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HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS

BILL #: CS/HBs 1617 & 1487

RELATING TO: Growth Management

SPONSOR(S): Committee on Local Government & Veterans Affairs and Representatives Dockery & Russell

TIED BILL(S): None

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

(1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
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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.

Only two counties have attempted to implement school concurrency, Broward and Palm Beach Counties. The Broward County concurrency plan was found to be out of compliance with Chapter 163 in the case of Economic Development Council of Broward Inc. v. Department of Community Affairs, DOAH Case No. 96-6138GM. Palm Beach County has recently transmitted to the Department of Community Affairs for review, proposed comprehensive plan amendments to adopt school concurrency within Palm Beach County. School concurrency has proved to be difficult to accomplish because of the requirement that a financially feasible capital improvements plan must basically ensure that school construction will keep pace with development. In a fast growing county, the financial resources may not be available to back up such a plan.

The Coordination of School Facility Planning and Local Government Comprehensive Planning

When the local government comprehensive planning act was originally enacted in 1985, the provision of school facilities was identified as a type of infrastructure for which concurrency was required pursuant to s. 163.3180, F.S. However, over the years, amendments were made to the Act to require a minimum level of coordination between school boards and local governments, particularly in the area of school facility siting. For example, local governments are required to identify on their future land use map, land use categories where public schools are an allowable use, including land proximate to residential development to meet the projected needs for schools. s. 163.3177(6)(a), F.S. In addition, the future land use element must include criteria that encourages the location of schools proximate to residential development as well as encouraging the collocation of public facilities, parks, libraries and community centers with schools. In addition, the interlocal coordination element, required by s. 163.3177(6)(h), F.S., requires a local government to establish principles and guidelines to be used in the coordination of the adopted comprehensive plan with the plans of school boards. Finally, s. 163.3191,F.S., requiring local governments to prepare evaluation and appraisal reports requires the coordination of the comprehensive plans and school facilities. Section 163.3191(2)(k), F.S., requires an evaluation of the coordination of the comprehensive plan with existing public schools and those identified in the 5-year school district facilities work program. The evaluation must address the success or failure of the coordination of the future land use map and associated planned residential development with public schools and joint decision making processes engaged in by the local government and the school board.

Orange County, under former Commission Chairman Mel Martinez, has developed its own approach to addressing issues of school capacity in making land use decisions. If a proposed comprehensive plan amendment or rezoning seeks to increase the density of residential development allowed on a parcel of property, the Commission has a policy of denying the application if school capacity is not available to service that development.

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.

Growth Management Study Commissions

Over the years, a number of blue-ribbon study commissions have examined problems associated with growth management in Florida. In 1972, the Florida Legislature, pursuant to s. 380.09(5), F.S. (1972), created the Florida Environmental Land Management Study Committee, which issued a final report in 1973. Included in its recommendations was a proposal that the Legislature should adopt a "Local Government Comprehensive Planning Act of 1974," requiring each county and local government to adopt a local government comprehensive plan. In 1982, Governor Graham created, by executive order 82-95, the Second Environmental Land Management Study Committee (ELMS II). The ELMS II Committee issued its final report in February 1984, which recommended the adoption of state and regional comprehensive plans and the requirement that local plans must be consistent with these state and regional plans. Many of the recommendations of the ELMS II Committee were enacted into law as part of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985.

In 1991 Governor Chiles created by Executive Order 91-291, the third Environmental Land Management Study Committee (ELMS III). The ELMS III Committee issued a final report in December 1992, which recommended a number of adjustments to the Local Government Comprehensive Planning and Land Development Regulation Act of 1985. Some of these recommendations included: improving the intergovernmental coordination element of local comprehensive plans as part of eliminating the Development of Regional Impact (DRI) process; the adoption by the state of a strategic growth and development plan; and adjustments to the review process for local comprehensive plan amendments.

In July 2000, Governor Bush issued Executive Order 2000-196 appointing a twenty-three member Growth Management Study Commission to review Florida's growth management system in order to "assure that the system meets the needs of a diverse and growing State and to make adjustments as necessary based on the experience of implementing the current system." The 23-member study commission included representatives of local government, the development community, agriculture, and the environmental community. The commission conducted 12 meetings throughout the state to hear citizen comment, expert opinion, and deliberate on the question of how to adjust Florida's system of growth management. There was general consensus among members of the commission, as well as members of the public, that the current system of local comprehensive planning in Florida has fallen short of addressing problems associated with growth, including: traffic congestion, school overcrowding, loss of natural resources, decline of urban areas and conversion of agricultural lands. Finally, the commission was organized into five subcommittee working groups:

- State, Regional and Local Roles
- Infrastructure
- Citizen Involvement
- Rural Policy
- Urban Revitalization.

