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HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS

BILL #: HB 1617

RELATING TO: Growth Management

SPONSOR(S): Representative Dockery

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
(2) FISCAL POLICY & RESOURCES (FRC)
(3) COUNCIL FOR LIFELONG LEARNING
(4) COUNCIL FOR SMARTER GOVERNMENT
(5)

I. SUMMARY:

This bill integrates local government land use decisions and educational facilities planning by school districts.

This bill creates a nine-member commission to oversee the development and field-testing of a uniform fiscal impact analysis model. The commission is required to make recommendations, by February 1, 2003, on: a uniform model for statewide implementation; modifications to current laws; and incentives to local governments to encourage identification of areas for infrastructure development.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No [X]	N/A []
2.	Lower Taxes	Yes []	No []	N/A [X]
3.	Individual Freedom	Yes []	No []	N/A [X]
4.	Personal Responsibility	Yes []	No []	N/A [X]
5.	Family Empowerment	Yes []	No []	N/A [X]

For any principle that received a "no" above, please explain:

1. This bill does not support less government as it delays a comprehensive plan amendment or rezoning on the basis of inadequate public school facilities. In addition, it requires local governments and school boards to enter into interlocal agreements.

B. PRESENT SITUATION:

Florida has a system of laws that govern growth management that include:

- the Local Government Comprehensive Planning and Land Development Regulation Act of 1985, ss. 163.3161-163.3244, F.S.;
- Chapter 380, F.S., Land and Water Management, which includes the Development of Regional Impact and Areas of Critical State Concern programs;
- Chapter 186, F.S., establishing regional planning councils and requiring the development of state and regional plans; and
- Chapter 187, F.S., the State Comprehensive Plan.

Local Comprehensive Plan

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985, ("Act") ss. 163.3161-163.3244, Florida Statutes, (F.S.), establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan that includes certain required elements. The plans must contain data, analyses, policies, goals, and objectives relating to eight mandatory elements on the following issues: Capital improvements; Future land use; Traffic Circulation; General sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; Conservation; Recreation and open space; Housing; and Intergovernmental coordination. The capital improvements element must consider the need for, and the location of, public facilities. Further, general law requires that comprehensive plans of coastal local governments contain a coastal element.

The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Under the Act, the department was required to adopt by rule minimum criteria for the review and determination of compliance of the local government comprehensive plan elements with the requirements of the Act. This minimum criteria must require: that the elements of the plan are consistent with each other and with the state comprehensive plan and the regional policy plan; that the elements include policies to guide future decisions and programs to ensure the plans would be implemented; that the elements include processes for intergovernmental coordination; and that the elements identify procedures for

evaluating the implementation of the plan. The original minimum criteria rule for reviewing local comprehensive plans and plan amendments was adopted by the department on March 6, 1986 as Rule 9J-5, Florida Administrative Code, (F.A.C.). In 1999, the department reviewed 12,000 local comprehensive plan amendments.

After a comprehensive plan has been adopted, subsequent changes are made through amendments to the plans. There are generally two types of amendments: 1) amendments to the future land use map that change the land use category designation of a particular parcel of property or area; and 2) text amendments that change the goals, objectives or policies of a particular element of the plan. In addition, every seven years a local government must adopt an evaluation and appraisal report (EAR) assessing the progress of the local government in implementing its comprehensive plan. The local government is required, pursuant to s. 163.3191(10), F.S., to amend its comprehensive plan based on the recommendations in the report.

Comprehensive Plan Amendment Process

Under Chapter 163, F.S., the process for the adoption of a comprehensive plan and comprehensive plan amendments is essentially the same. A local government or property owner initiates the process by proposing an amendment to the designated local planning agency (LPA). After holding at least one public hearing, the LPA makes recommendations to the governing body regarding the amendments. The governing body then holds a transmittal public hearing at which the proposed amendment must be voted on affirmatively by a majority of the members of the governing body of the local government. Following the public hearing, the local government must "transmit" the amendment to the department, the appropriate regional planning council and water management district, the Department of Environmental Protection (DEP), the Florida Department of Transportation (FDOT) and any other local government or state agency that has requested a copy of the amendment.

Next, the decision is made whether or not to review the proposed amendment. If the local government does not request a review, the department requests that the appropriate water management district, FDOT and the DEP advise the department as to whether or not the amendment should be reviewed within 21 days after transmittal of the amendment by the local government. Based on this information, the department decides whether to review the amendment. The department must review the proposed amendment within 30 days after transmittal of the amendment if the local government transmitting the amendment, a regional planning council or an "affected person" requests review. Finally, even if a request by one of the above parties is not made, the department may elect to review the amendment by giving the local government notice of its intention to review the amendment within 30 days after receipt of the amendment.

