By Senator Bennett

21-00978B-09 20092148__

A bill to be entitled

An act relating to growth management; amending s. 163.3174, F.S.; prohibiting the members of the local governing body from serving on the local planning agency; providing an exception; amending s. 163.3177, F.S.; revising standards for the future land use plan in a local comprehensive plan; revising standards for the housing element of a local comprehensive plan; requiring certain counties to certify that they have adopted a plan for ensuring affordable workforce housing before obtaining certain funding; authorizing the state land planning agency to amend administrative rules relating to planning criteria to allow for varying local conditions; deleting exemptions from the limitation on the frequency of plan amendments; extending the deadline for local governments to adopt a public school facilities element and interlocal agreement; providing legislative findings concerning the need to preserve agricultural land and protect rural agricultural communities from adverse changes in the agricultural economy; defining the term "rural agricultural industrial center"; authorizing a landowner within a rural agricultural industrial center to apply for an amendment to the comprehensive plan to expand an existing center; providing requirements for such application; providing a rebuttable presumption that such an amendment is consistent with state rule; providing certain exceptions to the approval of such amendment; deleting

provisions encouraging local governments to develop a community vision and to designate an urban service boundary; amending s. 163.3180, F.S.; providing that certain projects or high-performance transit systems be considered as committed facilities; requiring that the costs associated with accommodating a transit facility be credited against the developer's proportionate-share contribution; revising the calculation of school capacity to include relocatables used by a school district; providing a minimum state availability standard for school concurrency; providing that a developer is not required to reduce or eliminate backlog or address class size reduction; providing that charter schools be considered as a mitigation option under certain circumstances; requiring school districts to include relocatables in their calculation of school capacity under certain circumstances; providing for an Urban Placemaking Initiative Pilot Project Program; providing that certain local governments be designated as urban placemaking initiative pilot projects; providing requirements, criteria, procedures, and limitations for such local governments; amending s. 163.3184, F.S.; requiring that a potential applicant for a future land use map amendment meet certain notice and meeting requirements before filing such application; exempting small-scale amendments from certain requirements; revising certain deadlines for comments on the intergovernmental review and state planning

agency review of plan amendments; providing that an amendment is deemed abandoned under certain circumstances; authorizing the state land planning agency to grant extensions for comments; requiring that a comprehensive plan or amendment be available to the public a specified number of days before a scheduled hearing; prohibiting certain types of changes to a plan amendment during a specified period before the hearing; requiring that the local government certify certain information to the state land planning agency; conforming a cross-reference; amending s. 163.3187, F.S.; limiting the adoption of certain plan amendments to twice per calendar year; authorizing local governments to adopt certain plan amendments at any time during a calendar year without regard for restrictions on frequency; deleting certain types of amendments from the list of amendments eligible for adoption at any time during a calendar year; deleting exemptions from frequency limitations; providing circumstances under which small-scale amendments become effective; amending s. 163.3217, F.S.; deleting an exemption from the frequency requirements for the adoption of amendments to a local comprehensive plan; amending s. 171.203, F.S.; deleting an exemption for the adoption of a municipal service area as an amendment to a local comprehensive plan; amending s. 380.06, F.S.; providing that the level-of-service standards for the development-of-regional-impact review is the same as the level-of-

service standards for evaluating concurrency; conforming a cross-reference; providing an effective date.

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

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

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member ~~of the local planning agency or equivalent agency~~ to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the ~~governing body of the~~ local government from granting voting status to the school board member. Members of the local governing body may not serve on ~~designate itself as~~ the local planning agency pursuant to this subsection, except in a municipality having a population of 10,000 or fewer ~~with the addition of a nonvoting school board representative~~. The local governing body shall notify the state

land planning agency of the establishment of its local planning agency. All local planning agencies shall provide opportunities for involvement by applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the local governing body regarding the adoption or amendment of the plan. The local planning agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

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

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

Section 2. Paragraphs (c), (f), (g), and (h) of subsection (6), paragraph (i) of subsection (10), and subsections (13) and (14) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive

plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. Within 18 months after the governing board approves an updated regional water supply plan, the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.0361(2)(a) or proposed by the local government under s. 373.0361(7)(b). If a local government is located within two water management districts, the local government shall adopt its comprehensive

plan amendment within 18 months after the later updated regional water supply plan. The element must identify such alternative water supply projects and traditional water supply projects and conservation and reuse necessary to meet the water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction and include a work plan, covering at least a 10 year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which are identified in the element as necessary to serve existing and new development. The work plan shall be updated, at a minimum, every 5 years within 18 months after the governing board of a water management district approves an updated regional water supply plan. ~~Amendments to incorporate the work plan do not count toward the limitation on the frequency of adoption of amendments to the comprehensive plan.~~ Local governments, public and private utilities, regional water supply authorities, special districts, and water management districts are encouraged to cooperatively plan for the development of multijurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of groundwater and surface water supplies.

(f)1. A housing element consisting of standards, plans, and principles to be followed in:

a. The provision of housing for all current and anticipated future residents of the jurisdiction.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing

housing.

d. The provision of adequate sites for future housing, including affordable workforce housing as defined in s. 380.0651(3)(j), housing for low-income, very low-income, and moderate-income families, mobile homes, senior affordable housing, and group home facilities and foster care facilities, with supporting infrastructure and public facilities.

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.

f. The formulation of housing implementation programs.

g. The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.

~~h. Energy efficiency in the design and construction of new housing.~~

~~i. Use of renewable energy resources.~~

(I)~~j.~~ Each county in which the gap between the buying power of a family of four and the median county home sale price exceeds $170,000, as determined by the Florida Housing Finance Corporation, and which is not designated as an area of critical state concern shall adopt a plan for ensuring affordable workforce housing. At a minimum, the plan shall identify adequate sites for such housing. For purposes of this sub-subparagraph, the term "workforce housing" means housing that is affordable to natural persons or families whose total household income does not exceed 140 percent of the area median income, adjusted for household size.

