Bill No. CS for SB 102

Amendment No. ___ Barcode 682356

CHAMBER ACTION

Senate | House

Senator Constantine moved the following amendment:

Senate Amendment (with title amendment)

On page 17, between lines 26 and 27,

insert:

Section 10. Subsection (1) of section 163.3174, Florida Statutes, is amended to read:

163.3174 Local planning agency.--

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if

approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the governing body of the local government from granting voting status to the school board member.The governing body may designate itself as the local planning agency pursuant to this subsection with the addition of a nonvoting school board representative. The governing body shall notify the state land planning agency of the establishment of its local planning agency. All local planning agencies shall provide opportunities for involvement by ~~district school boards and~~ applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to adopt and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning

responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

Section 11. Subsection (4) and paragraphs (a), (c), (d), and (h) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

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

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; with the appropriate water management district's regional water supply plans approved pursuant to s. 373.0361;with adopted rules pertaining to designated areas of critical state concern; and with the state comprehensive plan shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region and to the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist.

(b) When all or a portion of the land in a local government jurisdiction is or becomes part of a designated area of critical state concern, the local government shall clearly identify those portions of the local comprehensive plan that shall be applicable to the critical area and shall indicate the relationship of the proposed development of the area to the rules for the area of critical state concern.

(6) In addition to the requirements of subsections

(1)-(5), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Each ~~The~~ future land use category must be defined in terms of uses included and must ~~plan shall~~ include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. ~~Each land use category shall be defined in terms of the types of uses included and specific standards for the density or intensity of use.~~The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord

with the principles and standards of the comprehensive plan and this act. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with the school siting requirements of this paragraph no later than October 1, 1999. The failure by a local government to comply with these school siting requirements by October 1, 1999, will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments ~~An amendment~~ proposed by a

local government for purposes of identifying the land use categories in which public schools are an allowable use or for adopting or amending the school-siting maps pursuant to s. 163.31776(3) are ~~is~~ exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that ~~which~~ encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria.

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan

or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. By January 1, 2005, or the Evaluation and Appraisal Report adoption deadline established for the local government pursuant to s. 163.3191(a), whichever date occurs first, the element must consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. The element must include a workplan, covering at least a 10-year planning period, for building water supply facilities that are identified in the element as necessary to serve existing and new development and for which the local government is responsible.

(d) A conservation element for the conservation, use, and protection of natural resources in the area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other natural and environmental resources. Local governments shall assess their current, as well as projected, water needs and sources for at least a 10-year period, considering the appropriate regional water supply plan approved pursuant to s. 373.0361, or, in the absence of an approved regional water supply plan, the district water management plan approved pursuant to s. 373.036(2). This information shall be submitted to the appropriate agencies. The land use map or map series contained in the future land use element shall generally identify and depict the following:

1. Existing and planned waterwells and cones of influence where applicable.

2. Beaches and shores, including estuarine systems.

3. Rivers, bays, lakes, flood plains, and harbors.

4. Wetlands.

5. Minerals and soils.

The land uses identified on such maps shall be consistent with applicable state law and rules.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, ~~and~~ with the state comprehensive plan and with the applicable regional water supply plan approved pursuant to s. 373.0361, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element shall provide for procedures to identify and implement joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall

provide for recognition of campus master plans prepared pursuant to s. 240.155.

c. The intergovernmental coordination element may provide for a voluntary dispute resolution process as established pursuant to s. 186.509 for bringing to closure in a timely manner intergovernmental disputes. A local government may develop and use an alternative local dispute resolution process for this purpose.

2. The intergovernmental coordination element shall further state principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element shall describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement. Within 1 year of adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements.

3. To foster coordination between special districts and local general-purpose governments as local general-purpose governments implement local comprehensive plans, each

independent special district must submit a public facilities report to the appropriate local government as required by s. 189.415.

4.a. Local governments adopting a public educational facilities element pursuant to s. 163.31776 must execute an interlocal agreement with the district school board, the county, and nonexempt municipalities, as defined by s. 163.31776(1), which includes the items listed in s. 163.31777(2). The local government shall amend the intergovernmental coordination element to provide that coordination between the local government and school board is pursuant to the agreement and shall state the obligations of the local government under the agreement.

b. Plan amendments that comply with this subparagraph are exempt from the provisions of s. 163.3187(1).

5. The state land planning agency shall establish a schedule for phased completion and transmittal of plan amendments to implement subparagraphs 1., 2., and 3. from all jurisdictions so as to accomplish their adoption by December 31, 1999. A local government may complete and transmit its plan amendments to carry out these provisions prior to the scheduled date established by the state land planning agency. The plan amendments are exempt from the provisions of s. 163.3187(1).

6. By January 1, 2004, any county having a population greater than 100,000, and the municipalities and special districts within that county, shall submit a report to the Department of Community Affairs which:

a. Identifies all existing or proposed interlocal service-delivery agreements regarding the following: education; sanitary sewer; public safety; solid waste;

drainage; potable water; parks and recreation; and transportation facilities.

b. Identifies any deficits or duplication in the provision of services within its jurisdiction, whether capital or operational. Upon request, the Department of Community Affairs shall provide technical assistance to the local governments in identifying deficits or duplication.

7. Within 6 months after submission of the report, the Department of Community Affairs shall, through the appropriate regional planning council, coordinate a meeting of all local governments within the regional planning area to discuss the reports and potential strategies to remedy any identified deficiencies or duplications.

8. Each local government shall update its intergovernmental coordination element based upon the findings in the report submitted pursuant to subparagraph 6. The report may be used as supporting data and analysis for the intergovernmental coordination element.

9. By February 1, 2003, representatives of municipalities, counties, and special districts shall provide to the Legislature recommended statutory changes for annexation, including any changes that address the delivery of local government services in areas planned for annexation.

Section 12. Section 163.31775, Florida Statutes, is repealed.

Section 13. Section 163.31776, Florida Statutes, is created to read:

163.31776 Public educational facilities element.--

(1) A county, in conjunction with the municipalities within the county, may adopt an optional public educational facilities element in cooperation with the applicable school

district. In order to enact an optional public educational facilities element, the county and each municipality, unless the municipality is exempt as defined in this subsection, must adopt a consistent public educational facilities element and enter the interlocal agreement pursuant to ss. 163.3177(6)(h)4. and 163.31777(2). A municipality is exempt if it has no established need for a new school facility and it meets the following criteria:

(a) The municipality has no public schools located within its boundaries; and

(b) The district school board's 5-year facilities work program and the long-term 10-year work program, as provided in s. 235.185, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.

(2) The public educational facilities element must be based on data and analysis, including the interlocal agreement defined by ss. 163.3177(6)(h)4. and 163.31777(2), and on the educational facilities plan required by s. 235.185. Each local government public educational facilities element within a county must be consistent with the other elements and must address:

(a) The need for, strategies for, and commitments to addressing improvements to infrastructure, safety, and community conditions in areas proximate to existing public schools.

(b) The need for and strategies for providing adequate infrastructure necessary to support proposed schools, including potable water, wastewater, drainage, solid waste,

transportation, and means by which to assure safe access to schools, including sidewalks, bicycle paths, turn lanes, and signalization.

(c) Colocation of other public facilities, such as parks, libraries, and community centers, in proximity to public schools.

(d) Location of schools proximate to residential areas and to complement patterns of development, including using elementary schools as focal points for neighborhoods.

(e) Use of public schools to serve as emergency shelters.

(f) Consideration of the existing and planned capacity of public schools when reviewing comprehensive plan amendments and rezonings that are likely to increase residential development and that are reasonably expected to have an impact on the demand for public school facilities, with the review to be based on uniform, level-of-service standards, availability standards for public schools, and the financially feasible 5-year district facilities work program adopted by the school board pursuant to s. 235.185.

(g) A uniform methodology for determining school capacity consistent with the interlocal agreement entered pursuant to ss. 163.3177(6)(h)4. and 163.31777(2).

(3) The future land-use map series must incorporate maps that are the result of a collaborative process for identifying school sites in the educational facilities plan adopted by the school board pursuant to s. 235.185 and must show the locations of existing public schools and the general locations of improvements to existing schools or new schools anticipated over the 5-year, 10-year, and 20-year time periods, or such maps must constitute data and analysis in

support of the future land-use map series. Maps indicating general locations of future schools or school improvements should not prescribe a land use on a particular parcel of land.

(4) The process for adopting a public educational facilities element is as provided in s. 163.3184. The state land planning agency shall submit a copy of the proposed pubic school facilities element pursuant to the procedures outlined in s. 163.3184(4) to the Office of Educational Facilities and SMART Schools Clearinghouse of the Commissioner of Education for review and comment.

(5) Plan amendments to adopt a public educational facilities element are exempt from the provisions of s. 163.3187(1).

Section 14. Section 163.31777, Florida Statutes, is created to read:

163.31777 Public schools interlocal agreement.--

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

(b) The schedule must establish staggered due dates for submission of interlocal agreements that are executed by both the local government and the district school board, commencing on March 1, 2003, and concluding by December 1,

2004, and must set the same date for all governmental entities within a school district. However, if the county where the school district is located contains more than 20 municipalities, the state land planning agency may establish staggered due dates for the submission of interlocal agreements by these municipalities. The schedule must begin with those areas where both the number of districtwide capital-outlay full-time-equivalent students equals 80 percent or more of the current year's school capacity and the projected 5-year student growth is 1,000 or greater, or where the projected 5-year student growth rate is 10 percent or greater.

(c) If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and the district school board may petition the state land planning agency for a waiver of one or more requirements of subsection (2). The waiver must be granted if the procedures called for in subsection (2) are unnecessary because of the school district's declining school age population, considering the district's 5-year facilities work program prepared pursuant to s. 235.185. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.

(d) Interlocal agreements between local governments and district school boards adopted pursuant to s. 163.3177 before the effective date of this section must be updated and

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

(2) At a minimum, the interlocal agreement must address the following issues:

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

(b) A process to coordinate and share information relating to existing and planned public school facilities,

including school renovations and closures, and local government plans for development and redevelopment.

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

(d) A process for determining the need for and timing of on-site and off-site improvements to support new, proposed expansion, or redevelopment of existing schools. The process must address identification of the party or parties responsible for the improvements.

(e) A process for the school board to inform the local government regarding school capacity. The capacity reporting must be consistent with laws and rules relating to measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 235.185.

(f) Participation of the local governments in the preparation of the annual update to the district school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 235.185.

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

(h) A procedure for the resolution of disputes between

the district school board and local governments, which may include the dispute-resolution processes contained in chapters 164 and 186.

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

A signatory to the interlocal agreement may elect not to include a provision meeting the requirements of paragraph (e); however, such a decision may be made only after a public hearing on such election, which may include the public hearing in which a district school board or a local government adopts the interlocal agreement. An interlocal agreement entered into pursuant to this section must be consistent with the adopted comprehensive plan and land development regulations of any local government that is a signatory.

(3)(a) The Office of Educational Facilities and SMART Schools Clearinghouse shall submit any comments or concerns regarding the executed interlocal agreement to the state land planning agency within 30 days after receipt of the executed interlocal agreement. The state land planning agency shall review the executed interlocal agreement to determine whether it is consistent with the requirements of subsection (2), the adopted local government comprehensive plan, and other requirements of law. Within 60 days after receipt of an executed interlocal agreement, the state land planning agency shall publish a notice of intent in the Florida Administrative Weekly and shall post a copy of the notice on the agency's Internet site. The notice of intent must state whether the interlocal agreement is consistent or inconsistent with the requirements of subsection (2) and this subsection, as

appropriate.

(b) The state land planning agency's notice is subject to challenge under chapter 120; however, an affected person, as defined in 163.3184(1)(a), has standing to initiate the administrative proceeding, and this proceeding is the sole means available to challenge the consistency of an interlocal agreement required by this section with the criteria contained in subsection (2) and this subsection. In order to have standing, each person must have submitted oral or written comments, recommendations, or objections to the local government or the school board before the adoption of the interlocal agreement by the school board and local government. The district school board and local governments are parties to any such proceeding. In this proceeding, when the state land planning agency finds the interlocal agreement to be consistent with the criteria in subsection (2) and this subsection, the interlocal agreement shall be determined to be consistent with subsection (2) and this subsection if the local government's and school board's determination of consistency is fairly debatable. When the state planning agency finds the interlocal agreement to be inconsistent with the requirements of subsection (2) and this subsection, the local government's and school board's determination of consistency shall be sustained unless it is shown by a preponderance of the evidence that the interlocal agreement is inconsistent.

(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (2) or this subsection, it shall forward it to the Administration Commission, which may impose sanctions against the local government pursuant to s.

163.3184(11) and may impose sanctions against the district school board by directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to ss. 235.187, 235.216, 235.2195, and 235.42.

(4) If an executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a Notice to Show Cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by directing the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(11) and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to ss. 235.187, 235.216, 235.2195, 235.42.

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

(6) Except as provided in subsection (7), municipalities having no established need for a new school

facility and meeting the following criteria are exempt from the requirements of subsections (1), (2), and (3):

(a) The municipality has no public schools located within its boundaries.

(b) The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 235.185, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.

(7) At the time of the evaluation and appraisal report, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under subsection (6). If the municipality continues to meet these criteria and the district school board verifies in writing that no new school facilities will be needed within the 5-year and 10-year timeframes, the municipality shall continue to be exempt from the interlocal-agreement requirement. Each municipality exempt under subsection (6) must comply with the provisions of this section within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

Section 15. Subsection (4) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.--

(4)(a) The concurrency requirement as implemented in local comprehensive plans applies to state and other public facilities and development to the same extent that it applies to all other facilities and development, as provided by law.

(b) The concurrency requirement as implemented in

local comprehensive plans does not apply to public transit facilities. For the purposes of this paragraph, public transit facilities include transit stations and terminals, transit station parking, park-and-ride lots, intermodal public transit connection or transfer facilities, and fixed bus, guideway, and rail stations. As used in this paragraph, the terms "terminals" and "transit facilities" do not include airports or seaports or commercial or residential development constructed in conjunction with a public transit facility.

(c) The concurrency requirement, except as it relates to transportation facilities, as implemented in local government comprehensive plans may be waived by a local government for urban infill and redevelopment areas designated pursuant to s. 163.2517 if such a waiver does not endanger public health or safety as defined by the local government in its local government comprehensive plan. The waiver shall be adopted as a plan amendment pursuant to the process set forth in s. 163.3187(3)(a). A local government may grant a concurrency exception pursuant to subsection (5) for transportation facilities located within these urban infill and redevelopment areas.

Section 16. Subsections (1), (3), (4), (6), (7), (8), and (15) and paragraph (d) of subsection (16) of section 163.3184, Florida Statutes, are amended to read:

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

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

(a) "Affected person" includes the affected local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of the review; owners of

real property abutting real property that is the subject of a proposed change to a future land-use map;and adjoining local governments that can demonstrate that the plan or plan amendment will produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written comments, recommendations, or objections to the local government during the period of time beginning with the transmittal hearing for the plan or plan amendment and ending with the adoption of the plan or plan amendment.

