A bill to be entitled

An act relating to growth management; amending s. 163.3164, F.S.; revising definitions; amending s. 163.3177, F.S.; revising certain criteria and requirements for elements of comprehensive plans; providing criteria for determining financial feasibility of comprehensive plans; amending s. 163.3180, F.S.; revising application of concurrency requirements to public transit facilities; revising certain transportation concurrency requirements relating to concurrency exception areas, developments of regional impact, and schools; providing application to Florida Quality Developments and certain areas; revising proportionate fair-share mitigation criteria; creating s. 163.3182, F.S.; providing a short title; providing definitions; authorizing counties and municipalities to create a transportation concurrency backlog authority under certain circumstances; providing powers and responsibilities of such authorities; requiring adoption of a transportation concurrency backlog plan; specifying plan requirements; requiring such authorities to establish a trust fund for certain purposes; providing for administration of the fund; providing for funding of such trust fund by an ad valorem tax increment; exempting certain districts and taxing authorities from participating in certain transportation concurrency funding requirements; providing criteria for satisfying transportation concurrency requirements; providing for dissolution of transportation concurrency backlog

authorities; amending s. 163.3187, F.S.; revising a criterion for application of amendments to certain small scale developments; amending s. 163.3191, F.S.; providing for nonapplication of a prohibition against certain proposed plan amendments to allow for integration of a port master plan in the coastal management plan element under certain conditions; amending s. 163.3229, F.S.; extending a time limitation on duration of development agreements; creating s. 163.32465, F.S.; providing for a pilot program to provide a plan review process for certain densely developed areas; providing legislative findings; providing for exempting certain local governments from compliance review by the state land planning agency; authorizing certain municipalities to not participate in the program; providing procedures and requirements for adopting comprehensive plan amendments in such areas; requiring public hearings; providing hearing requirements; providing requirements for local government transmittal of proposed plan amendments; providing for intergovernmental review; providing for regional, county, and municipal review; providing requirements for local government review of certain comments; providing requirements for adoption and transmittal of plan amendments; providing procedures and requirements for challenges to compliance of adopted plan amendments; providing for administrative hearings; providing for applicability of program provisions; providing for technical assistance by the state land planning agency; requiring the Legislative Committee on

Intergovernmental Relations to evaluate the pilot program and prepare and submit a report to the Governor and Legislature; providing report requirements; amending s. 380.06, F.S.; extending development-of-regional-impact phase and buildout dates for certain projects under construction; providing that such extensions are not substantial deviations and do not subject such projects to further review; providing an effective date.

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

Section 1. Subsections (26) and (32) of section 163.3164, Florida Statutes, are amended to read:

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

(26) "Urban redevelopment" means demolition and reconstruction or substantial renovation of existing buildings or infrastructure within urban infill areas, ~~or~~ existing urban service areas, or community redevelopment areas created pursuant to part III of this chapter.

(32) "Financial feasibility" means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of

the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements. A comprehensive plan shall be deemed financially feasible for transportation and school facilities throughout the planning period addressed by the capital improvements schedule if it can be demonstrated that the level of service standards will be achieved and maintained by the end of the planning period even if in a particular year such improvements are not concurrent as required by s. 163.3180. ~~The requirement that level-of-service standards be achieved and maintained shall not apply if the proportionate share process set forth in s. 163.3180(12) and (16) is used.~~

Section 2. Subsections (2) and (3) of section 163.3177, Florida Statutes, are amended to read:

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

(2) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent, and the comprehensive plan shall be financially feasible. Financial feasibility shall be determined using professionally accepted methodologies and shall apply to the 5-year planning period, except in the case of a long-term transportation or school concurrency management system, in which case financial feasibility requirements shall apply to the 10-year period or 15-year period.