(II)~~k.~~ As a precondition to receiving any state affordable housing funding or allocation for any project or program within the jurisdiction of a county that is subject to sub-sub-subparagraph (I) ~~sub-subparagraph j.~~, a county must, by July 1 of each year, provide certification that the county has complied with the requirements of sub-sub-subparagraph (I) ~~sub-subparagraph j~~.

h. Energy efficiency in the design and construction of new housing.

i. The use of renewable energy resources.

2. The goals, objectives, and policies of the housing element must be based on the data and analysis prepared on housing needs, including the affordable housing needs assessment. State and federal housing plans prepared on behalf of the local government must be consistent with the goals, objectives, and policies of the housing element. Local governments are encouraged to use job training, job creation, and economic solutions to address a portion of their affordable housing concerns.

3.~~2.~~ To assist local governments in housing data collection and analysis and assure uniform and consistent information regarding the state's housing needs, the state land planning agency shall conduct an affordable housing needs assessment for all local jurisdictions on a schedule that coordinates the implementation of the needs assessment with the evaluation and appraisal reports required by s. 163.3191. Each local government shall use ~~utilize~~ the data and analysis from the needs assessment as one basis for the housing element of its local comprehensive plan. The agency shall allow a local government

~~the option~~ to perform its own needs assessment~~,~~ if it uses the methodology established by the agency by rule.

(g)1. For those units of local government identified in s. 380.24, a coastal management element, appropriately related to the particular requirements of paragraphs (d) and (e) and meeting the requirements of s. 163.3178(2) and (3). The coastal management element shall set forth the policies that shall guide the local government's decisions and program implementation with respect to the following objectives:

a. Maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

b. Continued existence of viable populations of all species of wildlife and marine life.

c. The orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.

d. Avoidance of irreversible and irretrievable loss of coastal zone resources.

e. Ecological planning principles and assumptions to be used in the determination of suitability and extent of permitted development.

f. Proposed management and regulatory techniques.

g. Limitation of public expenditures that subsidize development in high-hazard coastal areas.

h. Protection of human life against the effects of natural disasters.

i. The orderly development, maintenance, and use of ports identified in s. 403.021(9) to facilitate deepwater commercial

navigation and other related activities.

j. Preservation, including sensitive adaptive use of historic and archaeological resources.

2. As part of this element, a local government that has a coastal management element in its comprehensive plan is encouraged to adopt recreational surface water use policies that include applicable criteria for and consider such factors as natural resources, manatee protection needs, protection of working waterfronts and public access to the water, and recreation and economic demands. Criteria for manatee protection in the recreational surface water use policies should reflect applicable guidance outlined in the Boat Facility Siting Guide prepared by the Fish and Wildlife Conservation Commission. ~~If the local government elects to adopt recreational surface water use policies by comprehensive plan amendment, such comprehensive plan amendment is exempt from the provisions of s. 163.3187(1).~~ Local governments that wish to adopt recreational surface water use policies may be eligible for assistance with the development of such policies through the Florida Coastal Management Program. The Office of Program Policy Analysis and Government Accountability shall submit a report on the adoption of recreational surface water use policies under this subparagraph to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and the House of Representatives no later than December 1, 2010.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in the accomplishment of coordination of the adopted

comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.0361, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

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

b. The intergovernmental coordination element shall provide for recognition of campus master plans prepared pursuant to s. 1013.30.

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

2. The intergovernmental coordination element shall further state principles and guidelines to be used in the accomplishment

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

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

4.~~a.~~ Local governments must execute an interlocal agreement with the district school board, the county, and nonexempt municipalities pursuant to s. 163.31777. The local government shall amend the intergovernmental coordination element to provide that coordination between the local government and school board is pursuant to the agreement and shall state the

obligations of the local government under the agreement.

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

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

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

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

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

7. Within 6 months after submission of the report, the Department of Community Affairs shall, through the appropriate regional planning council, coordinate a meeting of all local governments within the regional planning area to discuss the reports and potential strategies to remedy any identified

deficiencies or duplications.

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

(10) The Legislature recognizes the importance and significance of chapter 9J-5, Florida Administrative Code, the Minimum Criteria for Review of Local Government Comprehensive Plans and Determination of Compliance of the Department of Community Affairs that will be used to determine compliance of local comprehensive plans. The Legislature reserved unto itself the right to review chapter 9J-5, Florida Administrative Code, and to reject, modify, or take no action relative to this rule. Therefore, pursuant to subsection (9), the Legislature hereby has reviewed chapter 9J-5, Florida Administrative Code, and expresses the following legislative intent:

(i) The Legislature recognizes that due to varying local conditions, local governments have different planning needs that cannot be addressed by applying a uniform set of minimum planning criteria. Therefore, the state land planning agency may amend chapter 9J-5, Florida Administrative Code, to establish different minimum criteria that are applicable to local governments based on the following factors:

1. Current and projected population.

2. Size of the local jurisdiction.

3. Amount and nature of undeveloped land.

4. The scale of public services provided by the local government.

The state land planning agency ~~department~~ shall take into account the factors delineated in rule 9J-5.002(2), Florida Administrative Code, as it provides assistance to local governments and applies the rule in specific situations with regard to the detail of the data and analysis required.

(13)(a) The Legislature recognizes and finds that:

1. There are a number of rural agricultural industrial centers in the state which process, produce, or aid in the production or distribution of a variety of agriculturally based products, such as fruits, vegetables, timber, and other crops, as well as juices, paper, and building materials. These rural agricultural industrial centers may have a significant amount of existing associated infrastructure that is used for the processing, production, or distribution of agricultural products.

2. Such rural agricultural industrial centers are often located within or near communities in which the economy is largely dependent upon agriculture and agriculturally based products. These centers significantly enhance the economy of such communities. However, these agriculturally based communities are often socioeconomically challenged and many such communities have been designated as rural areas of critical economic concern. If these existing rural agricultural industrial centers are lost and not replaced with other job-creating enterprises, these agriculturally based communities will lose a substantial amount of their economies.