In its final report entitled "A Livable Florida for Today and Tomorrow," the Growth Management Study Commission set forth 89 recommendations for reforming Florida's growth management system. A summary of the major recommendations of the commission is as follows:

- Replace the current State Comprehensive Plan set forth in chapter 187, F.S., with a vision statement stating that the "State of Florida's highest priority is to achieve a diverse, healthy, vibrant and sustainable economy and quality of life which protects our natural resources and protects private property rights."

- Develop a uniform fiscal impact analysis tool for evaluating the "true cost of new development." The final report also recommends the appointment of a 15-member commission to oversee the development of the model.

    - 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 model.

- Require that each local government adopt a financially feasible public school facilities element to reflect the integration of school board facilities, work programs, and the future land use element and capital improvement programs of the local government. Require that local governments shall ensure the availability of adequate public school facilities when considering the approval of plan amendments and rezoning that increase residential densities. Before a local government can deny a rezoning that increases density based on school capacity, the local school board must communicate to the local government that it has exhausted all reasonable options to provide adequate school facilities.

- Refocus state review of local government comprehensive plan amendments to amendments that raise one or more "compelling state interests." These compelling state interests are limited to: natural resources of statewide significance; transportation systems and facilities of statewide significance; and disaster preparedness to reduce loss of life and property. Maps would be prepared which identify geographic areas that raise these compelling state interests.

- Establish Infrastructure Development Encouragement Area (IDEA) Priority Funding Areas where local governments would identify projects and areas that it wishes to promote. In turn, these areas and projects would receive certain incentives such as fast track permitting, state financial participation and priority in infrastructure development and waiver or reduction in development fees.

- Eliminate and replace the Development of Regional Impact Program with a system of Regional Cooperation Agreements or Developments with Extra jurisdictional Impact to be negotiated by the eleven regional planning councils.

- Citizen participation provisions that enhance public notice, expand standing for certain "affected" owners of real property whose property is adjacent to a parcel of property, which is located in a neighboring jurisdiction and is the subject of a land use change, and provide a uniform process for challenging land development orders that are inconsistent with comprehensive plan amendments.

- Authorize incentives for an effective urban revitalization policy, including dedicated sources of revenues for "fix-it-first" backlog of infrastructure needs in targeted infill areas.

Develop a Rural Lands Conservation Policy, including the public purchase of conservation and agricultural easements and the use of transferable density rights for rural property to be used for the implementation of clustered development in appropriate locations.

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 6 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 are to develop these public educational facilities elements over the next several years pursuant to a schedule developed by DCA. The local governments required to adopt the element initially by January 1, 2003, are those counties experiencing pressure from increased growth and school overcrowding. The criteria for determining "greatest need" is to be adopted by rule by DCA. Other counties are required to submit their element pursuant to the department's schedule, but at the latest, by January 1, 2007. 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 requiring 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. Once the public educational facilities element is adopted and the interlocal agreement is reached, a local government 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 application for rezoning may be approved if the applicant provides proportionate 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 requires a school board representative to serve on local planning agency boards.

The bill increases flexibility for school boards when 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 Governor, Speaker of the House and President of the Senate each appoint three members to the commission, with the Governor designating one member as the chair. The commission is required to make recommendations, by February 1, 2003, on: a uniform model for statewide implementation; whether the model is technically valid, financially feasible, and useful; 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. 163.3174, F.S., relating to local planning agencies. This section requires a school board representative to serve as a member of each local planning agency.

Section 2: This section amends s. 163.3177, F.S., to provide that amendments that adopt or amend a school siting map are exempt from amendment frequency limitations. In addition, the future land use element shall encourage the use of elementary schools as neighborhood focal points. The intergovernmental coordination element is amended by requiring that interlocal agreements between local governments and the district school board be governed by ss. 163.31776 and 163.31777, F.S., the proposed public educational facilities element.

Section 3: This section creates subsection 163.31776, which provides for a public educational facilities element. This section provides legislative intent regarding educational facilities construction, forecasting future student needs, 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 are 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 by January 1, 2007. Criteria determining greatest unmet demand must be established by DCA rule. Municipalities may either adopt their own Element or accept, by ordinance, the county's Element. 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.
- A uniform methodology for determining proportionate share mitigation,

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-, and 20-year time period. The designations on these maps for future school locations shall not be deemed to prescribe a land use on a specific parcel of land.

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 the following:

- 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 educational facilities plan, including procedures for local government comment.
- Ensuring that school siting decisions by the school board are consistent with the local comprehensive plan.
- 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.

