and standards for the establishment and modification of
177 school concurrency service areas. The agreement must ensure
178 maximum use of school capacity, taking into account
179 transportation costs and court-approved desegregation plans and
180 other applicable factors.

181 (f) A uniform districtwide procedure for implementing
182 school concurrency that provides for:

183 1. Evaluation of development applications for compliance
184 with school concurrency requirements, including, but not limited
185 to, information provided by the school board on affected
186 schools.

HB 7167 CS

2006
CS

187 2. Monitoring and evaluation of the school concurrency
188 system.

189 (g) A process and uniform methodology for determining
190 proportionate fair-share mitigation pursuant to s. 380.06.

191 (h)~~(a)~~ A process by which each local government and the
192 district school board agree and base their plans on consistent
193 projections of the amount, type, and distribution of population
194 growth and student enrollment. The geographic distribution of
195 jurisdiction-wide growth forecasts is a major objective of the
196 process.

197 (i)~~(b)~~ A process to coordinate and share information
198 relating to existing and planned public school facilities,
199 including school renovations and closures, and local government
200 plans for development and redevelopment.

201 (j)~~(c)~~ Participation by affected local governments with
202 the district school board in the process of evaluating potential
203 school closures, significant renovations to existing schools,
204 and new school site selection before land acquisition. Local
205 governments shall advise the district school board as to the
206 consistency of the proposed closure, renovation, or new site
207 with the local comprehensive plan, including appropriate
208 circumstances and criteria under which a district school board
209 may request an amendment to the comprehensive plan for school
210 siting.

211 (k)~~(d)~~ A process for determining the need for and timing
212 of onsite and offsite improvements to support new, proposed
213 expansion, or redevelopment of existing schools. The process

HB 7167 CS

2006
CS

214 must address identification of the party or parties responsible
215 for the improvements.

216 ~~(e) A process for the school board to inform the local~~
217 ~~government regarding the effect of comprehensive plan amendments~~
218 ~~on school capacity. The capacity reporting must be consistent~~
219 ~~with laws and rules relating to measurement of school facility~~
220 ~~capacity and must also identify how the district school board~~
221 ~~will meet the public school demand based on the facilities work~~
222 ~~program adopted pursuant to s. 1013.35.~~

223 (l)~~(f)~~ Participation of the local governments in the
224 preparation of the annual update to the district school board's
225 5-year district facilities work program and educational plant
226 survey prepared pursuant to s. 1013.35.

227 (m)~~(g)~~ A process for determining where and how joint use
228 of either school board or local government facilities can be
229 shared for mutual benefit and efficiency.

230 (n)~~(h)~~ A procedure for the resolution of disputes between
231 the district school board and local governments, which may
232 include the dispute resolution processes contained in chapters
233 164 and 186.

234 (o)~~(i)~~ An oversight process, including an opportunity for
235 public participation, for the implementation of the interlocal
236 agreement.

237 (p) A process for development of a public school
238 facilities element pursuant to s. 163.3177(12).

239 (q) Provisions for siting and modification or enhancements
240 to existing school facilities so as to encourage urban infill
241 and redevelopment.

HB 7167 CS

2006
CS

242 (r) A process for the use and conversion of historic
243 school facilities that are no longer suitable for educational
244 purposes, as determined by the district school board.

245 (s) A process for informing the local government regarding
246 the effect of comprehensive plan amendments and rezonings on
247 school capacity. The capacity reporting must be consistent with
248 laws and rules relating to measurement of school facility
249 capacity and must also identify how the district school board
250 will meet the public school demand based on the facilities work
251 program adopted pursuant to s. 1013.35.

252 (t) A process to ensure an opportunity for the school
253 board to review and comment on the effect of comprehensive plan
254 amendments and rezonings on the public school facilities plan.

255
256 For those local governments that receive a waiver pursuant to
257 subsection (1), the interlocal agreement shall not include the
258 issues provided for in paragraphs (a), (c), (d), (e), (f), (g),
259 and (p). For counties or municipalities that do not have a
260 public school interlocal agreement or public school facility
261 element, the assessment shall determine whether the local
262 government continues to meet the criteria of s. 163.3177(12). If
263 a county or municipality determines that it no longer meets the
264 criteria, the county or municipality must adopt appropriate
265 school concurrency goals, objectives, and policies in its plan
266 amendments pursuant to the requirements of the public school
267 facility element and enter into the existing interlocal
268 agreement required by this section and s. 173.3177(6)(h)2. in
269 order to fully participate in the school concurrency system.