(b) "In compliance" means consistent with the requirements of ss. 163.3177, 163.31776, when a local government adopts an educational facilities element,163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern.

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

(a) Each local governing body shall transmit the complete proposed comprehensive plan or plan amendment to the state land planning agency, the appropriate regional planning council and water management district, the Department of Environmental Protection, the Department of State,and the Department of Transportation, and, in the case of municipal plans, to the appropriate county, and, in the case of county

plans, to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, immediately following a public hearing pursuant to subsection (15) as specified in the state land planning agency's procedural rules. The local governing body shall also transmit a copy of the complete proposed comprehensive plan or plan amendment to any other unit of local government or government agency in the state that has filed a written request with the governing body for the plan or plan amendment. The local government may request a review by the state land planning agency pursuant to subsection (6) at the time of the transmittal of an amendment.

(b) A local governing body shall not transmit portions of a plan or plan amendment unless it has previously provided to all state agencies designated by the state land planning agency a complete copy of its adopted comprehensive plan pursuant to subsection (7) and as specified in the agency's procedural rules. In the case of comprehensive plan amendments, the local governing body shall transmit to the state land planning agency, the appropriate regional planning council and water management district, the Department of Environmental Protection, the Department of State, and the Department of Transportation, and, in the case of municipal plans, to the appropriate county and, in the case of county plans, to the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services the materials specified in the state land planning agency's procedural rules and, in cases in which the plan amendment is a result of an evaluation and appraisal report adopted pursuant to s. 163.3191, a copy of the evaluation and appraisal report. Local governing bodies shall consolidate all

proposed plan amendments into a single submission for each of the two plan amendment adoption dates during the calendar year pursuant to s. 163.3187.

(c) A local government may adopt a proposed plan amendment previously transmitted pursuant to this subsection, unless review is requested or otherwise initiated pursuant to subsection (6).

(d) In cases in which a local government transmits multiple individual amendments that can be clearly and legally separated and distinguished for the purpose of determining whether to review the proposed amendment, and the state land planning agency elects to review several or a portion of the amendments and the local government chooses to immediately adopt the remaining amendments not reviewed, the amendments immediately adopted and any reviewed amendments that the local government subsequently adopts together constitute one amendment cycle in accordance with s. 163.3187(1).

(4) INTERGOVERNMENTAL REVIEW.--~~If review of a proposed comprehensive plan amendment is requested or otherwise initiated pursuant to subsection (6), the state land planning agency within 5 working days of determining that such a review will be conducted shall transmit a copy of the proposed plan amendment to various government agencies, as appropriate, for response or comment, including, but not limited to, the Department of Environmental Protection, the Department of Transportation, the water management district, and the regional planning council, and, in the case of municipal plans, to the county land planning agency.~~ The ~~These~~ governmental agencies specified in paragraph (3)(a)shall provide comments to the state land planning agency within 30 days after receipt by the state land planning agency of the

complete proposed plan amendment. If the plan or plan amendment includes or relates to the public school facilities element pursuant to s. 163.31776, the state land planning agency shall submit a copy to the Office of Educational Facilities of the Commissioner of Education for review and comment.The appropriate regional planning council shall also provide its written comments to the state land planning agency within 30 days after receipt by the state land planning agency of the complete proposed plan amendment and shall specify any objections, recommendations for modifications, and comments of any other regional agencies to which the regional planning council may have referred the proposed plan amendment. Written comments submitted by the public within 30 days after notice of transmittal by the local government of the proposed plan amendment will be considered as if submitted by governmental agencies. All written agency and public comments must be made part of the file maintained under subsection (2).

(6) STATE LAND PLANNING AGENCY REVIEW.--

(a) The state land planning agency shall review a proposed plan amendment upon request of a regional planning council, affected person, or local government transmitting the plan amendment. The request from the regional planning council or affected person must be ~~if the request is~~ received within 30 days after transmittal of the proposed plan amendment pursuant to subsection (3). ~~The agency shall issue a report of its objections, recommendations, and comments regarding the proposed plan amendment.~~ A regional planning council or affected person requesting a review shall do so by submitting a written request to the agency with a notice of the request to the local government and any other person who has requested notice.

(b) The state land planning agency may review any proposed plan amendment regardless of whether a request for review has been made, if the agency gives notice to the local government, and any other person who has requested notice, of its intention to conduct such a review within 35 ~~30~~ days after receipt ~~of transmittal~~ of the complete proposed plan amendment ~~pursuant to subsection (3)~~.

(c) The state land planning agency shall establish by rule a schedule for receipt of comments from the various government agencies, as well as written public comments, pursuant to subsection (4). If the state land planning agency elects to review the amendment or the agency is required to review the amendment as specified in paragraph (a), the agency shall issue a report giving its objections, recommendations, and comments regarding the proposed amendment within 60 days after receipt of the complete proposed amendment by the state land planning agency.~~The state land planning agency shall have 30 days to review comments from the various government agencies along with a local government's comprehensive plan or plan amendment. During that period, the state land planning agency shall transmit in writing its comments to the local government along with any objections and any recommendations for modifications.~~ When a federal, state, or regional agency has implemented a permitting program, the state land planning agency shall not require a local government to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations. Nothing contained herein shall prohibit the state land planning agency in conducting its review of local plans or plan amendments from making objections, recommendations, and comments or making compliance

determinations regarding densities and intensities consistent with the provisions of this part. In preparing its comments, the state land planning agency shall only base its considerations on written, and not oral, comments, from any source.

(d) The state land planning agency review shall identify all written communications with the agency regarding the proposed plan amendment. If the state land planning agency does not issue such a review, it shall identify in writing to the local government all written communications received 30 days after transmittal. The written identification must include a list of all documents received or generated by the agency, which list must be of sufficient specificity to enable the documents to be identified and copies requested, if desired, and the name of the person to be contacted to request copies of any identified document. The list of documents must be made a part of the public records of the state land planning agency.

(7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF PLAN OR AMENDMENTS AND TRANSMITTAL.--

(a) The local government shall review the written comments submitted to it by the state land planning agency, and any other person, agency, or government. Any comments, recommendations, or objections and any reply to them shall be public documents, a part of the permanent record in the matter, and admissible in any proceeding in which the comprehensive plan or plan amendment may be at issue. The local government, upon receipt of written comments from the state land planning agency, shall have 120 days to adopt or adopt with changes the proposed comprehensive plan or s. 163.3191 plan amendments. In the case of comprehensive plan

amendments other than those proposed pursuant to s. 163.3191, the local government shall have 60 days to adopt the amendment, adopt the amendment with changes, or determine that it will not adopt the amendment. The adoption of the proposed plan or plan amendment or the determination not to adopt a plan amendment, other than a plan amendment proposed pursuant to s. 163.3191, shall be made in the course of a public hearing pursuant to subsection (15). The local government shall transmit the complete adopted comprehensive plan or ~~adopted~~ plan amendment, including the names and addresses of person compiled pursuant to paragraph (15)(c), to the state land planning agency as specified in the agency's procedural rules within 10 working days after adoption. The local governing body shall also transmit a copy of the adopted comprehensive plan or plan amendment to the regional planning agency and to any other unit of local government or governmental agency in the state that has filed a written request with the governing body for a copy of the plan or plan amendment.

(b) If the adopted plan amendment is unchanged from the proposed plan amendment transmitted pursuant to subsection (3) and an affected person as defined in paragraph (1)(a) did not raise any objection, the state land planning agency did not review the proposed plan amendment, and the state land planning agency did not raise any objections during its review pursuant to subsection (6), the local government may state in the transmittal letter that the plan amendment is unchanged and was not the subject of objections.

(8) NOTICE OF INTENT.--

(a) If the transmittal letter correctly states that the plan amendment is unchanged and was not the subject of

review or objections pursuant to paragraph (7)(b), the state land planning agency has 20 days after receipt of the transmittal letter within which to issue a notice of intent that the plan amendment is in compliance.

(b)~~(a)~~ Except as provided in paragraph (a) or in s. 163.3187(3), the state land planning agency, upon receipt of a local government's complete adopted comprehensive plan or plan amendment, shall have 45 days for review and to determine if the plan or plan amendment is in compliance with this act, unless the amendment is the result of a compliance agreement entered into under subsection (16), in which case the time period for review and determination shall be 30 days. If review was not conducted under subsection (6), the agency's determination must be based upon the plan amendment as adopted. If review was conducted under subsection (6), the agency's determination of compliance must be based only upon one or both of the following:

1. The state land planning agency's written comments to the local government pursuant to subsection (6); or

2. Any changes made by the local government to the comprehensive plan or plan amendment as adopted.

(c)~~(b)~~1. ~~During the time period provided for in this subsection, the state land planning agency shall issue, through a senior administrator or the secretary, as specified in the agency's procedural rules, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. A notice of intent shall be issued by publication in the manner provided by this paragraph and by mailing a copy to the local government and to persons who request notice. The required advertisement shall be no less than 2 columns wide by 10 inches long, and the headline in the advertisement~~

~~shall be in a type no smaller than 12 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper which meets the size and circulation requirements set forth in paragraph (15)(c) and which has been designated in writing by the affected local government at the time of transmittal of the amendment. Publication by the state land planning agency of a notice of intent in the newspaper designated by the local government shall be prima facie evidence of compliance with the publication requirements of this section.~~

~~2. For fiscal year 2001-2002 only, the provisions of this subparagraph shall supersede the provisions of subparagraph 1.~~During the time period provided for in this subsection, the state land planning agency shall issue, through a senior administrator or the secretary, as specified in the agency's procedural rules, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. A notice of intent shall be issued by publication in the manner provided by this paragraph and by mailing a copy to the local government. The advertisement shall be placed in that portion of the newspaper where legal notices appear. The advertisement shall be published in a newspaper that meets the size and circulation requirements set forth in paragraph (15)(e)~~(15)(c)~~and that has been designated in writing by the affected local government at the time of transmittal of the amendment. Publication by the state land planning agency of a notice of intent in the newspaper designated by the local government shall be prima facie evidence of compliance with the publication requirements of this section. The state land planning agency shall post a copy of the notice of intent on

the agency's Internet site. The agency shall, no later than the date the notice of intent is transmitted to the newspaper, send by regular mail a courtesy informational statement to persons who provide their names and addresses to the local government at the transmittal hearing or at the adoption hearing where the local government has provided the names and addresses of such persons to the department at the time of transmittal of the adopted amendment. The informational statements shall include the name of the newspaper in which the notice of intent will appear, the approximate date of publication, the ordinance number of the plan or plan amendment, and a statement that affected persons have 21 days after the actual date of publication of the notice to file a petition. ~~This subparagraph expires July 1, 2002.~~

2. A local government that has an Internet site shall post a copy of the state land planning agency's notice of intent on the site within 5 days after receipt of the mailed copy of the agency's notice of intent.

(15) PUBLIC HEARINGS.--

(a) The procedure for transmittal of a complete proposed comprehensive plan or plan amendment pursuant to subsection (3) and for adoption of a comprehensive plan or plan amendment pursuant to subsection (7) shall be by affirmative vote of not less than a majority of the members of the governing body present at the hearing. The adoption of a comprehensive plan or plan amendment shall be by ordinance. For the purposes of transmitting or adopting a comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are superseded by this subsection, except as provided in this part.

(b) The local governing body shall hold at least two

advertised public hearings on the proposed comprehensive plan or plan amendment as follows:

1. The first public hearing shall be held at the transmittal stage pursuant to subsection (3). It shall be held on a weekday at least 7 days after the day that the first advertisement is published.

2. The second public hearing shall be held at the adoption stage pursuant to subsection (7). It shall be held on a weekday at least 5 days after the day that the second advertisement is published.

(c) The local government shall provide a sign-in form at the transmittal hearing and at the adoption hearing for persons to provide their names and mailing addresses. The sign-in form must advise that any person providing the requested information will receive a courtesy informational statement concerning publications of the state land planning agency's notice of intent. The local government shall add to the sign-in form the name and address of any person who submits written comments concerning the proposed plan or plan amendment during the time period between the commencement of the transmittal hearing and the end of the adoption hearing. It is the responsibility of the person completing the form or providing written comments to accurately, completely, and legibly provide all information needed in order to receive the courtesy informational statement.

(d) The agency shall provide a model sign-in form for providing the list to the agency which may be used by the local government to satisfy the requirements of this subsection.

(e)~~(c)~~ If the proposed comprehensive plan or plan amendment changes the actual list of permitted, conditional,

or prohibited uses within a future land use category or changes the actual future land use map designation of a parcel or parcels of land, the required advertisements shall be in the format prescribed by s. 125.66(4)(b)2. for a county or by s. 166.041(3)(c)2.b. for a municipality.

(16) COMPLIANCE AGREEMENTS.--

(d) A local government may adopt a plan amendment pursuant to a compliance agreement in accordance with the requirements of paragraph (15)(a). The plan amendment shall be exempt from the requirements of subsections (2)-(7). The local government shall hold a single adoption public hearing pursuant to the requirements of subparagraph (15)(b)2. and paragraph (15)(e)~~(c)~~. Within 10 working days after adoption of a plan amendment, the local government shall transmit the amendment to the state land planning agency as specified in the agency's procedural rules, and shall submit one copy to the regional planning agency and to any other unit of local government or government agency in the state that has filed a written request with the governing body for a copy of the plan amendment, and one copy to any party to the proceeding under ss. 120.569 and 120.57 granted intervenor status.

Section 17. Paragraph (c) is amended and paragraph (k) is added to subsection (1) of section 163.3187, Florida Statutes, to read:

163.3187 Amendment of adopted comprehensive plan.--

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(c) Any local government comprehensive plan amendments directly related to proposed small scale development activities may be approved without regard to statutory limits

on the frequency of consideration of amendments to the local comprehensive plan. A small scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local

government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre, except that this limitation does not apply to small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

2.a. A local government that proposes to consider a plan amendment pursuant to this paragraph is not required to comply with the procedures and public notice requirements of s. 163.3184(15)(c) for such plan amendments if the local

government complies with the provisions in s. 125.66(4)(a) for a county or in s. 166.041(3)(c) for a municipality. If a request for a plan amendment under this paragraph is initiated by other than the local government, public notice is required.

b. The local government shall send copies of the notice and amendment to the state land planning agency, the regional planning council, and any other person or entity requesting a copy. This information shall also include a statement identifying any property subject to the amendment that is located within a coastal high hazard area as identified in the local comprehensive plan.

3. Small scale development amendments adopted pursuant to this paragraph require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(7), and are not subject to the requirements of s. 163.3184(3)-(6) unless the local government elects to have them subject to those requirements.

(k) A comprehensive plan amendment to adopt a public educational facilities element pursuant to s. 163.31776 and future land-use-map amendments for school siting may be approved notwithstanding statutory limits on the frequency of adopting plan amendments.