3. The state has a compelling interest in preserving the viability of agriculture and protecting rural agricultural

communities and the state from the economic upheaval that could result from short-term or long-term adverse changes in the agricultural economy. To protect such communities and promote viable agriculture for the long term, it is essential to encourage and permit diversification of existing rural agricultural industrial centers by providing for jobs that are not solely dependent upon, but are compatible with and complement, existing agricultural industrial operations and to encourage the creation and expansion of industries that use agricultural products in innovative or new ways. However, the expansion and diversification of these existing centers must be accomplished in a manner that does not promote urban sprawl into surrounding agricultural and rural areas.

(b) As used in this subsection, the term "rural agricultural industrial center" means a developed parcel of land in an unincorporated area on which there exists an operating agricultural industrial facility or facilities that employ at least 200 full-time employees in the aggregate and that are used for processing and preparing for transport a farm product, as defined in s. 163.3162, or any biomass material that could be used, directly or indirectly, for the production of fuel, renewable energy, bioenergy, or alternative fuel as defined by state law. The center may also include land that is contiguous to the facility site and that is not used for the cultivation of crops, but on which other existing activities essential to the operation of such facility or facilities are located or conducted. The parcel of land must be located within or in reasonable proximity, not to exceed 10 miles, to a rural area of critical economic concern.

(c) A landowner within a rural agricultural industrial center may apply for an amendment to the local government comprehensive plan for the purpose of designating and expanding the existing agricultural industrial uses or facilities located in the center or expanding the existing center to include industrial uses or facilities that are not dependent upon but are compatible with agriculture and the existing uses and facilities. An application for a comprehensive plan amendment under this paragraph:

1. May not increase the physical area of the existing rural agricultural industrial center by more than 50 percent or 320 acres, whichever is greater;

2. Must propose a project that would create, upon completion, at least 50 new full-time jobs;

3. Must demonstrate that infrastructure capacity exists or will be provided to support the expanded center at level-of-service standards adopted in the local government comprehensive plan; and

4. Must contain goals, objectives, and policies that will ensure that any adverse environmental impacts of the expanded center will be adequately addressed and mitigated, or demonstrate that the local government comprehensive plan contains such provisions.

Within 6 months after receipt of an application under this subsection, the local government must amend the applicable sections of its comprehensive plan to include goals, objectives, and policies to provide for the expansion of rural agricultural industrial centers and to discourage urban sprawl in the

surrounding areas. Such goals, objectives, and policies must promote and be consistent with the findings in this subsection. An amendment that meets the requirements in this subsection is presumed to be consistent with rule 9J-5.006(5), Florida Administrative Code. This presumption may be rebutted by a preponderance of the evidence.

(d) This subsection does not apply to an optional sector plan adopted pursuant to s. 163.3245 or to a rural land stewardship area designated pursuant to subsection (11). ~~Local governments are encouraged to develop a community vision that provides for sustainable growth, recognizes its fiscal constraints, and protects its natural resources. At the request of a local government, the applicable regional planning council shall provide assistance in the development of a community vision.~~

~~(a) As part of the process of developing a community vision under this section, the local government must hold two public meetings with at least one of those meetings before the local planning agency. Before those public meetings, the local government must hold at least one public workshop with stakeholder groups such as neighborhood associations, community organizations, businesses, private property owners, housing and development interests, and environmental organizations.~~

~~(b) The local government must, at a minimum, discuss five of the following topics as part of the workshops and public meetings required under paragraph (a):~~

~~1. Future growth in the area using population forecasts from the Bureau of Economic and Business Research;~~

~~2. Priorities for economic development;~~

~~3. Preservation of open space, environmentally sensitive lands, and agricultural lands;~~

~~4. Appropriate areas and standards for mixed-use development;~~

~~5. Appropriate areas and standards for high-density commercial and residential development;~~

~~6. Appropriate areas and standards for economic development opportunities and employment centers;~~

~~7. Provisions for adequate workforce housing;~~

~~8. An efficient, interconnected multimodal transportation system; and~~

~~9. Opportunities to create land use patterns that accommodate the issues listed in subparagraphs 1.-8.~~

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

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

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

~~3. Incentives for workforce housing;~~

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

~~5. Strategies to provide mobility within the community and to protect the Strategic Intermodal System, including the~~

~~development of a transportation corridor management plan under s. 337.273.~~

~~(d) The community vision must reflect the community's shared concept for growth and development of the community, including visual representations depicting the desired land use patterns and character of the community during a 10-year planning timeframe. The community vision must also take into consideration economic viability of the vision and private property interests.~~

~~(e) After the workshops and public meetings required under paragraph (a) are held, the local government may amend its comprehensive plan to include the community vision as a component in the plan. This plan amendment must be transmitted and adopted pursuant to the procedures in ss. 163.3184 and 163.3189 at public hearings of the governing body other than those identified in paragraph (a).~~

~~(f) Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.~~

~~(g) A local government that has developed a community vision or completed a visioning process after July 1, 2000, and before July 1, 2005, which substantially accomplishes the goals set forth in this subsection and the appropriate goals, policies, or objectives have been adopted as part of the comprehensive plan or reflected in subsequently adopted land development regulations and the plan amendment incorporating the community vision as a component has been found in compliance is eligible for the incentives in s. 163.3184(17).~~

~~(14) Local governments are also encouraged to designate an~~

~~urban service boundary. This area must be appropriate for compact, contiguous urban development within a 10-year planning timeframe. The urban service area boundary must be identified on the future land use map or map series. The local government shall demonstrate that the land included within the urban service boundary is served or is planned to be served with adequate public facilities and services based on the local government's adopted level-of-service standards by adopting a 10-year facilities plan in the capital improvements element which is financially feasible. The local government shall demonstrate that the amount of land within the urban service boundary 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 timeframe.~~

~~(a) As part of the process of establishing an urban service boundary, the local government must hold two public meetings with at least one of those meetings before the local planning agency. Before those public meetings, the local government must hold at least one public workshop with stakeholder groups such as neighborhood associations, community organizations, businesses, private property owners, housing and development interests, and environmental organizations.~~