HB 7167 CS

2006
CS

270 (3) (a) The updated interlocal agreement adopted pursuant
271 to the schedule adopted in accordance with s. 163.3177(12) (i)
272 and any subsequent amendments must be submitted to the state
273 land planning agency and the Office of Educational Facilities
274 within 30 days after execution by the parties to the agreement
275 for review consistent with this section. The office ~~and SMART~~
276 ~~Schools Clearinghouse~~ shall submit any comments or concerns
277 regarding the executed interlocal agreement or agreement
278 amendments to the state land planning agency within 30 days
279 after receipt of the executed interlocal agreement or agreement
280 amendments. The state land planning agency shall review the
281 updated executed interlocal agreement or agreement amendments to
282 determine whether they are ~~it is~~ consistent with the
283 requirements of subsection (2), the adopted local government
284 comprehensive plan, and other requirements of law. Within 60
285 days after receipt of an updated executed interlocal agreement
286 or agreement amendments, the state land planning agency shall
287 publish a notice on the agency's Internet website that states ~~of~~
288 ~~intent in the Florida Administrative Weekly and shall post a~~
289 ~~copy of the notice on the agency's Internet site. The notice of~~
290 ~~intent must state~~ whether the interlocal agreement is consistent
291 or inconsistent with the requirements of subsection (2) and this
292 subsection, as appropriate.

293 (4) If an updated executed interlocal agreement is not
294 timely submitted to the state land planning agency for review,
295 the state land planning agency shall, within 15 working days
296 after the deadline for submittal, issue to the local government
297 and the district school board a Notice to Show Cause why

HB 7167 CS

2006
CS

298 sanctions should not be imposed for failure to submit an
299 executed interlocal agreement by the deadline established by the
300 agency. The agency shall forward the notice and the responses to
301 the Administration Commission, which may enter a final order
302 citing the failure to comply and imposing sanctions against the
303 local government and district school board by directing the
304 appropriate agencies to withhold at least 5 percent of state
305 funds pursuant to s. 163.3184(11) and by directing the
306 Department of Education to withhold from the district school
307 board at least 5 percent of funds for school construction
308 available pursuant to ss. 1013.65, 1013.68, 1013.70, and
309 1013.72.

310 Section 4. Paragraph (c) of subsection (2), paragraph (f)
311 of subsection (5), subsection (7), paragraphs (e), (f), (g), and
312 (h) of subsection (13), and paragraphs (a), (b), (c), (e), and
313 (f) of subsection (16) of section 163.3180, Florida Statutes,
314 are amended to read:

315 163.3180 Concurrency.--

316 (2)

317 (c) Consistent with the public welfare, and except as
318 otherwise provided in this section, transportation facilities
319 needed to serve new development shall be in place or under
320 actual construction within 3 years after the local government
321 approves a building permit or its functional equivalent that
322 results in traffic generation. For purposes of this paragraph
323 and all provisions relating to transportation concurrency, if
324 the construction funding needed for facilities is provided in
325 the first 3 years of the Department of Transportation's work

HB 7167 CS

2006
CS

326 program or the local government's schedule of capital
327 improvements, the under-actual-construction requirements of this
328 paragraph shall be deemed to have been met.

329 (5)

330 (f) Prior to the designation of a concurrency exception
331 area, the Department of Transportation shall be consulted by the
332 local government to assess the impact that the proposed
333 exception area is expected to have on the adopted level-of-
334 service standards established for Strategic Intermodal System
335 facilities, as defined in s. 339.64, and roadway facilities
336 funded in accordance with s. 339.2819. Further, the local
337 government shall, in cooperation with the Department of
338 Transportation, develop a plan to mitigate ~~any~~ impacts to the
339 Strategic Intermodal System, including, if appropriate, the
340 development of a long-term concurrency management system
341 pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions
342 may be available only within the specific geographic area of the
343 jurisdiction designated in the plan. Pursuant to s. 163.3184,
344 any affected person may challenge a plan amendment establishing
345 these guidelines and the areas within which an exception could
346 be granted. By October 1, 2006, the Department of
347 Transportation, after publicly noticed workshops, shall publish
348 and distribute to local governments a policy guideline
349 containing criteria and options to assist local governments in
350 planning to assess and mitigate the impacts of a proposed
351 concurrency exception area as described in this paragraph.

352 (7) In order to promote infill development and
353 redevelopment, one or more transportation concurrency management

HB 7167 CS

2006
CS

354 areas may be designated in a local government comprehensive
355 plan. A transportation concurrency management area must be a
356 compact geographic area with an existing network of roads where
357 multiple, viable alternative travel paths or modes are available
358 for common trips. A local government may establish an areawide
359 level-of-service standard for such a transportation concurrency
360 management area based upon an analysis that provides for a
361 justification for the areawide level of service, how urban
362 infill development or redevelopment will be promoted, and how
363 mobility will be accomplished within the transportation
364 concurrency management area. Prior to the designation of a
365 concurrency management area, the Department of Transportation
366 shall be consulted by the local government to assess the impact
367 that the proposed concurrency management area is expected to
368 have on the adopted level-of-service standards established for
369 Strategic Intermodal System facilities, as defined in s. 339.64,
370 and roadway facilities funded in accordance with s. 339.2819.
371 Further, the local government shall, in cooperation with the
372 Department of Transportation, develop a plan to mitigate any
373 impacts to the Strategic Intermodal System, including, if
374 appropriate, the development of a long-term concurrency
375 management system pursuant to subsection (9) and s.
376 163.3177(3)(d). Transportation concurrency management areas
377 existing prior to July 1, 2005, shall meet, at a minimum, the
378 provisions of this section by July 1, 2006, or at the time of
379 the comprehensive plan update pursuant to the evaluation and
380 appraisal report, whichever occurs last. The state land planning
381 agency shall amend chapter 9J-5, Florida Administrative Code, to