    - This review occurs when there is a reasonable expectancy that the change has an impact on public school facility demand.
- Developing methodology and criteria for determining whether there is adequate capacity or will be adequate capacity.
    - This requires uniform, districtwide level-of-service standards for all schools of the same type and availability standards.
    - This criteria must be adopted into both the Element and the Plan.
- Determining uniform methodology for 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 or school board is not subject to sanctions if another local government or the school board fails to enter into the required interlocal agreement. A school board that fails to provide required information is subject to sanctions.

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, if the amendment is ultimately determined to be in compliance by DCA.

Section 4: This section creates s. 163.31777, which addresses plan amendments and rezonings. 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. The school board's determination constitutes competent substantial evidence to support the denial of the request.

Upon the effective dates of the interlocal agreement and the Element, 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 application for rezoning may be approved if the applicant provides mitigation of those impacts and executes a legally binding commitment.

Options for proportionate share mitigation are established in the district educational facilities plan and the public educational facilities element. Local governments credits for proportionate share mitigation against contribution, construction, expansion or payment toward any other impact fee or exaction imposed by local ordinance on the same need on a dollar-for-dollar basis at fair market

value. School boards are required to direct any proportionate share mitigation to a school capacity improvement within the affected area.

Section 5: This section amends s. 163.3180(13), F.S., by requiring any local government that elects to adopt public school concurrency, to also adopt a public education facilities element consistent with the requirements of section 163.317776(5) and is based on data and analyses that addresses how uniform district wide level-of-service standards for all schools will be achieved. The element must establish specific measurable goals and a procedure for an annual update. It must also be consistent with those of other local governments within the county. Local governments are required to enter into an interlocal agreement that satisfies the requirements of section 163.31776(4) when establishing public school concurrency requirements.

Any local government having already transmitted an element for the purpose of school concurrency is grandfathered in and is not required to conform to ss. 163.31776 and 163.31777.

Section 6: This section amends s. 163.3184, F.S., to require the state land planning agency to submit a copy of all comprehensive plan amendments that contain a public school facilities element to the Office of Education Facilities, Commissioner of Education, for review and comment.

Section 7: This section amends s. 163.3187, F.S., to provide consistency with the change from "pubic school facilities" to "public educational facilities element" and to exempt comprehensive plan amendments that contain a public school facilities element from limits on frequency of adoption of plan amendments.

Section 8: 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 9: This section creates s. 163.3198, 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 is to be used by local governments in making decisions regarding whether to approve new development and the corresponding impact of its decision. The model provides a minimum base, which is not required to be implemented until statewide implementation is approved by the Legislature. In addition, local governments are not prohibited from using other fiscal tools prior to and after the adoption of the model. The model applies to both public and private projects in all land use categories. The 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, if technically valid, financially feasible and practically useful; (2) modifications to current laws; (3) state technical and financial assistance to help local governments implement the model; (4) state and local sources of additional infrastructure funding; and (5) incentives to local governments to encourage identification of areas for infrastructure development.

The Governor, President of the Senate and Speaker of the House each appoint three members to the Commission. These appointments must be made by July 1, 2001. The Governor also designates one of the members as the chair. The members of the commission should have technical or practical expertise bearing on the design or implementation of the model, 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 for infrastructure needs to a local community directly resulting from a proposed development based on the type, scale and location of the proposed development. Estimated costs must include those associated with the provision of: (1) school facilities; (2) transportation facilities; (3) water supply; (4) sewer; (5) storm water; (6) solid waste services; and, (7) publicly provided telecommunications; estimated revenues should include all revenues attributable to the proposed development which are used to construct, operate or maintain the listed infrastructure. The model should not be used as the only determinate of the acceptability of new development. In addition, the model must be capable of identifying infrastructure deficits. The commission, prior to field-testing by DCA, must approve this model or models.

DCA must field test the model in at least six jurisdictions as demonstration projects to evaluate the models' technical validity, the financial feasibility of local government implementation, and the models' practical usefulness. The commission provides selection recommendations regarding field-testing demonstration projects. At least every three 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, including consideration of thresholds and exemptions, and conduct additional field-testing.

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. This recommendation must be based on the commission's determination that the model is technically valid, practical and feasible for local governments. If this is not determined, then the commission must recommend that the model or its application be modified or not implemented. 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 10: This section appropriates $500,000 from general revenue to the Department of Community Affairs to implement this section.

Section 11: 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 12: This section amends s. 235.15, F.S., to incorporate school districts' educational plant surveys into the district educational facilities plan required by amended section 235.185, F.S., and eliminates duplicative efforts required by 253.15, F.S.