~~(b)1. After the workshops and public meetings required under paragraph (a) are held, the local government may amend its comprehensive plan to include the urban service boundary. This plan amendment must be transmitted and adopted pursuant to the procedures in ss. 163.3184 and 163.3189 at meetings of the governing body other than those required under paragraph (a).~~

~~2. This subsection does not prohibit new development outside an urban service boundary. However, a local government that establishes an urban service boundary under this subsection is encouraged to require a full-cost-accounting analysis for any new development outside the boundary and to consider the results of that analysis when adopting a plan amendment for property outside the established urban service boundary.~~

~~(c) Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.~~

~~(d) A local government that has adopted an urban service boundary before July 1, 2005, which substantially accomplishes the goals set forth in this subsection is not required to comply with paragraph (a) or subparagraph 1. of paragraph (b) in order to be eligible for the incentives under s. 163.3184(17). In order to satisfy the provisions of this paragraph, the local government must secure a determination from the state land planning agency that the urban service boundary adopted before July 1, 2005, substantially complies with the criteria of this subsection, based on data and analysis submitted by the local government to support this determination. The determination by the state land planning agency is not subject to administrative challenge.~~

Section 3. Paragraph (c) of subsection (2) and subsections (12), (13), and (15) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.—

(2)

(c) Consistent with the public welfare, and except as

otherwise provided in this section, transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation. In evaluating whether such transportation facilities will be in place or under actual construction, the following shall be considered a committed facility:

1. A project that is included in the first 3 years of a local government's adopted capital improvements plan;

2. A project that is included in the Department of Transportation's adopted work program; or

3. A high-performance transit system that serves multiple municipalities, connects to an existing rail system, and is included in a county's or the Department of Transportation's long-range transportation plan.

(12) A 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 which, based on its location or mix of land uses, is designed to encourage pedestrian or other nonautomotive modes of transportation;

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

(d) 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. The cost of any improvements made to a regionally significant transportation facility that is constructed by the owner or developer of the development of

regional impact, including the costs associated with accommodating a transit facility within the development of regional impact which is in a county's or the Department of Transportation's long-range transportation plan, shall be credited against a development of regional impact's proportionate-share contribution. 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 additional cost of reducing or eliminating backlogs. This subsection also 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:

(a) *Public school facilities element.*—A local government shall adopt and transmit to the state land planning agency a plan or plan amendment which includes a public school facilities

element which is consistent with the requirements of s. 163.3177(12) and which is determined to be in compliance as defined in s. 163.3184(1)(b). All local government public school facilities plan elements within a county must be consistent with each other as well as the requirements of this part.

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

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

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

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

4. For purposes of determining whether the level-of-service standards have been met, a school district that includes relocatables in its inventory of student stations shall include the capacity of such relocatables as provided in s.

1013.35(2)(b)2.f.

(c) *Service areas.*—The Legislature recognizes that an essential requirement for a concurrency system is a designation of the area within which the level of service will be measured when an application for a residential development permit is reviewed for school concurrency purposes. This delineation is also important for purposes of determining whether the local government has a financially feasible public school capital facilities program for ~~that will provide~~ schools which will achieve and maintain the adopted level-of-service standards.

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to initially apply school concurrency to development only on a districtwide basis so that a concurrency determination for a specific development is ~~will be~~ based upon the availability of school capacity districtwide. To ensure that development is coordinated with schools having available capacity, within 5 years after adoption of school concurrency, local governments shall apply school concurrency on a less than districtwide basis, such as using school attendance zones or concurrency service areas, as provided in subparagraph 2.

2. For local governments applying school concurrency on a less than districtwide basis, such as utilizing school attendance zones or larger school concurrency service areas, local governments and school boards shall have the burden of demonstrating ~~to demonstrate~~ that the use ~~utilization~~ of school capacity is maximized to the greatest extent possible in the

comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified and included as supporting data and analysis for the comprehensive plan.

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level-of-service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, ~~then~~ the local government may not deny an application for site plan or final subdivision approval or the functional equivalent for a development or phase of a development on the basis of school concurrency, and if issued, development impacts shall be shifted to contiguous service areas with schools having available capacity.

(d) *Financial feasibility.*—The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level-of-service standard. This part and chapter 9J-5, Florida Administrative Code, contain specific standards <u>for determining</u> ~~to determine~~ the financial feasibility of capital programs. These standards

were adopted to make concurrency more predictable and local governments more accountable.

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

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

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

(e) *Availability standard.*—Consistent with the public welfare, and except as otherwise provided in this subsection, public school facilities that are needed to serve new residential development shall be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. 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. Any mitigation that is required of a developer must be limited to ensure that a development mitigates its own impact on public school facilities; however, such developer is not responsible for the additional cost of reducing or eliminating backlogs or addressing class size reduction. School concurrency is 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 must 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; the construction of a charter school that complies with the life safety requirements in s. 1002.33(18)(f); 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 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 the overall residential density. The district school board must 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; or the construction of a charter school that complies with the life safety requirements in s. 1002.33(18)(f), 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. For proportionate-share calculations, the percentage of relocatables, as provided in s. 1013.35(2)(b)2.f., which are used by a school district shall be considered in determining the average cost of a student station.

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 that satisfies the demands created by the development in accordance with a binding developer's agreement.

4. If a development is precluded from commencing because there is inadequate classroom capacity to mitigate the impacts of the development, the development may nevertheless commence if there are accelerated facilities in an approved capital improvement element scheduled for construction in year four or later of such plan which, when built, will mitigate the proposed development, or if such accelerated facilities will be in the next annual update of the capital facilities element, the developer enters into a binding, financially guaranteed agreement with the school district to construct an accelerated facility within the first 3 years of an approved capital improvement plan, and the cost of the school facility is equal to or greater than the development's proportionate share. When the completed school facility is conveyed to the school district, the developer shall receive impact fee credits usable within the zone where the facility is constructed or any attendance zone contiguous with or adjacent to the zone where the facility is constructed.

5. 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.