HB 7167 CS

2006
CS

382 | be consistent with this subsection. By October 1, 2006, the
383 | Department of Transportation, after publicly noticed workshops,
384 | shall publish and distribute to local governments a policy
385 | guideline containing criteria and options to assist local
386 | governments in planning to assess and mitigate the impacts of a
387 | proposed concurrency management area as described in this
388 | paragraph.

389 | (13) School concurrency shall be established on a
390 | districtwide basis and shall include all public schools in the
391 | district and all portions of the district, whether located in a
392 | municipality or an unincorporated area unless exempt from the
393 | public school facilities element pursuant to s. 163.3177(12).
394 | The application of school concurrency to development shall be
395 | based upon the adopted comprehensive plan, as amended. All local
396 | governments within a county, except as provided in paragraph
397 | (f), shall adopt and transmit to the state land planning agency
398 | the necessary plan amendments, along with the interlocal
399 | agreement, for a compliance review pursuant to s. 163.3184(7)
400 | and (8). The minimum requirements for school concurrency are the
401 | following:

402 | (e) Availability standard.--Consistent with the public
403 | welfare, a local government may not deny an application for site
404 | plan, final subdivision approval, or the functional equivalent
405 | for a development or phase of a development authorizing
406 | residential development for failure to achieve and maintain the
407 | level-of-service standard for public school capacity in a local
408 | school concurrency management system where adequate school
409 | facilities will be in place or under actual construction within

HB 7167 CS

2006
CS

410 3 years after the issuance of final subdivision or site plan
411 approval, or the functional equivalent. School concurrency shall
412 be satisfied if the developer executes a legally binding
413 commitment to provide proportionate fair-share mitigation
414 against ~~proportionate~~ to the demand for public school facilities
415 to be created by actual development of the property, including,
416 but not limited to, the options described in subparagraph 1.
417 Options for proportionate fair-share ~~proportionate-share~~
418 mitigation of impacts on public school facilities shall be
419 established in the public school facilities element and the
420 interlocal agreement pursuant to s. 163.31777.

421 1. Appropriate proportionate fair-share mitigation options
422 include the contribution of land; the construction, expansion,
423 or payment for land acquisition or construction of a public
424 school facility; or the creation of mitigation banking based on
425 the construction of a public school facility in exchange for the
426 right to sell capacity credits. Such options must include
427 execution by the applicant and the local government of a binding
428 development agreement that constitutes a legally binding
429 commitment to pay proportionate fair-share ~~proportionate-share~~
430 mitigation for the additional residential units approved by the
431 local government in a development order and actually developed
432 on the property, taking into account residential density allowed
433 on the property prior to the plan amendment that increased
434 overall residential density. The district school board shall be
435 a party to such an agreement. As a condition of its entry into
436 such a development agreement, the local government may require

HB 7167 CS

2006
CS

437 the landowner to agree to continuing renewal of the agreement
438 upon its expiration.

439 2. If the education facilities plan and the public
440 educational facilities element authorize a contribution of land;
441 the construction, expansion, or payment for land acquisition; or
442 the construction or expansion of a public school facility, or a
443 portion thereof, as proportionate fair-share ~~proportionate share~~
444 mitigation, the local government shall credit such a
445 contribution, construction, expansion, or payment toward any
446 other impact fee or exaction imposed by local ordinance for the
447 same need, on a dollar-for-dollar basis at fair market value.

448 3. Any proportionate fair-share ~~proportionate share~~
449 mitigation must be directed by the school board toward a school
450 capacity improvement identified in a financially feasible 5-year
451 district work plan and which satisfies the demands created by
452 that development in accordance with a binding developer's
453 agreement.

454 4. This paragraph does not limit the authority of a local
455 government to deny a development permit or its functional
456 equivalent pursuant to its home rule regulatory powers, except
457 as provided in this part.

458 (f) Intergovernmental coordination.--

459 1. When establishing concurrency requirements for public
460 schools, a local government shall satisfy the requirements for
461 intergovernmental coordination set forth in s. 163.3177(6)(h)1.
462 and 2., except that a municipality is not required to be a
463 signatory to the interlocal agreement required by ss.
464 163.3177(6)(h)2. and 163.31777(~~6~~), as a prerequisite for

HB 7167 CS

2006
CS

465 imposition of school concurrency, and as a nonsignatory, shall
466 not participate in the adopted local school concurrency system,
467 if the municipality meets all of the following criteria for
468 having no significant impact on school attendance:

469 a. The municipality has issued development orders for
470 fewer than 50 residential dwelling units during the preceding 5
471 years, or the municipality has generated fewer than 25
472 additional public school students during the preceding 5 years.