Section 13: This section amends s. 235.175, F.S., to incorporate the school districts' five-year work programs into an integrated long-range educational facilities plan, including the survey of projected needs and the 5-year work plan.

Section 14: 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 15: This section amends s. 235.185, F.S., to incorporate the school districts' five-year work program into an integrated long-range educational 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 educational 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. This 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 identification of school board approved "reasonable options" that reduce the need for additional student stations, including, but not limited to: acceptable capacity, redistricting, busing, year round schools and charter schools.
- The determined criteria and method, jointly agreed upon, to be used to determine the impact to public school capacity in response to a local government for a school capacity report.

The educational facilities plan must also include the district facilities 5-year work program. This work program must be financially feasible and 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.
- Projects using specified funds must be identified separately in priority order within the work plan.

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 educational facilities plan; (2) submit the educational 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. If a local government does not support a necessary comprehensive plan amendment, the matter must be resolved pursuant to the interlocal agreement.

Section 16: 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 17: This section amends s. 235.19, F.S., by allowing for the requirements of this section to be superceded by an interlocal agreement entered into by the school board and the local government pursuant to sections 163.31776(4) and 235.193(2). This section also eliminates 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 18: 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 as follows:

- 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 agree to ensure school board school siting decisions are consistent with the local comprehensive plan and for the early involvement by local government as to potential school sites.
- 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 educational facilities plan, including procedures for local government comment.
- Ensuring necessary infrastructure and funding are in place.
- School district participation in reviewing residential development applications.
- Determining proportionate share mitigation when the proposed development or rezoning increases 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. Prior to the withholding of funds, the Office of Education Facilities of the Commissioner of Education must give notice and the opportunity for dispute pursuant to ch. 120, F.S. These school districts are also prohibited from siting schools.

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. 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 18: 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") 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
- Sharing and coordination of information relating to existing and projected population growth and student enrollment, existing and projected needs for school facilities, existing and planned school facilities, and site selection.
- School districts to request amendments to a local government's comprehensive plan.
- School districts and local governments to coordinate and comment on the development and adoption of their respective district educational facilities plans and educational facilities elements.
- School district participation in the review of comprehensive plan amendments and rezonings that increase residential density and impact public school facility demand.
- Developing the methodology and criteria for determining whether and to what extent public school facility demand will be impacted by a proposed comprehensive plan amendment or rezoning.
- The methodology for determining proportionate share mitigation pursuant to section 163.31777.
- Resolving disputes between the school district and local governments.

This section precludes a school board that fails to enter into an interlocal agreement from receiving school construction funds that may be available from the State pursuant to sections 235.187, 235.216. 235.2195 and 253.42 and from siting schools.

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 that provides the data and analysis required by section 163.31777(2).

Section 19: This section repeals s. 235.194, F.S., dealing with general educational facilities report.

Section 20: This section amends s. 235.218, F.S. to provide conformity with the change from "district facilities work program" to "district educational facilities plan."

Section 21: This section amends s. 235.321, F.S. to provide conformity with the change from "district facilities work program" to "district educational facilities plan."

Section 22: This section amends section 236.25, F.S., to change reference of the "educational facilities work program" to the "educational facilities plan."

Section 23: 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:

Sections 9 and 10 of this bill, relating to the creation of a commission to develop a full cost accounting model, requires an expenditure of state funds. Additional DCA review of the new required Element from local jurisdictions also require state resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill appears to have no impact on local government revenues.

2. Expenditures:

The impact on local government expenditures is unknown at this time. However, by requiring local governments to adopt new elements, some local resources will have to be expended.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill has a direct impact on the private sector. Under the bill's provisions, developers might experience a delay if a comprehensive plan amendment or rezoning is needed for a development project, if the affected school is at or over capacity. The bill does allow mitigation by the developer. In addition, upon full implementation, the full cost accounting model may impact developers depending on whether the tool is applied as a macro or micro approach.

This bill may also negatively impact affordable housing. When developers pay a proportionate share of the costs, in order to get a rezoning or comprehensive plan amendment approved, that payment may be passed along to the potential homebuyer, thus potentially increasing the price of the house. Although a difference may not be as noticeable in higher-priced homes, that increase may remove the house from the affordable housing inventory.