Section 18. Paragraph (k) of subsection (2) of section 163.3191, Florida Statutes, is amended and paragraphs (l) and (m) are added to that subsection to read:

163.3191 Evaluation and appraisal of comprehensive plan.--

(2) The report shall present an evaluation and assessment of the comprehensive plan and shall contain appropriate statements to update the comprehensive plan, including, but not limited to, words, maps, illustrations, or

other media, related to:

(k) The coordination of the comprehensive plan with existing public schools and those identified in the applicable educational ~~5-year school district~~ facilities plan ~~work program~~ adopted pursuant to s. 235.185. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities. If the issues are not relevant, the local government shall demonstrate that they are not relevant.

(l) The evaluation must consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. The potable water element must be revised to include a work plan, covering at least a 10-year planning period, for building any water supply facilities that are identified in the element as necessary to serve existing and new development and for which the local government is responsible.

(m) If any of the jurisdiction of the local government is located within the coastal high-hazard area, an evaluation of whether any past reduction in land use density impairs the property rights of current residents when redevelopment occurs, including, but not limited to, redevelopment following a natural disaster. The local government must identify strategies to address redevelopment feasibility and the property rights of affected residents. These strategies may include the authorization of redevelopment up to the actual

built density in existence on the property prior to the natural disaster or redevelopment.

Section 19. Section 163.3215, Florida Statutes, is amended to read:

163.3215 Standing to enforce local comprehensive plans through development orders.--

(1) Subsections (3) and (4) provide the exclusive methods for an aggrieved or adversely affected party to appeal and challenge the consistency of a development order with a comprehensive plan adopted under this part. The local government that issues the development order is to be named as a respondent in all proceedings under this section. Subsection (3) shall not apply to development orders for which a local government has established a process consistent with the requirements of subsection (4). A local government may decide which types of development orders will proceed under subsection (4). Subsection (3) shall apply to all other development orders that are not subject to subsection (4).

(2) As used in this section, the term "aggrieved or adversely affected party" means any person or local government that will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large but must exceed in degree the general interest in community good shared by all persons. The term includes the owner, developer, or applicant for a development order.

(3)~~(1)~~ Any aggrieved or adversely affected party may maintain a de novo ~~an~~ action for declaratory, injunctive, or other relief against any local government to challenge any decision of such local government granting or denying an application for, or to prevent such local government from taking any action on, a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property which ~~that~~ is not consistent with the comprehensive plan adopted under this part. The de novo action must be filed no later than 30 days following rendition of a development order or other written decision, or when all local administrative appeals, if any, are exhausted, whichever occurs later.

~~(2) "Aggrieved or adversely affected party" means any person or local government which will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, or environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.~~

~~(3)(a) No suit may be maintained under this section challenging the approval or denial of a zoning, rezoning, planned unit development, variance, special exception, conditional use, or other development order granted prior to October 1, 1985, or applied for prior to July 1, 1985.~~

~~(b) Suit under this section shall be the sole action available to challenge the consistency of a development order~~

~~with a comprehensive plan adopted under this part.~~

(4) If a local government elects to adopt or has adopted an ordinance establishing, at a minimum, the requirements listed in this subsection, the sole method by which an aggrieved and adversely affected party may challenge any decision of local government granting or denying an application for a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property, on the basis that it is not consistent with the comprehensive plan adopted under this part, is by an appeal filed by a petition for writ of certiorari filed in circuit court no later than 30 days following rendition of a development order or other written decision of the local government, or when all local administrative appeals, if any, are exhausted, whichever occurs later. An action for injunctive or other relief may be joined with the petition for certiorari. Principles of judicial or administrative res judicata and collateral estoppel apply to these proceedings. Minimum components of the local process are as follows:

(a) The local process must make provision for notice of an application for a development order that materially alters the use or density or intensity of use on a particular piece of property, including notice by publication or mailed notice consistent with the provisions of s. 166.041(3)(c)2.b. and c. and s. 125.66(4)(b)2. and 3., and must require prominent posting at the job site. The notice must be given within 10 days after the filing of an application for development order; however, notice under this subsection is not required for an application for a building permit or any other official action of local government which does not

materially alter the use or density or intensity of use on a particular piece of property. The notice must clearly delineate that an aggrieved or adversely affected person has the right to request a quasi-judicial hearing before the local government for which the application is made, must explain the conditions precedent to the appeal of any development order ultimately rendered upon the application, and must specify the location where written procedures can be obtained that describe the process, including how to initiate the quasi-judicial process, the timeframes for initiating the process, and the location of the hearing. The process may include an opportunity for an alternative dispute resolution.

(b) The local process must provide a clear point of entry consisting of a written preliminary decision, at a time and in a manner to be established in the local ordinance, with the time to request a quasi-judicial hearing running from the issuance of the written preliminary decision; the local government, however, is not bound by the preliminary decision. A party may request a hearing to challenge or support a preliminary decision.

(c) The local process must provide an opportunity for participation in the process by an aggrieved or adversely affected party, allowing a reasonable time for the party to prepare and present a case for the quasi-judicial hearing.

(d) The local process must provide, at a minimum, an opportunity for the disclosure of witnesses and exhibits prior to hearing and an opportunity for the depositions of witnesses to be taken.

(e) The local process may not require that a party be represented by an attorney in order to participate in a hearing.

(f) The local process must provide for a quasi-judicial hearing before an impartial special master who is an attorney who has at least 5 years' experience and who shall, at the conclusion of the hearing, recommend written findings of fact and conclusions of law. The special master shall have the power to swear witnesses and take their testimony under oath, to issue subpoenas and other orders regarding the conduct of the proceedings, and to compel entry upon the land. The standard of review applied by the special master in determining whether a proposed development order is consistent with the comprehensive plan shall be strict scrutiny in accordance with Florida law.

(g) At the quasi-judicial hearing, all parties must have the opportunity to respond, to present evidence and argument on all issues involved which are related to the development order, and to conduct cross-examination and submit rebuttal evidence. Public testimony must be allowed.

(h) The local process must provide for a duly noticed public hearing before the local government at which public testimony is allowed. At the quasi-judicial hearing, the local government is bound by the special master's findings of fact unless the findings of fact are not supported by competent substantial evidence. The governing body may modify the conclusions of law if it finds that the special master's application or interpretation of law is erroneous. The governing body may make reasonable legal interpretations of its comprehensive plan and land development regulations without regard to whether the special master's interpretation is labeled as a finding of fact or a conclusion of law. The local government's final decision must be reduced to writing, including the findings of fact and conclusions of law, and is

not considered rendered or final until officially date-stamped by the city or county clerk.

(i) An ex parte communication relating to the merits of the matter under review may not be made to the special master. An ex parte communication relating to the merits of the matter under review may not be made to the governing body after a time to be established by the local ordinance, which time must be no later than receipt of the special master's recommended order by the governing body.

(j) At the option of the local government, the process may require actions to challenge the consistency of a development order with land development regulations to be brought in the same proceeding.

~~(4) As a condition precedent to the institution of an action pursuant to this section, the complaining party shall first file a verified complaint with the local government whose actions are complained of setting forth the facts upon which the complaint is based and the relief sought by the complaining party. The verified complaint shall be filed no later than 30 days after the alleged inconsistent action has been taken. The local government receiving the complaint shall respond within 30 days after receipt of the complaint. Thereafter, the complaining party may institute the action authorized in this section. However, the action shall be instituted no later than 30 days after the expiration of the 30-day period which the local government has to take appropriate action. Failure to comply with this subsection shall not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the actions complained of.~~

(5) Venue in any cases brought under this section

shall lie in the county or counties where the actions or inactions giving rise to the cause of action are alleged to have occurred.

(6) The signature of an attorney or party constitutes a certificate that he or she has read the pleading, motion, or other paper and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons or frivolous purposes or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the court, upon motion or its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(7) In any proceeding ~~action~~ under subsection (3) or subsection (4)~~this section~~, no settlement shall be entered into by the local government unless the terms of the settlement have been the subject of a public hearing after notice as required by this part.

(8) In any proceeding ~~suit~~ under subsection (3) or subsection (4)~~this section~~, the Department of Legal Affairs may intervene to represent the interests of the state.

(9) Neither subsection (3) nor subsection (4) relieves the local government of its obligations to hold public hearings as required by law.

Section 20. Section 163.3246, Florida Statutes, is created to read:

163.3246 Local government comprehensive planning certification program.--

(1) There is created the Local Government Comprehensive Planning Certification Program to be administered by the Department of Community Affairs. The purpose of the program is to create a certification process for local governments who identify a geographic area for certification within which they commit to directing growth and who, because of a demonstrated record of effectively adopting, implementing, and enforcing its comprehensive plan, the level of technical planning experience exhibited by the local government, and a commitment to implement exemplary planning practices, require less state and regional oversight of the comprehensive plan amendment process. The purpose of the certification area is to designate areas that are contiguous, compact, and appropriate for urban growth and development within a 10-year planning timeframe. Municipalities and counties are encouraged to jointly establish the certification area, and subsequently enter into joint certification agreement with the department.

(2) In order to be eligible for certification under the program, the local government must:

(a) Demonstrate a record of effectively adopting, implementing, and enforcing its comprehensive plan;

(b) Demonstrate technical, financial, and administrative expertise to implement the provisions of this part without state oversight;

(c) Obtain comments from the state and regional review agencies regarding the appropriateness of the proposed certification;

(d) Hold at least one public hearing soliciting public

input concerning the local government's proposal for certification; and

(e) Demonstrate that it has adopted programs in its local comprehensive plan and land development regulations which:

1. Promote infill development and redevelopment, including prioritized and timely permitting processes in which applications for local development permits within the certification area are acted upon expeditiously for proposed development that is consistent with the local comprehensive plan.

2. Promote the development of housing for low-income and very-low-income households or specialized housing to assist elderly and disabled persons to remain at home or in independent living arrangements.

3. Achieve effective intergovernmental coordination and address the extrajurisdictional effects of development within the certified area.

4. Promote economic diversity and growth while encouraging the retention of rural character, where rural areas exist, and the protection and restoration of the environment.

5. Provide and maintain public urban and rural open space and recreational opportunities.

6. Manage transportation and land uses to support public transit and promote opportunities for pedestrian and nonmotorized transportation.

7. Use design principles to foster individual community identity, create a sense of place, and promote pedestrian-oriented safe neighborhoods and town centers.

8. Redevelop blighted areas.

9. Adopt a local mitigation strategy and have programs to improve disaster preparedness and the ability to protect lives and property, especially in coastal high-hazard areas.

10. Encourage clustered, mixed-use development that incorporates greenspace and residential development within walking distance of commercial development.

11. Encourage urban infill at appropriate densities and intensities and separate urban and rural uses and discourage urban sprawl while preserving public open space and planning for buffer-type land uses and rural development consistent with their respective character along and outside the certification area.

12. Assure protection of key natural areas and agricultural lands that are identified using state and local inventories of natural areas. Key natural areas include, but are not limited to:

a. Wildlife corridors.

b. Lands with high native biological diversity, important areas for threatened and endangered species, species of special concern, migratory bird habitat, and intact natural communities.

c. Significant surface waters and springs, aquatic preserves, wetlands, and outstanding Florida waters.

d. Water resources suitable for preservation of natural systems and for water resource development.

e. Representative and rare native Florida natural systems.

13. Ensure the cost-efficient provision of public infrastructure and services.

(3) Portions of local governments located within areas of critical state concern cannot be included in a

certification area.

(4) A local government or group of local governments seeking certification of all or part of a jurisdiction or jurisdictions must submit an application to the department which demonstrates that the area sought to be certified meets the criteria of subsections (2) and (5). The application shall include copies of the applicable local government comprehensive plan, land development regulations, interlocal agreements, and other relevant information supporting the eligibility criteria for designation. Upon receipt of a complete application, the department must provide the local government with an initial response to the application within 90 days after receipt of the application.

(5) If the local government meets the eligibility criteria of subsection (2), the department shall certify all or part of a local government by written agreement, which shall be considered final agency action subject to challenge under s. 120.569. The agreement must include the following components:

(a) The basis for certification.

(b) The boundary of the certification area, which encompasses areas that are contiguous, compact, appropriate for urban growth and development, and in which public infrastructure is existing or planned within a 10-year planning timeframe. The certification area is required to include sufficient land to accommodate projected population growth, housing demand, including choice in housing types and affordability, job growth and employment, appropriate densities and intensities of use to be achieved in new development and redevelopment, existing or planned infrastructure, including transportation and central water and

sewer facilities. The certification area must be adopted as part of the local government's comprehensive plan.

(c) A demonstration that the capital-improvements plan governing the certified area is updated annually.

(d) A visioning plan or a schedule for the development of a visioning plan.

(e) A description of baseline conditions related to the evaluation criteria in paragraph (g) in the certified area.

(f) A work program setting forth specific planning strategies and projects that will be undertaken to achieve improvement in the baseline conditions as measured by the criteria identified in paragraph (g).

(g) Criteria to evaluate the effectiveness of the certification process in achieving the community-development goals for the certification area including:

1. Measuring the compactness of growth, expressed as the ratio between population growth and land consumed;

2. Increasing residential density and intensities of use;

3. Measuring and reducing vehicle miles traveled and increasing the interconnectedness of the street system, pedestrian access, and mass transit;

4. Measuring the balance between the location of jobs and housing;

5. Improving the housing mix within the certification area, including the provision of mixed-use neighborhoods, affordable housing, and the creation of an affordable housing program if such a program is not already in place;

6. Promoting mixed-use developments as an alternative to single-purpose centers;

7. Promoting clustered development having dedicated open space;

8. Linking commercial, educational, and recreational uses directly to residential growth;

9. Reducing per capita water and energy consumption;

10. Prioritizing environmental features to be protected and adopting measures or programs to protect identified features;

11. Reducing hurricane shelter deficits and evacuation times and implementing the adopted mitigation strategies; and

12. Improving coordination between the local government and school board.

(h) A commitment to change any land development regulations that restrict compact development and adopt alternative design codes that encourage desirable densities and intensities of use and patterns of compact development identified in the agreement.

(i) A plan for increasing public participation in comprehensive planning and land use decision making which includes outreach to neighborhood and civic associations through community planning initiatives.

(j) A demonstration that the intergovernmental coordination element of the local government's comprehensive plan includes joint processes for coordination between the school board and local government pursuant to s. 163.3177(6)(h)2. and other requirements of law.

(k) A method of addressing the extrajurisdictional effects of development within the certified area which is integrated by amendment into the intergovernmental coordination element of the local government comprehensive plan.

(l) A requirement for the annual reporting to the department of plan amendments adopted during the year, and the progress of the local government in meeting the terms and conditions of the certification agreement. Prior to the deadline for the annual report, the local government must hold a public hearing soliciting public input on the progress of the local government in satisfying the terms of the certification agreement.

(m) An expiration date that is no later than 10 years after execution of the agreement.

(6) The department may enter up to eight new certification agreements each fiscal year. The department shall adopt procedural rules governing the application and review of local government requests for certification. Such procedural rules may establish a phased schedule for review of local government requests for certification.