If review is not requested by the local government, the regional planning council, or any affected person, and the department decides not to review it, the local government is notified that it may proceed immediately to adopt the amendment. If, however, review of the amendment is initiated, the department next transmits, pursuant to Rule 9J-1.009, F.A.C., a copy of the amendment to: the Department of State; the Fish & Wildlife Conservation Commission (FWCC); the Department of Agriculture and Consumer Affairs, Division of Forestry for county amendments; and the appropriate land planning agency. In addition, the department may circulate a copy of the amendment to other government agencies, as appropriate. Commenting agencies have 30 days from receipt of the proposed amendment to provide written comments to the department. In addition, written comments submitted by the public within 30 days after notice of transmittal by the local government are considered by the department as if they were submitted by governmental agencies.

Upon receipt of the comments described above, the department has 30 days to send its Objections, Recommendations and Comments report to the local government body (commonly referred to as the "ORC Report"). In its review, the department considers whether the amendment is consistent

with the requirements of the Act, Rule 9J-5, F.A.C., the State Comprehensive Plan, and the appropriate regional policy plan. In addition, the ORC makes recommendations to the local government on ways to bring the plan or plan amendment(s) into compliance.

After receiving the ORC report from the department, the local government has 60 days (120 days for amendments based on Evaluation and Appraisal "EAR" Reports or compliance agreements) to adopt the amendment, adopt the amendment with changes, or decide that it will not adopt the amendment. The decision must be made at a public hearing. Within 10 days after adoption, the local government transmits the adopted plan amendment to the department, the commenting agencies, the regional planning council and anyone else who has requested notice of the adoption.

Upon receipt of a local government's adopted comprehensive plan amendment, the department has 45 days (30 days for amendments based on compliance agreements) to determine whether the plan or plan amendment is in compliance with the Local Government Comprehensive Planning and Land Development Regulation Act. This compliance determination is also required when the department has not reviewed the amendment under s. 163.3184(6), F.S. During this time period, the department issues a notice of intent to find the plan amendment in compliance or not in compliance with the requirements of the Act. The notice of intent is mailed to the local government and the department is required to publish the notice of intent in a newspaper that has been designated by the local government.

If the department finds the comprehensive plan amendment in compliance with the Act, any affected person may file a petition for administrative hearing pursuant to ss. 120.569 and 120.57, F.S., within 21 days after publication of the notice of intent. An administrative hearing is conducted by the Division of Administrative Hearings where the legal standard of review is that the plan amendment will be determined to be in compliance if the local government's determination of compliance is fairly debatable. The hearing officer submits a recommended order to the department. If the department determines that the plan amendment is in compliance, it issues a final order. If the department determines that the amendment is not in compliance, it submits the recommended order to the Administration Commission (the Governor and Cabinet) for final agency action.

If the department issues a notice of intent to find the comprehensive plan amendment not in compliance, the notice of intent is forwarded directly to the Division of Administrative Hearings in order to hold a ss. 120.569 and 120.57, F.S., administrative proceeding. The parties to the administrative proceeding include: the department; the affected local government; and any affected person who intervenes. In the administrative hearing, the decision of the local government of the comprehensive plan amendment's compliance is presumed to be correct and must be sustained unless it is shown by a preponderance of the evidence that the comprehensive plan amendment is not in compliance.

The administrative law judge submits his decision directly to the Administration Commission for final agency action. If the Administration Commission determines that the plan amendment is not in compliance with the Act, it must specify remedial actions to bring the plan amendment into compliance.

Local governments are limited in the number of times per year they may adopt comprehensive plan amendments. Section 163.3187, F.S., provides that local government comprehensive plan amendments may only be made twice in a calendar year unless the amendment falls under specific statutory exceptions which include, for example: amendments directly related to developments of regional impact; small scale development amendments; the designation of an urban infill and redevelopment area; and changes to the schedule of the capital improvements element.

Concurrency

The concurrency requirement of the Local Government Comprehensive Planning and Land Development Regulation Act (part II, Chapter 163, Florida Statutes) is a growth management tool designed to accommodate development by ensuring that adequate facilities are available as growth occurs. The "cornerstone" of the concurrency requirement is the concept that development should be coordinated with capital improvements planning to ensure that the necessary public facilities are available for, or within a reasonable time of, the impacts of new development. Under the requirements for local comprehensive plans, each local government must adopt levels of service (LOS) standards for certain types of public services and facilities. See section 163.3180, Florida Statutes. Generally, these LOS standards apply to sanitary sewer, solid waste, drainage, potable water, parks and recreation, roads and mass transit. Pursuant to section 163.3180(2)(c), Florida Statutes, the local government must ensure that transportation facilities needed to serve new development are in place or under actual construction within three years after issuance of the certificate of occupancy. The intent is to keep new development from significantly reducing the adopted LOS by increasing the capacity of the infrastructure to meet the demands of new development.