(f) *Intergovernmental coordination.*—

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

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

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

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

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

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

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

(g) *Interlocal agreement for school concurrency.*—When

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

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

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

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

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

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

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

a. The evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, and programmed improvements for

affected schools and any options to provide sufficient capacity;

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

c. The monitoring and evaluation of the school concurrency system.

7. Include provisions relating to amendment of the agreement.

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

(h) *Local government authority.*—This subsection does not limit the authority of a local government to grant or deny a development permit or its functional equivalent prior to the implementation of school concurrency.

(15)(a) Multimodal transportation districts may be established under a local government comprehensive plan in areas delineated on the future land use map for which the local comprehensive plan assigns secondary priority to vehicle mobility and primary priority to assuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit. Such districts must incorporate community design features that will reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system. Prior to the designation of multimodal transportation districts, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed multimodal district 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 cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). Multimodal transportation districts 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.

(b) Community design elements of such a district include: a complementary mix and range of land uses, including educational, recreational, and cultural uses; interconnected networks of streets designed to encourage walking and bicycling, with traffic-calming where desirable; appropriate densities and intensities of use within walking distance of transit stops; daily activities within walking distance of residences, allowing independence to persons who do not drive; public uses, streets, and squares that are safe, comfortable, and attractive for the pedestrian, with adjoining buildings open to the street and with parking not interfering with pedestrian, transit, automobile, and truck travel modes.

(c) Local governments may establish multimodal level-of-service standards that rely primarily on nonvehicular modes of transportation within the district, when justified by an analysis demonstrating that the existing and planned community design will provide an adequate level of mobility within the district based upon professionally accepted multimodal level-of-

service methodologies. The analysis must also demonstrate that the capital improvements required to promote community design are financially feasible over the development or redevelopment timeframe for the district and that community design features within the district provide convenient interconnection for a multimodal transportation system. Local governments may issue development permits in reliance upon all planned community design capital improvements that are financially feasible over the development or redevelopment timeframe for the district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements. A determination of financial feasibility shall be based upon currently available funding or funding sources that could reasonably be expected to become available over the planning period.

(d) Local governments may reduce impact fees or local access fees for development within multimodal transportation districts based on the reduction of vehicle trips per household or vehicle miles of travel expected from the development pattern planned for the district.

(e) ~~By December 1, 2007,~~ The Department of Transportation, in consultation with the state land planning agency and interested local governments, may designate a study area for conducting a pilot project to determine the benefits of and barriers to establishing a regional multimodal transportation concurrency district that extends over more than one local government jurisdiction. If designated:

1. The study area must be in a county that has a population of at least 1,000 persons per square mile, be within an urban

service area, and have the consent of the local governments within the study area. The Department of Transportation and the state land planning agency shall provide technical assistance.

2. The local governments within the study area and the Department of Transportation, in consultation with the state land planning agency, shall cooperatively create a multimodal transportation plan that meets the requirements of this section. The multimodal transportation plan must include viable local funding options and incorporate community design features, including a range of mixed land uses and densities and intensities, which will reduce the number of automobile trips or vehicle miles of travel while supporting an integrated, multimodal transportation system.

3. To effectuate the multimodal transportation concurrency district, participating local governments may adopt appropriate comprehensive plan amendments.

4. The Department of Transportation, in consultation with the state land planning agency, shall submit a report by March 1, 2009, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the pilot project. The report must identify any factors that support or limit the creation and success of a regional multimodal transportation district including intergovernmental coordination.

(f) The state land planning agency may designate up to five local governments for participation in the Urban Placemaking Initiative Pilot Project Program. The purpose of the pilot project program is to assist local communities in redeveloping primarily single-use suburban areas that surround strategic

corridors and crossroads and to create livable and sustainable communities that have a sense of place. The Legislature recognizes that the form of existing development patterns and strict application of transportation concurrency requirements create obstacles to such redevelopment. Therefore, the Legislature finds that the pilot project program will further the ability of the communities to cultivate mixed-use and form-based communities that integrate all modes of transportation. The pilot project program shall provide an alternative regulatory framework that allows for the creation of a multimodal concurrency district that over the planning time period allows pilot project communities to incrementally realize the goals of the redevelopment area by guiding redevelopment of parcels and cultivating multimodal development in targeted transitional suburban areas. The Department of Transportation shall provide technical support to the state land planning agency and the department. The state land planning agency shall provide technical assistance to the local governments in their implementation of the pilot project program.

1. The pilot project communities must have a county population of at least 350,000, be able to demonstrate an ability to administer the pilot project, and have appropriate potential redevelopment areas suitable for the pilot project.

2. Each pilot project community shall designate the criteria for the designation of urban placemaking redevelopment areas in the future land use element of its local comprehensive plans. Such redevelopment areas must be located within an adopted urban service boundary or its functional equivalent. Each pilot project community shall also adopt local

comprehensive plan amendments establishing criteria for the development of the urban placemaking areas which include land use and transportation strategies, such as the community design elements provided in paragraph (c).

3. A pilot project community shall provide a process in which the public may participate in the implementation of the project. Such participation must provide an opportunity to coordinate the community's vision, public interest, and the development goals for developments located within the urban placemaking redevelopment areas.

4. Each pilot project community may assign transportation concurrency or trip-generation credits and impact fee exemptions or reductions and establish concurrency exceptions for developments that meet the adopted local comprehensive plan criteria for urban placemaking redevelopment areas. Paragraph (c) applies to designated urban placemaking redevelopment areas.

5. The state land planning agency shall submit a report by March 1, 2011, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of each approved pilot project community. The report must identify factors that indicate whether the pilot project program has demonstrated any success in urban placemaking and redevelopment initiatives and whether the pilot project should be expanded for use by other local governments.

