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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/23/2012	.	
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The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (8) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(8) An initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment is prohibited. However, any local government charter provision that was in effect as of June 1, 2011, for an initiative or referendum process in regard to

development orders or in regard to local comprehensive plan amendments or map amendments may be retained and implemented.

Section 2. Paragraph (b) of subsection (4) of section 163.3174, Florida Statutes, is amended to read:

163.3174 Local planning agency.—

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(b) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required, including the periodic evaluation and appraisal of the comprehensive plan ~~preparation of the periodic reports~~ required by s. 163.3191.

Section 3. Paragraphs (f) and (h) of subsection (6) 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), the comprehensive plan shall include the following elements:

(f)1. A housing element consisting of principles, guidelines, standards, and strategies 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)(h), housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities. The element may include provisions that specifically address affordable housing for persons 60 years of age or older. Real property that is conveyed to a local government for affordable housing under this sub-subparagraph shall be disposed of by the local government pursuant to s. 125.379 or s. 166.0451.

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.

2. The principles, guidelines, standards, and strategies of the housing element must be based on ~~the~~ data and analysis prepared on housing needs, ~~including an inventory taken from the latest decennial United States Census or more recent estimates,~~ which shall include the number and distribution of dwelling units by type, tenure, age, rent, value, monthly cost of owner-occupied units, and rent or cost to income ratio, and shall show the number of dwelling units that are substandard. The data and analysis ~~inventory~~ shall also include the methodology used to estimate the condition of housing, a projection of the anticipated number of households by size, income range, and age of residents derived from the population projections, and the

minimum housing need of the current and anticipated future residents of the jurisdiction.

3. The housing element must express principles, guidelines, standards, and strategies that reflect, as needed, the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, adequate sites, and distribution of housing for a range of incomes and types, including mobile and manufactured homes. The element must provide for specific programs and actions to partner with private and nonprofit sectors to address housing needs in the jurisdiction, streamline the permitting process, and minimize costs and delays for affordable housing, establish standards to address the quality of housing, stabilization of neighborhoods, and identification and improvement of historically significant housing.

4. 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.

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

c. 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

129 significance, including locally unwanted land uses whose nature
130 and identity are established in an agreement.
131 3. Within 1 year after adopting their intergovernmental
132 coordination elements, each county, all the municipalities
133 within that county, the district school board, and any unit of
134 local government service providers in that county shall
135 establish by interlocal or other formal agreement executed by
136 all affected entities, the joint processes described in this
137 subparagraph consistent with their adopted intergovernmental
138 coordination elements. The agreement ~~element~~ must:
139 a. Ensure that the local government addresses through
140 coordination mechanisms the impacts of development proposed in
141 the local comprehensive plan upon development in adjacent
142 municipalities, the county, adjacent counties, the region, and
143 the state. The area of concern for municipalities shall include
144 adjacent municipalities, the county, and counties adjacent to
145 the municipality. The area of concern for counties shall include
146 all municipalities within the county, adjacent counties, and
147 adjacent municipalities.
148 b. Ensure coordination in establishing level of service
149 standards for public facilities with any state, regional, or
150 local entity having operational and maintenance responsibility
151 for such facilities.
152 Section 4. Subsections (3) and (4) are added to section
153 163.31777, Florida Statutes, to read:
154 163.31777 Public schools interlocal agreement.—
155 (3) A municipality is exempt from the requirements of
156 subsections (1) and (2) if the municipality meets all of the
157 following criteria for having no significant impact on school

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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 that 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.

(4) At the time of the evaluation and appraisal of its comprehensive plan pursuant to s. 163.3191, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under subsection (3). If the municipality continues to meet the criteria for exemption under subsection (3), the municipality shall continue to be exempt from the interlocal-agreement requirement. Each municipality exempt under subsection (3) must comply with this section within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

Section 5. Subsections (3) and (6) of section 163.3178, Florida Statutes, are amended to read:

163.3178 Coastal management.—

(3) Expansions 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); port transportation facilities and projects listed in s. 311.07(3)(b); intermodal transportation facilities identified pursuant to s. 311.09(3); and facilities determined by the state land planning agency ~~Department of Community Affairs~~ and applicable general-purpose local government to be port-related industrial or commercial projects located within 3 miles of or in a port master plan area which rely upon the use of port and intermodal transportation facilities shall not be designated as developments of regional impact if such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with this section.

(6) Local governments are encouraged to adopt countywide marina siting plans to designate sites for existing and future marinas. ~~The Coastal Resources Interagency Management Committee, at the direction of the Legislature, shall identify incentives to encourage local governments to adopt such siting plans and uniform criteria and standards to be used by local governments to implement state goals, objectives, and policies relating to marina siting. These criteria must ensure that priority is given to water-dependent land uses.~~ Countywide marina siting plans must be consistent with state and regional environmental planning policies and standards. Each local government in the coastal area which participates in adoption of a countywide marina siting plan shall incorporate the plan into the coastal management element of its local comprehensive plan.

Section 6. Paragraph (a) of subsection (1) and paragraphs (a), (i), (j), and (k) of subsection (6) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.—

(1) Sanitary sewer, solid waste, drainage, and potable water are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

(a) If concurrency is applied to other public facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service, to guide its application. In order for a local government to rescind any optional concurrency provisions, a comprehensive plan amendment is required. An amendment rescinding optional concurrency issues shall be processed under the expedited state review process in s. 163.3184(3), but the amendment is not subject to state review and is not required to be transmitted to the reviewing agencies for comments, except that the local government shall transmit the amendment to any local government or government agency that has filed a request with the governing body, and for municipal amendments, the amendment shall be transmitted to the county in which the municipality is located. For informational purposes only, a copy of the adopted amendment shall be provided to the state land planning agency. A copy of the adopted amendment shall also be provided to the Department of Transportation if the amendment rescinds transportation concurrency and to the Department of Education if the amendment rescinds school

concurrency.

(6)(a) Local governments that apply ~~If~~ concurrency ~~is applied~~ to public education facilities~~, all local governments within a county, except as provided in paragraph (i),~~ shall include principles, guidelines, standards, and strategies, including adopted levels of service, in their comprehensive plans and interlocal agreements. The choice of one or more municipalities to not adopt school concurrency and enter into the interlocal agreement does not preclude implementation of school concurrency within other jurisdictions of the school district if the county and one or more municipalities have adopted school concurrency into their comprehensive plan and interlocal agreement that represents at least 80 percent of the total countywide population~~, the failure of one or more municipalities to adopt the concurrency and enter into the interlocal agreement does not preclude implementation of school concurrency within jurisdictions of the school district that have opted to implement concurrency~~. All local government provisions included in comprehensive plans regarding school concurrency within a county must be consistent with each other and ~~as well as~~ the requirements of this part.

