A bill to be entitled

An act relating to growth management; reenacting s. 1, chapter 2009-96, Laws of Florida, relating to a short title; reenacting s. 163.3164(29) and (34), F.S., relating to the definition of "urban service area" and "dense urban land area" for purposes of the Local Government Comprehensive Planning and Land Development Regulation Act; reenacting s. 163.3177(3)(b) and (f), (6)(h), and (12)(a) and (j), F.S., relating to certain required and optional elements of a comprehensive plan; reenacting s. 163.3180(5), (10), and (13)(b) and (e), F.S., relating to concurrency requirements for transportation facilities; reenacting s. 163.31801(3)(d), F.S., relating to a required notice for a new or increased impact fee; reenacting s. 163.3184(1)(b) and (3)(e), F.S., relating to the process for adopting a comprehensive plan or plan amendment; reenacting s. 163.3187(1)(b), (f), and (q), F.S., relating to amendments to a comprehensive plan; reenacting s. 163.32465(2), F.S., relating to a pilot program to provide an alternative to the state review process for local comprehensive plans; reenacting s. 171.091, F.S., relating to the recording of any change in municipal boundaries; reenacting s. 186.509, F.S., relating to a dispute resolution process for reconciling differences concerning planning and growth management issues; reenacting s. 380.06(7)(a), (24), (28), and (29), F.S., relating to preapplication procedures and certain exemptions from review provided for proposed developments

of regional impact; reenacting ss. 13, 14, and 34 of chapter 2009-96, Laws of Florida, relating to a study and report concerning a mobility fee, the extension and renewal of certain permits issued by the Department of Environmental Protection or a water management district, and a statement of important state interest; providing a legislative finding of important state interest; providing for retroactive operation of the act with respect to provisions of law amended or created by chapter 2009-96, Laws of Florida; providing for an exception under specified circumstances; providing an effective date.

WHEREAS, the Florida Legislature enacted Senate Bill 360 in 2009 for important public policy purposes, and

WHEREAS, litigation has called into question the constitutional validity of this important piece of legislation, and

WHEREAS, the Legislature wishes to protect those who relied on the changes made by Senate Bill 360 and to preserve the Florida Statutes intact and cure any alleged constitutional violation, NOW, THEREFORE,

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

Section 1. Section 1 of chapter 2009-96, Laws of Florida, is reenacted to read:

Section 1. This act may be cited as the "Community Renewal Act."

Section 2. Subsections (29) and (34) of section 163.3164, Florida Statutes, are reenacted to read:

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

(29) "Urban service area" means built-up areas where public facilities and services, including, but not limited to, central water and sewer capacity and roads, are already in place or are committed in the first 3 years of the capital improvement schedule. In addition, for counties that qualify as dense urban land areas under subsection (34), the nonrural area of a county which has adopted into the county charter a rural area designation or areas identified in the comprehensive plan as urban service areas or urban growth boundaries on or before July 1, 2009, are also urban service areas under this definition.

(34) "Dense urban land area" means:

(a) A municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;

(b) A county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or

(c) A county, including the municipalities located therein, which has a population of at least 1 million.

The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas by using the most recent land area data

from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall submit to the state land planning agency a list of jurisdictions that meet the total population and density criteria necessary for designation as a dense urban land area by July 1, 2009, and every year thereafter. The state land planning agency shall publish the list of jurisdictions on its Internet website within 7 days after the list is received. The designation of jurisdictions that qualify or do not qualify as a dense urban land area is effective upon publication on the state land planning agency's Internet website.

Section 3. Paragraphs (b) and (f) of subsection (3), paragraph (h) of subsection (6), and paragraphs (a) and (j) of subsection (12) of section 163.3177, Florida Statutes, are reenacted to read:

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

(3)(b)1. The capital improvements element must be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189 in order to maintain a financially feasible 5-year schedule of capital improvements. Corrections and modifications concerning costs; revenue sources; or

acceptance of facilities pursuant to dedications which are consistent with the plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land planning agency. An amendment to the comprehensive plan is required to update the schedule on an annual basis or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule. All public facilities must be consistent with the capital improvements element. The annual update to the capital improvements element of the comprehensive plan need not comply with the financial feasibility requirement until December 1, 2011. Thereafter, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments pursuant to s. 163.3187(1)(a), after December 1, 2011, and every year thereafter, unless and until the local government has adopted the annual update and it has been transmitted to the state land planning agency.