473 b. The municipality has not annexed new land during the
474 preceding 5 years in land use categories which permit
475 residential uses that will affect school attendance rates.

476 c. The municipality has no public schools located within
477 its boundaries.

478 d. At least 80 percent of the developable land within the
479 boundaries of the municipality has been built upon.

480 2. A municipality which qualifies as having no significant
481 impact on school attendance pursuant to the criteria of
482 subparagraph 1. must review and determine at the time of its
483 evaluation and appraisal report pursuant to s. 163.3191 whether
484 it continues to meet the criteria pursuant to s. 163.3177(6).
485 If the municipality determines that it no longer meets the
486 criteria, it must adopt appropriate school concurrency goals,
487 objectives, and policies in its plan amendments based on the
488 evaluation and appraisal report, and enter into the existing
489 interlocal agreement required by ss. 163.3177(6)(h)2. and
490 163.31777, in order to fully participate in the school
491 concurrency system. If such a municipality fails to do so, it
492 will be subject to the enforcement provisions of s. 163.3191.

493 ~~(g) Interlocal agreement for school concurrency. When~~
494 ~~establishing concurrency requirements for public schools, a~~
495 ~~local government must enter into an interlocal agreement that~~
496 ~~satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and~~
497 ~~163.31777 and the requirements of this subsection. The~~
498 ~~interlocal agreement shall acknowledge both the school board's~~
499 ~~constitutional and statutory obligations to provide a uniform~~
500 ~~system of free public schools on a countywide basis, and the~~
501 ~~land use authority of local governments, including their~~
502 ~~authority to approve or deny comprehensive plan amendments and~~
503 ~~development orders. The interlocal agreement shall be submitted~~
504 ~~to the state land planning agency by the local government as a~~
505 ~~part of the compliance review, along with the other necessary~~
506 ~~amendments to the comprehensive plan required by this part. In~~
507 ~~addition to the requirements of ss. 163.3177(6)(h) and~~
508 ~~163.31777, the interlocal agreement shall meet the following~~
509 ~~requirements:~~

510 ~~1. Establish the mechanisms for coordinating the~~
511 ~~development, adoption, and amendment of each local government's~~
512 ~~public school facilities element with each other and the plans~~
513 ~~of the school board to ensure a uniform districtwide school~~
514 ~~concurrency system.~~

515 ~~2. Establish a process for the development of siting~~
516 ~~criteria which encourages the location of public schools~~
517 ~~proximate to urban residential areas to the extent possible and~~
518 ~~seeks to collocate schools with other public facilities such as~~
519 ~~parks, libraries, and community centers to the extent possible.~~

520 ~~3. Specify uniform, districtwide level of service~~
521 ~~standards for public schools of the same type and the process~~
522 ~~for modifying the adopted level of service standards.~~

523 ~~4. Establish a process for the preparation, amendment, and~~
524 ~~joint approval by each local government and the school board of~~
525 ~~a public school capital facilities program which is financially~~
526 ~~feasible, and a process and schedule for incorporation of the~~
527 ~~public school capital facilities program into the local~~
528 ~~government comprehensive plans on an annual basis.~~

529 ~~5. Define the geographic application of school~~
530 ~~concurrency. If school concurrency is to be applied on a less~~
531 ~~than districtwide basis in the form of concurrency service~~
532 ~~areas, the agreement shall establish criteria and standards for~~
533 ~~the establishment and modification of school concurrency service~~
534 ~~areas. The agreement shall also establish a process and schedule~~
535 ~~for the mandatory incorporation of the school concurrency~~
536 ~~service areas and the criteria and standards for establishment~~
537 ~~of the service areas into the local government comprehensive~~
538 ~~plans. The agreement shall ensure maximum utilization of school~~
539 ~~capacity, taking into account transportation costs and court-~~
540 ~~approved desegregation plans, as well as other factors. The~~
541 ~~agreement shall also ensure the achievement and maintenance of~~
542 ~~the adopted level of service standards for the geographic area~~
543 ~~of application throughout the 5 years covered by the public~~
544 ~~school capital facilities plan and thereafter by adding a new~~
545 ~~fifth year during the annual update.~~

546 ~~6. Establish a uniform districtwide procedure for~~
547 ~~implementing school concurrency which provides for:~~

HB 7167 CS

2006
CS

548 ~~a. The evaluation of development applications for~~
549 ~~compliance with school concurrency requirements, including~~
550 ~~information provided by the school board on affected schools,~~
551 ~~impact on levels of service, and programmed improvements for~~
552 ~~affected schools and any options to provide sufficient capacity;~~

553 ~~b. An opportunity for the school board to review and~~
554 ~~comment on the effect of comprehensive plan amendments and~~
555 ~~rezonings on the public school facilities plan; and~~

556 ~~c. The monitoring and evaluation of the school concurrency~~
557 ~~system.~~

558 ~~7. Include provisions relating to amendment of the~~
559 ~~agreement.~~

560 ~~8. A process and uniform methodology for determining~~
561 ~~proportionate share mitigation pursuant to subparagraph (e)1.~~

562 (g) ~~(h)~~ Local government authority.--This subsection does
563 not limit the authority of a local government to grant or deny a
564 development permit or its functional equivalent prior to the
565 implementation of school concurrency.