Concurrency standards do not require educational facilities. However, local governments may include such facilities in their plans if they so choose. If a local government chooses to extend the concurrency requirement to public schools, paragraph 163.3180(1)(b), it must be established on a district wide basis and shall include all public schools in the district. School concurrency application to development is based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). School concurrency is not effective in a county until all local governments, unless otherwise exempted, have adopted the necessary plan amendments, which together with the interlocal agreement, are determined to be in compliance with the requirements of this part.

Local governments that chose to implement school concurrency must adopt and transmit to the state land planning agency a plan or plan amendment that includes a public school facilities element. All local government public school facilities plan elements within a county must also be consistent with each other.

Local governments and school boards imposing school concurrency must jointly establish adequate level-of-service standards, based on data and analysis, as defined in chapter 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan. These level-of-service standards must be included and adopted into the capital improvements element of the local comprehensive plan and must apply district wide to all similar schools. Types of schools may include elementary, middle, and high schools as well as special purpose facilities such as magnet schools. Local governments and school boards may utilize tiered level-of-service standards to allow time to achieve an adequate and desirable level-of-service as circumstances warrant.

In addition, local governments must determine whether to apply school concurrency on a district wide basis or less than district-wide. It is recommended that concurrency determination for a specific development be based upon the availability of district-wide school capacity. For those local governments that chose to apply school concurrency on a less than district wide basis, such as utilizing school attendance zones or larger school concurrency service areas, they have the burden to demonstrate that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards,

the service area boundaries, together with the standards for establishing those boundaries, must be identified, included, and adopted as part of the comprehensive plan. Any subsequent change to the service area boundaries for purposes of a school concurrency system shall be by plan amendment and shall be exempt from the limitation on the frequency of plan amendments in s. 163.3187(1).

If there is less than district wide school concurrency, then when the adopted level-of-service standard cannot be met in a particular service area and the needed capacity for the particular service area is available in one or more contiguous service areas, then the development order must be issued with no mitigation measures exacted.

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

In addition, a local government may not deny a development permit authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local option school concurrency system where adequate school facilities will be in place or under actual construction within 3 years after permit issuance.

To establish school concurrency, a local government must enter into an interlocal agreement with all municipalities, unless otherwise excluded. The interlocal agreement must 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 must be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. The interlocal agreement provisions must provide, but is not limited to, the following requirements:

- Coordinates the development, adoption, and amendment of each local government's public school facilities element with each other and the plans of the school board.
- Processes for the local governments to agree to base their plans on consistent projections and data.
- Develops siting criteria and process for the collocation of schools with other public facilities.
- Specifies uniform, district wide level-of-service standards for public schools of the same type and the process for modifying the adopted levels-of-service standards.
- Establishes a process for the preparation, amendment, and joint approval by each local government and the school board of a financially feasible public school capital facilities program, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.
- Defines the geographic application of school concurrency. If school concurrency is to be applied on a less than district wide basis in the form of concurrency service areas, the agreement must provide criteria and standards for the establishment and modification of school concurrency service areas.

- Establishes a uniform district wide procedure for implementing school concurrency which provides for:
    - The evaluation of development applications for compliance with school concurrency requirements;
    - 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
    - The monitoring and evaluation of the school concurrency system.
- Includes provisions relating to termination, suspension, and amendment of the agreement. The agreement shall provide that if the agreement is terminated or suspended, the application of school concurrency shall be terminated or suspended.

Palm Beach County has recently submitted its proposed public school concurrency requirement, related comprehensive plan amendments, and the required interlocal agreement. Since the enactment of the optional school concurrency requirement, this is the first proposal submitted to DCA for review.

Educational Facilities Act

Ch. 235, Florida Statutes, authorizes state and local officials to cooperate in establishing and maintaining public educational facilities to provide for public educational needs.

Educational Plant Survey

Every school board is required to arrange for an educational plant survey every five years. An educational survey is a systematic study of current educational and ancillary plants. The study also determines future needs of the school district. Each school district's educational plant survey must:

- Reflect the capacity of existing satisfactory facilities as reported in the Florida Inventory of School Houses.
- Project facility space needs that do not exceed the norm space and occupant design criteria established by the State Requirements for Educational Facilities.
- Include all satisfactory relocatable classrooms, including those owned, lease-purchased, or leased by the school district, in the school district inventory of gross capacity of facilities and must be counted at actual student capacity for purposes of the inventory.
    - For future needs determination, student capacity shall not be assigned to any relocatable classroom that is scheduled for elimination or replacement with a permanent educational facility in the adopted 5-year educational plant survey and in the district facilities work program adopted under s. 235.185.
    - Those relocatables 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.
    - If the district facilities work program is changed or altered and the relocatables are not replaced as scheduled in the work program, they must then be re-entered into the system for counting at actual capacity. Relocatables may not be perpetually

added to the work program and continually extended for purposes of circumventing the intent of this section.