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

(f) A local government's comprehensive plan and plan amendments for land uses within all transportation concurrency exception areas that are designated and maintained in accordance with s. 163.3180(5) shall be deemed to meet the requirement to achieve and maintain level-of-service standards for

transportation.

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

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in coordinating 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. 373.709, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan must 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 must provide procedures for identifying and implementing joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element must provide for recognition of campus master plans prepared pursuant to s. 1013.30 and airport master plans under paragraph (k).

c. The intergovernmental coordination element shall

provide for a dispute resolution process, as established pursuant to s. 186.509, for bringing intergovernmental disputes to closure in a timely manner.

d. The intergovernmental coordination element shall provide for interlocal agreements as established pursuant to s. 333.03(1)(b).

2. The intergovernmental coordination element shall also state principles and guidelines to be used in coordinating 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 must 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 after 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. Local governments shall 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 ensure 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. Plan amendments that comply with this subparagraph are exempt from the provisions of s. 163.3187(1).

5. 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 identifies:

a. All existing or proposed interlocal service delivery agreements relating to education; sanitary sewer; public safety; solid waste; drainage; potable water; parks and recreation; and transportation facilities.

b. 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.

6. 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.

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

(12) A public school facilities element adopted to implement a school concurrency program shall meet the requirements of this subsection. Each county and each municipality within the county, unless exempt or subject to a waiver, must adopt a public school facilities element that is consistent with those adopted by the other local governments within the county and enter the interlocal agreement pursuant to s. 163.31777.

(a) The state land planning agency may provide a waiver to a county and to the municipalities within the county if the capacity rate for all schools within the school district is no greater than 100 percent and the projected 5-year capital outlay full-time equivalent student growth rate is less than 10 percent. The state land planning agency may allow for a projected 5-year capital outlay full-time equivalent student growth rate to exceed 10 percent when the projected 10-year capital outlay full-time equivalent student enrollment is less than 2,000 students and the capacity rate for all schools within the school district in the tenth year will not exceed the 100-percent limitation. The state land planning agency may allow for

a single school to exceed the 100-percent limitation if it can be demonstrated that the capacity rate for that single school is not greater than 105 percent. In making this determination, the state land planning agency shall consider the following criteria:

1. Whether the exceedance is due to temporary circumstances;

2. Whether the projected 5-year capital outlay full time equivalent student growth rate for the school district is approaching the 10-percent threshold;

3. Whether one or more additional schools within the school district are at or approaching the 100-percent threshold; and

4. The adequacy of the data and analysis submitted to support the waiver request.

(j) The state land planning agency may issue a notice to the school board and the local government to show cause why sanctions should not be enforced for failure to enter into an approved interlocal agreement as required by s. 163.31777 or for failure to implement provisions relating to public school concurrency. If the state land planning agency finds that insufficient cause exists for the school board's or local government's failure to enter into an approved interlocal agreement as required by s. 163.31777 or for the school board's or local government's failure to implement the provisions relating to public school concurrency, the state land planning agency shall submit its finding to the Administration Commission which may impose on the local government any of the sanctions

set forth in s. 163.3184(11)(a) and (b) and may impose on the district school board any of the sanctions set forth in s. 1008.32(4).

Section 4. Subsections (5) and (10) and paragraphs (b) and (e) of subsection (13) of section 163.3180, Florida Statutes, are reenacted to read:

163.3180 Concurrency.—

(5)(a) The Legislature finds that under limited circumstances, countervailing planning and public policy goals may come into conflict with the requirement that adequate public transportation facilities and services be available concurrent with the impacts of such development. The Legislature further finds that the unintended result of the concurrency requirement for transportation facilities is often the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. The Legislature also finds that in urban centers transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity, that the expansion of roadway capacity is not always physically or financially possible, and that a range of transportation alternatives is essential to satisfy mobility needs, reduce congestion, and achieve healthy, vibrant centers.