566 (16) It is the intent of the Legislature to provide a
567 method by which the impacts of development on transportation
568 facilities can be mitigated by the cooperative efforts of the
569 public and private sectors. The methodology used to calculate
570 proportionate fair-share mitigation under this section shall be
571 as provided for in subsection (12).

572 (a) By December 1, 2006, each local government shall adopt
573 by ordinance a methodology for assessing proportionate fair-
574 share mitigation options. A local government that fails to adopt
575 a methodology for assessing proportionate fair-share mitigation

HB 7167 CS

2006
CS

576 options by December 1, 2006, shall be subject to the sanctions
577 described in s. 163.3184(11)(a) imposed by the Administration
578 Commission. By December 1, 2005, the Department of
579 Transportation shall develop a model transportation concurrency
580 management ordinance with methodologies for assessing
581 proportionate fair-share mitigation options.

582 (b)1. In its transportation concurrency management system,
583 a local government shall, by December 1, 2006, include
584 methodologies that will be applied to calculate proportionate
585 fair-share mitigation. A local government that fails to include
586 such methodologies by December 1, 2006, shall be subject to the
587 sanctions described in s. 163.3184(11)(a) imposed by the
588 Administration Commission. A developer may choose to satisfy all
589 transportation concurrency requirements by contributing or
590 paying proportionate fair-share mitigation if transportation
591 facilities or facility segments identified as mitigation for
592 traffic impacts are specifically identified for funding in the
593 5-year schedule of capital improvements in the capital
594 improvements element of the local plan or the long-term
595 concurrency management system or if such contributions or
596 payments to such facilities or segments are reflected in the 5-
597 year schedule of capital improvements in the next regularly
598 scheduled update of the capital improvements element. Updates to
599 the 5-year capital improvements element which reflect
600 proportionate fair-share contributions may not be found not in
601 compliance based on ss. 163.3164(32) ~~163.164(32)~~ and 163.3177(3)
602 if additional contributions, payments or funding sources are

HB 7167 CS

2006
CS

603 reasonably anticipated during a period not to exceed 10 years to
604 fully mitigate impacts on the transportation facilities.

605 2. Proportionate fair-share mitigation shall be applied as
606 a credit against impact fees to the extent that all or a portion
607 of the proportionate fair-share mitigation is used to address
608 the same capital infrastructure improvements contemplated by the
609 local government's impact fee ordinance.

610 (c) Proportionate fair-share mitigation includes, without
611 limitation, separately or collectively, private funds,
612 contributions of land, and construction and contribution of
613 facilities and may include public funds as determined by the
614 local government. The fair market value of the proportionate
615 fair-share mitigation shall not differ based on the form of
616 mitigation. A local government may not require a development to
617 pay more than its proportionate fair-share mitigation
618 ~~contribution~~ regardless of the method of mitigation.

619 (e) Mitigation for development impacts to facilities on
620 the Strategic Intermodal System made pursuant to this subsection
621 requires the concurrence of the Department of Transportation.
622 The department has 60 days from the date of submission by the
623 applicable local government to concur or withhold concurrence
624 with the mitigation of development impacts to facilities on the
625 Strategic Intermodal System. If the department does not respond
626 within the 60-day period, the department is deemed to have
627 concurred with the mitigation.

628 (f) If ~~In the event~~ the funds in an adopted 5-year capital
629 improvements element are insufficient to fully fund construction
630 of a transportation improvement required by the local

HB 7167 CS

2006
CS

631 government's concurrency management system, a local government
 632 and a developer may still enter into a binding proportionate
 633 fair-share mitigation ~~proportionate-share~~ agreement authorizing
 634 the developer to construct that amount of development on which
 635 the proportionate fair-share mitigation ~~proportionate share~~ is
 636 calculated if the proportionate fair-share mitigation
 637 ~~proportionate share~~ amount in such agreement is sufficient to
 638 pay for one or more improvements which will, in the opinion of
 639 the governmental entity or entities maintaining the
 640 transportation facilities, significantly benefit the impacted
 641 transportation system. The improvement or improvements funded by
 642 the proportionate fair-share mitigation ~~proportionate share~~
 643 component must be adopted into the 5-year capital improvements
 644 schedule of the comprehensive plan at the next annual capital
 645 improvements element update.