- All remaining relocatable classrooms, including those owned, lease-purchased, or leased by the school district, shall be counted at actual student capacity.

The school district's educational plant survey may include space needs that deviate from approved standards for determining space needs if the deviation is justified by the district and approved by the department or the Board of Regents, as appropriate, as necessary for the delivery of an approved educational program.

School District Facilities Work Program

Section 235.185, Florida Statutes, requires each district school board to adopt a 5-year work program and update this work program annually for the next five years. The five-year facilities work program is the financially feasible list of capital outlay projects and maintenance needs identified within their 5-year school plant survey, as prioritized and approved by the school board. The Department of Education provides 5-year student enrollment and Capital Outlay Full Time Equivalent (COFTE), projections for facilities surveys and facilities work programs.

Prior to adopting a five-year work program or its budget, each district school board must adopt a tentative district facilities work plan. This tentative plan provides a 5-year siting of capital outlay projects that properly maintain the educational plant and ancillary facilities of the district and provides an adequate number of student stations for projected enrollment. This work program also includes a schedule of repairs, the projected cost of each project, a schedule of capital outlay revenues, and a schedule of other possible revenue sources. Each school board must take public comment on the tentative district facilities work plan.

After public notice and comment, the tentative district facilities work plan may be amended. The adopted district facilities work program must be a complete and balanced capital outlay financial plan and provides proposed commitments and planned expenditures.

In addition, each district school board must adopt a 10- and 20-year work program. These programs must be based upon projected enrollment and facilities needs for the 10-and 20-year periods.

Site Planning and Selection

Section 235.19, Florida Statutes, provides requirements for site planning and selection of public school facilities, and grants the Commissioner of Education rulemaking authority to prescribe recommended sizes for new sites according to various categories of students.

In general, school districts select and purchase land that is identified as appropriate in the local government comprehensive plan. Many urban school districts work with local governments to provide shared recreational space by locating schools adjacent to parks. Collocation of programs within single facilities has occurred but is not common. Joint use facilities, sharing of libraries, and other programs are currently dependent upon local initiative.

Coordination of Planning with Local Governmental Bodies

Section 235.193, Florida Statutes, describes the process and provides guidelines for the coordination of planning for educational facilities between the school board and the local governing body.

The school boards may or may not be providing the local governments within their district boundaries a copy of their annual capital outlay plan and a copy of their 5-year facilities survey. There is no penalty for noncompliance. Some schools plan for their growth needs without consideration of the growth and development plans of local government. Some local governments plan for their growth needs without consideration of the growth requirements of the schools. A local government may or may not be aware of a school board's intention to develop an owned site or to purchase a school site within their jurisdiction, although the comprehensive plan should (although many do not) identify land use categories generally available for school facilities.

Public School Student Population

There are several school districts that are facing school overcrowding problems due to rapid population growth within those counties. Using 1996-2000 figures, there are 21 counties in which the total school population exceeds 50,000; the student population exceeds 5,000 during this period; or the rate of student population increase exceeds 10% for this period. Out of these 21 counties, seven of these counties have a percent change in total student population over 14%. Those counties are: Broward County (14.87%); Collier County (21.37%); Flagler County (19.36%); Orange County (16.75%); Osceola County (26.22); Pasco County (14.36%), and St. Johns County (22.62%).

Over the last three years, schools had to accumulate 50,000 new students per year. More than 1,000 of the nearly 2,300 public schools, are at 90% or more capacity. This capacity includes portable student stations. In addition, over 360,000 existing school stations are in portables.

Full Cost Accounting

In 2000, the Governor created the Growth Management Study Commission, pursuant to Executive Order Number 2000-196. This 23-member commission dealt with the following five issues: infrastructure, state/regional/local roles, urban revitalization, rural policy, and citizen involvement. The development of a uniform model for evaluating the true cost of new development was proposed part of the Infrastructure subcommittee's final recommendation, which was later adopted by the commission. The Growth Management Study Commission proposed:

- The creation of a 15-member GMA+ commission to oversee the development of a "balance growth-balance sheet" model to address the true costs of development.
- Under the oversight of the commission, DCA would develop a uniform model. This model must, at a minimum, include those impacts related to school and transportation facilities.
- Once approved by the commission, the model is then adopted by rule. However, the rule is not effective until review and approval by the Legislature.
- Upon Legislative approval, DCA will field test the model in at least six diverse local governments.
- Based upon feedback, the model may be revised and further field-testing required.
- Upon completion of the field-testing, the commission will make a recommendation to the Legislature for statewide implementation and the repeal of existing laws that are not relevant due to the adoption of the GMA+ law.