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

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

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

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

4. Standards for the management of debt.

5. A schedule of capital improvements which includes publicly funded projects, and which may include privately funded projects for which the local government has no fiscal responsibility, necessary to ensure that adopted level-of-service standards are achieved and maintained. For capital improvements that will be funded by the developer, financial feasibility shall be demonstrated by being guaranteed in an enforceable development agreement or interlocal agreement pursuant to paragraph (10)(h), or other enforceable agreement. These development agreements and interlocal agreements shall be

reflected in the schedule of capital improvements if the capital improvement is necessary to serve development within the 5-year schedule. If the local government uses planned revenue sources that require referenda or other actions to secure the revenue source, the plan must, in the event the referenda are not passed or actions do not secure the planned revenue source, identify other existing revenue sources that will be used to fund the capital projects or otherwise amend the plan to ensure financial feasibility.

6. The schedule must include transportation improvements included in the applicable metropolitan planning organization's transportation improvement program adopted pursuant to s. 339.175(7) to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. The schedule must also be coordinated with the applicable metropolitan planning organization's long-range transportation plan adopted pursuant to s. 339.175(6).

(b)1. The capital improvements element shall be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189 in order to maintain a financially feasible 5-year schedule of capital improvements. Corrections and modifications concerning costs; revenue sources; or acceptance of facilities pursuant to dedications which are consistent with the plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land planning agency. An amendment to the comprehensive plan is required to update the schedule on an annual basis or to

eliminate, defer, or delay the construction for any facility listed in the 5-year schedule. All public facilities shall be consistent with the capital improvements element. Amendments to implement this section must be adopted and transmitted no later than December 1, 2008 ~~2007~~. Thereafter, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments pursuant to s. 163.3187(1)(a), after December 1, 2008 ~~2007~~, and every year thereafter, unless and until the local government has adopted the annual update and it has been transmitted to the state land planning agency.

2. Capital improvements element amendments adopted after the effective date of this act shall require only a single public hearing before the governing board which shall be an adoption hearing as described in s. 163.3184(7). Such amendments are not subject to the requirements of s. 163.3184(3)-(6).

(c) If the local government does not adopt the required annual update to the schedule of capital improvements ~~or the annual update is found not in compliance~~, the state land planning agency must notify the Administration Commission. A local government that has a demonstrated lack of commitment to meeting its obligations identified in the capital improvements element may be subject to sanctions by the Administration Commission pursuant to s. 163.3184(11).

(d) If a local government adopts a long-term concurrency management system pursuant to s. 163.3180(9), it must also adopt a long-term capital improvements schedule covering up to a 10-year or 15-year period, and must update the long-term schedule

annually. The long-term schedule of capital improvements must be financially feasible.

(e) At the discretion of the local government and notwithstanding the requirements of this subsection, a comprehensive plan, as revised by an amendment to the plan's future land use map, shall be deemed to be financially feasible and to have achieved and maintained level-of-service standards with respect to transportation facilities as required by this section if the amendment to the future land use map is supported by:

1. A condition in a development order for a development-of-regional impact or binding agreement that addresses proportionate-share mitigation consistent with s. 163.3180(12); or

2. A binding agreement addressing proportionate fair-share mitigation consistent with s. 163.3180(16)(f) and the property subject to the amendment to the future land use map is located within an area designated in the comprehensive plan for urban infill, urban redevelopment, downtown revitalization, urban infill and redevelopment, or an urban service area. The binding agreement must be based on the maximum amount of development identified by the future land use map amendment or as may be otherwise restricted through a special area plan policy or map notation in the comprehensive plan.

Section 3. Paragraph (b) of subsection (4), subsections (5) and (12), paragraph (e) of subsection (13), and subsection (16) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.--

(4)

(b) The concurrency requirement as implemented in local comprehensive plans does not apply to public transit facilities. For the purposes of this paragraph, public transit facilities include transit stations and terminals;~~,~~ transit station parking;~~,~~ park-and-ride lots;~~,~~ intermodal public transit connection or transfer facilities;~~, and~~ fixed bus, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangars for the maintenance or storage of aircraft. As used in this paragraph, the terms "terminals" and "transit facilities" do not include ~~airports or~~ seaports or commercial or residential development constructed in conjunction with a public transit facility.

(5)(a) The Legislature finds that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the concurrency requirement for transportation facilities is the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.