646 Section 5. Subsection (17) of section 163.3184, Florida
 647 Statutes, is amended to read:

648 163.3184 Process for adoption of comprehensive plan or
 649 plan amendment.--

650 (17) A local government that has adopted a community
 651 vision and urban service boundary under s. 163.3177(13)
 652 ~~163.31773(13)~~ and (14) may adopt a plan amendment related to map
 653 amendments solely to property within an urban service boundary
 654 in the manner described in subsections (1), (2), (7), (14),
 655 (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3.,
 656 such that state and regional agency review is eliminated. The
 657 department may not issue an objections, recommendations, and
 658 comments report on proposed plan amendments or a notice of

HB 7167 CS

2006
CS

659 | intent on adopted plan amendments; however, affected persons, as
660 | defined by paragraph (1)(a), may file a petition for
661 | administrative review pursuant to the requirements of s.
662 | 163.3187(3)(a) to challenge the compliance of an adopted plan
663 | amendment. This subsection does not apply to any amendment
664 | within an area of critical state concern, to any amendment that
665 | increases residential densities allowable in high-hazard coastal
666 | areas as defined in s. 163.3178(2)(h), or to a text change to
667 | the goals, policies, or objectives of the local government's
668 | comprehensive plan. Amendments submitted under this subsection
669 | are exempt from the limitation on the frequency of plan
670 | amendments in s. 163.3187.

671 | Section 6. Paragraph (a) of subsection (4) of section
672 | 339.2819, Florida Statutes, is amended to read:

673 | 339.2819 Transportation Regional Incentive Program.--

674 | (4)(a) Projects to be funded with Transportation Regional
675 | Incentive Program funds shall, at a minimum:

676 | 1. Support those transportation facilities that serve
677 | national, statewide, or regional functions and function as an
678 | integrated regional transportation system.

679 | 2. Be identified in the capital improvements element of a
680 | comprehensive plan that has been determined to be in compliance
681 | with part II of chapter 163, after July 1, 2005, or to implement
682 | a long-term concurrency management system adopted by a local
683 | government in accordance with s. 163.3180(9) ~~163.3177(9)~~.

684 | Further, the project shall be in compliance with local
685 | government comprehensive plan policies relative to corridor
686 | management.

HB 7167 CS

2006
CS

687 3. Be consistent with the Strategic Intermodal System Plan
688 developed under s. 339.64.

689 4. Have a commitment for local, regional, or private
690 financial matching funds as a percentage of the overall project
691 cost.

692 Section 7. Subsection (10) of section 339.55, Florida
693 Statutes, is amended to read:

694 339.55 State-funded infrastructure bank.--

695 ~~(10) Funds paid into the State Transportation Trust Fund~~
696 ~~pursuant to s. 201.15(1)(d) for the purposes of the State~~
697 ~~Infrastructure Bank are hereby annually appropriated for~~
698 ~~expenditure to support that program.~~

699 Section 8. Paragraphs (l), (m), and (n) of subsection (24)
700 of section 380.06, Florida Statutes, are amended to read:

701 380.06 Developments of regional impact.--

702 (24) STATUTORY EXEMPTIONS.--

703 (l) Any proposed development within an urban service
704 boundary established under s. 163.3177(14) is exempt from the
705 provisions of this section if the local government having
706 jurisdiction over the area where the development is proposed has
707 adopted the urban service boundary and has entered into a
708 binding agreement with adjacent jurisdictions and the Department
709 of Transportation regarding the mitigation of impacts on state
710 and regional transportation facilities, and has adopted a
711 proportionate fair-share mitigation ~~share~~ methodology pursuant
712 to s. 163.3180(16).

713 (m) Any proposed development within a rural land
714 stewardship area created under s. 163.3177(11)(d) is exempt from

HB 7167 CS

2006
CS

715 | the provisions of this section if the local government that has
 716 | adopted the rural land stewardship area has entered into a
 717 | binding agreement with jurisdictions that would be impacted and
 718 | the Department of Transportation regarding the mitigation of
 719 | impacts on state and regional transportation facilities, and has
 720 | adopted a proportionate fair-share mitigation ~~share~~ methodology
 721 | pursuant to s. 163.3180(16).

722 | (n) Any proposed development or redevelopment within an
 723 | area designated as an urban infill and redevelopment area under
 724 | s. 163.2517 is exempt from the provisions of this section if the
 725 | local government has entered into a binding agreement with
 726 | jurisdictions that would be impacted and the Department of
 727 | Transportation regarding the mitigation of impacts on state and
 728 | regional transportation facilities, and has adopted a
 729 | proportionate fair-share mitigation ~~share~~ methodology pursuant
 730 | to s. 163.3180(16).