The adoption of a uniform fiscal impact analysis should assist local governments in determining the true cost and benefits of new development. The full recommendation may be found in the Commission's final report (A Livable Florida for Today and Tomorrow, February 2001).

C. EFFECT OF PROPOSED CHANGES:

This bill integrates local government land use decisions and educational facilities planning by school districts. The bill requires school boards and local governments to plan together, linking school siting decisions with land use decisions. Local governments and school boards are required to enter into interlocal agreements to detail how they will work together, share information, develop consistent plans, and coordinate and communicate decisions which impact schools and growth trends. These interlocal agreements must be entered into at least 3 months prior to the public educational facilities element submittal deadline.

Local governments are required to develop and adopt public educational facilities elements to their local government comprehensive plans. Local governments will develop these public educational facilities elements over the next several years pursuant to a schedule developed by DCA. The local governments first required to adopt the element, by January 1, 2003, are those counties with the greatest pressure. Other counties will be required to submit their element pursuant to the department's schedule. The bill provides element requirements, such as collocation of facilities; and improvements to areas surrounding existing schools. The element also requires the development of a process that requires local governments to consider school overcrowding issues when reviewing requests for additional residential densities that would increase the need for additional school space.

Local governments are required to consider public school facilities adequacy and program requirements when considering comprehensive plan amendments or rezonings, which increase residential densities and which may have an impact on public schools. School boards are required to provide a school capacity report, based on the district's educational facilities plan, which provides:

- Capacity and enrollment of affected school information and analysis;
- Estimated number of additional students expected from the rezoning or plan amendment;
- New facilities or improvements to affected schools, which are identified in the educational facilities plan, and the availability of such facilities or improvements; and
- Reasonable options for providing school facilities if the plan amendment or rezoning is improved.

This report must be consistent with the adopted interlocal agreement. Local governments must deny requests for comprehensive plan amendments or rezonings that increase residential density where school facility and program capacity will not be reasonably available within the time frame of the expected impacts. However, an applicant for rezoning may be approved if the applicant provides mitigation of those impacts.

This bill also revises provisions within chapter 235, F.S, addressing educational facilities. School boards are required to examine existing and future needs of schools, for the short (one to five years) and long (ten to 20 years) term. The bill combines three separate planning documents currently required of the school board into one inclusive plan into the educational facilities plan.

The bill increases flexibility for school boards in determining acreage requirements for each school, by eliminating the authority of the Commissioner of Education to proscribe by rule site acreage requirements and to allow for site size determination by the school boards at the local level. In addition, the required 2/3 majority vote of a school board required to approve a less-than-recommended site size is eliminated.

This bill creates a nine-member commission to oversee the development and field-testing of a uniform fiscal impact analysis model. The commission is required to make recommendations, by February 1, 2003, on: a uniform model for statewide implementation; modifications to current laws;

and incentives to local governments to encourage identification of areas for infrastructure development. The bill directs the development of a fiscal impact analysis model to provide local governments with a tool for better decision making. This tool is intended to facilitate greater accountability at the local level by providing citizens with access to information on the fiscal consequences of local government decisions.

The bill provides for the development of a fiscal impact analysis model designed to identify costs associated with providing schools and other infrastructure necessary to support new development and to balance those costs with related revenues associated with the proposed development. Prior to the enactment of legislation for statewide implementation, the bill requires six pilot projects to test the model.

The process and basis for developing the model are:

- The model will be presented to the Legislature by a 9-member commission with recommendations for implementation. The commission is charged with ensuring that the model is technically valid, useful, and financially feasible for local governments to implement.
- The model is to be capable of estimating the capital, operating and maintenance expenses, and revenues for costs associated with school facilities, transportation facilities, water supply, sewer, stormwater, solid waste services, and publicly provided telecommunications.
- The model is not to be used as the only determinate of the acceptability of new development.
- The model will be tested in at least six regionally diverse jurisdictions.
- The model will produce the data needed for a report from local governments to their residents summarizing the annual fiscal impacts of their decisions.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: This section amends s. 163.3177, F.S. This section provides legislative intent regarding educational facilities construction, sharing of information among school boards and local governments, and cooperation among school boards and local governments for the provision of educational facilities and infrastructure needs to public schools.