(7) The department shall revoke the local government's certification if it determines that the local government is not substantially complying with the terms of the agreement.

(8) An affected person, as defined by s. 163.3184(1)(a), may petition for administrative hearing alleging that a local government is not substantially complying with the terms of the agreement, using the procedures and timeframes for notice and conditions precedent described in s. 163.3213. Such a petition must be filed within 30 days after the annual public hearing required by paragraph (5)(l).

(9)(a) Upon certification all comprehensive plan amendments associated with the area certified must be adopted and reviewed in the manner described in ss. 163.3184(1), (2), (7), (14), (15), and (16) and 163.3187, such that state and

regional agency review is eliminated. The department may not issue any objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by s. 163.3184(1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment.

(b) Plan amendments that change the boundaries of the certification area; propose a rural land stewardship area pursuant to s. 163.3177(11)(d); propose an optional sector plan pursuant to s. 163.3245; propose a school facilities element; update a comprehensive plan based on an evaluation and appraisal report; impact lands outside the certification boundary; implement new statutory requirements that require specific comprehensive plan amendments; or increase hurricane evacuation times or the need for shelter capacity on lands within the coastal high hazard area shall be reviewed pursuant to ss. 163.3184 and 163.3187.

(10) A local government's certification shall be reviewed by the local government and the department as part of the evaluation and appraisal process pursuant to s. 163.3191. Within 1 year after the deadline for the local government to update its comprehensive plan based on the evaluation and appraisal report, the department shall renew or revoke the certification. The local government's failure to adopt a timely evaluation and appraisal report, failure to adopt an evaluation and appraisal report found to be sufficient, or failure to timely adopt amendments based on an evaluation and appraisal report found to be in compliance by the department shall be cause for revoking the certification agreement. The department's decision to renew or revoke shall be considered

agency action subject to challenge under s. 120.569.

(11) The department shall, by July 1 of each odd-numbered year, submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report listing certified local governments, evaluating the effectiveness of the certification, and including any recommendations for legislative actions.

(12) The Office of Program Policy Analysis and Government Accountability shall prepare a report evaluating the certification program, which shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2007.

Section 21. Paragraph (c) of subsection (2) and subsection (3) of section 186.504, Florida Statutes, are amended to read:

186.504 Regional planning councils; creation; membership.--

(2) Membership on the regional planning council shall be as follows:

(c) Representatives appointed by the Governor from the geographic area covered by the regional planning council, including an elected school board member from the geographic area covered by the regional planning council, to be nominated by the Florida School Board Association.

(3) Not less than two-thirds of the representatives serving as voting members on the governing bodies of such regional planning councils shall be elected officials of local general-purpose governments chosen by the cities and counties of the region, provided each county shall have at least one vote. The remaining one-third of the voting members on the governing board shall be appointed by the Governor, to include

one elected school board member, subject to confirmation by the Senate, and shall reside in the region. No two appointees of the Governor shall have their places of residence in the same county until each county within the region is represented by a Governor's appointee to the governing board. Nothing contained in this section shall deny to local governing bodies or the Governor the option of appointing either locally elected officials or lay citizens provided at least two-thirds of the governing body of the regional planning council is composed of locally elected officials.

Section 22. Paragraphs (a) and (d) of subsection (2) and subsection (6) of section 212.055, Florida Statutes, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.--It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

(a)1. The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a two-thirds vote ~~majority~~ of the members of the county

governing authority or pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

2. If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance, or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of such surtax may be extended only by approval of a majority of the electors of the county voting in a referendum on the surtax or pursuant to ordinance enacted by a two-thirds vote of the members of the county governing authority.

(d)1. The proceeds of the surtax authorized by this subsection and approved by referendum and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is

ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 75,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), and charter counties may, in addition, use the proceeds and any interest accrued thereto to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of such proceeds or interest for purposes of retiring or servicing indebtedness incurred for such refunding bonds prior to July 1, 1999, is ratified.

2. The proceeds of the surtax where the surtax is levied by a two-thirds vote of the governing body of the county and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county for infrastructure located within the urban service area that is identified in the local government comprehensive plan of the county or municipality and is identified in that local government's capital improvements element adopted pursuant to s. 163.3177(3) or that is identified in the school district's educational facilities plan adopted pursuant to s. 235.185.

3.~~2.~~ For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy

of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

4.~~3.~~ Notwithstanding any other provision of this subsection, a discretionary sales surtax imposed or extended after the effective date of this act may provide for an amount not to exceed 15 percent of the local option sales surtax proceeds to be allocated for deposit to a trust fund within the county's accounts created for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. If applicable, the ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

(6) SCHOOL CAPITAL OUTLAY SURTAX.--

(a) The school board in each county may levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) The resolution shall include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax. If applicable, the resolution must state that the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program. The statement shall conform to the

requirements of s. 101.161 and shall be placed on the ballot by the governing body of the county. The following question shall be placed on the ballot:

....FOR THE ....CENTS TAX

....AGAINST THE ....CENTS TAX

(c) As an alternative method of levying the discretionary sales surtax, the district school board may levy, pursuant to resolution adopted by a two-thirds vote of the members of the school board, a discretionary sales surtax at a rate not to exceed 0.5 percent when the following conditions are met:

1. The district school board and local governments in the county where the school district is located have adopted the interlocal agreement and public educational facilities element required by s. 163.31776;

2. The district school board has adopted a district educational facilities plan pursuant to s. 235.185; and

3. The district's use of surtax proceeds for new construction must not exceed the cost-per-student criteria established for the SIT Program in s. 235.216(2).

(d)~~(c)~~ The resolution providing for the imposition of the surtax shall set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan shall include the costs of retrofitting and providing for technology

implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses. If the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program, the district's plan for use of the surtax proceeds must be consistent with this subsection and with uses assured under the Florida Frugal Schools Program.

(e)~~(d)~~ Any school board imposing the surtax shall implement a freeze on noncapital local school property taxes, at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least 3 years from the date of imposition of the surtax. This provision shall not apply to existing debt service or required state taxes.

(f)~~(e)~~ Surtax revenues collected by the Department of Revenue pursuant to this subsection shall be distributed to the school board imposing the surtax in accordance with law.

Section 23. Section 235.002, Florida Statutes, is amended to read:

235.002 Intent.--

(1) The intent of the Legislature is to:

~~(a) To provide each student in the public education system the availability of an educational environment appropriate to his or her educational needs which is substantially equal to that available to any similar student, notwithstanding geographic differences and varying local~~

~~economic factors, and to provide facilities for the Florida School for the Deaf and the Blind and other educational institutions and agencies as may be defined by law.~~

(a)~~(b) To~~ Encourage the use of innovative designs, construction techniques, and financing mechanisms in building educational facilities for the purposes ~~purpose~~ of reducing costs to the taxpayer, creating a more satisfactory educational environment, ~~and~~ reducing the amount of time necessary for design and construction to fill unmet needs, and permitting the on-site and off-site improvements required by law.

(b)~~(c) To~~ Provide a systematic mechanism whereby educational facilities construction plans can meet the current and projected needs of the public education system population as quickly as possible by building uniform, sound educational environments and to provide a sound base for planning for educational facilities needs.

(c)~~(d) To~~ Provide ~~proper legislative support~~ for ~~as wide a range of~~ fiscally sound financing methodologies ~~as possible for the delivery~~ of educational facilities ~~and, where appropriate, for their construction, operation, and maintenance~~.

(d) Establish a systematic process of sharing information between school boards and local governments on the growth and development trends in their communities in order to forecast future enrollment and school needs.

(e) Establish a systematic process by which school boards and local governments can cooperatively plan for the provision of educational facilities to meet the current and projected needs of the public education system, including the needs placed on the public education system as a result of

growth and development decisions by local governments.

(f) Establish a systematic process by which local governments and school boards can cooperatively identify and meet the infrastructure needs of public schools.

(2) The Legislature finds and declares that:

(a) Public schools are a linchpin to the vitality of our communities and play a significant role in the thousands of individual housing decisions that result in community growth trends.

(b)~~(a)~~ Growth and development issues transcend the boundaries and responsibilities of individual units of government, and often no single unit of government can plan or implement policies to deal with these issues without affecting other units of government.

(c)~~(b)~~ The effective and efficient provision of public educational facilities and services enhances ~~is essential to preserving and enhancing~~ the quality of life of the people of this state.

(d)~~(c)~~ The provision of educational facilities often impacts community infrastructure and services. Assuring coordinated and cooperative provision of such facilities and associated infrastructure and services is in the best interest of the state.

Section 24. Notwithstanding subsection (7) of section 3 of chapter 2000-321, Laws of Florida, section 235.15, Florida Statutes, shall not stand repealed on January 7, 2003, as scheduled by that act, but that section is reenacted and amended to read:

235.15 Educational plant survey; localized need assessment; PECO project funding.--

(1) At least every 5 years, each board~~, including the~~

~~Board of Regents,~~shall arrange for an educational plant survey, to aid in formulating plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus, including consideration of the local comprehensive plan. The Office ~~Division~~ of Workforce and Economic Development shall document the need for additional career and adult education programs and the continuation of existing programs before facility construction or renovation related to career or adult education may be included in the educational plant survey of a school district or community college that delivers career or adult education programs. Information used by the Office ~~Division~~ of Workforce and Economic Development to establish facility needs must include, but need not be limited to, labor market data, needs analysis, and information submitted by the school district or community college.

(a) Survey preparation and required data.--Each survey shall be conducted by the board or an agency employed by the board. Surveys shall be reviewed and approved by the board, and a file copy shall be submitted to the Office of Educational Facilities and SMART Schools Clearinghouse within the Office of the Commissioner of Education. The survey report shall include at least an inventory of existing educational and ancillary plants, including safe access facilities; recommendations for existing educational and ancillary plants; recommendations for new educational or ancillary plants, including the general location of each in coordination with the land use plan and safe access facilities; campus master plan update and detail for community colleges; the utilization of school plants based on an extended school day or year-round

operation; and such other information as may be required by the rules of the Florida ~~State~~ Board of Education. This report may be amended, if conditions warrant, at the request of the board or commissioner.

(b) Required need assessment criteria for district, community college, college and state university plant surveys.--~~Each~~ Educational plant surveys ~~survey completed after December 31, 1997,~~must use uniform data sources and criteria specified in this paragraph. ~~Each educational plant survey completed after June 30, 1995, and before January 1, 1998, must be revised, if necessary, to comply with this paragraph.~~ Each revised educational plant survey and each new educational plant survey supersedes previous surveys.

1. The school district's survey must be submitted as a part of the district educational facilities plan defined in s. 235.185.~~Each school district's educational plant survey must reflect the capacity of existing satisfactory facilities as reported in the Florida Inventory of School Houses. Projections of facility space needs may not exceed the norm space and occupant design criteria established by the State Requirements for Educational Facilities. Existing and projected capital outlay full-time equivalent student enrollment must be consistent with data prepared by the department and must include all enrollment used in the calculation of the distribution formula in s. 235.435(3). All satisfactory relocatable classrooms, including those owned, lease-purchased, or leased by the school district, shall be included 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. However, 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 reentered 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 educational plant survey shall identify the number of relocatable student stations scheduled for replacement during the 5-year survey period and the total dollar amount needed for that replacement. All district educational plant surveys revised after July 1, 1998, shall include information on leased space used for conducting the district's instructional program, in accordance with the recommendations of the department's report authorized in s. 235.056. A definition of satisfactory relocatable classrooms shall be established by rule of the department.~~

2. Each survey of a special facility, joint-use facility, or cooperative vocational education facility must be based on capital outlay full-time equivalent student enrollment data prepared by the department for school

districts, community colleges, colleges and universities ~~by the Division of Community Colleges for community colleges, and by the Board of Regents for state universities~~. A survey of space needs of a joint-use facility shall be based upon the respective space needs of the school districts, community colleges, colleges and universities, as appropriate. Projections of a school district's facility space needs may not exceed the norm space and occupant design criteria established by the State Requirements for Educational Facilities.

3. Each community college's survey must reflect the capacity of existing facilities as specified in the inventory maintained by the Division of Community Colleges. Projections of facility space needs must comply with standards for determining space needs as specified by rule of the Florida ~~State~~ Board of Education. The 5-year projection of capital outlay student enrollment must be consistent with the annual report of capital outlay full-time student enrollment prepared by the Division of Community Colleges.

4. Each college and state university's survey must reflect the capacity of existing facilities as specified in the inventory maintained and validated by the Division of Colleges and Universities ~~Board of Regents~~. Projections of facility space needs must be consistent with standards for determining space needs approved by the Division of Colleges and Universities ~~Board of Regents~~. The projected capital outlay full-time equivalent student enrollment must be consistent with the 5-year planned enrollment cycle for the State University System approved by the Division of Colleges and Universities ~~Board of Regents~~.

5. The district educational facilities plan

~~educational plant survey~~ of a school district and the educational plant survey of a~~,~~ community college, or college or state university may include space needs that deviate from approved standards for determining space needs if the deviation is justified by the district or institution and approved by the department ~~or the Board of Regents, as appropriate~~, as necessary for the delivery of an approved educational program.

(c) Review and validation.--The Office of Educational Facilities and SMART Schools Clearinghouse ~~department~~ shall review and validate the surveys of school districts, ~~and~~ community colleges, and colleges and universities, and any amendments thereto for compliance with the requirements of this chapter and~~, when required by the State Constitution,~~ shall recommend those in compliance for approval by the Florida ~~State~~ Board of Education.

(2) Only the superintendent, ~~or the~~ college president, or the university president shall certify to the Office of Educational Facilities and SMART Schools Clearinghouse ~~department~~ a project's compliance with the requirements for expenditure of PECO funds prior to release of funds.

(a) Upon request for release of PECO funds for planning purposes, certification must be made to the Office of Educational Facilities and SMART Schools Clearinghouse ~~department~~ that the need for and location of the facility are in compliance with the board-approved survey recommendations, ~~and~~ that the project meets the definition of a PECO project and the limiting criteria for expenditures of PECO funding, and that the plan is consistent with the local government comprehensive plan.

(b) Upon request for release of construction funds,

certification must be made to the Office of Educational Facilities and SMART Schools Clearinghouse ~~department~~ that the need and location of the facility are in compliance with the board-approved survey recommendations, that the project meets the definition of a PECO project and the limiting criteria for expenditures of PECO funding, and that the construction documents meet the requirements of the Florida ~~State Uniform~~ Building Code for Educational Facilities Construction or other applicable codes as authorized in this chapter.

Section 25. Subsection (3) of section 235.175, Florida Statutes, is amended to read:

235.175 SMART schools; Classrooms First; legislative purpose.--

(3) SCHOOL DISTRICT EDUCATIONAL FACILITIES PLAN ~~WORK PROGRAMS~~.--It is the purpose of the Legislature to create s. 235.185, requiring each school district annually to adopt an educational facilities plan that provides an integrated long-range facilities plan, including the survey of projected needs and the ~~a district facilities~~ 5-year work program. The purpose of the educational facilities plan ~~district facilities work program~~ is to keep the school board, local governments, and the public fully informed as to whether the district is using sound policies and practices that meet the essential needs of students and that warrant public confidence in district operations. The educational facilities plan ~~district facilities work program~~ will be monitored by the Office of Educational Facilities and SMART Schools Clearinghouse, which will also apply performance standards pursuant to s. 235.218.