(b)1. The following are transportation concurrency exception areas:

a. A municipality that qualifies as a dense urban land area under s. 163.3164;

b. An urban service area under s. 163.3164 that has been adopted into the local comprehensive plan and is located within a county that qualifies as a dense urban land area under s. 163.3164; and

c. A county, including the municipalities located therein, which has a population of at least 900,000 and qualifies as a dense urban land area under s. 163.3164, but does not have an urban service area designated in the local comprehensive plan.

2. A municipality that does not qualify as a dense urban land area pursuant to s. 163.3164 may designate in its local comprehensive plan the following areas as transportation concurrency exception areas:

a. Urban infill as defined in s. 163.3164;

b. Community redevelopment areas as defined in s. 163.340;

c. Downtown revitalization areas as defined in s. 163.3164;

d. Urban infill and redevelopment under s. 163.2517; or

e. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s. 163.3177(14).

3. A county that does not qualify as a dense urban land area pursuant to s. 163.3164 may designate in its local comprehensive plan the following areas as transportation concurrency exception areas:

a. Urban infill as defined in s. 163.3164;

b. Urban infill and redevelopment under s. 163.2517; or

c. Urban service areas as defined in s. 163.3164.

4. A local government that has a transportation

concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. shall, within 2 years after the designated area becomes exempt, adopt into its local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. Local governments are encouraged to adopt complementary land use and transportation strategies that reflect the region's shared vision for its future. If the state land planning agency finds insufficient cause for the failure to adopt into its comprehensive plan land use and transportation strategies to support and fund mobility within the designated exception area after 2 years, it shall submit the finding to the Administration Commission, which may impose any of the sanctions set forth in s. 163.3184(11)(a) and (b) against the local government.

5. Transportation concurrency exception areas designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. do not apply to designated transportation concurrency districts located within a county that has a population of at least 1.5 million, has implemented and uses a transportation-related concurrency assessment to support alternative modes of transportation, including, but not limited to, mass transit, and does not levy transportation impact fees within the concurrency district.

6. Transportation concurrency exception areas designated under subparagraph 1., subparagraph 2., or subparagraph 3. do not apply in any county that has exempted more than 40 percent of the area inside the urban service area from transportation

concurrency for the purpose of urban infill.

7. A local government that does not have a transportation concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

a. Urban infill development;

b. Urban redevelopment;

c. Downtown revitalization;

d. Urban infill and redevelopment under s. 163.2517; or

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

(c) The Legislature also finds that developments located within urban infill, urban redevelopment, urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517, which pose only special part-time demands on the transportation system, are exempt from the concurrency requirement for transportation

facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) Except for transportation concurrency exception areas designated pursuant to subparagraph (b)1., subparagraph (b)2., or subparagraph (b)3., the following requirements apply:

1. The local government shall both adopt into the comprehensive plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment must also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided.

2. The strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area must be accompanied by data and analysis supporting the local government's determination of the boundaries of the transportation concurrency exception area.

(e) Before designating a concurrency exception area pursuant to subparagraph (b)7., the state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for regional transportation facilities identified pursuant to s. 186.507, including the

Strategic Intermodal System and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall provide a plan for the mitigation of impacts to the Strategic Intermodal System, including, if appropriate, access management, parallel reliever roads, transportation demand management, and other measures.

(f) The designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees. This subsection does not affect any contract or agreement entered into or development order rendered before the creation of the transportation concurrency exception area except as provided in s. 380.06(29)(e).

(g) The Office of Program Policy Analysis and Government Accountability shall submit to the President of the Senate and the Speaker of the House of Representatives by February 1, 2015, a report on transportation concurrency exception areas created pursuant to this subsection. At a minimum, the report shall address the methods that local governments have used to implement and fund transportation strategies to achieve the purposes of designated transportation concurrency exception areas, and the effects of the strategies on mobility, congestion, urban design, the density and intensity of land use mixes, and network connectivity plans used to promote urban infill, redevelopment, or downtown revitalization.