~~(i) A municipality is not required to be a signatory to the interlocal agreement required by paragraph (j), as a prerequisite for imposition of school concurrency, and as a nonsignatory, may 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:~~

~~1. 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.~~

~~2. 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.~~

~~3. The municipality has no public schools located within its boundaries.~~

~~4. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.~~

(i) ~~(j)~~ 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 meet the following requirements:

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

2. 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.

3. 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 ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors.

4. 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.

5. A process and uniform methodology for determining proportionate-share mitigation pursuant to paragraph (h).

(j) ~~(k)~~ 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.

Section 7. Paragraphs (b) and (c) of subsection (3), paragraphs (b) and (e) of subsection (4), paragraphs (b), (d), and (e) of subsection (5), paragraph (f) of subsection (6), and

subsection (12) of section 163.3184, Florida Statutes, are amended to read:

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

(3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS.—

(b)1. The local government, after the initial public hearing held pursuant to subsection (11), shall transmit within 10 calendar days the amendment or amendments and appropriate supporting data and analyses to the reviewing agencies. The local governing body shall also transmit a copy of the amendments and supporting data and analyses to any other local government or governmental agency that has filed a written request with the governing body.

2. The reviewing agencies and any other local government or governmental agency specified in subparagraph 1. may provide comments regarding the amendment or amendments to the local government. State agencies shall only comment on important state resources and facilities that will be adversely impacted by the amendment if adopted. Comments provided by state agencies shall state with specificity how the plan amendment will adversely impact an important state resource or facility and shall identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts. Such comments, if not resolved, may result in a challenge by the state land planning agency to the plan amendment. Agencies and local governments must transmit their comments to the affected local government such that they are received by the local government not later than 30 days after ~~from~~ the date on which the agency or

government received the amendment or amendments. Reviewing agencies shall also send a copy of their comments to the state land planning agency.

3. Comments to the local government from a regional planning council, county, or municipality shall be limited as follows:

a. The regional planning council review and comments shall be limited to adverse effects on regional resources or facilities identified in the strategic regional policy plan and extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region. A regional planning council may not review and comment on a proposed comprehensive plan amendment prepared by such council unless the plan amendment has been changed by the local government subsequent to the preparation of the plan amendment by the regional planning council.

b. County comments shall be in the context of the relationship and effect of the proposed plan amendments on the county plan.

c. Municipal comments shall be in the context of the relationship and effect of the proposed plan amendments on the municipal plan.

d. Military installation comments shall be provided in accordance with s. 163.3175.

4. Comments to the local government from state agencies shall be limited to the following subjects as they relate to important state resources and facilities that will be adversely impacted by the amendment if adopted:

a. The Department of Environmental Protection shall limit

its comments to the subjects of air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, and conservation easements; solid waste; water and wastewater treatment; and the Everglades ecosystem restoration.

b. The Department of State shall limit its comments to the subjects of historic and archaeological resources.

c. The Department of Transportation shall limit its comments to issues within the agency's jurisdiction as it relates to transportation resources and facilities of state importance.

d. The Fish and Wildlife Conservation Commission shall limit its comments to subjects relating to fish and wildlife habitat and listed species and their habitat.

e. The Department of Agriculture and Consumer Services shall limit its comments to the subjects of agriculture, forestry, and aquaculture issues.

f. The Department of Education shall limit its comments to the subject of public school facilities.

g. The appropriate water management district shall limit its comments to flood protection and floodplain management, wetlands and other surface waters, and regional water supply.

h. The state land planning agency shall limit its comments to important state resources and facilities outside the jurisdiction of other commenting state agencies and may include comments on countervailing planning policies and objectives served by the plan amendment that should be balanced against potential adverse impacts to important state resources and

facilities.

(c)1. The local government shall hold its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, the amendments shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

2. All comprehensive plan amendments adopted by the governing body, along with the supporting data and analysis, shall be transmitted within 10 calendar days after the second public hearing to the state land planning agency and any other agency or local government that provided timely comments under subparagraph (b)2.

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of an amendment package. For purposes of completeness, an amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.

4. An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

(4) STATE COORDINATED REVIEW PROCESS.—

(b) *Local government transmittal of proposed plan or amendment.*—Each local governing body proposing a plan or plan amendment specified in paragraph (2)(c) shall transmit the complete proposed comprehensive plan or plan amendment to the reviewing agencies within 10 calendar days after ~~immediately following~~ the first public hearing pursuant to subsection (11). The transmitted document shall clearly indicate on the cover sheet that this plan amendment is subject to the state coordinated review process of this subsection. 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.

(e) *Local government review of comments; adoption of plan or amendments and transmittal.*—

1. The local government shall review the report submitted to it by the state land planning agency, if any, and written comments submitted to it by any other person, agency, or government. The local government, upon receipt of the report from the state land planning agency, shall hold its second

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public hearing, which shall be a hearing to determine whether to adopt the comprehensive plan or one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails to hold the second hearing within 180 days after receipt of the state land planning agency's report, the amendments shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

2. All comprehensive plan amendments adopted by the governing body, along with the supporting data and analysis, shall be transmitted within 10 calendar days after the second public hearing to the state land planning agency and any other agency or local government that provided timely comments under paragraph (c).

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of a plan or plan amendment package. For purposes of completeness, a plan or plan amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.

4. After the state land planning agency makes a

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determination of completeness regarding the adopted plan or plan amendment, the state land planning agency shall have 45 days to determine if the plan or plan amendment is in compliance with this act. Unless the plan or plan amendment is substantially changed from the one commented on, the state land planning agency's compliance determination shall be limited to objections raised in the objections, recommendations, and comments report. During the period provided for in this subparagraph, the state land planning agency shall issue, through a senior administrator or the secretary, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. The state land planning agency shall post a copy of the notice of intent on the agency's Internet website. Publication by the state land planning agency of the notice of intent on the state land planning agency's Internet site shall be prima facie evidence of compliance with the publication requirements of this subparagraph.