This bill positively impacts schools and school populations as it does not allow additional residential densities to burden existing school facilities, 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 require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. However, their budgets and existing resources may be able to absorb

associated costs. It is indeterminate if the exemption related to an insignificant fiscal impact applies. For purposes of legislative application of Article VII, section 18, the term "insignificant" has been defined as a matter of legislative policy as an amount not greater than the average statewide population for the applicable fiscal year times ten cents. Because the planning requirements associated with the adoption of an educational facilities element and the interlocal agreement is unknown, the total fiscal impact of these changes is difficult to calculate. However, based on the 2000 census, a bill that would have a statewide fiscal impact on counties and municipalities, in the aggregate, in excess of $1,598,238 would be characterized as a mandate. This bill requires every county and municipality, except those municipalities eligible for exemption, to comply with this bill by January 1, 2007.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

This bill does not reduce the tax total aggregate percent of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Department of Community Affairs is authorized to adopt a rule providing for the criteria to determine those counties with the "greatest unmet demand for public schools."

C. OTHER COMMENTS:

This bill does not address current lack of school capacity, the impacts 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. These activities also impact school capacity in some circumstances.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs, at its April 3, 2001 meeting, discussed HB 1617, adopted a strike-all amendment, and temporarily passed the amended bill. The strike-everything amendment, by Representative Dockery, differs from HB 1617, as introduced, in the following ways:

Schools/Planning

- Requires a representative of the district school board to be on the local planning agency.
- Exempt from the frequency limitation on plan amendments those amendments that adopt or amend school siting maps.
- The strike amendment removes intent language re: the public educational facilities element.

- Requires all elements to be adopted, pursuant to a schedule, by January 1, 2007.

- Requires DCA to adopt criteria for determining the greatest unmet need by rule.

- Allows each municipality to adopt its own element or accept the county's element by resolution or ordinance. Specifics exemption requirements.

- Changes the review of residential development as follows:

    - Creates a new separate section regarding school capacity and plan amendments and rezonings.
    - Provides that the denial of comp plan amendments and rezonings occur after the effective date of both the interlocal agreement and the public educational facilities element (a substantial change from the bill--the denial was to begin upon the act becoming a law, rather than the element and interlocal agreements becoming effective)
    - Provides that an application may not be denied if the applicant executes a legally binding commitment to provide proportionate mitigation.
    - Provides that proportionate share mitigation is for actual impacts caused by amendment or rezoning
    - Provides that any mitigation shall be credited toward any impact fee or exaction imposed, on a dollar-for-dollar basis at fair market value.
    - Requires that the mitigation be used toward school capacity improvement within the affected area.
    - Provides that the determination of facility capacity constitutes competent substantial evidence.
    - Requires review for those that increase residential density and which are reasonably expected to have an impact on public schools.

- Interlocal agreement and school capacity
    - The interlocal agreement must provide for the criteria for determining if school capacity is available or will not be reasonably available.
    - It must be based on uniform level-of-service and the school board's financially feasible 5-year plan.
    - Requires the school board to provide a school capacity report with specified information.
    - Requires that options including, school schedule modification, school attendance zones modification, school facility modification and the creation of charter school, must be considered.
    - Requires level of service district-wide standards for public schools of the same type and availability standards.
    - Requires the interlocal agreement to provide the process and methodology to determine proportionate share mitigation.

- Requires the public educational facilities element to include safe access to schools.

- Requires submission of the element by DCA to the Office of Educational Facilities at the Department of Education for review and comment

- Clarifies that school boards may be sanctioned if they do not provide the required plans, information, or fail to enter into an interlocal agreement.

Full Cost Accounting

- Changes language regarding the model to clarify that it is a tool.

- Clarifies that local governments are not required to implement the model until Legislative approval.
- Provides that the model is the minimum base model.
- Provides that the Governor, Speaker and President each appoint three members to the Commission.
- Directs the Commission's duties.
- Requires the model to include sewer, stormwater, solid waste services, and public communications (these were previously discretionary components).
- Provides that the Commission may develop the model to provide for other considerations (quality of life, impact on community character).
- Requires the model to evaluate the financial feasibility of local government implementation and practical usefulness.
- Removes Commission approval of model—they only recommend.
- Includes a $500,000 appropriation to DCA.

An amendment to the strike-everything amendment, offered by Representative Bennett, removed the requirement that local governments must deny requests for comprehensive plan amendments or rezonings if the schools are overcrowded. Rather, DCA was directed to report to the Legislature the estimated number of comprehensive plan amendments and rezonings that would be effected if the denial was required. This amendment was adopted by a vote of 7 yeas to 1 nay. After a motion to reconsider was approved, Representative Bennett withdrew the amendment.

The Committee on Local Government & Veterans Affairs, at its April 12, 2001 meeting, took up the bill, as amended, combined the bills and approved a committee substitute. None of the provisions of HB 1487, by Representative Russell, relating to water policy and planning are included in CS/HBs 1617 & 1487.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:	Staff Director:
Laura Jacobs, Esq.	Joan Highsmith-Smith