Local governments are required to adopt, and transmit to DCA, a public education facilities element (the "Element") in their comprehensive plans in cooperation with their applicable school districts. Those local governments with the greatest unmet demand for public school facilities will be required to submit their Element prior to January 1, 2003. All other local governments shall submit their Element pursuant to a schedule adopted by DCA. Those municipalities with no public schools, and which has none planned are exempt from this requirement. However, any exempt municipality must submit their Element within one year, upon the identification of a proposed public school in the applicable school board's 5-year district facilities work program.

The Element must be based on data and analysis, including the required interlocal agreement, and the school district's educational facilities plan. The element must address:

- Improvements to infrastructure, safety, and community conditions in areas near existing public schools.
- The Provision of adequate infrastructure to support proposed schools.
- Collocation of public facilities with public schools.
- The location of public schools near neighborhoods.
- Emergency shelter opportunities.

- The process for considering existing public school capacity when considering comprehensive plan amendments and rezonings that may increase residential development.

The future land use map series must include educational facilities plan maps that show public school locations and the locations of anticipated schools over the 5-, 10-, 20-year time period.

At least six months prior to the deadline for adoption and transmittal of the Element, each county, municipality and school board shall enter into an interlocal agreement ("the Agreement"), which shall establish a process for:

- Each local government and the school district to agree and base their plans on consistent projections of the amount of growth and distribution of student enrollment
- Each local government and the school district to share and coordinate information relating to existing and projected population growth and student enrollment, existing and projected needs for school facilities, existing and planned school facilities, site selection, and local government plans for development and redevelopment.
- Each local government and school district to coordinate the development and adoption of the Element to ensure a uniform countywide planning system.
- Each local government and school district to coordinate during the preparation of the education facilities plan, including procedures for local government comment.
- The early involvement of a local government in the proposed school site selection and school permitting.
- Ensuring necessary infrastructure and funding are in place.
- Identifying emergency shelter opportunities.
- School district participation in reviewing residential development applications.
- Determining proportionate share mitigation when the proposed development or rezoning would increase residential density.
- Resolving disputes between the school district and local governments.

The proposed Element is adopted pursuant to section 163.3184, F.S. Upon receipt, DCA must submit a copy of the Element to the Department of Education and the SMART Schools Clearinghouse, for review and comment.

A local government that fails to adopt and transmit the Element pursuant to the adopted schedule is prohibited from amending its comprehensive plan until the Element is adopted. A local government that fails to submit it's Element timely, or if the Administration Commission determines that the Element is not in compliance, may be sanctioned by the Administration Commission. A local government is not subject to sanctions if another local government fails to enter into the required interlocal agreement.

Any local government that has transmitted an Element prior to this act is not required to amend its Element or any interlocal agreement, in order to conform to this act.

Local governments are required to consider public school facilities adequacy and program requirements when considering comprehensive plan amendments or rezonings, which increase residential densities and which may have an impact on public schools. School boards are required to provide a school capacity report, based on the district's educational facilities plan, which provides:

- Capacity and enrollment of affected school information and analysis;
- Estimated number of additional students expected from the rezoning or plan amendment;
- New facilities or improvements to affected schools, which are identified in the educational facilities plan, and the availability of such facilities or improvements; and

- Reasonable options for providing school facilities if the plan amendment or rezoning is improved.

This report must be consistent with the adopted interlocal agreement. Local governments must deny requests for comprehensive plan amendments or rezonings that increase residential density where school facility and program capacity will not be reasonably available within the time frame of the expected impacts. However, an applicant for rezoning may be approved if the applicant provides mitigation of those impacts.

Section 2: This section amends s. 163.3180(13), F.S., by requiring any public school facilities element established for the purpose of school concurrency, as currently set forth in this subsection, to be consistent with the school district's education facilities plan adopted pursuant to s. 235.185, F.S. The element must be based upon data and analysis that address level-of-service, and how they will be maintained and achieved. The element must also be based on information relating to existing development and future development. It must also include future condition maps, which show the location of anticipated facilities and ancillary plants.

Section 3: This section amends s. 163.3187(1)(j), F.S., to provide consistency with the change from "pubic school facilities" to "public educational facilities element."

Section 4: This section amends s. 163.3191(2)(k), F.S., to provide consistency with the change from "school district facilities work program" to "educational facilities plan."

Section 5: This section creates s. 163.3198, F.S., providing for the development of a uniform fiscal impact analysis model (the "Model") for evaluating the true costs and benefits of development to facilitate more informed decision-making and greater accountability at the local level.

The model would be used by local governments in making decisions regarding whether to approve new development and the corresponding impact of its decision. The model would apply to both public and private projects in all land use categories. This model is not intended to be an automatic threshold for approval or disapproval.