Section 26. Section 235.18, Florida Statutes, is amended to read:

235.18 Annual capital outlay budget.--Each board~~,~~

~~including the Board of Regents,~~shall, each year, adopt a capital outlay budget for the ensuing year in order that the capital outlay needs of the board for the entire year may be well understood by the public. This capital outlay budget shall be a part of the annual budget and shall be based upon and in harmony with the board's capital outlay plan ~~educational plant and ancillary facilities plan~~. This budget shall designate the proposed capital outlay expenditures by project for the year from all fund sources. The board may not expend any funds on any project not included in the budget, as amended. Each district school board must prepare its tentative district education facilities plan ~~facilities work program~~ as required by s. 235.185 before adopting the capital outlay budget.

Section 27. Section 235.185, Florida Statutes, is amended to read:

235.185 School district educational facilities plan ~~work program~~; definitions; preparation, adoption, and amendment; long-term work programs.--

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

(a) "Adopted educational facilities plan" means the comprehensive planning document that is adopted annually by the district school board as provided in subsection (2) and that contains the educational plant survey.

~~(a) "Adopted district facilities work program" means the 5-year work program adopted by the district school board as provided in subsection (3).~~

(b) "~~Tentative~~ District facilities work program" means the 5-year listing of capital outlay projects adopted by the district school board as provided in subparagraph (2)(a)2. and paragraph (2)(b) as part of the district educational

facilities plan, which is required in order to:

1. ~~To~~ Properly maintain the educational plant and ancillary facilities of the district.

2. ~~To~~ Provide an adequate number of satisfactory student stations for the projected student enrollment of the district in K-12 programs in accordance with the goal in s. 235.062.

(c) "Tentative educational facilities plan" means the comprehensive planning document prepared annually by the district school board and submitted to the Office of Educational Facilities and SMART Schools Clearinghouse and the affected general-purpose local governments.

(2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL FACILITIES PLAN ~~WORK PROGRAM~~.--

(a) Annually, prior to the adoption of the district school budget, each school board shall prepare a tentative district educational facilities plan that includes long-range planning for facilities needs over 5-year, 10-year, and 20-year periods. The plan must be developed in coordination with the general-purpose local governments and be consistent with the local government comprehensive plans. The school board's plan for provision of new schools must meet the needs of all growing communities in the district, ranging from small rural communities to large urban cities. The plan must include ~~work program that includes~~:

1. Projected student populations apportioned geographically at the local level. The projections must be based on information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136, where available, as modified by the district based on development data and agreement with the local governments and the Office

of Educational Facilities and SMART Schools Clearinghouse. The projections must be apportioned geographically with assistance from the local governments using local development trend data and the school district student enrollment data.

2. An inventory of existing school facilities. Any anticipated expansions or closures of existing school sites over the 5-year, 10-year, and 20-year periods must be identified. The inventory must include an assessment of areas proximate to existing schools and identification of the need for improvements to infrastructure, safety, including safe access routes, and conditions in the community. The plan must also provide a listing of major repairs and renovation projects anticipated over the period of the plan.

3. Projections of facilities space needs, which may not exceed the norm space and occupant design criteria established in the State Requirements for Educational Facilities.

4. Information on leased, loaned, and donated space and relocatables used for conducting the district's instructional programs.

5. The general location of public schools proposed to be constructed over the 5-year, 10-year, and 20-year time periods, including a listing of the proposed schools' site acreage needs and anticipated capacity and maps showing the general locations. The school board's identification of general locations of future school sites must be based on the school siting requirements of s. 163.3177(6)(a) and policies in the comprehensive plan which provide guidance for appropriate locations for school sites.

6. The identification of options deemed reasonable and approved by the school board which reduce the need for

additional permanent student stations. Such options may include, but need not be limited to:

a. Acceptable capacity;

b. Redistricting;

c. Busing;

d. Year-round schools;

e. Charter schools;

f. Magnet schools; and

g. Public-private partnerships.

7. The criteria and method, jointly determined by the local government and the school board, for determining the impact of proposed development to public school capacity.

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

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

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

a. The locations, capacities, and planned utilization rates of current educational facilities of the district. The capacity of existing satisfactory facilities, as reported in the Florida Inventory of School Houses must be compared to the capital outlay full-time-equivalent student enrollment as determined by the department, including all enrollment used in the calculation of the distribution formula in s. 235.435(3).

b. The proposed locations of planned facilities, whether those locations are consistent with the comprehensive

plans of all affected local governments, and recommendations for infrastructure and other improvements to land adjacent to existing facilities. The provisions of ss. 235.19 and 235.193(12), (13), and (14) must be addressed for new facilities planned within the first 3 years of the work plan, as appropriate.

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

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

e. Information concerning average class size and utilization rate by grade level within the district which ~~that~~ will result if the tentative district facilities work program is fully implemented. ~~The average shall not include exceptional student education classes or prekindergarten classes.~~

f. The number and percentage of district students planned to be educated in relocatable facilities during each year of the tentative district facilities work program. For determining future needs, student capacity may not be assigned to any relocatable classroom that is scheduled for elimination or replacement with a permanent educational facility in the current year of the adopted district educational facilities plan and in the district facilities work program adopted under this section. Those relocatable classrooms clearly identified and scheduled for replacement in a school-board-adopted, financially feasible, 5-year district facilities work program shall be counted at zero capacity at the time the work program is adopted and approved by the school board. However, if the district facilities work program is changed and the

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

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

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

3. The projected cost for each project identified in the ~~tentative~~ district facilities work program. For proposed projects for new student stations, a schedule shall be prepared comparing the planned cost and square footage for each new student station, by elementary, middle, and high school levels, to the low, average, and high cost of facilities constructed throughout the state during the most recent fiscal year for which data is available from the Department of Education.

4. A schedule of estimated capital outlay revenues from each currently approved source which is estimated to be

available for expenditure on the projects included in the ~~tentative~~ district facilities work program.

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

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

(c)~~(b)~~ To the extent available, the tentative district educational facilities plan ~~work program~~ shall be based on information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136.

(d)~~(c)~~ Provision shall be made for public comment concerning the tentative district educational facilities plan ~~work program~~.

(e) The district school board shall coordinate with each affected local government to ensure consistency between the tentative district educational facilities plan and the local government comprehensive plans of the affected local governments during the development of the tentative district educational facilities plan.

(f) Commencing on October 1, 2002, and not less than once every 5 years thereafter, the district school board shall contract with a qualified, independent third party to conduct a financial management and performance audit of the educational planning and construction activities of the district. An audit conducted by the Office of Program Policy Analysis and Government Accountability and the Auditor General

pursuant to s. 230.23025 satisfies this requirement.

(3) SUBMITTAL OF TENTATIVE DISTRICT EDUCATIONAL FACILITIES PLAN TO LOCAL GOVERNMENT.--The district school board shall submit a copy of its tentative district educational facilities plan to all affected local governments prior to adoption by the board. The affected local governments shall review the tentative district educational facilities plan and comment to the district school board on the consistency of the plan with the local comprehensive plan, whether a comprehensive plan amendment will be necessary for any proposed educational facility, and whether the local government supports a necessary comprehensive plan amendment. If the local government does not support a comprehensive plan amendment for a proposed educational facility, the matter shall be resolved pursuant to the interlocal agreement when required by ss. 163.3177(6)(h), 163.31777, and 235.193(2). The process for the submittal and review shall be detailed in the interlocal agreement when required pursuant to ss. 163.3177(6)(h), 163.31777, and 235.193(2).

(4)~~(3)~~ ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN ~~WORK PROGRAM~~.--Annually, the district school board shall consider and adopt the tentative district educational facilities plan ~~work program~~ completed pursuant to subsection (2). Upon giving proper ~~public~~ notice to the public and local governments and opportunity for public comment, the district school board may amend the plan ~~program~~ to revise the priority of projects, to add or delete projects, to reflect the impact of change orders, or to reflect the approval of new revenue sources which may become available. The adopted district educational facilities plan ~~work program~~ shall:

(a) Be a complete, balanced, and financially feasible

capital outlay financial plan for the district.

(b) Set forth the proposed commitments and planned expenditures of the district to address the educational facilities needs of its students and to adequately provide for the maintenance of the educational plant and ancillary facilities, including safe access ways from neighborhoods to schools.

(5)~~(4)~~ EXECUTION OF ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN ~~WORK PROGRAM~~.--The first year of the adopted district educational facilities plan ~~work program~~ shall constitute the capital outlay budget required in s. 235.18. The adopted district educational facilities plan ~~work program~~ shall include the information required in subparagraphs (2)(b)1., 2., and 3.~~(2)(a)1., 2., and 3.~~, based upon projects actually funded in the plan ~~program~~.

~~(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.--In addition to the adopted district facilities work program covering the 5-year work program, the district school board shall adopt annually a 10-year and a 20-year work program which include the information set forth in subsection (2), but based upon enrollment projections and facility needs for the 10-year and 20-year periods. It is recognized that the projections in the 10-year and 20-year timeframes are tentative and should be used only for general planning purposes.~~

Section 28. Section 235.1851, Florida Statutes, is created to read:

235.1851 Educational facilities benefit districts.--

(1) It is the intent of the Legislature to encourage and authorize public cooperation among district school boards, affected local general purpose governments, and benefited private interests in order to implement financing for timely

construction and maintenance of school facilities, including facilities identified in individual district facilities work programs or proposed by charter schools. It is the further intent of the Legislature to provide efficient alternative mechanisms and incentives to allow for sharing costs of educational facilities necessary to accommodate new growth and development among public agencies, including district school boards, affected local general purpose governments, and benefited private development interests.

(2) The Legislature hereby authorizes the creation of educational facilities benefit districts pursuant to interlocal cooperation agreements between a district school board and all local general purpose governments within whose jurisdiction a district is located. The purpose of educational facilities benefit districts is to assist in financing the construction and maintenance of educational facilities.

(3)(a) An educational facilities benefit district may be created pursuant to this act and chapters 125, 163, 166, and 189. An educational facilities benefit district charter may be created by a county or municipality by entering into an interlocal agreement, as authorized by s. 163.01, with the district school board and any local general purpose government within whose jurisdiction a portion of the district is located and adoption of an ordinance that includes all provisions contained within s. 189.4041. The creating entity shall be the local general purpose government within whose boundaries a majority of the educational facilities benefit district's lands are located.

(b) Creation of any educational facilities benefit district shall be conditioned upon the consent of the district

school board, all local general purpose governments within whose jurisdiction any portion of the educational facilities benefit district is located, and all landowners within the district. The membership of the governing board of any educational facilities benefit district shall include representation of the district school board, each cooperating local general purpose government, and the landowners within the district. In the case of an educational facilities benefit district's decision to create a charter school, the board of directors of the charter school may constitute the members of the governing board for the educational facilities benefit district.

(4) The educational facilities benefit district shall have, and its governing board may exercise, the following powers:

(a) To finance and construct educational facilities within the district's boundaries.

(b) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of real and personal property or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(c) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to the public bidding or competitive negotiations required of local general purpose governments.

(d) To borrow money and accept gifts; to apply for unused grants or loans of money or other property from the

United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(e) To adopt resolutions and polices prescribing the powers, duties, and functions of the officers of the district, the conduct of the business of the district, and the maintenance of records and documents of the district.

(f) To maintain an office at such place or places as it may designate within the district or within the boundaries of the local general purpose government that created the district.

(g) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for use of the district to carry out any of the purposes authorized by this act.

(h) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness pursuant to this act for periods not longer than 30 years, provided such bonds, certificates, warrants, notes, or other indebtedness shall only be guaranteed by non-ad valorem assessments legally imposed by the district and other available sources of funds provided in this act and shall not pledge the full faith and credit of any local general purpose government or the district school board.

(i) To cooperate with or contract with other governmental agencies as may be necessary, convenient,

incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act and to accept funding from local and state agencies as provided in this act.

(j) To levy, impose, collect, and enforce non-ad valorem assessments, as defined by s. 197.3632(1)(d), pursuant to this act, chapters 125 and 166, and ss. 197.3631, 197.3632, and 197.3635.

(k) To exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(5) As an alternative to the creation of an educational facilities benefit district, the Legislature hereby recognizes and encourages the consideration of community development district creation pursuant to chapter 190 as a viable alternative for financing the construction and maintenance of educational facilities as described in this act. Community development districts are granted the authority to determine, order, levy, impose, collect, and enforce non-ad valorem assessments for such purposes pursuant to this act and chapters 170, 190, and 197. This authority is in addition to any authority granted community development districts under chapter 190. Community development districts are therefore deemed eligible for the financial enhancements available to educational facilities benefit districts providing for financing the construction and maintenance of educational facilities pursuant to s. 235.1852. In order to receive such financial enhancements, a community development district must enter into an interlocal agreement with the district school board and affected local general purpose governments that specifies the obligations of all parties to the agreement. Nothing in this act or in any interlocal agreement entered

into pursuant to this act requires any change in the method of election of a board of supervisors of a community development district provided in chapter 190.

Section 29. Section 235.1852, Florida Statutes, is created to read:

235.1852 Local funding for educational facilities benefit districts or community development districts.--Upon confirmation by a district school board of the commitment of revenues by an educational facilities benefit district or community development district necessary to construct and maintain an educational facility contained within an individual district facilities work program or proposed by an approved charter school or a charter school applicant, the following funds shall be provided to the educational facilities benefit district or community development district annually, beginning with the next fiscal year after confirmation until the district's financial obligations are completed:

(1) All educational facilities impact fee revenue collected for new development within the educational facilities benefit district or community development district. Funds provided under this subsection shall be used to fund the construction and capital maintenance costs of educational facilities.

(2) For construction and capital maintenance costs not covered by the funds provided under subsection (1), an annual amount contributed by the district school board equal to one-half of the remaining costs of construction and capital maintenance of the educational facility. Any construction costs above the cost-per-student criteria established for the SIT Program in s. 235.216(2) shall be funded exclusively by

the educational facilities benefit district or the community development district. Funds contributed by a district school board shall not be used to fund operational costs.

Educational facilities funded pursuant to this act may be constructed on land that is owned by any person after the district school board has acquired from the owner of the land a long-term lease for the use of this land for a period of not less than 40 years or the life expectancy of the permanent facilities constructed thereon, whichever is longer. All interlocal agreements entered into pursuant to this act shall provide for ownership of educational facilities funded pursuant to this act to revert to the district school board if such facilities cease to be used for public educational purposes prior to 40 years after construction or prior to the end of the life expectancy of the educational facilities, whichever is longer.