(b) A local government may grant an exception from the concurrency requirement for transportation facilities if the

proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

1. Urban infill development,

2. Urban redevelopment,

3. Downtown revitalization, ~~or~~

4. Urban infill and redevelopment under s. 163.2517, or

5. An urban service area specifically designated as a transportation concurrency exception area that includes lands appropriate for compact, contiguous urban development, does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period, and is served or is planned to be served with public facilities and services as provided by the capital improvement element.

(c) The Legislature also finds that developments located within urban infill, urban redevelopment, existing urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517 which pose only special part-time demands on the transportation system should be excepted from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in

paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.

(e) The local government shall adopt into the plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment shall also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided. In addition, the strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area shall be accompanied by data and analysis justifying the size of the area.

(f) Prior to the designation of a concurrency exception area, the state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in consultation ~~cooperation~~ with the state land planning agency and the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency

management system pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.

(g) Transportation concurrency exception areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section ~~by July 1, 2006, or~~ at the time of the comprehensive plan update pursuant to the evaluation and appraisal report~~, whichever occurs last~~.

(12) ~~When authorized by a local comprehensive plan,~~ A ~~multiuse~~ development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

~~(a) The development of regional impact meets or exceeds the guidelines and standards of s. 380.0651(3)(h) and rule 28-24.032(2), Florida Administrative Code, and includes a residential component that contains at least 100 residential dwelling units or 15 percent of the applicable residential guideline and standard, whichever is greater;~~

(a)~~(b)~~ The development of regional impact, based upon its location or ~~contains an integrated~~ mix of land uses, ~~and~~ is designed to encourage pedestrian or other nonautomotive modes of transportation;

(b) ~~(c)~~ The proportionate-share contribution for local and regionally significant traffic impacts is sufficient to pay for one or more required mobility improvements that will benefit a regionally significant transportation facility;

(c) ~~(d)~~ The owner and developer of the development of regional impact pays or assures payment of the proportionate-share contribution; and

(d) ~~(e)~~ If the regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. 334.03(12), other than the local government with jurisdiction over the development of regional impact, the developer is required to enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having maintenance authority or to otherwise assure construction or improvement of the facility.

The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the

time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this subsection, "construction cost" includes all associated costs of the improvement. Proportionate-share mitigation shall be limited to ensure that a development of regional impact meeting the requirements of this subsection mitigates its impact on the transportation system but is not responsible for the cost of reducing or eliminating backlogs. This subsection applies to Florida Quality Developments pursuant to s. 380.061 and to detailed specific area plans implementing optional sector plans pursuant to s. 163.3245.

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

(e) Availability standard.--Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing

residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency shall be satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on public school facilities shall be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a binding development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased overall residential density. The district school board shall be a party to such an agreement. As

a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value. Proportionate fair-share mitigation shall be limited to ensure that a development meeting the requirements of this subsection mitigates its impact on the school system but is not responsible for the additional cost of reducing or eliminating backlogs.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement. Upon agreement that the school board will include the facility in its next regularly scheduled update of the work program, the developer may accelerate the provision of one of more schools that serve the development's capacity needs.

4. This paragraph does not limit the authority of a local government to deny a development permit or its functional

equivalent pursuant to its home rule regulatory powers, except as provided in this part.

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

(a) By December 1, 2006, each local government shall adopt by ordinance a methodology for assessing proportionate fair-share mitigation options. By December 1, 2005, the Department of Transportation shall develop a model transportation concurrency management ordinance with methodologies for assessing proportionate fair-share mitigation options.

(b)1. In its transportation concurrency management system, a local government shall, by December 1, 2006, include methodologies that will be applied to calculate proportionate fair-share mitigation. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to

the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on ss. 163.3164(32) and 163.3177(3) if additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

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

(c) Proportionate fair-share mitigation includes, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities and may include public funds as determined by the local government. Proportionate fair-share mitigation may be directed toward one or more specific transportation improvements reasonably related to the mobility demands created by the development, and such improvements may address one or more modes of travel. The fair market value of the proportionate fair-share mitigation shall not differ based on the form of mitigation. A local government may not require a development to pay more than its proportionate fair-share contribution regardless of the method of mitigation. Proportionate fair-share mitigation shall be limited to ensure that a development meeting the requirements of this subsection mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs.