5. A plan or plan amendment adopted under the state coordinated review process shall go into effect pursuant to the state land planning agency's notice of intent. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(b) The state land planning agency may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government,

to request a formal hearing to challenge whether the plan or plan amendment is in compliance as defined in paragraph (1)(b). The state land planning agency's petition must clearly state the reasons for the challenge. Under the expedited state review process, this petition must be filed with the division within 30 days after the state land planning agency notifies the local government that the plan amendment package is complete according to subparagraph (3)(c)3. Under the state coordinated review process, this petition must be filed with the division within 45 days after the state land planning agency notifies the local government that the plan amendment package is complete according to subparagraph (4)(e)3. ~~(3)(c)3.~~

1. The state land planning agency's challenge to plan amendments adopted under the expedited state review process shall be limited to the comments provided by the reviewing agencies pursuant to subparagraphs (3)(b)2.-4., upon a determination by the state land planning agency that an important state resource or facility will be adversely impacted by the adopted plan amendment. The state land planning agency's petition shall state with specificity how the plan amendment will adversely impact the important state resource or facility. The state land planning agency may challenge a plan amendment that has substantially changed from the version on which the agencies provided comments but only upon a determination by the state land planning agency that an important state resource or facility will be adversely impacted.

2. If the state land planning agency issues a notice of intent to find the comprehensive plan or plan amendment not in compliance with this act, the notice of intent shall be


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forwarded to the Division of Administrative Hearings of the Department of Management Services, which shall conduct a proceeding under ss. 120.569 and 120.57 in the county of and convenient to the affected local jurisdiction. The parties to the proceeding shall be the state land planning agency, the affected local government, and any affected person who intervenes. No new issue may be alleged as a reason to find a plan or plan amendment not in compliance in an administrative pleading filed more than 21 days after publication of notice unless the party seeking that issue establishes good cause for not alleging the issue within that time period. Good cause does not include excusable neglect.

(d) If the administrative law judge recommends that the amendment be found not in compliance, the judge shall submit the recommended order to the Administration Commission for final agency action. The Administration Commission shall make every effort to enter a final order expeditiously, but at a minimum within the time period provided by s. 120.569 ~~45 days after its receipt of the recommended order~~.

(e) If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.

1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall make every effort to refer~~, within 30 days after receipt of the recommended order,~~ the recommended order and its determination expeditiously to the Administration Commission for final agency action, but at a minimum within the time period provided by s. 120.569.

2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall make every effort to enter its final order expeditiously, but at a minimum within the time period provided by s. 120.569 ~~not later than 30 days after receipt of the recommended order~~.

(6) COMPLIANCE AGREEMENT.—

(f) For challenges to amendments adopted under the state coordinated process, the state land planning agency~~, upon receipt of a plan or plan amendment adopted pursuant to a compliance agreement,~~ shall issue a cumulative notice of intent addressing both the remedial amendment and the plan or plan amendment that was the subject of the agreement within 20 days after receiving a complete plan or plan amendment adopted pursuant to a compliance agreement.

1. If the local government adopts a comprehensive plan or plan amendment pursuant to a compliance agreement and a notice of intent to find the plan amendment in compliance is issued, the state land planning agency shall forward the notice of intent to the Division of Administrative Hearings and the administrative law judge shall realign the parties in the pending proceeding under ss. 120.569 and 120.57, which shall thereafter be governed by the process contained in paragraph (5)(a) and subparagraph (5)(c)1., including provisions relating to challenges by an affected person, burden of proof, and issues of a recommended order and a final order. Parties to the original proceeding at the time of realignment may continue as parties without being required to file additional pleadings to initiate a proceeding, but may timely amend their pleadings to raise any challenge to the amendment that is the subject of the

cumulative notice of intent, and must otherwise conform to the rules of procedure of the Division of Administrative Hearings. Any affected person not a party to the realigned proceeding may challenge the plan amendment that is the subject of the cumulative notice of intent by filing a petition with the agency as provided in subsection (5). The agency shall forward the petition filed by the affected person not a party to the realigned proceeding to the Division of Administrative Hearings for consolidation with the realigned proceeding. If the cumulative notice of intent is not challenged, the state land planning agency shall request that the Division of Administrative Hearings relinquish jurisdiction to the state land planning agency for issuance of a final order.

2. If the local government adopts a comprehensive plan amendment pursuant to a compliance agreement and a notice of intent is issued that finds the plan amendment not in compliance, the state land planning agency shall forward the notice of intent to the Division of Administrative Hearings, which shall consolidate the proceeding with the pending proceeding and immediately set a date for a hearing in the pending proceeding under ss. 120.569 and 120.57. Affected persons who are not a party to the underlying proceeding under ss. 120.569 and 120.57 may challenge the plan amendment adopted pursuant to the compliance agreement by filing a petition pursuant to paragraph (5)(a).

(12) CONCURRENT ZONING.— At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this section ~~subsection~~.

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Zoning changes approved by the local government are contingent upon the comprehensive plan or plan amendment transmitted becoming effective.

Section 8. Subsection (3) of section 163.3191, Florida Statutes, is amended to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(3) Local governments are encouraged to comprehensively evaluate and, as necessary, update comprehensive plans to reflect changes in local conditions. Plan amendments transmitted pursuant to this section shall be reviewed pursuant to ~~in accordance with~~ s. 163.3184(4).

Section 9. Subsections (8) through (14) of section 163.3245, Florida Statutes, are redesignated as subsections (7) through (13), respectively, and present subsections (1) and (7) of that section are amended to read:

163.3245 Sector plans.—

(1) In recognition of the benefits of long-range planning for specific areas, local governments or combinations of local governments may adopt into their comprehensive plans a sector plan in accordance with this section. This section is intended to promote and encourage long-term planning for conservation, development, and agriculture on a landscape scale; to further support ~~the intent of s. 163.3177(11), which supports~~ innovative and flexible planning and development strategies, and the purposes of this part and part I of chapter 380; to facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors; and to avoid duplication of effort in terms of the level of data and analysis required for a development of


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regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Sector plans are intended for substantial geographic areas that include at least 15,000 acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.

