

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Randolph offered the following:

2  
3 **Amendment**

4 Remove lines 3263-3285 and insert:

5 (1)(a) Sanitary sewer, solid waste, drainage, potable  
6 water ~~and, parks and recreation, schools, and transportation~~  
7 ~~facilities, including mass transit, where applicable,~~ are the  
8 only public facilities and services subject to the concurrency  
9 requirement on a statewide basis. Additional public facilities  
10 and services may not be made subject to concurrency on a  
11 statewide basis without ~~appropriate study and~~ approval by the  
12 Legislature; however, any local government may extend the  
13 concurrency requirement so that it applies to additional public  
14 facilities within its jurisdiction. If concurrency is applied to  
15 other public facilities, the local government comprehensive plan  
16 must provide the principles, guidelines, standards, and

201755

Approved For Filing: 4/19/2011 9:54:17 AM

Amendment No.

17 strategies, including adopted levels of service, to guide its  
18 application. In order for a local government to rescind any  
19 optional concurrency provisions, a comprehensive plan amendment  
20 is required. An amendment rescinding optional concurrency issues  
21 is not subject to state review. The local government  
22 comprehensive plan must demonstrate, for required or optional  
23 concurrency requirements, that the levels of service adopted can  
24 be reasonably met. Infrastructure needed to ensure that adopted  
25 level-of-service standards are achieved and maintained for the  
26 5-year period of the capital improvement schedule must be  
27 identified pursuant to the requirements of s. 163.3177(3).

28  
29 Remove lines 3869-4070 and insert:

30 (6) (a) When applying concurrency to public education  
31 facilities, ~~The application of school concurrency to development~~  
32 ~~shall be based upon the adopted comprehensive plan, as amended.~~  
33 all local governments within a county, except as provided in  
34 paragraph (i) ~~(f)~~, shall include principles, guidelines,  
35 standards, and strategies, including adopted levels of service,  
36 in their comprehensive plans and ~~adopt and transmit to the state~~  
37 ~~land planning agency the necessary plan amendments, along with~~  
38 ~~the interlocal agreements. agreement, for a compliance review~~  
39 ~~pursuant to s. 163.3184(7) and (8). The minimum requirements for~~  
40 ~~school concurrency are the following:~~

41 ~~(a) Public school facilities element. A local government~~  
42 ~~shall adopt and transmit to the state land planning agency a~~  
43 ~~plan or plan amendment which includes a public school facilities~~  
44 ~~element which is consistent with the requirements of s.~~

201755

Approved For Filing: 4/19/2011 9:54:17 AM

Amendment No.

45 ~~163.3177(12) and which is determined to be in compliance as~~  
46 ~~defined in s. 163.3184(1)(b).~~ All local government provisions  
47 included in comprehensive plans regarding school concurrency  
48 ~~public school facilities plan elements~~ within a county must be  
49 consistent with each other as well as the requirements of this  
50 part.

51 (b) ~~Level of service standards. The Legislature recognizes~~  
52 ~~that an essential requirement for a concurrency management~~  
53 ~~system is the level of service at which a public facility is~~  
54 ~~expected to operate.~~

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

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

67 (d)~~3.~~ Local governments and school boards may ~~shall~~ have  
68 ~~the option to~~ utilize tiered level-of-service standards to allow  
69 time to achieve an adequate and desirable level of service as  
70 circumstances warrant.

71 (e)~~4.~~ For the purpose of determining whether levels of  
72 service have been achieved, ~~for the first 3 years of school~~  
201755

Approved For Filing: 4/19/2011 9:54:17 AM

Amendment No.

73 ~~concurrency implementation,~~ A school district that includes  
74 relocatable facilities in its inventory of student stations  
75 shall include the capacity of such relocatable facilities as  
76 provided in s. 1013.35(2)(b)2.f., provided the relocatable  
77 facilities were purchased after 1998 and the relocatable  
78 facilities meet the standards for long-term use pursuant to s.  
79 1013.20.

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

89 (f)1. In order to balance competing interests, preserve  
90 the constitutional concept of uniformity, and avoid disruption  
91 of existing educational and growth management processes, local  
92 governments are encouraged to ~~initially~~ apply school concurrency  
93 to development ~~only~~ on a districtwide basis so that a  
94 concurrency determination for a specific development will be  
95 based upon the availability of school capacity districtwide. ~~To~~  
96 ~~ensure that development is coordinated with schools having~~  
97 ~~available capacity, within 5 years after adoption of school~~  
98 ~~concurrency,~~

99 2. If a local government elects to ~~governments shall~~ apply  
100 school concurrency on a less than districtwide basis, by ~~such as~~  
201755

Approved For Filing: 4/19/2011 9:54:17 AM

Amendment No.

101 using school attendance zones or concurrency service areas; ~~as~~  
102 ~~provided in subparagraph 2.~~

103 ~~a.2. For local governments applying school concurrency on~~  
104 ~~a less than districtwide basis, such as utilizing school~~  
105 ~~attendance zones or larger school concurrency service areas,~~  
106 Local governments and school boards shall have the burden to  
107 demonstrate that the utilization of school capacity is maximized  
108 to the greatest extent possible in the comprehensive plan and  
109 amendment, taking into account transportation costs and court-  
110 approved desegregation plans, as well as other factors. In  
111 addition, in order to achieve concurrency within the service  
112 area boundaries selected by local governments and school boards,  
113 the service area boundaries, together with the standards for  
114 establishing those boundaries, shall be identified and included  
115 as supporting data and analysis for the comprehensive plan.