(d) Nothing in this subsection shall require a local government to approve a development that is not otherwise qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

(e) Mitigation for development impacts to facilities on the Strategic Intermodal System made pursuant to this subsection requires the concurrence of the Department of Transportation.

(f) In the event the funds in an adopted 5-year capital improvements element are insufficient to fully fund construction of a transportation improvement required by the local government's concurrency management system, a local government and a developer may still enter into a binding proportionate-share agreement authorizing the developer to construct that amount of development on which the proportionate share is calculated if the proportionate-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate-share component must be adopted into the 5-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update. The funding of any improvements that significantly benefit the impacted transportation system satisfies concurrency requirements as a mitigation of the development's impact upon the overall transportation system even if there remains a failure of concurrency on other impacted facilities.

(g) Except as provided in subparagraph (b)1., nothing in this section shall prohibit the Department of Community Affairs from finding other portions of the capital improvements element amendments not in compliance as provided in this chapter.

(h) The provisions of this subsection do not apply to a ~~multiuse~~ development of regional impact satisfying the requirements of subsection (12).

Section 4. Section 163.3182, Florida Statutes, is created to read:

163.3182 Transportation concurrency.--

(1) SHORT TITLE.--This section may be cited as the "Transportation Concurrency Backlog Act."

(2) DEFINITIONS.--For purposes of this section, the term:

(a) "Authority" or "transportation concurrency backlog authority" means the governing body of a county or municipality within which an authority is created.

(b) "Debt service millage" means any millage levied pursuant to s. 12, Art. VII of the State Constitution.

(c) "Governing body" means the council, commission, or other legislative body charged with governing the county or municipality within which a transportation concurrency backlog authority is created pursuant to this section.

(d) "Increment revenue" means the amount calculated pursuant to subsection (6).

(e) "Taxing authority" means a public body that levies or is authorized to levy an ad valorem tax on real property located within a transportation concurrency backlog area.

(f) "Transportation concurrency backlog" means an

identified failure or failing of a given transportation link within any county or municipality, as identified and designated pursuant to this part, and the applicable local government comprehensive plan and related documents. Such backlog includes a failed or failing transportation link the condition of which has been caused in whole or in part by the failure to construct adequate facilities or because of the grant of a transportation concurrency exemption or exception by the responsible local government.

(g) "Transportation construction backlog area" means the geographic area within the unincorporated portion of a county or within the municipal boundary of a municipality for which a transportation concurrency backlog authority is created pursuant to this section.

(h) "Transportation concurrency backlog plan" means the plan adopted by the governing body of a county or municipality acting as a transportation concurrency backlog authority.

(i) "Transportation concurrency backlog project" means any designated transportation project identified for construction within the jurisdiction of a transportation construction backlog authority.

(3) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG AUTHORITIES.--

(a) A county or municipality may create a transportation concurrency backlog authority if the county or municipality has an identified transportation concurrency backlog.

(b) Acting as the transportation concurrency backlog authority within its jurisdictional boundary, the governing

board of each county or municipality shall adopt and implement a plan to eliminate all identified transportation concurrency backlogs within its jurisdiction using funds provided pursuant to subsection (6) and as otherwise provided pursuant to this section.

(4) POWERS OF A TRANSPORTATION CONCURRENCY BACKLOG AUTHORITY.--Each transportation concurrency backlog authority has the powers necessary or convenient to carry out the purposes of this section, including the following powers in addition to others granted in this section:

(a) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this section.

(b) To undertake and carry out transportation concurrency backlog projects for all streets, roads, and related public facilities that have a transportation concurrency backlog within the authority's jurisdiction.

(c) To invest any transportation concurrency backlog funds held in reserves, sinking funds, or any such funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds, subject to the control of the authority, and to redeem such bonds as have been issued pursuant to this section at the redemption price established in such bonds or to purchase such bonds at less than redemption price. All such bonds redeemed or purchased shall be canceled.

(d) To borrow money, apply for and accept advances, loans, grants, contributions, and any other forms of financial assistance from the Federal Government, the state, a county, or

any other public body or from any sources, public or private, for the purposes of this part; to give such security as may be required; to enter into and carry out contracts or agreements; and to include in any contracts for financial assistance with the Federal Government for or with respect to a transportation concurrency backlog project and related activities such conditions imposed pursuant to federal law as the transportation concurrency backlog authority considers reasonable and appropriate and which are not inconsistent with purposes of this section.