~~(7) Beginning December 1, 1999, and each year thereafter, the department shall provide a status report to the President of the Senate and the Speaker of the House of Representatives regarding each optional sector plan authorized under this section.~~

Section 10. Paragraph (d) of subsection (2) of section 186.002, Florida Statutes, is amended to read:

186.002 Findings and intent.—

(2) It is the intent of the Legislature that:

(d) The state planning process shall be informed and guided by the experience of public officials at all levels of government. ~~In preparing any plans or proposed revisions or amendments required by this chapter, the Governor shall consider the experience of and information provided by local governments in their evaluation and appraisal reports pursuant to s. 163.3191.~~

Section 11. Subsection (8) of section 186.007, Florida Statutes, is amended to read:

186.007 State comprehensive plan; preparation; revision.—

(8) The revision of the state comprehensive plan is a

continuing process. Each section of the plan shall be reviewed and analyzed biennially by the Executive Office of the Governor in conjunction with the planning officers of other state agencies significantly affected by the provisions of the particular section under review. In conducting this review and analysis, the Executive Office of the Governor shall review and consider, with the assistance of the state land planning agency and regional planning councils, ~~the evaluation and appraisal reports submitted pursuant to s. 163.3191 and~~ the evaluation and appraisal reports prepared pursuant to s. 186.511. Any necessary revisions of the state comprehensive plan shall be proposed by the Governor in a written report and be accompanied by an explanation of the need for such changes. If the Governor determines that changes are unnecessary, the written report must explain why changes are unnecessary. The proposed revisions and accompanying explanations may be submitted in the report required by s. 186.031. Any proposed revisions to the plan shall be submitted to the Legislature as provided in s. 186.008(2) at least 30 days prior to the regular legislative session occurring in each even-numbered year.

Section 12. Subsection (1) of section 186.508, Florida Statutes, is amended to read:

186.508 Strategic regional policy plan adoption; consistency with state comprehensive plan.—

(1) Each regional planning council shall submit to the Executive Office of the Governor its proposed strategic regional policy plan on a schedule established by the Executive Office of the Governor to coordinate implementation of the strategic regional policy plans with the evaluation and appraisal <u>process</u>

~~reports~~ required by s. 163.3191. The Executive Office of the Governor, or its designee, shall review the proposed strategic regional policy plan to ensure consistency with the adopted state comprehensive plan and shall, within 60 days, provide any recommended revisions. The Governor's recommended revisions shall be included in the plans in a comment section. However, nothing in this section precludes ~~herein shall preclude~~ a regional planning council from adopting or rejecting any or all of the revisions as a part of its plan before ~~prior to~~ the effective date of the plan. The rules adopting the strategic regional policy plan are ~~shall~~ not ~~be~~ subject to rule challenge under s. 120.56(2) or to drawout proceedings under s. 120.54(3)(c)2., but, once adopted, are ~~shall be~~ subject to an invalidity challenge under s. 120.56(3) by substantially affected persons, including the Executive Office of the Governor. The rules shall be adopted by the regional planning councils, and ~~shall~~ become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

Section 13. Subsections (2) and (3) of section 189.415, Florida Statutes, are amended to read:

189.415 Special district public facilities report.—

(2) Each independent special district shall submit to each local general-purpose government in which it is located a public facilities report and an annual notice of any changes. The public facilities report shall specify the following information:

(a) A description of existing public facilities owned or operated by the special district, and each public facility that

is operated by another entity, except a local general-purpose government, through a lease or other agreement with the special district. This description shall include the current capacity of the facility, the current demands placed upon it, and its location. This information shall be required in the initial report and updated every 7 ~~5~~ years at least 12 months before ~~prior to~~ the submission date of the evaluation and appraisal notification letter ~~report~~ of the appropriate local government required by s. 163.3191. The department shall post a schedule on its website, based on the evaluation and appraisal notification schedule prepared pursuant to s. 163.3191(5), for use by a special district to determine when its public facilities report and updates to that report are due to the local general-purpose governments in which the special district is located. ~~At least 12 months prior to the date on which each special district's first updated report is due, the department shall notify each independent district on the official list of special districts compiled pursuant to s. 189.4035 of the schedule for submission of the evaluation and appraisal report by each local government within the special district's jurisdiction.~~

(b) A description of each public facility the district is building, improving, or expanding, or is currently proposing to build, improve, or expand within at least the next 7 ~~5~~ years, including any facilities that the district is assisting another entity, except a local general-purpose government, to build, improve, or expand through a lease or other agreement with the district. For each public facility identified, the report shall describe how the district currently proposes to finance the facility.


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(c) If the special district currently proposes to replace any facilities identified in paragraph (a) or paragraph (b) within the next 10 years, the date when such facility will be replaced.

(d) The anticipated time the construction, improvement, or expansion of each facility will be completed.

(e) The anticipated capacity of and demands on each public facility when completed. In the case of an improvement or expansion of a public facility, both the existing and anticipated capacity must be listed.

(3) A special district proposing to build, improve, or expand a public facility which requires a certificate of need pursuant to chapter 408 shall elect to notify the appropriate local general-purpose government of its plans either in its 7-year ~~5-year~~ plan or at the time the letter of intent is filed with the Agency for Health Care Administration pursuant to s. 408.039.

Section 14. Subsection (5) of section 288.975, Florida Statutes, is amended to read:

288.975 Military base reuse plans.—

(5) At the discretion of the host local government, the provisions of this act may be complied with through the adoption of the military base reuse plan as a separate component of the local government comprehensive plan or through simultaneous amendments to all pertinent portions of the local government comprehensive plan. Once adopted and approved in accordance with this section, the military base reuse plan shall be considered to be part of the host local government’s comprehensive plan and shall be thereafter implemented, amended, and reviewed pursuant


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to ~~in accordance with the provisions of~~ part II of chapter 163. ~~Local government comprehensive plan amendments necessary to initially adopt the military base reuse plan shall be exempt from the limitation on the frequency of plan amendments contained in s. 163.3187(1).~~

Section 15. Paragraph (b) of subsection (6), paragraph (e) of subsection (19), paragraphs (l) and (q) of subsection (24), and paragraph (b) of subsection (29) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT PLAN AMENDMENTS.—

(b) Any local government comprehensive plan amendments related to a proposed development of regional impact, including any changes proposed under subsection (19), may be initiated by a local planning agency or the developer and must be 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 s. 163.3184 ~~163.3187~~ and applicable local ordinances, without regard to local limits on the frequency of consideration of amendments to the local comprehensive plan. This paragraph does not require favorable consideration of a plan amendment solely because it is related to a development of regional impact. The procedure for processing such comprehensive plan amendments is as follows:

1. If a developer seeks a comprehensive plan amendment related to a development of regional impact, the developer must so notify in writing the regional planning agency, the applicable local government, and the state land planning agency

no later than the date of preapplication conference or the submission of the proposed change under subsection (19).

2. When filing the application for development approval or the proposed change, the developer must include a written request for comprehensive plan amendments that would be necessitated by the development-of-regional-impact approvals sought. That request must include data and analysis upon which the applicable local government can determine whether to transmit the comprehensive plan amendment pursuant to s. 163.3184.