A nine member commission is created to oversee the development of the model by DCA, and to recommend by February 1, 2003: (1) a uniform model for statewide implementation; (2) modifications to current laws; and (3) incentives to local governments to encourage identification of areas for infrastructure development. The commission is appointed by the Governor, with the President of the Senate and the Speaker of the House each recommending three members. These appointments must be made by July 1, 2001. The Governor also appoints the chair. The members of the commission should have technical or practical expertise, and should include representatives of municipalities, counties, school boards, the development community, and public interest groups. Members may receive per diem and shall meet at the call of the chair. The commission is dissolved upon the submission of its report and recommendations.

DCA shall develop one or more models that determine estimated costs and revenues of a proposed development. The model must be capable of estimating the capital, operating and maintenance expenses, and revenues to a local community directly resulting from a proposed development based on the type, scale and location of the proposed development. Estimated costs must, at a minimum, include: (1) school facilities; (2) transportation facilities; and (3) water supply. Estimated costs may also include sewer, stormwater and solid waste services, and telecommunications. The model should be capable of estimating other economic impacts and benefits such as affordable housing. In addition, the model should be able to identify current infrastructure deficits and backlogs. This model or models must be approved by the commission prior to field-testing by DCA.

DCA must field test the model in at least six jurisdictions as demonstration projects. The commission provides selection recommendations regarding field-testing demonstration projects. No later than 6 months, DCA shall present the commission with data and findings from the field-testing. The commission may require DCA to modify the model or models and conduct additional field-testing. Upon field-testing completion, the commission approves a model.

The commission must submit to the Governor, the President of the Senate and the Speaker of the House, by February 1, 2003, the field-testing results and its recommendation of a model for statewide implementation. The report must also include recommendations for the amendment of existing growth management laws and incentives to encourage the identification of infrastructure development encouragement areas.

DCA shall also develop a report, which local governments are required to use to disclose, at least annually, the cumulative fiscal impact of their planning decisions.

Section 6: This section amends s. 235.002, F.S., to reflect the legislature's intent that school districts coordinate the planning of school facilities with local governments' land use decisions. It is also intended that there is a systematic process for sharing information regarding community growth and development trends, for identifying and meeting public schools infrastructure needs, and for the integration of school construction and maintenance planning and budgeting into local governments' plans for the future.

Section 7: This section amends s. 235.15, F.S., to incorporate school districts' educational plant surveys into the district education facilities plan required by amended section 235.185, F.S., and eliminates duplication efforts required by 253.15, F.S. This section also declares that the district educational facilities plan's surveys, meet the requirements of the State Constitution, subject to approval by the State Board of Education.

Section 8: This section amends s. 235.175, F.S., to incorporate the school districts' five-year work programs into an integrated long-range education facilities plan, including the survey of projected needs and the 5-year work plan.

Section 9: This section amends s. 235.18, F.S. to provide consistency with the change from "school district facilities work program" to "educational facilities plan."

Section 10: This section amends s. 235.185, F.S., to incorporate the school districts' five-year work program into an integrated long-range education facilities plan and provides criteria and required elements for the 5-, 10-, and 20-year periods, respectively.

This section provides definitions for adopted educational facilities plan, district facilities work program, and tentative educational facilities plan.

The long-range education facilities plan is required to be adopted annually prior to the adoption of the district budget, in coordination with affected local governments, consistent with the affected local governments' comprehensive plans. The long-range educational facilities plan must consider:

- Projected student populations that have been apportioned geographically within each district.
- The inventory of existing school facilities, any anticipated expansions or closures of existing facilities, an assessment of areas proximate to schools with respect to needed infrastructure, and a schedule of necessary repairs and renovations.
- Projections of facilities space needs.
- Information on leased, loaned, and donated space, and relocatables used.

- The general location of public schools proposed to be constructed in the 5-, 10-, and 20-year periods, including site acreage needs and anticipated capacity, maps showing the general locations, and identification of the need for improvements to infrastructure, safety and conditions in the community.

The educational facilities plan must also include the district facilities 5-year work plan. This work plan must include:

- Major repair and renovation projects and closures schedule.
- Capital outlay projects schedule that consider: (1) whether the proposed locations of planned facilities are consistent with the affected local governments' comprehensive plans and land use plans; (2) recommendations for infrastructure and other improvements to land adjacent to existing facilities; and (3) the list of identified reasonable options that have been approved by the school board that reduce the need for permanent student stations.
- The number and percentage of students planned to be educated in relocated facilities.
  - In determining capacity, any relocatables scheduled for replacement shall be counted as zero towards capacity.
  - If the replacement schedule is revised, then they must be reentered and counted towards capacity.
  - Relocatables may not be added and used to circumvent this section.
  - The work plan must also identify the number of relocatables scheduled for replacement and the money needed for such replacement.
- The projected cost for each identified project.
- Schedules relating to capital outlay revenues.