(e) To make or have made all surveys and plans necessary to carry out the purposes of this section; to contract with any persons, public or private, in making and carrying out such plans; and to adopt, approve, modify, or amend such transportation concurrency backlog plans.

(f) To appropriate such funds and make such expenditures as are necessary to carry out the purposes of this part; to zone or rezone any part of the transportation concurrency backlog area or make exceptions from regulations; and to enter into agreements with other public bodies, which may extend over any period, notwithstanding any provision or rule of law to the contrary.

(5) TRANSPORTATION CONCURRENCY BACKLOG PLANS.--Each transportation concurrency backlog authority shall adopt a transportation concurrency backlog plan within 6 months after the creation of the authority. The plan shall:

(a) Identify all transportation links that have been designated as failed or failing and require the expenditure of

moneys to upgrade, modify, or mitigate the links.

(b) Include a priority listing of all transportation links that have been designated as failed or failing and do not satisfy concurrency requirements as specified pursuant to this part, the applicable local government comprehensive plan, and land development regulations.

(c) Establish a schedule for financing and construction of transportation concurrency backlog projects that will eliminate transportation concurrency backlogs within the jurisdiction of the authority within 10 years after adoption of the transportation concurrency backlog plan.

A transportation concurrency backlog plan adopted by each authority is not subject to review or approval by the Department of Community Affairs.

(6) ESTABLISHMENT OF TRUST FUND.--The transportation concurrency backlog authority shall establish a transportation concurrency backlog trust fund upon creation of the authority. Each trust fund shall be administered by the transportation concurrency backlog authority within which a transportation concurrency backlog has been identified. Beginning in the first fiscal year after the creation of the authority, each trust fund shall be funded by the proceeds of an ad valorem tax increment collected within each transportation concurrency backlog area to be determined annually and which shall be an amount equal to 25 percent of the difference between:

(a) The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt

service millage, on taxable real property contained within the jurisdiction of the transportation concurrency backlog authority and within the transportation backlog area; and

(b) The amount of ad valorem taxes that would have been produced by a rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property within the transportation concurrency backlog area as shown on the most recent assessment roll used in connection with the taxation of such property by each taxing authority.

(7) EXEMPTIONS.--

(a) The following public bodies or taxing authorities are exempt from the provisions of this section:

1. A special district that levies ad valorem taxes on taxable real property in more than one county.

2. A special district for which the sole available source of revenues the district has the authority to levy at the time an ordinance is adopted under this section are ad valorem taxes. However, revenues or aid that may be dispensed or appropriated to a district as defined in s. 388.011 at the discretion of an entity other than such district shall not be deemed available.

3. A library district.

4. A neighborhood improvement district created under the Safe Neighborhoods Act.

5. A metropolitan transportation authority.

6. A water management district created under s. 373.069.

(b) A transportation concurrency backlog authority may also exempt from this section a special district that levies ad

valorem taxes within the transportation concurrency backlog area pursuant to s. 163.387(2)(d).

(8) TRANSPORTATION CONCURRENCY SATISFACTION.--Upon adoption of a transportation concurrency backlog plan by an authority, all transportation concurrency backlogs within the jurisdiction of an authority shall be deemed to be financed and fully financially feasible for purposes of calculating transportation concurrency pursuant to this part. A landowner may proceed with development of a specific parcel of land if all other applicable provisions of s. 163.3180(11) have been satisfied, and the landowner may not be assessed any proportionate share or impact fees for backlog for such development.

(9) DISSOLUTION.--Upon completion of all transportation concurrency backlog projects, a transportation concurrency backlog authority shall be dissolved and its assets and liabilities shall be transferred to the county or municipality within which the authority is located. All remaining assets of the authority shall be used to implement transportation projects within the jurisdiction of the authority.