Section 30. Section 235.1853, Florida Statutes, is created to read:

235.1853 Educational facilities benefit district or community development district facility utilization.--The student population of all facilities funded pursuant to this act shall reflect the racial balance of the school district pursuant to state and federal law. However, to the extent allowable pursuant to state and federal law, the interlocal agreement providing for the establishment of the educational facilities benefit district or the interlocal agreement between the community development district and the district school board and affected local general purpose governments may provide for the district school board to establish school attendance zones that allow students residing within a

reasonable distance of facilities financed through the interlocal agreement to attend such facilities.

Section 31. Section 235.188, Florida Statutes, is amended to read:

235.188 Full bonding required to participate in programs.--Any district with unused bonding capacity in its Capital Outlay and Debt Service Trust Fund allocation that certifies in its district educational facilities plan ~~work program~~ that it will not be able to meet all of its need for new student stations within existing revenues must fully bond its Capital Outlay and Debt Service Trust Fund allocation before it may participate in Classrooms First, the School Infrastructure Thrift (SIT) Program, or the Effort Index Grants Program.

Section 32. Section 235.19, Florida Statutes, is amended to read:

235.19 Site planning and selection.--

(1) Before acquiring property for sites, each board shall determine the location of proposed educational centers or campuses for the board. In making this determination, the board shall consider existing and anticipated site needs and the most economical and practicable locations of sites. The board shall coordinate with the long-range or comprehensive plans of local, regional, and state governmental agencies to assure the consistency ~~compatibility~~ of such plans ~~with site planning~~. Boards are encouraged to locate district educational facilities ~~schools~~ proximate to urban residential areas to the extent possible, and shall seek to collocate district educational facilities ~~schools~~ with other public facilities, such as parks, libraries, and community centers, to the extent possible, and to encourage using elementary schools as focal

points for neighborhoods.

(2) Each new site selected must be adequate in size to meet the educational needs of the students to be served on that site by the original educational facility or future expansions of the facility through renovation or the addition of relocatables. ~~The Commissioner of Education shall prescribe by rule recommended sizes for new sites according to categories of students to be housed and other appropriate factors determined by the commissioner. Less-than-recommended site sizes are allowed if the board, by a two-thirds majority, recommends such a site and finds that it can provide an appropriate and equitable educational program on the site.~~

(3) Sites recommended for purchase, or purchased, in accordance with chapter 230 or chapter 240 must meet standards prescribed therein and such supplementary standards as the commissioner prescribes to promote the educational interests of the students. Each site must be well drained and suitable for outdoor educational purposes as appropriate for the educational program or collocated with facilities to serve this purpose. As provided in s. 333.03, the site must not be located within any path of flight approach of any airport. Insofar as is practicable, the site must not adjoin a right-of-way of any railroad or through highway and must not be adjacent to any factory or other property from which noise, odors, or other disturbances, or at which conditions, would be likely to interfere with the educational program. To the extent practicable, sites must be chosen which will provide safe access from neighborhoods to schools.

(4) It shall be the responsibility of the board to provide adequate notice to appropriate municipal, county, regional, and state governmental agencies for requested

traffic control and safety devices so they can be installed and operating prior to the first day of classes or to satisfy itself that every reasonable effort has been made in sufficient time to secure the installation and operation of such necessary devices prior to the first day of classes. It shall also be the responsibility of the board to review annually traffic control and safety device needs and to request all necessary changes indicated by such review.

(5) Each board may request county and municipal governments to construct and maintain sidewalks and bicycle trails within a 2-mile radius of each educational facility within the jurisdiction of the local government. When a board discovers or is aware of an existing hazard on or near a public sidewalk, street, or highway within a 2-mile radius of a school site and the hazard endangers the life or threatens the health or safety of students who walk, ride bicycles, or are transported regularly between their homes and the school in which they are enrolled, the board shall, within 24 hours after discovering or becoming aware of the hazard, excluding Saturdays, Sundays, and legal holidays, report such hazard to the governmental entity within the jurisdiction of which the hazard is located. Within 5 days after receiving notification by the board, excluding Saturdays, Sundays, and legal holidays, the governmental entity shall investigate the hazardous condition and either correct it or provide such precautions as are practicable to safeguard students until the hazard can be permanently corrected. However, if the governmental entity that has jurisdiction determines upon investigation that it is impracticable to correct the hazard, or if the entity determines that the reported condition does not endanger the life or threaten the health or safety of

students, the entity shall, within 5 days after notification by the board, excluding Saturdays, Sundays, and legal holidays, inform the board in writing of its reasons for not correcting the condition. The governmental entity, to the extent allowed by law, shall indemnify the board from any liability with respect to accidents or injuries, if any, arising out of the hazardous condition.

(6) If the school board and local government have entered into an interlocal agreement pursuant to s. 235.193(2) and either s. 163.3177(6)(h)4. or s. 163.31777 or have developed a process to ensure consistency between the local government comprehensive plan and the school district educational facilities plan, site planning and selection must be consistent with the interlocal agreements and the plans.

Section 33. Section 235.193, Florida Statutes, is amended to read:

235.193 Coordination of planning with local governing bodies.--

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

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

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

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

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

(c) If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and district school board may petition the state land planning agency for a waiver of one or more of the requirements of subsection (3). The waiver must be granted if the procedures called for in subsection (3) are unnecessary because of the school district's declining school age population, considering the district's 5-year work program prepared pursuant to s. 235.185. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.

(d) Interlocal agreements between local governments and district school boards adopted pursuant to s. 163.3177 before the effective date of subsections (2)-(9) must be updated and executed pursuant to the requirements of subsections (2)-(9), if necessary. Amendments to interlocal agreements adopted pursuant to subsections (2)-(9) must be submitted to the state land planning agency within 30 days

after execution by the parties for review consistent with subsections (3) and (4). Local governments and the district school board in each school district are encouraged to adopt a single interlocal agreement in which all join as parties. The state land planning agency shall assemble and make available model interlocal agreements meeting the requirements of subsections (2)-(9) and shall notify local governments and, jointly with the Department of Education, the district school boards of the requirements of subsections (2)-(9), the dates for compliance, and the sanctions for noncompliance. The state land planning agency shall be available to informally review proposed interlocal agreements. If the state land planning agency has not received a proposed interlocal agreement for informal review, the state land planning agency shall, at least 60 days before the deadline for submission of the executed agreement, renotify the local government and the district school board of the upcoming deadline and the potential for sanctions.

(3) At a minimum, the interlocal agreement must address the following issues:

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

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

(c) Participation by affected local governments with

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

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

(e) A process for the school board to inform the local government regarding school capacity. The capacity reporting must be consistent with laws and rules regarding measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 235.185.

(f) Participation of the local governments in the preparation of the annual update to the school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 235.185.

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

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

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

A signatory to the interlocal agreement may elect not to include a provision meeting the requirements of paragraph (e); however, such a decision may be made only after a public hearing on such election, which may include the public hearing in which a district school board or a local government adopts the interlocal agreement. An interlocal agreement entered into pursuant to this section must be consistent with the adopted comprehensive plan and land development regulations of any local government that is a signatory.

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

(b) The state land planning agency's notice is subject to challenge under chapter 120; however, an affected person,

as defined in s. 163.3184(1)(a), has standing to initiate the administrative proceeding and this proceeding is the sole means available to challenge the consistency of an interlocal agreement required by this section with the criteria contained in subsection (3) and this subsection. In order to have standing, each person must have submitted oral or written comments, recommendations, or objections to the local government or the school board before the adoption of the interlocal agreement by the district school board and local government. The district school board and local governments are parties to any such proceeding. In this proceeding, when the state land planning agency finds the interlocal agreement to be consistent with the criteria in subsection (3) and this subsection, the interlocal agreement must be determined to be consistent with subsection (3) and this subsection if the local government's and school board's determination of consistency is fairly debatable. When the state land planning agency finds the interlocal agreement to be inconsistent with the requirements of subsection (3) and this subsection, the local government's and school board's determination of consistency shall be sustained unless it is shown by a preponderance of the evidence that the interlocal agreement is inconsistent.

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

equivalent amount of funds for school construction available pursuant to ss. 235.187, 235.216, 235.2195, and 235.42.

(5) If an executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a Notice to Show Cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by directing the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(11) and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to ss. 235.187, 235.216, 235.2195, and 235.42.

(6) Any local government transmitting a public school element to implement school concurrency pursuant to the requirements of s. 163.3180 before the effective date of this section is not required to amend the element or any interlocal agreement to conform with the provisions of subsections (2)-(8) if the element is adopted prior to or within 1 year after the effective date of subsections (2)-(8) and remains in effect.

(7) Except as provided in subsection (8), municipalities having no established need for a new facility and meeting the following criteria are exempt from the requirements of subsections (2), (3) and (4):

(a) The municipality has no public schools located within its boundaries.

(b) The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 235.185, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.

(8) At the time of the evaluation and appraisal report, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under subsection (7). If the municipality continues to meet these criteria and the district school board verifies in writing that no new school facilities will be needed within the 5-year and 10-year timeframes, the municipality shall continue to be exempt from the interlocal-agreement requirement. Each municipality exempt under subsection (7) must comply with the provisions of subsections (2)-(8) within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

(9)~~(2)~~ A school board and the local governing body must share and coordinate information related to existing and planned public school facilities; proposals for development, redevelopment, or additional development; and infrastructure required to support the public school facilities, concurrent with proposed development. A school board shall use information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136 ~~Department of Education enrollment projections~~ when preparing

the ~~5-year~~ district educational facilities plan ~~work program~~ pursuant to s. 235.185, as modified and agreed to by the local governments, when provided by interlocal agreement, and the Office of Educational Facilities and SMART Schools Clearinghouse, in ~~and a school board shall affirmatively demonstrate in the educational facilities report~~ consideration of local governments' population projections, to ensure that the district educational facilities plan ~~5-year work program~~ not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. The projections must be apportioned geographically with assistance from the local governments using local government trend data and the school district student enrollment data.A school board is precluded from siting a new school in a jurisdiction where the school board has failed to provide the annual educational facilities plan ~~report~~ for the prior year required pursuant to s. 235.185 ~~s. 235.194~~ unless the failure is corrected.

(10)~~(3)~~ The location of public educational facilities shall be consistent with the comprehensive plan of the appropriate local governing body developed under part II of chapter 163 and consistent with the plan's implementing land development regulations~~, to the extent that the regulations are not in conflict with or the subject regulated is not specifically addressed by this chapter or the State Uniform Building Code, unless mutually agreed by the local government and the board~~.

(11)~~(4)~~ To improve coordination relative to potential educational facility sites, a board shall provide written notice to the local government that has regulatory authority over the use of the land consistent with an interlocal

agreement entered pursuant to subsections (2)-(8)at least 60 days prior to acquiring or leasing property that may be used for a new public educational facility. The local government, upon receipt of this notice, shall notify the board within 45 days if the site proposed for acquisition or lease is consistent with the land use categories and policies of the local government's comprehensive plan. This preliminary notice does not constitute the local government's determination of consistency pursuant to subsection(12)~~(5)~~.

(12)~~(5)~~ As early in the design phase as feasible and consistent with an interlocal agreement entered pursuant to subsections (2)-(8), but no later than 90 days before commencing construction, the district school board shall in writing request a determination of consistency with the local government's comprehensive plan.~~but at least before commencing construction of a new public educational facility,~~ The local governing body that regulates the use of land shall determine, in writing within 45 ~~90~~ days after receiving the necessary information and a school board's request for a determination, whether a proposed public educational facility is consistent with the local comprehensive plan and consistent with local land development regulations~~, to the extent that the regulations are not in conflict with or the subject regulated is not specifically addressed by this chapter or the State Uniform Building Code, unless mutually agreed~~. If the determination is affirmative, school construction may commence ~~proceed~~ and further local government approvals are not required, except as provided in this section. Failure of the local governing body to make a determination in writing within 90 days after a school board's request for a determination of consistency shall be considered an approval of the school

board's application.

(13)~~(6)~~ A local governing body may not deny the site applicant based on adequacy of the site plan as it relates solely to the needs of the school. If the site is consistent with the comprehensive plan's ~~future~~ land use policies and categories in which public schools are identified as allowable uses, the local government may not deny the application but it may impose reasonable development standards and conditions in accordance with s. 235.34(1) and consider the site plan and its adequacy as it relates to environmental concerns, health, safety and welfare, and effects on adjacent property. Standards and conditions may not be imposed which conflict with those established in this chapter or the Florida ~~State Uniform~~ Building Code, unless mutually agreed and consistent with the interlocal agreement required by subsections (2)-(8).

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

(15)~~(8)~~ Existing schools shall be considered consistent with the applicable local government comprehensive plan adopted under part II of chapter 163. ~~The collocation of a new proposed public educational facility with an existing public educational facility, or the expansion of an existing public educational facility is not inconsistent with the local comprehensive plan, if the site is consistent with the comprehensive plan's future land use policies and categories in which public schools are identified as allowable uses, and levels of service adopted by the local government for any~~

~~facilities affected by the proposed location for the new facility are maintained.~~If a board submits an application to expand an existing school site, the local governing body may impose reasonable development standards and conditions on the expansion only, and in a manner consistent with s. 235.34(1). Standards and conditions may not be imposed which conflict with those established in this chapter or the Florida ~~State Uniform~~ Building Code, unless mutually agreed upon. Local government review or approval is not required for:

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

(b) Proposed renovation or construction on existing school sites, with the exception of construction that changes the primary use of a facility, includes stadiums, or results in a greater than 5 percent increase in student capacity, or as mutually agreed upon, pursuant to an interlocal agreement adopted in accordance with subsections (2)-(8).

Section 34. Section 235.194, Florida Statutes, is repealed.

Section 35. Section 235.218, Florida Statutes, is amended to read:

235.218 School district educational facilities plan ~~work program~~ performance and productivity standards; development; measurement; application.--

(1) The Office of Educational Facilities and SMART Schools Clearinghouse shall develop and adopt measures for evaluating the performance and productivity of school district educational facilities plans ~~work programs~~. The measures may be both quantitative and qualitative and must, to the maximum extent practical, assess those factors that are within the districts' control. The measures must, at a minimum, assess

performance in the following areas:

(a) Frugal production of high-quality projects.

(b) Efficient finance and administration.

(c) Optimal school and classroom size and utilization rate.

(d) Safety.

(e) Core facility space needs and cost-effective capacity improvements that consider demographic projections.

(f) Level of district local effort.

(2) The office ~~clearinghouse~~ shall establish annual performance objectives and standards that can be used to evaluate district performance and productivity.

(3) The office ~~clearinghouse~~ shall conduct ongoing evaluations of district educational facilities program performance and productivity, using the measures adopted under this section. If, using these measures, the office ~~clearinghouse~~ finds that a district failed to perform satisfactorily, the office ~~clearinghouse~~ must recommend to the district school board actions to be taken to improve the district's performance.