School boards are required to: (1) coordinate with each affected local government to promote consistency with the local governments' comprehensive plans and land use plans during development of the district education facilities plan; (2) submit the education facilities plan to the affected local governments for review and comment pursuant to the procedures detailed in the interlocal agreement required in amended section 235.193(2), F.S.; and (3) adopt a capital outlay plan for the district that is financially feasible.

Section 11: This section amends s. 235.188, F.S. to provide consistency with the change from "district facilities work program" to "district educational facilities plan."

Section 12: This section amends s. 235.19, F.S., by eliminating the authority of the Commissioner of Education to proscribe by rule site acreage requirements and to allow for site size determination by the school boards at the local level. In addition, the required 2/3 majority vote of a school board required to approve a less-than-recommended site size is eliminated.

Section 13: This section amends s. 235.193, F.S. to require the school board, the county and participating municipalities to enter into an interlocal agreement ("the Agreement") at least 6 months prior to the deadline for the county or municipality to submit its public educational facilities element, which shall establish a process for:

- Each local government and the school district to agree and base their plans on consistent projections of the amount of growth and distribution of student enrollment
- Each local government and the school district to share and coordinate information relating to existing and projected population growth and student enrollment, existing and projected needs for school facilities, existing and planned school facilities, site selection, and local government plans for development and redevelopment.
- Each local government and school district to coordinate the development and adoption of the Element to ensure a uniform countywide planning system.

- Each local government and school district to coordinate during the preparation of the education facilities plan, including procedures for local government comment.
- The early involvement of a local government in the proposed school site selection and school permitting.
- Ensuring necessary infrastructure and funding are in place.
- Identifying emergency shelter opportunities.
- School district participation in reviewing residential development applications.
- Determining proportionate share mitigation when the proposed development or rezoning would increase residential density.
- Resolving disputes between the school district and local governments.

School districts that fail to enter into an interlocal agreement are precluded from receiving school construction funds that may be available from the State pursuant to ss. 235.187, 235.216, 235.2195 and 253.42, F.S.

School boards are required to provide local governments with a school capacity report whenever a local government notifies the school board that it is considering applications for comprehensive plan amendments or rezonings that seek to increase residential densities over currently allowable levels. The school capacity report must contain: (1) information on current enrollment of affected schools; (2) additional students expected if the amendment or rezoning is approved; (3) programmed and planned financially feasible new facilities or improvements to affected schools; (4) the date of availability of same; and, (5) available reasonable options for providing the facilities if the amendment or rezoning is approved.

School boards must use information produced by the demographic, revenue, and education estimating conferences. School boards may modify the estimating conferences information upon approval by the applicable local government and the Department of Education. These projections must be apportioned geographically, with local government assistance, using local government's development trend data and the school district's student enrollment data.

School boards are required to notify the applicable local government at least 120 days prior to acquiring or leasing property for a new public educational facility.

Section 14: This section repeals s. 235.194, F.S., dealing with general educational facilities report as it is redundant due to this act.

Section 15: This section amends s. 235.218, F.S. to provide consistency with the change from "district facilities work program" to "district educational facilities plan."

Section 16: This section amends s. 235.321, F.S. to provide consistency with the change from "district facilities work program" to "district educational facilities plan."

Section 17: This section amends s. 235.188, F.S. to provide consistency with the change from "district facilities work program" to "district educational facilities plan."

Section 18: The effective date of this act is upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill appears not to impact state government revenues.

2. Expenditures:

The creation of a commission to develop a full cost accounting model will require expenditure by the state. The bill provides for per diem for commission members. In addition, it appears that the pilot projects will need funding.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill appears not to impact local government revenues.

2. Expenditures:

The impact on local government expenditures is unknown at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill has a direct impact on the private sector. Under the bill's provisions, developers will have their request for a comprehensive plan amendment or rezoning delayed if the affected school is at or over capacity. The bill does allow mitigation by the developer in this scenario. In addition, upon full implementation, the full cost accounting model may impact developers depending on whether the tool is used on a macro or micro level.

This bill positively impacts schools and the school population as it does not allow more impacts on overcrowded schools, when there is a request for a change in land use classification.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise the revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the tax authority that counties or municipalities have to raise revenue in the aggregate.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

This bill does not address current lack of school capacity, the impact of new residents moving into existing developments, or "new" development that occurs within the applicable land use classification when no comprehensive plan amendment or rezoning is needed. This oftentimes impacts school capacity.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike-everything amendment is being sponsored by Representative Dockery.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

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