Section 5. Paragraph (c) of subsection (1) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Amendment of adopted comprehensive plan.--

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

(c) Any local government comprehensive plan amendments directly related to proposed small scale development activities

may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan. A small scale development amendment may be adopted only under the following conditions:

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

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

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

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

(III) A maximum of 720 ~~120~~ acres in a county established pursuant to s. 9, Art. VIII of the State Constitution; however,

amendments under this paragraph may be applied to no more than 120 acres annually to property outside the designated areas specifically identified in sub-sub-subparagraph (I).

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

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

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

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

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less

per acre or the proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

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

b. The local government shall send copies of the notice and amendment to the state land planning agency, the regional planning council, and any other person or entity requesting a copy. This information shall also include a statement identifying any property subject to the amendment that is

located within a coastal high-hazard area as identified in the local comprehensive plan.

3. Small scale development amendments adopted pursuant to this paragraph require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(7), and are not subject to the requirements of s. 163.3184(3)-(6) unless the local government elects to have them subject to those requirements.

4. If the small scale development amendment involves a site within an area that is designated by the Governor as a rural area of critical economic concern under s. 288.0656(7) for the duration of such designation, the 10-acre limit listed in subparagraph 1. shall be increased by 100 percent to 20 acres. The local government approving the small scale plan amendment shall certify to the Office of Tourism, Trade, and Economic Development that the plan amendment furthers the economic objectives set forth in the executive order issued under s. 288.0656(7), and the property subject to the plan amendment shall undergo public review to ensure that all concurrency requirements and federal, state, and local environmental permit requirements are met.

Section 6. Subsection (14) is added to section 163.3191, Florida Statutes, to read:

163.3191 Evaluation and appraisal of comprehensive plan.--

(14) The prohibition on plan amendments in subsection (10) does not apply to a proposed plan amendment adopted by a local government in order to integrate a port master plan with the coastal management plan element of the local comprehensive plan,

which is required under s. 163.3178(2)(k), if the port master plan or proposed plan amendment does not cause or contribute to the local government's failure to comply with the requirements of the evaluation and appraisal report.

Section 7. Section 163.3229, Florida Statutes, is amended to read:

163.3229 Duration of a development agreement and relationship to local comprehensive plan.--The duration of a development agreement shall not exceed 20 ~~10~~ years. It may be extended by mutual consent of the governing body and the developer, subject to a public hearing in accordance with s. 163.3225. No development agreement shall be effective or be implemented by a local government unless the local government's comprehensive plan and plan amendments implementing or related to the agreement are found in compliance by the state land planning agency in accordance with s. 163.3184, s. 163.3187, or s. 163.3189.

Section 8. Section 163.32465, Florida Statutes, is created to read:

163.32465 Pilot program providing a plan review process for densely developed areas.--

(1) LEGISLATIVE FINDINGS.--The Legislature finds that local governments in this state have a wide diversity of resources, conditions, abilities, and needs. The state role in overseeing growth management should reflect these varied needs. State oversight should focus on areas in which that oversight provides the most value to the state and each local area. State efforts should include technical assistance and advice to

improve the state's and local governments' ability to respond to growth-related issues. The state should also provide oversight to ensure compliance with chapter 163 comprehensive planning issues in those areas in which the patterns of development are being established. As such, the state's role should vary based on local government conditions and capabilities. Section 163.3246 provides a certification process for areas in which local governments have committed to directing growth in the next 10 years and using exemplary planning practices. The pilot program provided under this section recognizes that some areas of the state should be exempt from unnecessary state oversight based on established patterns of development.

(2) COMPLIANCE REVIEW EXEMPTIONS.--Pinellas and Broward Counties, as examples of highly developed counties, and Jacksonville, Miami, Tampa, Hialeah, and Tallahassee, as examples of highly populated municipalities, with processes in place to allow for coordination of planning activities with local oversight are exempt from compliance reviews by the state land planning agency. Municipalities within exempt counties may elect, by supermajority vote of the governing body, not to participate in the pilot program.

(3) PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS FOR EXEMPT COUNTIES AND MUNICIPALITIES.--

(a) Plan amendments proposed and adopted under this section shall follow the procedures of this section and are not subject to state land planning agency review pursuant to ss. 163.3184 and 163.3187, unless otherwise provided in this section.

(b) Small scale amendments shall be adopted pursuant to s. 163.3187.