Section 4. Subsections (3) and (4), paragraphs (a) and (d) of subsection (6), paragraph (a) of subsection (7), paragraphs (b) and (c) of subsection (15), and subsection (17) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan

amendment.—

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

(a) Before filing an application for a future land use map amendment that applies to 50 acres or more, the applicant must conduct a neighborhood meeting to present, discuss, and solicit public comment on the proposed amendment. Such meeting shall be conducted at least 30 days but no more than 60 days before the application for the amendment is filed with the local government. At a minimum, the meeting shall be noticed and conducted in accordance with each of the following requirements:

1. Notice of the meeting shall be:

a. Mailed at least 10 days but no more than 14 days before the date of the meeting to all property owners owning property within 500 feet of the property subject to the proposed amendment, according to information maintained by the county tax assessor. Such information shall conclusively establish the required recipients;

b. Published in accordance with ss. 125.66(4)(b)2. and 166.041(3)(c)2.b.;

c. Posted on the jurisdiction's website, if available; and

d. Mailed to all persons on the list of homeowners' or condominium associations maintained by the jurisdiction, if any.

2. The meeting shall be conducted at an accessible and convenient location.

3. A sign-in list of all attendees at each meeting must be maintained.

An application for a future land use map amendment that is

subject to this paragraph shall include a written certification or verification that the first meeting has been noticed and conducted in accordance with this section.

(b) At least 15 days but no more than 45 days before the local governing body's scheduled adoption hearing, the applicant for a future land use map amendment that applies to 50 acres or more shall conduct a second noticed community or neighborhood meeting for the purpose of presenting and discussing the map amendment application, including any changes made to the proposed amendment following the first community or neighborhood meeting. Notice by United States mail at least 10 days but no more than 14 days before the meeting is required only for persons who signed in at the preapplication meeting and persons whose names are on the sign-in sheet from the transmittal hearing conducted pursuant to paragraph (15)(c). Otherwise, notice shall be given by newspaper advertisement in accordance with ss. 125.66(4)(b)2. and 166.041(3)(c)2.b. Before the adoption hearing, the applicant shall file with the local government a written certification or verification that the second meeting has been noticed and conducted in accordance with this section.

(c) Before filing an application for a future land use map amendment that applies to more than 10 acres but less than 50 acres, the applicant must conduct a community or neighborhood meeting in compliance with paragraph (a). An application for a future land use map amendment that is subject to this paragraph shall include a written certification or verification that the first meeting has been noticed and conducted in accordance with this section. At least 15 days but no more than 45 days before

the local governing body's scheduled adoption hearing, the applicant for a future land use map amendment that applies to more than 10 acres but less than 50 acres is encouraged to hold a second meeting using the provisions in paragraph (b).

(d) The requirement for neighborhood meetings as provided in this subsection does not apply to small-scale amendments as defined in s. 163.3187(2)(d) unless a local government, by ordinance, adopts a procedure for holding a neighborhood meeting as part of the small-scale amendment process; however, more than one meeting may not be required.

(e) ~~(a)~~ Each local governing body shall transmit the complete proposed comprehensive plan or 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, and the Department of Transportation, and, 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 (15) as specified in the state land planning agency's procedural rules. The local governing body shall also transmit a copy of the complete proposed comprehensive plan or 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 the plan or plan amendment. The local government may request a review by the state land planning agency pursuant to subsection (6) at the time of the transmittal of an amendment.

(f) ~~(b)~~ A local governing body shall not transmit portions

of a plan or plan amendment unless it has previously provided to all state agencies designated by the state land planning agency a complete copy of its adopted comprehensive plan pursuant to subsection (7) and as specified in the agency's procedural rules. In the case of comprehensive plan amendments, the local governing body shall transmit to the state land planning agency, the appropriate regional planning council and water management district, the Department of Environmental Protection, the Department of State, and the Department of Transportation, and, 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 the materials specified in the state land planning agency's procedural rules and, in cases in which the plan amendment is a result of an evaluation and appraisal report adopted pursuant to s. 163.3191, a copy of the evaluation and appraisal report. 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.

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

(h) ~~(d)~~ In cases in which a local government transmits multiple individual amendments that can be clearly and legally separated and distinguished for the purpose of determining whether to review the proposed amendment, and the state land planning agency elects to review several or a portion of the

amendments and the local government chooses to immediately adopt the remaining amendments not reviewed, the amendments immediately adopted and any reviewed amendments that the local government subsequently adopts together constitute one amendment cycle in accordance with s. 163.3187(1).

Paragraphs (a)-(d) apply to applications for a map amendment filed after January 1, 2011.

(4) INTERGOVERNMENTAL REVIEW.—The governmental agencies specified in paragraph (3)(e) ~~(3)(a)~~ shall provide comments to the state land planning agency within 30 days after receipt by the state land planning agency of the complete proposed plan amendment. If the plan or plan amendment includes or relates to the public school facilities element pursuant to s. 163.3177(12), the state land planning agency shall submit a copy to the Office of Educational Facilities of the Commissioner of Education for review and comment. The appropriate regional planning council shall also provide its written comments to the state land planning agency within 45 ~~30~~ days after receipt by the state land planning agency of the complete proposed plan amendment and shall specify any objections, recommendations for modifications, and comments of any other regional agencies to which the regional planning council may have referred the proposed plan amendment. Written comments submitted by the public within 30 days after notice of transmittal by the local government of the proposed plan amendment will be considered as if submitted by governmental agencies. All written agency and public comments must be made part of the file maintained under subsection (2).

(6) STATE LAND PLANNING AGENCY REVIEW.—

(a) The state land planning agency shall review a proposed plan amendment upon request of a regional planning council, affected person, or local government transmitting the plan amendment. The request from the regional planning council or affected person must be received within 45 ~~30~~ days after transmittal of the proposed plan amendment pursuant to subsection (3). A regional planning council or affected person requesting a review shall do so by submitting a written request to the agency with a notice of the request to the local government and any other person who has requested notice.

(d) The state land planning agency review shall identify all written communications with the agency regarding the proposed plan amendment. If the state land planning agency does not issue such a review, it shall identify in writing to the local government all written communications received 45 ~~30~~ days after transmittal. The written identification must include a list of all documents received or generated by the agency, which list must be of sufficient specificity to enable the documents to be identified and copies requested, if desired, and the name of the person to be contacted to request copies of any identified document. The list of documents must be made a part of the public records of the state land planning agency.