3. The local government must advertise a public hearing on the transmittal within 30 days after filing the application for development approval or the proposed change and must make a determination on the transmittal within 60 days after the initial filing unless that time is extended by the developer.

4. If the local government approves the transmittal, procedures set forth in s. 163.3184 ~~163.3184(4)(b)-(d)~~ must be followed.

5. Notwithstanding subsection (11) or subsection (19), the local government may not hold a public hearing on the application for development approval or the proposed change or on the comprehensive plan amendments sooner than 30 days after reviewing agency comments are due to the local government ~~from receipt of the response from the state land planning agency~~ pursuant to s. 163.3184 ~~163.3184(4)(d).~~

6. The local government must hear both the application for development approval or the proposed change and the comprehensive plan amendments at the same hearing. However, the local government must take action separately on the application

for development approval or the proposed change and on the comprehensive plan amendments.

7. Thereafter, the appeal process for the local government development order must follow the provisions of s. 380.07, and the compliance process for the comprehensive plan amendments must follow the provisions of s. 163.3184.

(19) SUBSTANTIAL DEVIATIONS.—

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order that individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-10. and does not exceed any other criterion, or that involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback that do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads that do not affect external access points.

e. Changes to the building design or orientation that stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, provided that no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, provided that there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, provided that these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries and configuration of areas described in subparagraph (b)11. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur prior to the time a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.

k. Any other change which the state land planning agency, in consultation with the regional planning council, agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-j. and which does not create the likelihood of any additional regional impact.

This subsection does not require the filing of a notice of proposed change but shall require an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the state land planning agency the amendment to the development order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., sub-subparagraph j., or sub-subparagraph k., and it believes the change creates a reasonable likelihood of new or additional regional impacts.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously

approved development shall include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence.

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) ~~380.0651(3)(c), (d), and (e)~~ and residential use.

6. If a local government agrees to a proposed change, a change in the transportation proportionate share calculation and mitigation plan in an adopted development order as a result of recalculation of the proportionate share contribution meeting the requirements of s. 163.3180(5)(h) in effect as of the date of such change shall be presumed not to create a substantial deviation. For purposes of this subsection, the proposed change in the proportionate share calculation or mitigation plan shall

not be considered an additional regional transportation impact.

(24) STATUTORY EXEMPTIONS.—

(l) Any proposed development within an urban service boundary established under s. 163.3177(14), Florida Statutes 2010, which is not otherwise exempt pursuant to subsection (29), is exempt from this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary and 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.

(q) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(b)4. ~~163.3177(6)(k)~~ is exempt from this section.

If a use is exempt from review as a development of regional impact under paragraphs (a)-(u), 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 Department of Economic Opportunity under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.

(29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—

(b) If a municipality that does not qualify as a dense urban land area pursuant to paragraph (a) ~~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).

Section 16. Subsection (1) of section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards.—

(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact. A development that has received a development-of-regional-impact development order pursuant to s. 380.06, but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards or has reduced its size below the thresholds in s. 380.0651, or a development that is exempt pursuant to s. 380.06(24) or (29) shall be governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). Any proposed changes to those

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developments which continue to be governed by a development order shall be approved pursuant to s. 380.06(19) as it existed prior to a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria shall be doubled and all other criteria shall be increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed.

Section 17. Section 1013.33, Florida Statutes, is amended to read:

1013.33 Coordination of planning with local governing bodies.—

(1) It is the policy of this state to require the coordination of planning between boards and local governing bodies to ensure that plans for the construction and opening of public educational facilities are facilitated and coordinated in time and place with plans for residential development, concurrently with other necessary services. Such planning shall include the integration of the educational facilities plan and applicable policies and procedures of a board with the local comprehensive plan and land development regulations of local governments. The planning must include the consideration of allowing students to attend the school located nearest their

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homes when a new housing development is constructed near a county boundary and it is more feasible to transport the students a short distance to an existing facility in an adjacent county than to construct a new facility or transport students longer distances in their county of residence. The planning must also consider the effects of the location of public education facilities, including the feasibility of keeping central city facilities viable, in order to encourage central city redevelopment and the efficient use of infrastructure and to discourage uncontrolled urban sprawl. In addition, all parties to the planning process must consult with state and local road departments to assist in implementing the Safe Paths to Schools program administered by the Department of Transportation.

(2) ~~(a)~~ The school board, county, and nonexempt municipalities located within the geographic area of a school district shall enter into an interlocal agreement according to s. 163.31777 that jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated. ~~The interlocal agreements shall be submitted to the state land planning agency and the Office of Educational Facilities in accordance with a schedule published by the state land planning agency.~~

~~(b) The schedule must establish staggered due dates for submission of interlocal agreements that are executed by both the local government and district school board, commencing on March 1, 2003, and concluding by December 1, 2004, and must set the same date for all governmental entities within a school district. However, if the county where the school district is located contains more than 20 municipalities, the state land~~

~~planning agency may establish staggered due dates for the submission of interlocal agreements by these municipalities. The schedule must begin with those areas where both the number of districtwide capital-outlay full-time-equivalent students equals 80 percent or more of the current year's school capacity and the projected 5-year student growth rate is 1,000 or greater, or where the projected 5-year student growth rate is 10 percent or greater.~~

~~(c) If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and district school board may petition the state land planning agency for a waiver of one or more of the requirements of subsection (3). The waiver must be granted if the procedures called for in subsection (3) are unnecessary because of the school district's declining school age population, considering the district's 5-year work program prepared pursuant to s. 1013.35. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.~~

~~(d) Interlocal agreements between local governments and district school boards adopted pursuant to s. 163.3177 before the effective date of subsections (2)-(7) must be updated and executed pursuant to the requirements of subsections (2)-(7), if necessary. Amendments to interlocal agreements adopted pursuant~~

~~to subsections (2)-(7) must be submitted to the state land planning agency within 30 days after execution by the parties for review consistent with subsections (3) and (4). Local governments and the district school board in each school district are encouraged to adopt a single interlocal agreement in which all join as parties. The state land planning agency shall assemble and make available model interlocal agreements meeting the requirements of subsections (2)-(7) and shall notify local governments and, jointly with the Department of Education, the district school boards of the requirements of subsections (2)-(7), the dates for compliance, and the sanctions for noncompliance. The state land planning agency shall be available to informally review proposed interlocal agreements. If the state land planning agency has not received a proposed interlocal agreement for informal review, the state land planning agency shall, at least 60 days before the deadline for submission of the executed agreement, renotify the local government and the district school board of the upcoming deadline and the potential for sanctions.~~