(c) Plan amendments that propose a rural land stewardship area pursuant to s. 163.3177(11)(d), update a comprehensive plan based on an evaluation and appraisal report, or are the initial implementation of new statutory requirements that require specific comprehensive plan amendments shall be reviewed pursuant to s. 163.3184.

(4) DEFINITIONS.--The definitions of s. 163.3184(1) apply for purposes of this section.

(5) PUBLIC HEARINGS.--

(a) The procedure for transmittal of a complete proposed comprehensive plan amendment pursuant to subsection (6) and for adoption of a comprehensive plan amendment pursuant to subsection (9) shall be by affirmative vote of at least a majority of the members of the governing body present at the hearing. The adoption of a comprehensive plan amendment shall be by ordinance. For the purposes of transmitting or adopting a comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are superseded by this subsection, except as provided in this part.

(b) The local governing body shall hold at least two advertised public hearings on a proposed comprehensive plan amendment as follows:

1. The first public hearing shall be held at the transmittal stage pursuant to subsection (6). The hearing shall be held on a weekday at least 7 days after the day the first advertisement is published.

2. The second public hearing shall be held at the adoption stage pursuant to subsection (9). The hearing shall be held on a weekday at least 5 days after the day the second advertisement is published.

(c) The local government shall provide a sign-in form at each hearing for persons to provide their names and mailing addresses. The local government shall add to the sign-in form the name and address of any person or governmental agency that submits written comments concerning the proposed plan amendment during the time period between the commencement of the transmittal hearing and the end of the adoption hearing.

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

(6) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN AMENDMENT.--Each local governing body shall transmit a complete proposed comprehensive plan amendment to the state land planning agency; the appropriate regional planning council and water management district; the Department of Environmental Protection; the Department of State; the Department of Transportation; in the case of municipal plans, to the appropriate county; and, in the case of county plans, to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services immediately following a public hearing pursuant to

subsection (5) as specified in the state land planning agency's procedural rules. If the plan amendment includes or impacts the public school facilities element pursuant to s. 163.3177(12), the local government shall submit a copy to the Office of Educational Facilities of the Commissioner of Education for review and comment. The local governing body shall also transmit a copy of the complete proposed comprehensive plan amendment to any other unit of local government or government agency in the state that has filed a written request with the governing body for a copy of the plan amendment. Local governing bodies shall consolidate all proposed plan amendments into a single submission for each of the two plan amendment adoption dates during the calendar year pursuant to s. 163.3187.

(7) INTERGOVERNMENTAL REVIEW.--The governmental agencies specified in subsection (6) may provide comments to the local government. Comments, if provided, shall be submitted within 30 days after receipt of the proposed plan amendment.

(8) REGIONAL, COUNTY, AND MUNICIPAL REVIEW.--The review of the regional planning council pursuant to subsection (7) shall be limited to effects on regional resources or facilities identified in the strategic regional policy plan and extrajurisdictional impacts that would be inconsistent with the comprehensive plan of the affected local government. A regional planning council shall not review and comment on a proposed comprehensive plan amendment prepared by such council. The review by the county land planning agency pursuant to subsection (7) shall be primarily in the context of the relationship and effect of the proposed plan amendment on any county

comprehensive plan element. Any review by municipalities must be primarily in the context of the relationship and effect on the municipal plan.

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

(a) The local government shall review any submitted written comments and testimony provided by any person or governmental agency. Any comments or recommendations and any reply to comments or recommendations are public documents, a part of the permanent record in the matter, and admissible in any proceeding in which the comprehensive plan amendment may be at issue. The adoption of the proposed plan amendment or the determination not to adopt a plan amendment, other than a plan amendment proposed pursuant to s. 163.3191, shall be made in the course of a public hearing pursuant to subsection (5). The local government shall transmit the complete adopted comprehensive plan amendment, including the names and addresses of persons compiled pursuant to paragraph (5)(c), to the state land planning agency within 10 working days after the amendment is adopted. The local governing body shall also transmit a copy of the adopted comprehensive plan amendment to the regional planning agency and to any other unit of local government or governmental agency in the state that has filed a written request with the governing body for a copy of the plan amendment.