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

(a) The local government shall review the written comments submitted to it by the state land planning agency, and any other person, agency, or government. Any comments, recommendations, or objections and any reply to them are ~~shall be~~ public documents,

a part of the permanent record in the matter, and admissible in any proceeding in which the comprehensive plan or plan amendment may be at issue. The local government, upon receipt of written comments from the state land planning agency, shall have 120 days to adopt, or adopt with changes, the proposed comprehensive plan or ~~s. 163.3191~~ plan amendments. ~~In the case of comprehensive plan amendments other than those proposed pursuant to s. 163.3191, the local government shall have 60 days to adopt the amendment, adopt the amendment with changes, or determine that it will not adopt the amendment.~~ The adoption of the proposed plan or 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 (15). If a local government fails to adopt the comprehensive plan or plan amendment within the period set forth in this subsection, the plan or plan amendment shall be deemed abandoned and may not be considered until the next available amendment cycle pursuant to this section and s. 163.3187. However, before the period expires, if an applicant certifies in writing to the state land planning agency that the applicant is proceeding in good faith to address the items raised in the agency report issued pursuant to paragraph (6)(f) or agency comments issued pursuant to s. 163.32465(4), and such certification specifically identifies the items being addressed, the state land planning agency may grant one or more extensions, which may not exceed a total of 360 days after the date on which the agency report or comments is issued, and if the request is justified by good and sufficient cause, as determined by the agency. If any such extension is pending, the applicant shall

file with the local government and state land planning agency a status report every 60 days specifically identifying the items being addressed and the manner in which such items are being addressed. The local government shall transmit the complete adopted comprehensive plan or plan amendment, including the names and addresses of persons compiled pursuant to paragraph (15)(c), to the state land planning agency as specified in the agency's procedural rules within 10 working days after adoption. The local governing body shall also transmit a copy of the adopted comprehensive plan or 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 or plan amendment.

(15) PUBLIC HEARINGS.—

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

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

2. The second public hearing shall be held at the adoption stage pursuant to subsection (7). It shall be held on a weekday at least 5 days after the day that the second advertisement is published. The comprehensive plan or plan amendment to be considered for adoption must be made available to the public at least 5 days before the date of the hearing and must be posted at least 5 days before the date of the hearing on the local

government's Internet website, if one is maintained. The proposed comprehensive plan amendment may not be altered during the 5 days before the hearing if such alteration increases the permissible density, intensity, or height, or decreases the minimum buffers, setbacks, or open space. If the amendment is altered in this manner during the 5-day period or at the public hearing, the hearing shall be continued to the next meeting of the local governing body. As part of the adoption package, the local government shall certify in writing to the state land planning agency that it has complied with this paragraph.

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

(17) COMMUNITY VISION AND URBAN BOUNDARY PLAN AMENDMENTS.—A local government that has adopted a community vision and urban service boundary under s. 163.3177(13) ~~and (14)~~ may adopt a plan amendment related to map amendments solely to property within an

urban service boundary in the manner described in subsections (1), (2), (7), (14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that state and regional agency review is eliminated. The department may not issue an objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by paragraph (1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment. This subsection does not apply to any amendment within an area of critical state concern, to any amendment that increases residential densities allowable in high-hazard coastal areas as defined in s. 163.3178(2)(h), or to a text change to the goals, policies, or objectives of the local government's comprehensive plan. Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

Section 5. Subsection (1), paragraph (c) of subsection (3), subsection (5), and paragraph (a) of subsection (6) of section 163.3187, Florida Statutes, are 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:

(a) Any local government comprehensive plan ~~In the case of an emergency, comprehensive plan amendments may be made more often than twice during the calendar year if the additional plan~~ amendment enacted in case of emergency which receives the approval of all of the members of the governing body.

"Emergency" means any occurrence or threat ~~thereof~~ whether accidental or natural, caused by humankind, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or public funds.

(b) Any local government comprehensive plan amendments directly related to a proposed development of regional impact, including changes which have been determined to be substantial deviations and including Florida Quality Developments pursuant to s. 380.061, may be initiated by a local planning agency and considered by the local governing body at the same time as the application for development approval using the procedures provided for local plan amendment in this section and applicable local ordinances~~, without regard to statutory or local ordinance limits on the frequency of consideration of amendments to the local comprehensive plan~~. ~~Nothing in this subsection shall be deemed to require favorable consideration of a plan amendment solely because it is related to a development of regional impact.~~

(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 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

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 is ~~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.

(d) Any comprehensive plan amendment required by a compliance agreement pursuant to s. 163.3184(16) ~~may be approved without regard to statutory limits on the frequency of adoption of amendments to the comprehensive plan~~.

~~(e) A comprehensive plan amendment for location of a state correctional facility. Such an amendment may be made at any time and does not count toward the limitation on the frequency of plan amendments.~~

(e)~~(f)~~ Any comprehensive plan amendment that changes the schedule in the capital improvements element, and any amendments directly related to the schedule~~, may be made once in a calendar year on a date different from the two times provided in this subsection when necessary to coincide with the adoption of the local government's budget and capital improvements program~~.

~~(g) Any local government comprehensive plan amendments directly related to proposed redevelopment of brownfield areas designated under s. 376.80 may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan.~~

(f)~~(h)~~ Any comprehensive plan amendments for port transportation facilities and projects that are eligible for funding by the Florida Seaport Transportation and Economic

Development Council pursuant to s. 311.07.

~~(i) A comprehensive plan amendment for the purpose of designating an urban infill and redevelopment area under s. 163.2517 may be approved without regard to the statutory limits on the frequency of amendments to the comprehensive plan.~~

(g) ~~(j)~~ Any comprehensive plan amendment to establish public school concurrency pursuant to s. 163.3180(13), including, but not limited to, adoption of a public school facilities element pursuant to s. 163.3177(12) and adoption of amendments to the capital improvements element and intergovernmental coordination element. In order to ensure the consistency of local government public school facilities elements within a county, such elements must ~~shall~~ be prepared and adopted on a similar time schedule.