~~(3) At a minimum, the interlocal agreement must address interlocal agreement requirements in s. 163.31777 and, if applicable, s. 163.3180(6), and must address the following issues:~~

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


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

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

~~(d) A process for determining the need for and timing of onsite and offsite improvements to support new construction, proposed expansion, or redevelopment of existing schools. The process shall address identification of the party or parties responsible for the improvements.~~

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

~~(f) Participation of the local governments in the preparation of the annual update to the school board's 5-year district facilities work program and educational plant survey~~

~~prepared pursuant to s. 1013.35.~~

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

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

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

~~(4)(a) The Office of Educational Facilities shall submit any comments or concerns regarding the executed interlocal agreement to the state land planning agency within 30 days after receipt of the executed interlocal agreement. The state land planning agency shall review the executed interlocal agreement to determine whether it is consistent with the requirements of subsection (3), the adopted local government comprehensive plan, and other requirements of law. Within 60 days after receipt of an executed interlocal agreement, the state land planning agency shall publish a notice of intent in the Florida Administrative Weekly and shall post a copy of the notice on the agency's Internet site. The notice of intent must state that the interlocal agreement is consistent or inconsistent with the requirements of subsection (3) and this subsection as appropriate.~~

~~(b) The state land planning agency's notice is subject to challenge under chapter 120; however, an affected person, as defined in s. 163.3184(1)(a), has standing to initiate the~~


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~~administrative proceeding, and this proceeding is the sole means available to challenge the consistency of an interlocal agreement required by this section with the criteria contained in subsection (3) and this subsection. In order to have standing, each person must have submitted oral or written comments, recommendations, or objections to the local government or the school board before the adoption of the interlocal agreement by the district school board and local government. The district school board and local governments are parties to any such proceeding. In this proceeding, when the state land planning agency finds the interlocal agreement to be consistent with the criteria in subsection (3) and this subsection, the interlocal agreement must be determined to be consistent with subsection (3) and this subsection if the local government's and school board's determination of consistency is fairly debatable. When the state land planning agency finds the interlocal agreement to be inconsistent with the requirements of subsection (3) and this subsection, the local government's and school board's determination of consistency shall be sustained unless it is shown by a preponderance of the evidence that the interlocal agreement is inconsistent.~~

~~(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (3) or this subsection, the state land planning agency shall forward it to the Administration Commission, which may impose sanctions against the local government pursuant to s. 163.3184(11) and may impose sanctions against the district school board by directing the Department of Education to withhold an equivalent amount of funds for school~~


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~~construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.~~

~~(5) If an executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a notice to show cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by directing the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(11) and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.~~

~~(6) Any local government transmitting a public school element to implement school concurrency pursuant to the requirements of s. 163.3180 before the effective date of this section is not required to amend the element or any interlocal agreement to conform with the provisions of subsections (2)-(6) if the element is adopted prior to or within 1 year after the effective date of subsections (2)-(6) and remains in effect.~~

(3)~~(7)~~ A board and the local governing body must share and coordinate information related to existing and planned school facilities; proposals for development, redevelopment, or

additional development; and infrastructure required to support the school facilities, concurrent with proposed development. A school board shall use information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136 when preparing the district educational facilities plan pursuant to s. 1013.35, as modified and agreed to by the local governments, when provided by interlocal agreement, and the Office of Educational Facilities, in consideration of local governments' population projections, to ensure that the district educational facilities plan not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. The projections must be apportioned geographically with assistance from the local governments using local government trend data and the school district student enrollment data. A school board is precluded from siting a new school in a jurisdiction where the school board has failed to provide the annual educational facilities plan for the prior year required pursuant to s. 1013.35 unless the failure is corrected.

(4) ~~(8)~~ The location of educational facilities shall be consistent with the comprehensive plan of the appropriate local governing body developed under part II of chapter 163 and consistent with the plan's implementing land development regulations.

(5) ~~(9)~~ To improve coordination relative to potential educational facility sites, a board shall provide written notice to the local government that has regulatory authority over the use of the land consistent with an interlocal agreement entered pursuant to s. 163.31777 ~~subsections (2)-(6)~~ at least 60 days

prior to acquiring or leasing property that may be used for a new public educational facility. The local government, upon receipt of this notice, shall notify the board within 45 days if the site proposed for acquisition or lease is consistent with the land use categories and policies of the local government's comprehensive plan. This preliminary notice does not constitute the local government's determination of consistency pursuant to subsection (6)~~(10)~~.

(6)~~(10)~~ As early in the design phase as feasible and consistent with an interlocal agreement entered pursuant to s. 163.31777~~subsections (2)-(6)~~, but no later than 90 days before commencing construction, the district school board shall in writing request a determination of consistency with the local government's comprehensive plan. The local governing body that regulates the use of land shall determine, in writing within 45 days after receiving the necessary information and a school board's request for a determination, whether a proposed educational facility is consistent with the local comprehensive plan and consistent with local land development regulations. If the determination is affirmative, school construction may commence and further local government approvals are not required, except as provided in this section. Failure of the local governing body to make a determination in writing within 90 days after a district school board's request for a determination of consistency shall be considered an approval of the district school board's application. Campus master plans and development agreements must comply with the provisions of s. 1013.30.

(7)~~(11)~~ A local governing body may not deny the site

applicant based on adequacy of the site plan as it relates solely to the needs of the school. If the site is consistent with the comprehensive plan's land use policies and categories in which public schools are identified as allowable uses, the local government may not deny the application but it may impose reasonable development standards and conditions in accordance with s. 1013.51(1) and consider the site plan and its adequacy as it relates to environmental concerns, health, safety and welfare, and effects on adjacent property. Standards and conditions may not be imposed which conflict with those established in this chapter or the Florida Building Code, unless mutually agreed and consistent with the interlocal agreement required by s. 163.31777~~subsections (2)-(6)~~.

(8)~~(12)~~ This section does not prohibit a local governing body and district school board from agreeing and establishing an alternative process for reviewing a proposed educational facility and site plan, and offsite impacts, pursuant to an interlocal agreement adopted in accordance with s. 163.31777~~subsections (2)-(6)~~.