(b) If the adopted plan amendment is unchanged from the proposed plan amendment transmitted pursuant to subsection (6),

the local government may state in the transmittal letter that the plan amendment is unchanged.

(10) CHALLENGES TO THE COMPLIANCE OF AN ADOPTED PLAN AMENDMENT.--

(a) Any affected person as defined by s. 163.3184(1)(a), the state land planning agency, the Department of Environmental Protection, or the Department of Transportation may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57 to request a hearing to challenge the compliance of an amendment with this section within 30 days after the local government adopts the amendment and shall serve a copy of the petition on the local government. The state land planning agency may intervene in any proceeding initiated pursuant to this subsection. A state agency challenge shall be limited to significant regional or statewide impacts within the agency's jurisdiction as it relates to consistency with the requirements of this part and shall be limited to those issues raised in comments provided to the local government during the transmittal review pursuant to subsection (7).

(b) An administrative law judge shall hold a hearing in the affected jurisdiction not less than 30 days nor more than 60 days after a petition is filed and an administrative law judge is assigned. The parties to a hearing held pursuant to this subsection shall be the petitioner, the local government, and any intervenor. In the proceeding, the local government's determination that the amendment is in compliance is presumed to be correct. The local government's determination shall be sustained unless it is shown by a preponderance of the evidence

that the amendment is not in compliance with the requirements of this section.

(c)1. If the administrative law judge recommends that the amendment be found to be not in compliance, the administrative law judge shall submit the recommended order to the Administration Commission for final agency action. If the administrative law judge recommends that the amendment be found to be in compliance, the administrative law judge shall submit the recommended order to the state land planning agency.

2. If the state land planning agency determines that the plan amendment is not in compliance, the agency shall submit, within 30 days after receiving a recommended order, the recommended order to the Administration Commission for final agency action. If the state land planning agency determines that the plan amendment is in compliance, the agency shall enter a final order within 30 days following its receipt of the recommended order.

(d) An amendment shall not become effective until 31 days after adoption. If challenged within 30 days after adoption, an amendment shall not become effective until the state land planning agency or the Administration Commission, respectively, issues a final order determining the adopted amendment is in compliance.

(11) APPLICABILITY.--

(a) This section does not supersede the provisions of s. 163.3187(6).

(b) Local governments and specific areas that have been designated for alternate review process pursuant to ss. 163.3246 and 163.3184(17) and (18) are not subject to this section.

(12) ASSISTANCE.--A local government may seek technical assistance from the state land planning agency on planning issues relating to its comprehensive plan regardless of its status in this program.

(13) REPORTS.--The Legislative Committee on Intergovernmental Relations shall evaluate the pilot program provided in this section and prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 30, 2010. In evaluating the pilot program, the committee shall solicit comments from local governments, citizens, and reviewing agencies. The report shall include a discussion of local, regional, and state issues of significance that have occurred within the designated local governments and how the designation has affected these issues. The report shall include, if applicable, extrajurisdictional conflicts and resolutions, development patterns and their effects on infrastructure capacity, and environmental and resource issues as such issues pertain to the pilot program. The report shall identify benefits and concerns relating to the exemptions from state review, as appropriate.

Section 9. Paragraph (c) of subsection (19) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.--

(19) SUBSTANTIAL DEVIATIONS.--

(c) An extension of the date of buildout of a development, or any phase thereof, by more than 7 years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. An extension of the date of buildout, or any phase thereof, of more than 5 years but not more than 7 years shall be presumed not to create a substantial deviation. The extension of the date of buildout of an areawide development of regional impact by more than 5 years but less than 10 years is presumed not to create a substantial deviation. These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of 5 years or less is not a substantial deviation. For the purpose of calculating when a buildout or phase date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof if applicable by a like period of time. All development-of-regional-impact phase and buildout dates for projects under construction as of July 1, 2007, are extended for a total of 3 years, regardless of any prior extensions. Such 3-year extension is not a substantial deviation, shall not be subject to further development-or-regional impact review, and shall not be considered when determining whether any subsequent extension is a substantial deviation pursuant to this paragraph.

Section 10. This act shall take effect July 1, 2007.