(10) Except in transportation concurrency exception areas, with regard to roadway facilities on the Strategic Intermodal System designated in accordance with s. 339.63, local

governments shall adopt the level-of-service standard established by the Department of Transportation by rule. However, if the Office of Tourism, Trade, and Economic Development concurs in writing with the local government that the proposed development is for a qualified job creation project under s. 288.0656 or s. 403.973, the affected local government, after consulting with the Department of Transportation, may provide for a waiver of transportation concurrency for the project. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

(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:

(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 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 the purpose of determining whether levels of service have been achieved, for the first 3 years of school concurrency implementation, a school district that includes relocatable facilities in its inventory of student stations shall include the capacity of such relocatable facilities as provided in s. 1013.35(2)(b)2.f., provided the relocatable facilities were purchased after 1998 and the relocatable facilities meet the standards for long-term use pursuant to s. 1013.20.

(e) *Availability standard.*—Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency 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 requirements of s. 1002.33(18); 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; the construction or expansion of a public school facility, or a portion thereof; or the construction of a charter school that complies with the requirements of s. 1002.33(18), 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.

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.

Section 5. Paragraph (d) of subsection (3) of section 163.31801, Florida Statutes, is reenacted to read:

163.31801 Impact fees; short title; intent; definitions; ordinances levying impact fees.—

(3) An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

(d) Require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.

Section 6. Paragraph (b) of subsection (1) and paragraph (e) of subsection (3) of section 163.3184, Florida Statutes, are reenacted to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

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

(b) "In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

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

(e) At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact the provisions of any proposed plan amendment transmitted pursuant to this subsection. Zoning changes approved by the local government are contingent upon the comprehensive plan or plan amendment transmitted becoming effective.

Section 7. Paragraphs (b), (f), and (q) of subsection (1) of section 163.3187, Florida Statutes, are reenacted 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:

(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.

(f) The capital improvements element annual update required in s. 163.3177(3)(b)1. and any amendments directly related to the schedule.

(q) Any local government plan amendment to designate an

urban service area as a transportation concurrency exception area under s. 163.3180(5)(b)2. or 3. and an area exempt from the development-of-regional-impact process under s. 380.06(29).

Section 8. Subsection (2) of section 163.32465, Florida Statutes, is reenacted to read:

163.32465 State review of local comprehensive plans in urban areas.—

(2) ALTERNATIVE STATE REVIEW PROCESS PILOT PROGRAM.—Pinellas and Broward Counties, and the municipalities within these counties, and Jacksonville, Miami, Tampa, and Hialeah shall follow an alternative state review process provided in this section. Municipalities within the pilot counties may elect, by super majority vote of the governing body, not to participate in the pilot program. In addition to the pilot program jurisdictions, any local government may use the alternative state review process to designate an urban service area as defined in s. 163.3164(29) in its comprehensive plan.

Section 9. Section 171.091, Florida Statutes, is reenacted to read:

171.091 Recording.—Any change in the municipal boundaries through annexation or contraction shall revise the charter boundary article and shall be filed as a revision of the charter with the Department of State within 30 days. A copy of such revision must be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.

Section 10. Section 186.509, Florida Statutes, is reenacted to read:

186.509 Dispute resolution process.—Each regional planning council shall establish by rule a dispute resolution process to reconcile differences on planning and growth management issues between local governments, regional agencies, and private interests. The dispute resolution process shall, within a reasonable set of timeframes, provide for: voluntary meetings among the disputing parties; if those meetings fail to resolve the dispute, initiation of mandatory mediation or a similar process; if that process fails, initiation of arbitration or administrative or judicial action, where appropriate. The council shall not utilize the dispute resolution process to address disputes involving environmental permits or other regulatory matters unless requested to do so by the parties. The resolution of any issue through the dispute resolution process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

Section 11. Paragraph (a) of subsection (7) and subsections (24), (28), and (29) of section 380.06, Florida Statutes, are reenacted 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. The levels of service required in the transportation methodology shall be the same levels of service used to evaluate concurrency in accordance with s. 163.3180. 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.—

(a) Any proposed hospital is exempt from the provisions of this section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.