(9)~~(13)~~ Existing schools shall be considered consistent with the applicable local government comprehensive plan adopted under part II of chapter 163. If a board submits an application to expand an existing school site, the local governing body may impose reasonable development standards and conditions on the expansion only, and in a manner consistent with s. 1013.51(1). Standards and conditions may not be imposed which conflict with those established in this chapter or the Florida Building Code, unless mutually agreed. Local government review or approval is not required for:

(a) The placement of temporary or portable classroom facilities; or

(b) Proposed renovation or construction on existing school sites, with the exception of construction that changes the primary use of a facility, includes stadiums, or results in a greater than 5 percent increase in student capacity, or as mutually agreed upon, pursuant to an interlocal agreement adopted in accordance with s. 163.31777~~subsections (2)-(6)~~.

Section 18. Paragraph (b) of subsection (2) of section 1013.35, Florida Statutes, is amended to read:

1013.35 School district educational facilities plan; definitions; preparation, adoption, and amendment; long-term work programs.—

(2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL FACILITIES PLAN.—

(b) The plan must also include a financially feasible district facilities work program for a 5-year period. The work program must include:

1. A schedule of major repair and renovation projects necessary to maintain the educational facilities and ancillary facilities of the district.

2. A schedule of capital outlay projects necessary to ensure the availability of satisfactory student stations for the projected student enrollment in K-12 programs. This schedule shall consider:

a. The locations, capacities, and planned utilization rates of current educational facilities of the district. The capacity of existing satisfactory facilities, as reported in the Florida Inventory of School Houses must be compared to the capital

outlay full-time-equivalent student enrollment as determined by the department, including all enrollment used in the calculation of the distribution formula in s. 1013.64.

b. The proposed locations of planned facilities, whether those locations are consistent with the comprehensive plans of all affected local governments, and recommendations for infrastructure and other improvements to land adjacent to existing facilities. The provisions of ss. 1013.33(6) ~~(10)~~, (7) ~~(11)~~, and (8) ~~(12)~~ and 1013.36 must be addressed for new facilities planned within the first 3 years of the work plan, as appropriate.

c. Plans for the use and location of relocatable facilities, leased facilities, and charter school facilities.

d. Plans for multitrack scheduling, grade level organization, block scheduling, or other alternatives that reduce the need for additional permanent student stations.

e. Information concerning average class size and utilization rate by grade level within the district which will result if the tentative district facilities work program is fully implemented.

f. The number and percentage of district students planned to be educated in relocatable facilities during each year of the tentative district facilities work program. For determining future needs, student capacity may not be assigned to any relocatable classroom that is scheduled for elimination or replacement with a permanent educational facility in the current year of the adopted district educational facilities plan and in the district facilities work program adopted under this section. Those relocatable classrooms clearly identified and scheduled

for replacement in a school-board-adopted, financially feasible, 5-year district facilities work program shall be counted at zero capacity at the time the work program is adopted and approved by the school board. However, if the district facilities work program is changed and the relocatable classrooms are not replaced as scheduled in the work program, the classrooms must be reentered into the system and be counted at actual capacity. Relocatable classrooms may not be perpetually added to the work program or continually extended for purposes of circumventing this section. All relocatable classrooms not identified and scheduled for replacement, including those owned, lease-purchased, or leased by the school district, must be counted at actual student capacity. The district educational facilities plan must identify the number of relocatable student stations scheduled for replacement during the 5-year survey period and the total dollar amount needed for that replacement.

g. Plans for the closure of any school, including plans for disposition of the facility or usage of facility space, and anticipated revenues.

h. Projects for which capital outlay and debt service funds accruing under s. 9(d), Art. XII of the State Constitution are to be used shall be identified separately in priority order on a project priority list within the district facilities work program.

3. The projected cost for each project identified in the district facilities work program. For proposed projects for new student stations, a schedule shall be prepared comparing the planned cost and square footage for each new student station, by elementary, middle, and high school levels, to the low, average,


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and high cost of facilities constructed throughout the state during the most recent fiscal year for which data is available from the Department of Education.

4. A schedule of estimated capital outlay revenues from each currently approved source which is estimated to be available for expenditure on the projects included in the district facilities work program.

5. A schedule indicating which projects included in the district facilities work program will be funded from current revenues projected in subparagraph 4.

6. A schedule of options for the generation of additional revenues by the district for expenditure on projects identified in the district facilities work program which are not funded under subparagraph 5. Additional anticipated revenues may include effort index grants, SIT Program awards, and Classrooms First funds.

Section 19. Subsections (3), (5), (6), (7), (8), (9), (10), and (11) of section 1013.351, Florida Statutes, are amended to read:

1013.351 Coordination of planning between the Florida School for the Deaf and the Blind and local governing bodies.—

(3) The board of trustees and the municipality in which the school is located may enter into an interlocal agreement to establish the specific ways in which the plans and processes of the board of trustees and the local government are to be coordinated. ~~If the school and local government enter into an interlocal agreement, the agreement must be submitted to the state land planning agency and the Office of Educational Facilities.~~


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~~(5)(a) The Office of Educational Facilities shall submit any comments or concerns regarding the executed interlocal agreements to the state land planning agency no later than 30 days after receipt of the executed interlocal agreements. The state land planning agency shall review the executed interlocal agreements to determine whether they are consistent with the requirements of subsection (4), the adopted local government comprehensive plans, and other requirements of law. Not later than 60 days after receipt of an executed interlocal agreement, the state land planning agency shall publish a notice of intent in the Florida Administrative Weekly. The notice of intent must state that the interlocal agreement is consistent or inconsistent with the requirements of subsection (4) and this subsection as appropriate.~~

~~(b)1. The state land planning agency's notice is subject to challenge under chapter 120. However, an affected person, as defined in s. 163.3184, has standing to initiate the administrative proceeding, and this proceeding is the sole means available to challenge the consistency of an interlocal agreement with the criteria contained in subsection (4) and this subsection. In order to have standing, a person must have submitted oral or written comments, recommendations, or objections to the appropriate local government or the board of trustees before the adoption of the interlocal agreement by the board of trustees and local government. The board of trustees and the appropriate local government are parties to any such proceeding.~~

~~2. In the administrative proceeding, if the state land planning agency finds the interlocal agreement to be consistent~~

~~with the criteria in subsection (4) and this subsection, the interlocal agreement must be determined to be consistent with subsection (4) and this subsection if the local government and board of trustees is fairly debatable.~~

~~3. If the state land planning agency finds the interlocal agreement to be inconsistent with the requirements of subsection (4) and this subsection, the determination of consistency by the local government and board of trustees shall be sustained unless it is shown by a preponderance of the evidence that the interlocal agreement is inconsistent.~~

~~(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (4) or this subsection, the state land planning agency shall identify the issues in dispute and submit the matter to the Administration Commission for final action. The report to the Administration Commission must list each issue in dispute, describe the nature and basis for each dispute, identify alternative resolutions of each dispute, and make recommendations. After receiving the report from the state land planning agency, the Administration Commission shall take action to resolve the issues. In deciding upon a proper resolution, the Administration Commission shall consider the nature of the issues in dispute, the compliance of the parties with this section, the extent of the conflict between the parties, the comparative hardships, and the public interest involved. In resolving the matter, the Administration Commission may prescribe, by order, the contents of the interlocal agreement which shall be executed by the board of trustees and the local government.~~

(5)~~(6)~~ An interlocal agreement may be amended under subsections (2)-(4) ~~(2)-(5)~~:

(a) In conjunction with updates to the school's educational plant survey prepared under s. 1013.31; or

(b) If either party delays by more than 12 months the construction of a capital improvement identified in the agreement.