~~(k) A local comprehensive plan amendment directly related to providing transportation improvements to enhance life safety on Controlled Access Major Arterial Highways identified in the Florida Intrastate Highway System, in counties as defined in s. 125.011, where such roadways have a high incidence of traffic accidents resulting in serious injury or death. Any such amendment shall not include any amendment modifying the designation on a comprehensive development plan land use map nor any amendment modifying the allowable densities or intensities of any land.~~

~~(l) A comprehensive plan amendment to adopt a public educational facilities element pursuant to s. 163.3177(12) and future land-use-map amendments for school siting may be approved notwithstanding statutory limits on the frequency of adopting plan amendments.~~

~~(m) A comprehensive plan amendment that addresses criteria~~

~~or compatibility of land uses adjacent to or in close proximity to military installations in a local government's future land use element does not count toward the limitation on the frequency of the plan amendments.~~

~~(n) Any local government comprehensive plan amendment establishing or implementing a rural land stewardship area pursuant to the provisions of s. 163.3177(11)(d).~~

~~(o) A comprehensive plan amendment that is submitted by an area designated by the Governor as a rural area of critical economic concern under s. 288.0656(7) and that meets the economic development objectives may be approved without regard to the statutory limits on the frequency of adoption of amendments to the comprehensive plan.~~

~~(p) Any local government comprehensive plan amendment that is consistent with the local housing incentive strategies identified in s. 420.9076 and authorized by the local government.~~

(h) Any local government comprehensive plan amendment adopted pursuant to a final order issued by the Administration Commission or the Florida Land and Water Adjudicatory Commission.

(i) A future land use map amendment within an area designated by the Governor as a rural area of critical economic concern under s. 288.0656(7), if the Office of Tourism, Trade, and Economic Development states in writing that the amendment supports a regional target industry that is identified in an economic development plan prepared for one of the economic development programs identified in s. 288.0656(7).

(j) Any local government comprehensive plan amendment

establishing or implementing a rural land stewardship area pursuant to s. 163.3177(11)(d) or a sector plan pursuant to s. 163.3245.

(3)

(c) Small scale development amendments shall not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments shall not become effective until the state land planning agency or the Administration Commission, respectively, issues a final order determining that the adopted small scale development amendment is in compliance. However, a small-scale amendment is not effective until it has been rendered to the state land planning agency as required by sub-subparagraph (1)(c)2.b. and the state land planning agency has certified to the local government in writing that the amendment qualifies as a small-scale amendment.

(5) ~~Nothing in~~ This part does not ~~is intended to~~ prohibit or limit the authority of local governments to require that a person requesting an amendment pay some or all of the cost of public notice.

(6)(a) A ~~No~~ local government may not amend its comprehensive plan after the date established by the state land planning agency for adoption of its evaluation and appraisal report unless it has submitted its report or addendum to the state land planning agency as prescribed by s. 163.3191, except for plan amendments described in paragraph (1)(b) or paragraph (1)(f) ~~(1)(h)~~.

Section 6. Paragraph (b) of subsection (2) of section 163.3217, Florida Statutes, is amended to read:

163.3217 Municipal overlay for municipal incorporation.—

(2) PREPARATION, ADOPTION, AND AMENDMENT OF THE MUNICIPAL OVERLAY.—

(b)~~1.~~ A municipal overlay shall be adopted as an amendment to the local government comprehensive plan as prescribed by s. 163.3184.

~~2. A county may consider the adoption of a municipal overlay without regard to the provisions of s. 163.3187(1) regarding the frequency of adoption of amendments to the local comprehensive plan.~~

Section 7. Subsection (11) of section 171.203, Florida Statutes, is amended to read:

171.203 Interlocal service boundary agreement.—The governing body of a county and one or more municipalities or independent special districts within the county may enter into an interlocal service boundary agreement under this part. The governing bodies of a county, a municipality, or an independent special district may develop a process for reaching an interlocal service boundary agreement which provides for public participation in a manner that meets or exceeds the requirements of subsection (13), or the governing bodies may use the process established in this section.

(11)(a) A municipality that is a party to an interlocal service boundary agreement that identifies an unincorporated area for municipal annexation under s. 171.202(11)(a) shall adopt a municipal service area as an amendment to its comprehensive plan to address future possible municipal annexation. The state land planning agency shall review the amendment for compliance with part II of chapter 163. The proposed plan amendment must contain:

1. A boundary map of the municipal service area.

2. Population projections for the area.

3. Data and analysis supporting the provision of public facilities for the area.

(b) This part does not authorize the state land planning agency to review, evaluate, determine, approve, or disapprove a municipal ordinance relating to municipal annexation or contraction.

~~(c) Any amendment required by paragraph (a) is exempt from the twice-per-year limitation under s. 163.3187.~~

Section 8. Paragraph (a) of subsection (7) and paragraph (l) of subsection (24) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(7) PREAPPLICATION PROCEDURES.—

(a) Before filing an application for development approval, the developer shall contact the regional planning agency with jurisdiction over the proposed development to arrange a preapplication conference. Upon the request of the developer or the regional planning agency, other affected state and regional agencies shall participate in this conference and shall identify the types of permits issued by the agencies, the level of information required, and the permit issuance procedures as applied to the proposed development. <u>The level-of-service standards required in the transportation methodology must be the same level-of-service standards used to evaluate concurrency in accordance with s. 163.3180.</u> The regional planning agency shall provide the developer information about the development-of-regional-impact process and the use of preapplication

conferences to identify issues, coordinate appropriate state and local agency requirements, and otherwise promote a proper and efficient review of the proposed development. If agreement is reached regarding assumptions and methodology to be used in the application for development approval, the reviewing agencies may not subsequently object to those assumptions and methodologies unless subsequent changes to the project or information obtained during the review make those assumptions and methodologies inappropriate.

(24) STATUTORY EXEMPTIONS.—

(l) Any proposed development within an urban service boundary ~~established under s. 163.3177(14)~~ is exempt from the provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary, has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

If a use is exempt from review as a development of regional impact under paragraphs (a)-(t), but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project.

Section 9. This act shall take effect July 1, 2009.