116 ~~b.3.~~ Where school capacity is available on a districtwide  
117 basis but school concurrency is applied on a less than  
118 districtwide basis in the form of concurrency service areas, if  
119 the adopted level-of-service standard cannot be met in a  
120 particular service area as applied to an application for a  
121 development permit and if the needed capacity for the particular  
122 service area is available in one or more contiguous service  
123 areas, as adopted by the local government, then the local  
124 government may not deny an application for site plan or final  
125 subdivision approval or the functional equivalent for a  
126 development or phase of a development on the basis of school  
127 concurrency, and if issued, development impacts shall be  
128 subtracted from the ~~shifted to~~ contiguous service area's ~~areas~~

201755

Approved For Filing: 4/19/2011 9:54:17 AM

Amendment No.

129 ~~with schools having available capacity totals. Students from the~~  
130 ~~development may not be required to go to the adjacent service~~  
131 ~~area unless the school board rezones the area in which the~~  
132 ~~development occurs.~~

133 ~~(g)(d) Financial feasibility. The Legislature recognizes~~  
134 ~~that financial feasibility is an important issue because The~~  
135 ~~premise of concurrency is that the public facilities will be~~  
136 ~~provided in order to achieve and maintain the adopted level-of-~~  
137 ~~service standard. This part and chapter 9J-5, Florida~~  
138 ~~Administrative Code, contain specific standards to determine the~~  
139 ~~financial feasibility of capital programs. These standards were~~  
140 ~~adopted to make concurrency more predictable and local~~  
141 ~~governments more accountable.~~

142 ~~1. A comprehensive plan amendment seeking to impose school~~  
143 ~~concurrency shall contain appropriate amendments to the capital~~  
144 ~~improvements element of the comprehensive plan, consistent with~~  
145 ~~the requirements of s. 163.3177(3) and rule 9J-5.016, Florida~~  
146 ~~Administrative Code. The capital improvements element shall~~  
147 ~~identify facilities necessary to meet adopted levels of service~~  
148 ~~during a 5-year period consistent with the school board's~~  
149 ~~educational set forth a financially feasible public school~~  
150 ~~capital facilities plan program, established in conjunction with~~  
151 ~~the school board, that demonstrates that the adopted level-of-~~  
152 ~~service standards will be achieved and maintained.~~

153 ~~(h)1. In order to limit the liability of local~~  
154 ~~governments, a local government may allow a landowner to proceed~~  
155 ~~with development of a specific parcel of land notwithstanding a~~

201755

Approved For Filing: 4/19/2011 9:54:17 AM

Amendment No.

156 failure of the development to satisfy school concurrency, if all  
157 the following factors are shown to exist:

158 a. The proposed development would be consistent with the  
159 future land use designation for the specific property and with  
160 pertinent portions of the adopted local plan, as determined by  
161 the local government.

162 b. The local government's capital improvements element and  
163 the school board's educational facilities plan provide for  
164 school facilities adequate to serve the proposed development,  
165 and the local government or school board has not implemented  
166 that element or the project includes a plan that demonstrates  
167 that the capital facilities needed as a result of the project  
168 can be reasonably provided.

169 c. The local government and school board have provided a  
170 means by which the landowner will be assessed a proportionate  
171 share of the cost of providing the school facilities necessary  
172 to serve the proposed development.

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

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

201755

Approved For Filing: 4/19/2011 9:54:17 AM

Amendment No.

184 ~~2.(e) Availability standard. Consistent with the public~~  
185 ~~welfare,~~ When a local government applies school concurrency, it  
186 may not deny an application for site plan, final subdivision  
187 approval, or the functional equivalent for a development or  
188 phase of a development authorizing residential development for  
189 failure to achieve and maintain the level-of-service standard  
190 for public school capacity in a local school concurrency  
191 management system where adequate school facilities will be in  
192 place or under actual construction within 3 years after the  
193 issuance of final subdivision or site plan approval, or the  
194 functional equivalent. School concurrency is satisfied if the  
195 developer executes a legally binding commitment to provide  
196 mitigation proportionate to the demand for public school  
197 facilities to be created by actual development of the property,  
198 including, but not limited to, the options described in sub-  
199 subparagraph a. subparagraph 1. Options for proportionate-share  
200 mitigation of impacts on public school facilities must be  
201 established in the comprehensive plan ~~public school facilities~~  
202 ~~element~~ and the interlocal agreement pursuant to s. 163.31777.

203 a.1. Appropriate mitigation options include the  
204 contribution of land; the construction, expansion, or payment  
205 for land acquisition or construction of a public school  
206 facility; the construction of a charter school that complies  
207 with the requirements of s. 1002.33(18); or the creation of  
208 mitigation banking based on the construction of a public school  
209 facility in exchange for the right to sell capacity credits.  
210 Such options must include execution by the applicant and the  
211 local government of a development agreement that constitutes a  
201755

Approved For Filing: 4/19/2011 9:54:17 AM



Amendment No.

212 | legally binding commitment to pay proportionate-share mitigation  
213 | for the additional residential units approved by the local  
214 | government in a development order and actually developed on the  
215 | property, taking into account residential density allowed on the  
216 | property prior to the plan amendment that increased the overall  
217 | residential density. The district school board must be a party  
218 | to such an agreement. As a condition of its entry into such a  
219 | development agreement, the local government may require the  
220 | landowner to agree to continuing renewal of the agreement upon  
221 | its expiration.

222 |        ~~b.2.~~ If the education facilities plan and the public  
223 | educational facilities element authorize a contribution of land;  
224 | the