(6)~~(7)~~ This section does not prohibit a local governing body and the board of trustees from agreeing and establishing an alternative process for reviewing proposed expansions to the school's campus and offsite impacts, under the interlocal agreement adopted in accordance with subsections (2)-(5) ~~(2)-(6)~~.

(7)~~(8)~~ School facilities within the geographic area or the campus of the school as it existed on or before January 1, 1998, are consistent with the local government's comprehensive plan developed under part II of chapter 163 and consistent with the plan's implementing land development regulations.

(8)~~(9)~~ To improve coordination relative to potential educational facility sites, the board of trustees shall provide written notice to the local governments consistent with the interlocal agreements entered under subsections (2)-(5) ~~(2)-(6)~~ at least 60 days before the board of trustees acquires any additional property. The local government shall notify the board of trustees no later than 45 days after receipt of this notice if the site proposed for acquisition is consistent with the land use categories and policies of the local government's comprehensive plan. This preliminary notice does not constitute the local government's determination of consistency under

subsection (9) ~~(10)~~.

(9)~~(10)~~ As early in the design phase as feasible, but no later than 90 days before commencing construction, the board of trustees shall request in writing a determination of consistency with the local government's comprehensive plan and local development regulations for the proposed use of any property acquired by the board of trustees on or after January 1, 1998. The local governing body that regulates the use of land shall determine, in writing, no later than 45 days after receiving the necessary information and a school board's request for a determination, whether a proposed use of the property is consistent with the local comprehensive plan and consistent with local land development regulations. If the local governing body determines the proposed use is consistent, construction may commence and additional local government approvals are not required, except as provided in this section. Failure of the local governing body to make a determination in writing within 90 days after receiving the board of trustees' request for a determination of consistency shall be considered an approval of the board of trustees' application. This subsection does not apply to facilities to be located on the property if a contract for construction of the facilities was entered on or before the effective date of this act.

(10)~~(11)~~ Disputes that arise in the implementation of an executed interlocal agreement or in the determinations required pursuant to subsection (8) ~~(9)~~ or subsection (9) ~~(10)~~ must be resolved in accordance with chapter 164.

Section 20. Subsection (6) of section 1013.36, Florida Statutes, is amended to read:

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1013.36 Site planning and selection.—

(6) If the school board and local government have entered into an interlocal agreement pursuant to s. 1013.33(2) and ~~either s. 163.3177(6)(h)4. or~~ s. 163.31777 or have developed a process to ensure consistency between the local government comprehensive plan and the school district educational facilities plan, site planning and selection must be consistent with the interlocal agreements and the plans.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to growth management; amending s. 163.3167, F.S.; authorizing a local government to retain certain charter provisions that were in effect as of a specified date and that relate to an initiative or referendum process; amending s. 163.3174, F.S.; requiring a local land planning agency to periodically evaluate and appraise a comprehensive plan; amending s. 163.3177, F.S.; revising the housing and intergovernmental coordination elements of comprehensive plans; amending s. 163.31777, F.S.; exempting certain municipalities from public schools interlocal-agreement requirements; providing requirements for municipalities meeting the exemption criteria; amending s. 163.3178, F.S.; replacing a reference to the Department of Community Affairs with the state land planning agency; deleting provisions relating to the Coastal Resources

Interagency Management Committee; amending s. 163.3180, F.S., relating to concurrency; revising and providing requirements relating to public facilities and services, public education facilities, and local school concurrency system requirements; deleting provisions excluding a municipality that is not a signatory to a certain interlocal agreement from participating in a school concurrency system; amending s. 163.3184, F.S.; revising provisions relating to the expedited state review process for adoption of comprehensive plan amendments; clarifying the time in which a local government must transmit an amendment to a comprehensive plan and supporting data and analyses to the reviewing agencies; deleting the deadlines in administrative challenges to comprehensive plans and plan amendments for the entry of final orders and referrals of recommended orders; specifying a deadline for the state land planning agency to issue a notice of intent after receiving a complete comprehensive plan or plan amendment adopted pursuant to a compliance agreement; amending s. 163.3191, F.S.; conforming a cross-reference to changes made by the act; amending s. 163.3245, F.S.; deleting an obsolete cross-reference; deleting a reporting requirement relating to optional sector plans; amending s. 186.002, F.S.; deleting a requirement for the Governor to consider certain evaluation and appraisal reports in preparing certain plans and amendments; amending s. 186.007, F.S.; deleting a requirement for the Governor to consider certain evaluation and appraisal reports when reviewing the state comprehensive plan; amending s. 186.508, F.S.; requiring regional planning councils to coordinate implementation of the strategic regional policy plans with the

evaluation and appraisal process; amending s. 189.415, F.S.; requiring an independent special district to update its public facilities report every 7 years and at least 12 months before the submission date of the evaluation and appraisal notification letter; requiring the Department of Economic Opportunity to post a schedule of the due dates for public facilities reports and updates that independent special districts must provide to local governments; amending s. 288.975, F.S.; deleting a provision exempting local government plan amendments necessary to initially adopt the military base reuse plan from a limitation on the frequency of plan amendments; amending s. 380.06, F.S.; correcting cross-references; amending s. 380.115, F.S.; adding a cross-reference for exempt developments; amending s. 1013.33, F.S.; deleting redundant requirements for interlocal agreements relating to public education facilities; amending s. 1013.35, F.S.; deleting a cross-reference to conform to changes made by the act; amending s. 1013.351, F.S.; deleting redundant requirements for the submission of certain interlocal agreements with the Office of Educational Facilities and the state land planning agency and for review of the interlocal agreement by the office and the agency; amending s. 1013.36, F.S.; deleting an obsolete cross-reference; providing an effective date.