731 | Section 9. Subsections (2), (3), and (12) of section
 732 | 1013.33, Florida Statutes, are amended to read:

733 | 1013.33 Coordination of planning with local governing
 734 | bodies.--

735 | (2)(a) The school board, county, and nonexempt
 736 | municipalities located within the geographic area of a school
 737 | district shall enter into an interlocal agreement that jointly
 738 | establishes the specific ways in which the plans and processes
 739 | of the district school board and the local governments are to be
 740 | coordinated. Any updated ~~The~~ interlocal agreements and agreement
 741 | amendments shall be submitted to the state land planning agency
 742 | and the Office of Educational Facilities ~~and the SMART Schools~~

HB 7167 CS

2006
CS

743 ~~Clearinghouse~~ in accordance with a schedule published by the
744 state land planning agency pursuant to s. 163.3177(12)(i).

745 ~~(b) The schedule must establish staggered due dates for~~
746 ~~submission of interlocal agreements that are executed by both~~
747 ~~the local government and district school board, commencing on~~
748 ~~March 1, 2003, and concluding by December 1, 2004, and must set~~
749 ~~the same date for all governmental entities within a school~~
750 ~~district. However, if the county where the school district is~~
751 ~~located contains more than 20 municipalities, the state land~~
752 ~~planning agency may establish staggered due dates for the~~
753 ~~submission of interlocal agreements by these municipalities. The~~
754 ~~schedule must begin with those areas where both the number of~~
755 ~~districtwide capital outlay full time equivalent students equals~~
756 ~~80 percent or more of the current year's school capacity and the~~
757 ~~projected 5 year student growth rate is 1,000 or greater, or~~
758 ~~where the projected 5 year student growth rate is 10 percent or~~
759 ~~greater.~~

760 (b)(e) If the student population has declined over the 5-
761 year period preceding the due date for submittal of an
762 interlocal agreement by the local government and the district
763 school board, the local government and district school board may
764 petition the state land planning agency for a waiver of one or
765 more of the requirements of subsection (3). The waiver must be
766 granted if the procedures called for in subsection (3) are
767 unnecessary because of the school district's declining school
768 age population, considering the district's 5-year work program
769 prepared pursuant to s. 1013.35. The state land planning agency
770 may modify or revoke the waiver upon a finding that the

HB 7167 CS

2006
CS

771 conditions upon which the waiver was granted no longer exist.
772 The district school board and local governments must submit an
773 interlocal agreement within 1 year after notification by the
774 state land planning agency that the conditions for a waiver no
775 longer exist.

776 (c) ~~(d)~~ ~~Interlocal agreements between local governments and~~
777 ~~district school boards adopted pursuant to s. 163.3177 before~~
778 ~~the effective date of subsections (2)-(9) must be updated and~~
779 ~~executed pursuant to the requirements of subsections (2)-(9), if~~
780 ~~necessary. Amendments to interlocal agreements adopted pursuant~~
781 ~~to subsections (2)-(9) must be submitted to the state land~~
782 ~~planning agency within 30 days after execution by the parties~~
783 ~~for review consistent with subsections (3) and (4). Local~~
784 ~~governments and the district school board in each school~~
785 ~~district are encouraged to adopt a single updated interlocal~~
786 ~~agreement in which all join as parties. The state land planning~~
787 ~~agency shall assemble and make available model interlocal~~
788 ~~agreements meeting the requirements of subsections (2)-(9) and~~
789 ~~shall notify local governments and, jointly with the Department~~
790 ~~of Education, the district school boards of the requirements of~~
791 ~~subsections (2)-(9), the dates for compliance, and the sanctions~~
792 ~~for noncompliance. The state land planning agency shall be~~
793 ~~available to informally review proposed interlocal agreements.~~
794 ~~If the state land planning agency has not received a proposed~~
795 ~~interlocal agreement for informal review, the state land~~
796 ~~planning agency shall, at least 60 days before the deadline for~~
797 ~~submission of the executed agreement, renotify the local~~

HB 7167 CS

2006
CS

798 government and the district school board of the upcoming
799 deadline and the potential for sanctions.

800 (3) ~~At a minimum,~~ The interlocal agreement must address
801 ~~interlocal agreement requirements in s. 163.3180(13)(g), except~~
802 ~~for exempt local governments as provided in s. 163.3177(12), and~~
803 ~~must address the following issues specified in s. 163.31777(2).~~+

804 (a) ~~A process by which each local government and the~~
805 ~~district school board agree and base their plans on consistent~~
806 ~~projections of the amount, type, and distribution of population~~
807 ~~growth and student enrollment. The geographic distribution of~~
808 ~~jurisdiction-wide growth forecasts is a major objective of the~~
809 ~~process.~~

810 (b) ~~A process to coordinate and share information relating~~
811 ~~to existing and planned public school facilities, including~~
812 ~~school renovations and closures, and local government plans for~~
813 ~~development and redevelopment.~~

814 (c) ~~Participation by affected local governments with the~~
815 ~~district school board in the process of evaluating potential~~
816 ~~school closures, significant renovations to existing schools,~~
817 ~~and new school site selection before land acquisition. Local~~
818 ~~governments shall advise the district school board as to the~~
819 ~~consistency of the proposed closure, renovation, or new site~~
820 ~~with the local comprehensive plan, including appropriate~~
821 ~~circumstances and criteria under which a district school board~~
822 ~~may request an amendment to the comprehensive plan for school~~
823 ~~siting.~~