(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body prior to July 1, 1973, is exempt from the provisions of this section if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from the provisions of this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports facility notifies the appropriate local government within which the facility is located of the increase at least 6 months prior to the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent

with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility is exempt from the provisions of this section, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction of the sports facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days of receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in

writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development-of-regional-impact review, all previous expansions which were exempt under this paragraph shall be included in the development-of-regional-impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from the provisions of this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with the provisions of s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section.

(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.

(k) Waterport and marina development, including dry

storage facilities, are exempt from the provisions of this section.

(l) Any proposed development within an urban service boundary established under s. 163.3177(14), which is not otherwise exempt pursuant to subsection (29), 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).

(m) Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a binding agreement with jurisdictions that would be impacted and 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).

(n) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.

(o) Any self-storage warehousing that does not allow retail or other services is exempt from this section.

(p) Any proposed nursing home or assisted living facility is exempt from this section.

(q) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(k) is exempt from this section.

(r) Any development identified in a campus master plan and adopted pursuant to s. 1013.30 is exempt from this section.

(s) Any development in a specific area plan which is prepared pursuant to s. 163.3245 and adopted into the comprehensive plan is exempt from this section.

(t) Any development within a county with a research and education authority created by special act and that is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159 is exempt from this section.

If a use is exempt from review as a development of regional impact under paragraphs (a)-(s), 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, unless such exempt use involves a development of regional impact that includes a landowner, tenant, or user that has entered into a funding agreement with the Office of Tourism, Trade, and Economic Development under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.

(28) PARTIAL STATUTORY EXEMPTIONS.—

(a) If the binding agreement referenced under paragraph (24)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service boundary, the

development-of-regional-impact review for projects within the urban service boundary must address transportation impacts only.

(b) If the binding agreement referenced under paragraph (24)(m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land stewardship area, the development-of-regional-impact review for projects within the rural land stewardship area must address transportation impacts only.

(c) If the binding agreement for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the development-of-regional-impact review for projects within the urban infill and redevelopment area must address transportation impacts only.

(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (24)(l) or paragraph (24)(m) shall provide written notification to the state land planning agency of the decision to not enter into a binding agreement or the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a), (b) and (c). Following the notification of the state land planning agency, development-of-regional-impact review for projects within an urban service boundary under paragraph (24)(l), or a rural land stewardship area under paragraph (24)(m), must address transportation impacts only.

(e) The vesting provision of s. 163.3167(8) relating to an authorized development of regional impact shall not apply to

those projects partially exempt from the development-of-regional-impact review process under paragraphs (a)-(d).

(29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—

(a) The following are exempt from this section:

1. Any proposed development in a municipality that qualifies as a dense urban land area as defined in s. 163.3164;

2. Any proposed development within a county that qualifies as a dense urban land area as defined in s. 163.3164 and that is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan; or

3. Any proposed development within a county, including the municipalities located therein, which has a population of at least 900,000, which qualifies as a dense urban land area under s. 163.3164, but which does not have an urban service area designated in the comprehensive plan.

(b) If a municipality that does not qualify as a dense urban land area pursuant to s. 163.3164 designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;

2. Community redevelopment areas as defined in s. 163.340;

3. Downtown revitalization areas as defined in s. 163.3164;

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

5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s. 163.3177(14).

(c) If a county that does not qualify as a dense urban land area pursuant to s. 163.3164 designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;

2. Urban infill and redevelopment under s. 163.2517; or

3. Urban service areas as defined in s. 163.3164.

(d) A development that is located partially outside an area that is exempt from the development-of-regional-impact program must undergo development-of-regional-impact review pursuant to this section.

(e) In an area that is exempt under paragraphs (a)-(c), any previously approved development-of-regional-impact development orders shall continue to be effective, but the developer has the option to be governed by s. 380.115(1). A pending application for development approval shall be governed by s. 380.115(2). A development that has a pending application for a comprehensive plan amendment and that elects not to continue development-of-regional-impact review is exempt from the limitation on plan amendments set forth in s. 163.3187(1) for the year following the effective date of the exemption.