Section 36. Paragraph (c) of subsection (2) of section 235.2197, Florida Statutes, is amended to read:

235.2197 Florida Frugal Schools Program.--

(2) The "Florida Frugal Schools Program" is created to recognize publicly each district school board that agrees to build frugal yet functional educational facilities and that implements "best financial management practices" when planning, constructing, and operating educational facilities. The Florida ~~State~~ Board of Education shall recognize a district school board as having a Florida Frugal Schools Program if the district requests recognition and satisfies two

or more of the following criteria:

(c) The district school board submits a plan to the Commissioner of Education certifying how the revenues generated by the levy of the capital outlay sales surtax authorized by s. 212.055(6) will be spent. The plan must include at least the following assurances about the use of the proceeds of the surtax and any accrued interest:

1. The district school board will use the surtax and accrued interest only for the fixed capital outlay purposes identified by s. 212.055(6)(d) which will reduce school overcrowding that has been validated by the Department of Education, or for the repayment of bonded indebtedness related to such capital outlay purposes.

2. The district school board will not spend the surtax or accrued interest to pay for operational expenses or for the construction, renovation, or remodeling of any administrative building or any other ancillary facility that is not directly related to the instruction, feeding, or transportation of students enrolled in the public schools.

3. The district school board's use of the surtax and accrued interest will be consistent with the best financial management practices identified and approved under s. 230.23025.

4. The district school board will apply the educational facilities contracting and construction techniques authorized by s. 235.211 or other construction management techniques to reduce the cost of educational facilities.

5. The district school board will discontinue the surtax levy when the district has provided the survey-recommended educational facilities that were determined to be necessary to relieve school overcrowding; when the

district has satisfied any bonded indebtedness incurred for such educational facilities; or when the district's other sources of capital outlay funds are sufficient to provide such educational facilities, whichever occurs first.

6. The district school board will use any excess surtax collections or accrued interest to reduce the discretionary outlay millage levied under s. 236.25(2).

Section 37. Section 235.321, Florida Statutes, is amended to read:

235.321 Changes in construction requirements after award of contract.--The board may, at its option and by written policy duly adopted and entered in its official minutes, authorize the superintendent or president or other designated individual to approve change orders in the name of the board for preestablished amounts. Approvals shall be for the purpose of expediting the work in progress and shall be reported to the board and entered in its official minutes. For accountability, the school district shall monitor and report the impact of change orders on its district educational facilities plan ~~work program~~ pursuant to s. 235.185.

Section 38. Paragraph (d) of subsection (5) of section 236.25, Florida Statutes, is amended to read:

236.25 District school tax.--

(5)

(d) Notwithstanding any other provision of this subsection, if through its adopted educational facilities plan ~~work program~~ a district has clearly identified the need for an ancillary plant, has provided opportunity for public input as to the relative value of the ancillary plant versus an educational plant, and has obtained public approval, the district may use revenue generated by the millage levy

authorized by subsection (2) for the acquisition, construction, renovation, remodeling, maintenance, or repair of an ancillary plant.

A district that violates these expenditure restrictions shall have an equal dollar reduction in funds appropriated to the district under s. 236.081 in the fiscal year following the audit citation. The expenditure restrictions do not apply to any school district that certifies to the Commissioner of Education that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive during the next 5 years or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management.

Section 39. Subsection (3) of section 380.04, Florida Statutes, is amended to read:

380.04 Definition of development.--

(3) The following operations or uses shall not be taken for the purpose of this chapter to involve "development" as defined in this section:

(a) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way or any work or construction within the boundaries of the right-of-way on the federal interstate highway system.

(b) Work by any utility and other persons engaged in the distribution or transmission of electricity, gas, or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains,

pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.

(c) Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

(d) The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

(e) The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

(f) A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class.

(g) A change in the ownership or form of ownership of any parcel or structure.

(h) The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

Section 40. Paragraph (d) of subsection (2), paragraph (b) of subsection (4), paragraph (a) of subsection (8), subsection (12), paragraph (c) of subsection (15), subsection (18), and paragraphs (b), (c), (e), and (f) of subsection (19) of section 380.06, Florida Statutes, are amended, and paragraphs (i) and (j) are added to subsection (24) of that section, to read:

380.06 Developments of regional impact.--

(2) STATEWIDE GUIDELINES AND STANDARDS.--

(d) The guidelines and standards shall be applied as

follows:

1. Fixed thresholds.--

a. A development that is at or below 100 ~~80~~ percent of all numerical thresholds in the guidelines and standards shall not be required to undergo development-of-regional-impact review.

b. A development that is at or above 120 percent of any numerical threshold shall be required to undergo development-of-regional-impact review.

c. Projects certified under s. 403.973 which create at least 100 jobs and meet the criteria of the Office of Tourism, Trade, and Economic Development as to their impact on an area's economy, employment, and prevailing wage and skill levels that are at or below 100 percent of the numerical thresholds for industrial plants, industrial parks, distribution, warehousing or wholesaling facilities, office development or multiuse projects other than residential, as described in s. 380.0651(3)(c), (d), and (i), are not required to undergo development-of-regional-impact review.

2. Rebuttable presumption ~~presumptions~~.--

~~a. It shall be presumed that a development that is between 80 and 100 percent of a numerical threshold shall not be required to undergo development-of-regional-impact review.~~

~~b.~~ It shall be presumed that a development that is at 100 percent or between 100 and 120 percent of a numerical threshold shall be required to undergo development-of-regional-impact review.

(4) BINDING LETTER.--

(b) Unless a developer waives the requirements of this paragraph by agreeing to undergo development-of-regional-impact review pursuant to this

section, the state land planning agency or local government with jurisdiction over the land on which a development is proposed may require a developer to obtain a binding letter if~~:~~

~~1.~~ the development is at a presumptive numerical threshold or up to 20 percent above a numerical threshold in the guidelines and standards.~~; or~~

~~2. The development is between a presumptive numerical threshold and 20 percent below the numerical threshold and the local government or the state land planning agency is in doubt as to whether the character or magnitude of the development at the proposed location creates a likelihood that the development will have a substantial effect on the health, safety, or welfare of citizens of more than one county.~~

(8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

(a) A developer may enter into a written preliminary development agreement with the state land planning agency to allow a developer to proceed with a limited amount of the total proposed development, subject to all other governmental approvals and solely at the developer's own risk, prior to issuance of a final development order. All owners of the land in the total proposed development shall join the developer as parties to the agreement. Each agreement shall include and be subject to the following conditions:

1. The developer shall comply with the preapplication conference requirements pursuant to subsection (7) within 45 days after the execution of the agreement.

2. The developer shall file an application for development approval for the total proposed development within 3 months after execution of the agreement, unless the state land planning agency agrees to a different time for good cause

shown. Failure to timely file an application and to otherwise diligently proceed in good faith to obtain a final development order shall constitute a breach of the preliminary development agreement.

3. The agreement shall include maps and legal descriptions of both the preliminary development area and the total proposed development area and shall specifically describe the preliminary development in terms of magnitude and location. The area approved for preliminary development must be included in the application for development approval and shall be subject to the terms and conditions of the final development order.

4. The preliminary development shall be limited to lands that the state land planning agency agrees are suitable for development and shall only be allowed in areas where adequate public infrastructure exists to accommodate the preliminary development, when such development will utilize public infrastructure. The developer must also demonstrate that the preliminary development will not result in material adverse impacts to existing resources or existing or planned facilities.

5. The preliminary development agreement may allow development which is:

a. Less than or equal to 100 ~~80~~ percent of any applicable threshold if the developer demonstrates that such development is consistent with subparagraph 4.; or

b. Less than 120 percent of any applicable threshold if the developer demonstrates that such development is part of a proposed downtown development of regional impact specified in subsection (22) or part of any areawide development of regional impact specified in subsection (25) and that the

development is consistent with subparagraph 4.

6. The developer and owners of the land may not claim vested rights, or assert equitable estoppel, arising from the agreement or any expenditures or actions taken in reliance on the agreement to continue with the total proposed development beyond the preliminary development. The agreement shall not entitle the developer to a final development order approving the total proposed development or to particular conditions in a final development order.

7. The agreement shall not prohibit the regional planning agency from reviewing or commenting on any regional issue that the regional agency determines should be included in the regional agency's report on the application for development approval.

8. The agreement shall include a disclosure by the developer and all the owners of the land in the total proposed development of all land or development within 5 miles of the total proposed development in which they have an interest and shall describe such interest.

9. In the event of a breach of the agreement or failure to comply with any condition of the agreement, or if the agreement was based on materially inaccurate information, the state land planning agency may terminate the agreement or file suit to enforce the agreement as provided in this section and s. 380.11, including a suit to enjoin all development.

10. A notice of the preliminary development agreement shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located. The notice shall include a legal description of the land covered by the agreement and shall state the parties to the

agreement, the date of adoption of the agreement and any subsequent amendments, the location where the agreement may be examined, and that the agreement constitutes a land development regulation applicable to portions of the land covered by the agreement. The provisions of the agreement shall inure to the benefit of and be binding upon successors and assigns of the parties in the agreement.

11. Except for those agreements which authorize preliminary development for substantial deviations pursuant to subsection (19), a developer who no longer wishes to pursue a development of regional impact may propose to abandon any preliminary development agreement executed after January 1, 1985, including those pursuant to s. 380.032(3), provided at the time of abandonment:

a. A final development order under this section has been rendered that approves all of the development actually constructed; or

b. The amount of development is less than 100 ~~80~~ percent of all numerical thresholds of the guidelines and standards, and the state land planning agency determines in writing that the development to date is in compliance with all applicable local regulations and the terms and conditions of the preliminary development agreement and otherwise adequately mitigates for the impacts of the development to date.

In either event, when a developer proposes to abandon said agreement, the developer shall give written notice and state that he or she is no longer proposing a development of regional impact and provide adequate documentation that he or she has met the criteria for abandonment of the agreement to the state land planning agency. Within 30 days of receipt of

adequate documentation of such notice, the state land planning agency shall make its determination as to whether or not the developer meets the criteria for abandonment. Once the state land planning agency determines that the developer meets the criteria for abandonment, the state land planning agency shall issue a notice of abandonment which shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located.

(12) REGIONAL REPORTS.--

(a) Within 50 days after receipt of the notice of public hearing required in paragraph (11)(c), the regional planning agency, if one has been designated for the area including the local government, shall prepare and submit to the local government a report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations, the regional planning agency shall identify regional issues based upon the following review criteria and make recommendations to the local government on these regional issues, specifically considering whether, and the extent to which:

1. The development will have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state or regional plans. For the purposes of this subsection, "applicable state plan" means the state comprehensive plan. For the purposes of this subsection, "applicable regional plan" means an adopted comprehensive regional policy plan until the adoption of a strategic regional policy plan pursuant to s. 186.508, and thereafter means an adopted strategic regional policy plan.

2. The development will significantly impact adjacent

jurisdictions. At the request of the appropriate local government, regional planning agencies may also review and comment upon issues that affect only the requesting local government.

3. As one of the issues considered in the review in subparagraphs 1. and 2., the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment. The determination should take into account information on factors that are relevant to the availability of reasonably accessible adequate housing. Adequate housing means housing that is available for occupancy and that is not substandard.

(b) At the request of the regional planning agency, other appropriate agencies shall review the proposed development and shall prepare reports and recommendations on issues that are clearly within the jurisdiction of those agencies. Such agency reports shall become part of the regional planning agency report; however, the regional planning agency may attach dissenting views. When water management district and Department of Environmental Protection permits have been issued pursuant to chapter 373 or chapter 403, the regional planning council may comment on the regional implications of the permits but may not offer conflicting recommendations.

(c) The regional planning agency shall afford the developer or any substantially affected party reasonable opportunity to present evidence to the regional planning agency head relating to the proposed regional agency report and recommendations.

(d) When the location of a proposed development involves land within the boundaries of multiple regional

planning councils, the state land planning agency shall designate a lead regional planning council. The lead regional planning council shall prepare the regional report.

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) and (14). The development order:

1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.

2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a termination date that reasonably reflects the time required to complete the development.

3. Shall establish a date until which the local government agrees that the approved development of regional impact shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by local government to be essential to the public health, safety, or welfare.

4. Shall specify the requirements for the biennial ~~annual~~ report designated under subsection (18), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the

scope of any additional local requirements that may be necessary for the report.

5. May specify the types of changes to the development which shall require submission for a substantial deviation determination under subsection (19).

6. Shall include a legal description of the property.

(18) BIENNIAL ~~ANNUAL~~ REPORTS.--The developer shall submit a biennial ~~an annual~~ report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies in alternate years on the date specified in the development order, unless the development order by its terms requires more frequent monitoring. If the ~~annual~~ report is not received, the regional planning agency or the state land planning agency shall notify the local government. If the local government does not receive the ~~annual~~ report or receives notification that the regional planning agency or the state land planning agency has not received the report, the local government shall request in writing that the developer submit the report within 30 days. The failure to submit the report after 30 days shall result in the temporary suspension of the development order by the local government. If no additional development pursuant to the development order has occurred since the submission of the previous report, then a letter from the developer stating that no development has occurred shall satisfy the requirement for a report. Development orders that require annual reports may be amended to require biennial reports at the option of the local government.

(19) SUBSTANTIAL DEVIATIONS.--

(b) Any proposed change to a previously approved

development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 5 percent or 300 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 5 percent or 1,000 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates. However, if an airport is located in two counties, a 10-percent lengthening of an existing runway or a 20-percent increase in the number of gates of an existing terminal is the applicable criteria.

3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.

4. An increase in industrial development area by 5 percent or 32 acres, whichever is greater.

5. An increase in the average annual acreage mined by 5 percent or 10 acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 5 percent or 300,000 gallons, whichever is greater. An increase in the size of the mine by 5 percent or 750 acres, whichever is less.

6. An increase in land area for office development by 5 percent ~~or 6 acres, whichever is greater,~~ or an increase of

gross floor area of office development by 5 percent or 60,000 gross square feet, whichever is greater.

7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.

8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional waterport development or a 5-percent increase in watercraft storage capacity, whichever is greater.

9. An increase in the number of dwelling units by 5 percent or 50 dwelling units, whichever is greater.

10. An increase in commercial development by ~~6 acres of land area or by~~ 50,000 square feet of gross floor area~~,~~ or of parking spaces provided for customers for 300 cars or a 5-percent increase of either ~~any~~ of these, whichever is greater.

11. An increase in hotel or motel facility units by 5 percent or 75 units, whichever is greater.

12. An increase in a recreational vehicle park area by 5 percent or 100 vehicle spaces, whichever is less.

13. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

14. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 100 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 100 percent has been reached or exceeded.

15. A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

16. Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The further refinement of such areas by survey shall be considered under sub-subparagraph (e)5.b.

The substantial deviation numerical standards in subparagraphs 4., 6., 10., 14., excluding residential uses, and 15., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 4., 6., 9., 10., 11., and 14. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(c) An extension of the date of buildout of a development, or any phase thereof, by 7 or more years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. An extension of 6 years

or more, but less than 7 years, shall be presumed not to create a substantial deviation. ~~An extension of the date of buildout, or any phase thereof, of 5 years or more but less than 7 years shall be presumed not to create a substantial deviation.~~ These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of the date of buildout, or any phase thereof, of less than 6 ~~5~~ years is not a substantial deviation. For the purpose of calculating when a buildout, phase, or termination date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof by a like period of time.