824 (d) ~~A process for determining the need for and timing of~~
825 ~~onsite and offsite improvements to support new construction,~~

HB 7167 CS

2006
CS

826 ~~proposed expansion, or redevelopment of existing schools. The~~
827 ~~process shall address identification of the party or parties~~
828 ~~responsible for the improvements.~~

829 ~~(e) A process for the school board to inform the local~~
830 ~~government regarding the effect of comprehensive plan amendments~~
831 ~~on school capacity. The capacity reporting must be consistent~~
832 ~~with laws and rules regarding measurement of school facility~~
833 ~~capacity and must also identify how the district school board~~
834 ~~will meet the public school demand based on the facilities work~~
835 ~~program adopted pursuant to s. 1013.35.~~

836 ~~(f) Participation of the local governments in the~~
837 ~~preparation of the annual update to the school board's 5-year~~
838 ~~district facilities work program and educational plant survey~~
839 ~~prepared pursuant to s. 1013.35.~~

840 ~~(g) A process for determining where and how joint use of~~
841 ~~either school board or local government facilities can be shared~~
842 ~~for mutual benefit and efficiency.~~

843 ~~(h) A procedure for the resolution of disputes between the~~
844 ~~district school board and local governments, which may include~~
845 ~~the dispute resolution processes contained in chapters 164 and~~
846 ~~186.~~

847 ~~(i) An oversight process, including an opportunity for~~
848 ~~public participation, for the implementation of the interlocal~~
849 ~~agreement.~~

850 (12) As early in the design phase as feasible and
851 consistent with an interlocal agreement entered pursuant to
852 subsections (2)-(8), but no later than 120 ~~90~~ days before
853 commencing construction, the district school board shall in

HB 7167 CS

2006
CS

854 writing request a determination of consistency with the local
 855 government's comprehensive plan. The local governing body that
 856 regulates the use of land shall determine, in writing within 45
 857 days after receiving the necessary information and a school
 858 board's request for a determination, whether a proposed
 859 educational facility is consistent with the local comprehensive
 860 plan and consistent with local land development regulations. If
 861 the determination is affirmative, school construction may
 862 commence and further local government approvals are not
 863 required, except as provided in this section. Failure of the
 864 local governing body to make a determination in writing within
 865 90 days after a district school board's request for a
 866 determination of consistency shall be considered an approval of
 867 the district school board's application. Campus master plans and
 868 development agreements must comply with the provisions of ss.
 869 1013.30 and 1013.63.

870 Section 10. Paragraph (a) of subsection (2) of section
 871 1013.65, Florida Statutes, is amended to read:

872 1013.65 Educational and ancillary plant construction
 873 funds; Public Education Capital Outlay and Debt Service Trust
 874 Fund; allocation of funds.--

875 (2)(a) The Public Education Capital Outlay and Debt
 876 Service Trust Fund shall be comprised of the following sources,
 877 which are hereby appropriated to the trust fund:

878 1. Proceeds, premiums, and accrued interest from the sale
 879 of public education bonds and that portion of the revenues
 880 accruing from the gross receipts tax as provided by s. 9(a)(2),

HB 7167 CS

2006
CS

881 | Art. XII of the State Constitution, as amended, interest on
882 | investments, and federal interest subsidies.

883 | 2. General revenue funds appropriated to the fund for
884 | educational capital outlay purposes.

885 | 3. All capital outlay funds previously appropriated and
886 | certified forward pursuant to s. 216.301.

887 | 4.a. Funds paid pursuant to s. 201.15(1)(d).

888 | b. ~~The sum of \$41.75 million of such funds shall be~~
889 | ~~appropriated annually for expenditure to fund the Classrooms for~~
890 | ~~Kids Program created in s. 1013.735 and shall be distributed as~~
891 | ~~provided by that section.~~

892 | Section 11. Paragraph (a) of subsection (2) of section 27
893 | of chapter 2005-290, Laws of Florida, is amended to read:

894 | Section 27.

895 | (2) The following appropriations are made for the 2005-
896 | 2006 fiscal year only on a nonrecurring basis:

897 | (a) From the State Transportation Trust Fund in the
898 | Department of Transportation:

899 | 1. One hundred seventy-five ~~Two hundred~~ million dollars
900 | for the purposes specified in sections 339.61, 339.62, 339.63,
901 | and 339.64, Florida Statutes.

902 | 2. Two hundred seventy-five million dollars for the
903 | purposes specified in section 339.2819, Florida Statutes.

904 | 3. One hundred million dollars for the purposes specified
905 | in section 339.55, Florida Statutes.

906 | 4. Twenty-five million for the purposes specified in
907 | section 339.2817, Florida Statutes.

908 | Section 12. This act shall take effect July 1, 2006.