(f) Local governments must submit by mail a development order to the state land planning agency for projects that would be larger than 120 percent of any applicable development-of regional-impact threshold and would require development-of-regional-impact review but for the exemption from the program under paragraphs (a)-(c). For such development orders, the state

land planning agency may appeal the development order pursuant to s. 380.07 for inconsistency with the comprehensive plan adopted under chapter 163.

(g) If a local government that qualifies as a dense urban land area under this subsection is subsequently found to be ineligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development may maintain the exemption if the developer is continuing the application process in good faith or the development is approved.

(h) This subsection does not limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to this chapter.

(i) This subsection does not apply to areas:

1. Within the boundary of any area of critical state concern designated pursuant to s. 380.05;

2. Within the boundary of the Wekiva Study Area as described in s. 369.316; or

3. Within 2 miles of the boundary of the Everglades Protection Area as described in s. 373.4592(2).

Section 12. Sections 13, 14, and 34 of chapter 2009-96, Laws of Florida, are reenacted to read:

Section 13. (1)(a) The Legislature finds that the existing transportation concurrency system has not adequately addressed the transportation needs of this state in an effective, predictable, and equitable manner and is not producing a sustainable transportation system for the state. The

Legislature finds that the current system is complex, inequitable, lacks uniformity among jurisdictions, is too focused on roadways to the detriment of desired land use patterns and transportation alternatives, and frequently prevents the attainment of important growth management goals.

(b) The Legislature determines that the state shall evaluate and consider the implementation of a mobility fee to replace the existing transportation concurrency system. The mobility fee should be designed to provide for mobility needs, ensure that development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts, fairly distribute the fee among the governmental entities responsible for maintaining the impacted roadways, and promote compact, mixed-use, and energy-efficient development.

(2) The state land planning agency and the Department of Transportation shall continue their respective current mobility fee studies and develop and submit to the President of the Senate and the Speaker of the House of Representatives, no later than December 1, 2009, a final joint report on the mobility fee methodology study, complete with recommended legislation and a plan to implement the mobility fee as a replacement for the existing local government adopted and implemented transportation concurrency management systems. The final joint report shall also contain, but is not limited to, an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector.

Section 14. (1) Except as provided in subsection (4), and

in recognition of 2009 real estate market conditions, any permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373, Florida Statutes, that has an expiration date of September 1, 2008, through January 1, 2012, is extended and renewed for a period of 2 years following its date of expiration. This extension includes any local government-issued development order or building permit. The 2-year extension also applies to build out dates including any build out date extension previously granted under s. 380.06(19)(c), Florida Statutes. This section shall not be construed to prohibit conversion from the construction phase to the operation phase upon completion of construction.

(2) The commencement and completion dates for any required mitigation associated with a phased construction project shall be extended such that mitigation takes place in the same timeframe relative to the phase as originally permitted.

(3) The holder of a valid permit or other authorization that is eligible for the 2-year extension shall notify the authorizing agency in writing no later than December 31, 2009, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

(4) The extension provided for in subsection (1) does not apply to:

(a) A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers.

(b) A permit or other authorization held by an owner or

operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.

(c) A permit or other authorization, if granted an extension, that would delay or prevent compliance with a court order.

(5) Permits extended under this section shall continue to be governed by rules in effect at the time the permit was issued, except when it can be demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. This provision shall apply to any modification of the plans, terms, and conditions of the permit that lessens the environmental impact, except that any such modification shall not extend the time limit beyond 2 additional years.

(6) Nothing in this section shall impair the authority of a county or municipality to require the owner of a property, that has notified the county or municipality of the owner's intention to receive the extension of time granted by this section, to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances.

Section 34. The Legislature finds that this act fulfills an important state interest.

Section 13. <u>The Legislature finds that this act fulfills an important state interest.</u>

Section 14. This act shall take effect upon becoming a law, and those portions of this act which were amended or created by chapter 2009-96, Laws of Florida, shall operate retroactively to June 1, 2009. If such retroactive application is held by a court of last resort to be unconstitutional, this act shall apply prospectively from the date that this act becomes a law.