(e)1. ~~A proposed change which, either individually or, if there were previous changes, cumulatively with those changes, is equal to or exceeds 40 percent of any numerical criterion in subparagraphs (b)1.-15., but which does not exceed such criterion, shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government pursuant to subparagraph (f)5.~~

~~2.~~ Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order that individually or cumulatively with any previous change is less than ~~40 percent of~~ any numerical

criterion contained in subparagraphs (b)1.-15. and does not exceed any other criterion, or that involves an extension of the buildout date of a development, or any phase thereof, of less than 6 ~~5~~ years is not a substantial deviation, is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall include appropriate amendments to the development order.

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

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

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

c. Changes to minimum lot sizes.

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

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

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

g. Changes to eliminate an approved land use, provided

that there are no additional regional impacts.

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

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

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

This subsection does not require a development order amendment for any change listed in sub-subparagraphs a.-j.~~a.-i.~~unless such issue is addressed either in the existing development order or in the application for development approval, but, in the case of the application, only if, and in the manner in which, the application is incorporated in the development order.

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

4. Any submittal of a proposed change to a previously approved development shall include a description of individual changes previously made to the development, including changes previously approved by the local government. The local

government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

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

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

b. Except for the types of uses listed in subparagraph (b)16., any change which would result in the development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other special areas.

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

(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact which may require further development-of-regional-impact review. At a minimum, the standard form shall require the developer to provide the precise language that the developer proposes to

delete or add as an amendment to the development order.

2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state land planning agency the request for approval of a proposed change.

3. No sooner than 30 days but no later than 45 days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 90 days after submittal of the proposed changes, unless that time is extended by the developer.

4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and, no later than 45 days after submittal by the developer of the proposed change, unless that time is extended by the developer, and prior to the public hearing at which the proposed change is to be considered, shall advise the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer. ~~A change which is subject to the substantial deviation criteria specified in sub-subparagraph (e)5.c. shall not be subject to this requirement.~~

5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (e), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d)

and subparagraph (e)3.~~subparagraphs (e)1. and 3.~~shall be applicable in determining whether further development-of-regional-impact review is required.

6. If the local government determines that the proposed change does not require further development-of-regional-impact review and is otherwise approved, or if the proposed change is not subject to a hearing and determination pursuant to subparagraphs 3. and 5. and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review shall be subject to the appeal provisions of s. 380.07. However, the state land planning agency may not appeal the local government decision if it did not comply with subparagraph 4. The state land planning agency may not appeal a change to a development order made pursuant to subparagraph (e)1. or subparagraph (e)2. for developments of regional impact approved after January 1, 1980, unless the change would result in a significant impact to a regionally significant archaeological, historical, or natural resource not previously identified in the original development-of-regional-impact review.

(24) STATUTORY EXEMPTIONS.--

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section, if the facility is consistent with a local comprehensive plan that is in compliance with s. 163.3177 or is consistent with a comprehensive port master plan that is in compliance with s.

163.3178.

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

Section 41. Paragraphs (d) and (f) of subsection (3) of section 380.0651, Florida Statutes, are amended to read:

380.0651 Statewide guidelines and standards.--

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:

(d) Office development.--Any proposed office building or park operated under common ownership, development plan, or management that:

1. Encompasses 300,000 or more square feet of gross floor area; or

2. ~~Has a total site size of 30 or more acres; or~~

~~3.~~ Encompasses more than 600,000 square feet of gross floor area in a county with a population greater than 500,000 and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan and in the strategic regional policy plan.

(f) Retail and service development.--Any proposed retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite, operated under one common property ownership, development plan, or management that:

1. Encompasses more than 400,000 square feet of gross area; or

2. ~~Occupies more than 40 acres of land; or~~

~~3.~~ Provides parking spaces for more than 2,500 cars.

Section 42. (1) Nothing contained in this act abridges or modifies any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact on the effective date of this act. A development that has received a development-of-regional-impact development order pursuant to section 380.06, Florida Statutes, but is no longer required to undergo development-of-regional-impact review by operation of this act, shall be governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order. The development-of-regional-impact development order may be enforced by the local government as provided by sections 380.06(17) and 380.11, Florida Statutes.

(b) If requested by the developer or landowner, the development-of-regional-impact development order may be abandoned pursuant to the process in s. 380.06(26).

(2) A development with an application for development approval pending, and determined sufficient pursuant to section 380.06(10), Florida Statutes, on the effective date of this act, or a notification of proposed change pending on the effective date of this act, may elect to continue such review pursuant to section 380.06, Florida Statutes. At the conclusion of the pending review, including any appeals pursuant to section 380.07, Florida Statutes, the resulting development order shall be governed by the provisions of subsection (1).

Section 43. Subsection (6) is added to s. 163.3194, Florida Statutes, to read:

163.3194 Legal status of comprehensive plan.--

(1)(a) After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

(b) All land development regulations enacted or amended shall be consistent with the adopted comprehensive plan, or element or portion thereof, and any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent. If a local government allows an existing land development regulation which is inconsistent with the most recently adopted comprehensive plan, or element or portion thereof, to remain in effect, the local government shall adopt a schedule for bringing the land development regulation into conformity with the provisions of the most recently adopted comprehensive plan, or element or portion thereof. During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the land development regulations are inconsistent, the provisions of the most recently adopted comprehensive plan, or element or portion thereof, shall govern any action taken in regard to an application for a development order.

(2) After a comprehensive plan for the area, or element or portion thereof, is adopted by the governing body, no land development regulation, land development code, or amendment thereto shall be adopted by the governing body until such regulation, code, or amendment has been referred either

to the local planning agency or to a separate land development regulation commission created pursuant to local ordinance, or to both, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan, or element or portion thereof. Said recommendation shall be made within a reasonable time, but no later than within 2 months after the time of reference. If a recommendation is not made within the time provided, then the governing body may act on the adoption.

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(b) A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(4)(a) A court, in reviewing local governmental action or development regulations under this act, may consider, among other things, the reasonableness of the comprehensive plan, or element or elements thereof, relating to the issue justiciably raised or the appropriateness and completeness of the comprehensive plan, or element or elements thereof, in relation to the governmental action or development regulation

under consideration. The court may consider the relationship of the comprehensive plan, or element or elements thereof, to the governmental action taken or the development regulation involved in litigation, but private property shall not be taken without due process of law and the payment of just compensation.

(b) It is the intent of this act that the comprehensive plan set general guidelines and principles concerning its purposes and contents and that this act shall be construed broadly to accomplish its stated purposes and objectives.

(5) The tax-exempt status of lands classified as agricultural under s. 193.461 shall not be affected by any comprehensive plan adopted under this act as long as the land meets the criteria set forth in s. 193.461.

(6) If a proposed solid waste management facility is permitted by the Department of Environmental Protection to receive materials from the construction or demolition of a road or other transportation facility, a local government may not deny an application for a development approval for a requested land use that would accommodate such a facility, provided the local government previously approved a land use classification change to a local comprehensive plan or approved a rezoning to a category allowing such land use on the parcel, and the requested land use was disclosed during the previous comprehensive plan or rezoning hearing as being an express purpose of the land use changes.

Section 44. It is the intent of the Legislature that section 14 or section 33 of this act shall not affect the outcome of any litigation pending on the effective date of this act, including any future appeals. It is the further

intent of the Legislature that section 14 or section 33 of this act do not serve as legal authority support of any party to such litigation or any appeal thereof.

Section 45. It is the intent of the Legislature that section 19 of this act shall not affect the outcome of Pinecrest Lakes, Inc. v. Schidel, 795 So.2d 191 (Fla. 4th DCA 2001), rehearing denied, 802 So.2d 486.

Section 46. The Legislature finds that the integration of the growth management system and the planning of public educational facilities is a matter of great public importance.

(Redesignate subsequent sections.)

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

And the title is amended as follows:

On page 2, line 1, after the second semicolon,

insert:

amending s. 163.3174, F.S.; requiring that the membership of all local planning agencies or equivalent agencies that review comprehensive plan amendments and rezonings include a nonvoting representative of the district school board; amending s. 163.3177, F.S.; revising elements of comprehensive plans; revising provisions governing the regulation of intensity of use in the future land use map; providing for intergovernmental coordination between local governments and district school boards where a public-school-facilities element

has been adopted; requiring certain local governments to prepare an inventory of service-delivery interlocal agreements; requiring local governments to provide the Legislature with recommendations regarding annexation; requiring local governments to consider water-supply data and analysis in their potable-water and conservation elements; repealing s. 163.31775, F.S., which provides for intergovernmental coordination element rules; creating s. 163.31776, F.S.; providing legislative intent and findings with respect to a public educational facilities element; providing for certain municipalities to be exempt; requiring that the public educational facilities element include certain provisions; providing requirements for future land-use maps; providing a process for adopting the public educational facilities element; creating s.163.31777, F.S.; requiring certain local governments and school boards to enter into a public schools interlocal agreement; providing a schedule; providing for the content of the interlocal agreement; providing a waiver procedure associated with school districts having decreasing student population; providing a procedure for adoption and administrative challenge; providing sanctions for the failure to enter an interlocal agreement; providing that a public school's interlocal agreement may only establish interlocal coordination

procedures unless specific goals, objectives, and policies contained in the agreement are incorporated into the plan; amending s. 163.3180, F.S.; providing an exemption from concurrency for certain urban infill areas; amending s. 163.3184, F.S.; revising definitions; revising provisions governing the process for adopting comprehensive plans and plan amendments; amending s. 163.3187, F.S.; conforming a cross-reference; authorizing the adoption of a public educational facilities element, notwithstanding certain limitations; amending s. 163.3191, F.S., relating to evaluation and appraisal of comprehensive plans; conforming provisions to changes made by the act; requiring an evaluation of whether the potable-water element considers the appropriate water management district's regional water supply plan and includes a workplan for building new water supply facilities; requiring local governments within coastal high-hazard areas to address certain issues in the evaluation and appraisal of their comprehensive plans; amending s. 163.3215, F.S.; revising the methods for challenging the consistency of a development order with a comprehensive plan; redefining the term "aggrieved or adversely affected party"; creating s. 163.3246, F.S.; creating a Local Government Comprehensive Planning certification Program to be administered by the Department of Community

Affairs; defining the purpose of the certification area to designate areas that are appropriate for urban growth within a 10-year timeframe; providing for certification criteria; specifying the contents of the certification agreement; providing evaluation criteria; authorizing the Department of Community Affairs to adopt procedural rules; providing for the revocation of certification agreements; providing for the rights of affected persons to challenge local government compliance with certification agreements; eliminating state and regional review of certain local comprehensive plan amendments within certified areas; providing exceptions; providing for the periodic review of a local government's certification by the Department of Community Affairs; requiring the submission of biennial reports to the Governor and Legislature; providing for review of the certification program by the Office of Program Policy Analysis and Government Accountability; amending s. 186.504, F.S.; adding an elected school board member to the membership of each regional planning council; amending s. 212.055, F.S.; providing for the levy of the infrastructure sales surtax and the school capital outlay surtax by a two-thirds vote and requiring certain educational facility planning prior to the levy of the school capital outlay surtax; providing for the uses of the surtax

proceeds; amending s. 235.002, F.S.; revising legislative intent; reenacting and amending s. 235.15, F.S.; revising requirements for educational plant surveys; revising requirements for review and validation of such surveys; amending s. 235.175, F.S.; requiring school districts to adopt educational facilities plans; amending s. 235.18, F.S., relating to capital outlay budgets of school boards; conforming provisions; amending s. 235.185, F.S.; requiring school district educational facilities plans; providing definitions; specifying projections and other information to be included in the plans; providing requirements for the plans; requiring district school boards to submit a tentative plan to the local government; providing for adopting and executing the plans; creating s. 235.1851, F.S.; providing legislative intent; authorizing the creation of educational facilities benefit districts pursuant to interlocal agreement; providing for creation of an educational facilities benefit district through adoption of an ordinance; specifying content of such ordinances; providing for the creating entity to be the local general purpose government within whose boundaries a majority of the educational facilities benefit district's lands are located; providing that educational facilities benefit districts may only be created with the consent of the

district school board, all affected local general purpose governments, and all landowners within the district; providing for the membership of the governing boards of educational facilities benefit districts; providing the powers of educational facilities benefit districts; authorizing community development districts, created pursuant to ch. 190, F.S., to be eligible for financial enhancements available to educational facilities benefit districts; conditioning such eligibility upon the establishment of an interlocal agreement; creating s. 235.1852, F.S.; providing funding for educational facilities benefit districts and community development districts; creating s. 235.1853, F.S.; providing for the utilization of educational facilities built pursuant to this act; amending s. 235.188, F.S.; conforming provisions; amending s. 235.19, F.S.; providing that site planning and selection must be consistent with interlocal agreements entered between local governments and school boards; amending s. 235.193, F.S.; requiring school districts to enter certain interlocal agreements with local governments; providing a schedule; providing for the content of the interlocal agreement; providing a waiver procedure associated with school districts having decreasing student population; providing a procedure for adoption and administrative

challenge; providing sanctions for failure to enter an agreement; providing that a public school's interlocal agreement may not be used by a local government as the sole basis for denying a comprehensive plan amendment or development order; providing requirements for preparing a district educational facilities report; repealing s. 235.194, F.S., relating to the general educational facilities report; amending s. 235.218, F.S.; requiring the SMART Schools Clearinghouse to adopt measures for evaluating the school district educational facilities plans; amending s. 235.2197, F.S.; correcting a statutory cross-reference; amending ss. 235.321, 236.25, F.S.; conforming provisions; amending s. 380.04, F.S.; revising the definition of "development" with regard to operations that do not involve development to include federal interstate highways and the transmission of electricity within an existing right-of-way; amending s. 380.06, F.S., relating to developments of regional impact; removing a rebuttable presumption with respect to application of the statewide guidelines and standards and revising the fixed thresholds; providing for designation of a lead regional planning council; providing for submission of biennial, rather than annual, reports by the developer; authorizing submission of a letter, rather than a report, under certain circumstances; providing for amendment of

development orders with respect to report frequency; revising provisions governing substantial deviation standards for developments of regional impact; providing that an extension of the date of buildout of less than 6 years is not a substantial deviation; providing that certain renovation or redevelopment of a previously approved development of regional impact is not a substantial deviation; providing a statutory exemption from the development-of-regional-impact process for petroleum storage facilities and certain renovation or redevelopment; amending s. 380.0651, F.S.; revising the guidelines and standards for office development, and retail and service development; providing application with respect to developments that have received a development-of-regional-impact development order or that have an application for development approval or notification of proposed change pending; amending s. 163.3194, F.S.; providing that a local government shall not deny an application for a development approval for a requested land use for certain approved solid waste management facilities that have previously received a land use classification change allowing the requested land use on the same property; providing legislative intent with respect to the inapplicability of specified portions of the

act to pending litigation or future appeals; providing a legislative finding that the act is a matter of great public importance;