1 A bill to be entitled
2 An act relating to growth management; creating
3 s. 380.52, F.S.; providing a short title;
4 creating s. 380.54, F.S.; providing legislative
5 findings; creating s. 380.56, F.S.; providing
6 that the Division of Administrative Hearings
7 has exclusive jurisdiction over all claims for
8 damages to real or personal property caused by
9 the use of explosives in connection with
10 construction materials mining; creating s.
11 380.58, F.S.; requiring a person obtaining or
12 renewing a license to use explosives to post
13 and maintain a bond or letter of credit of a
14 specified amount; authorizing the State Fire
15 Marshal to adopt rules; creating s. 380.60,
16 F.S.; providing a procedures for seeking
17 recovery of damages resulting from the use of
18 explosives in connection with construction
19 materials mining; providing a standard of
20 evidence; providing for final orders; creating
21 s. 380.62, F.S.; providing for an order of the
22 administrative law judge to be appealed to the
23 district court of appeal; creating s. 380.64,
24 F.S.; providing that ss. 380.42-380.64 do not
25 affect any prior claim; amending s. 552.30,
26 F.S.; revising provisions governing
27 construction materials mining activities;
28 amending s. 163.3187, F.S.; providing for plan
29 amendment relating to certain roadways in
30 specified counties under certain conditions;
31 amending s. 163.01, F.S.; revising filing

1 requirements for interlocal agreements;
2 providing for filing with the clerk of the
3 circuit court in the county where the
4 administrative entity maintains its business;
5 providing for evidence of filing in counties
6 where other parties are located; amending s.
7 163.3177, F.S.; revising provisions governing
8 regulation of intensity of use; requiring
9 certain local governments to prepare an
10 inventory of service delivery interlocal
11 agreements; requiring local governments to
12 provide the Legislature with recommendations
13 regarding annexation; amending s. 163.3180,
14 F.S.; providing for the waiver of concurrency
15 requirements; amending s. 163.3184, F.S.;
16 revising definitions; revising provisions
17 governing the process for adopting
18 comprehensive plans and plan amendments;
19 amending s. 380.04, F.S.; revising the
20 definition of "development" with regard to
21 operations that do not involve development to
22 include federal interstate highways and the
23 transmission of electricity; amending s.
24 380.06, F.S., relating to developments of
25 regional impact; removing a rebuttable
26 presumption with respect to application of the
27 statewide guidelines and standards and revising
28 the fixed thresholds; providing for designation
29 of a lead regional planning council; providing
30 for submission of biennial, rather than annual,
31 reports by the developer; authorizing

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1 submission of a letter, rather than a report,
2 under certain circumstances; providing for
3 amendment of development orders with respect to
4 report frequency; revising provisions governing
5 substantial deviation standards for
6 developments of regional impact; providing that
7 an extension of the date of buildout of less
8 than a specified number of years is not a
9 substantial deviation; providing that certain
10 renovation or redevelopment of a previously
11 approved development of regional impact is not
12 a substantial deviation; providing a statutory
13 exemption from the
14 development-of-regional-impact process for
15 petroleum storage facilities, certain
16 renovation or redevelopment, and certain
17 waterport or marina development; designating
18 Whopper Way in Miami-Dade County and directing
19 the Department of Transportation to erect
20 suitable markers; amending s. 380.0651, F.S.;
21 revising the guidelines and standards for
22 office development, and retail and service
23 development; creating s. 235.1851, F.S.;
24 providing legislative intent; authorizing the
25 creation of educational facilities benefit
26 districts pursuant to interlocal agreement;
27 providing for creation of an educational
28 facilities benefit district through adoption of
29 an ordinance; specifying content of such
30 ordinances; providing for the creating entity
31 to be the local general purpose government

1 within whose boundaries a majority of the
2 educational facilities benefit district's lands
3 are located; providing that educational
4 facilities benefit districts may only be
5 created with the consent of the district school
6 board, all affected local general purpose
7 governments, and all landowners within the
8 district; providing for the membership of the
9 governing boards of educational facilities
10 benefit districts; providing the powers of
11 educational facilities benefit districts;
12 authorizing community development districts,
13 created pursuant to ch. 190, F.S., to be
14 eligible for financial enhancements available
15 to educational facilities benefit districts;
16 conditioning such eligibility upon the
17 establishment of an interlocal agreement;
18 creating s. 235.1852, F.S.; providing funding
19 for educational facilities benefit districts
20 and community development districts; creating
21 s. 235.1853, F.S.; providing for the
22 utilization of educational facilities built
23 pursuant to this act; amending ss. 163.3187 and
24 189.415, F.S.; conforming cross references;
25 providing application with respect to
26 developments that have received a
27 development-of-regional-impact development
28 order or that have an application for
29 development approval or notification of
30 proposed change pending; repealing s.
31 163.3164(6), F.S., relating to the Local

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1 Government Comprehensive Planning and Land
2 Development Act; deleting the definition of
3 "development"; creating s. 163.3165, F.S.;
4 providing a definition of "development";
5 amending ss. 186.515, 287.042, 288.975,
6 369.303, 420.9071, and 420.9076, F.S.;
7 conforming cross references; providing an
8 effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Section 380.52, Florida Statutes, is
13 created to read:
14 380.52 Short title.--Sections 380.52-380.64 may be
15 cited as the "Construction Materials Mining Administrative
16 Recovery Act."
17 Section 2. Section 380.54, Florida Statutes, is
18 created to read:
19 380.54 Legislative findings; public purpose.--The
20 Legislature finds that:
21 (1) Construction materials mining requires the use of
22 explosives to fracture the material prior to excavation.
23 (2) The use of explosives results in physical ground
24 vibrations and air blasts that may affect other property
25 owners in the vicinity of the mining site.
26 (3) It is in the interest of the public to provide a
27 specific administrative remedy for complaints concerning the
28 use of explosives in construction materials mining.
29 Section 3. Section 380.56, Florida Statutes, is
30 created to read:
31

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1 380.56 Exclusive jurisdiction; Division of
2 Administrative Hearings.--
3 (1) The Division of Administrative Hearings has
4 exclusive jurisdiction over all claims for damage to real or
5 personal property caused by the use of explosives in
6 connection with construction materials mining. This chapter
7 does not affect any claim seeking recovery for personal
8 injury, emotional distress, or punitive damages. Any cause of
9 action involving both a claim for damage to real or personal
10 property and another claim not addressed by this chapter must
11 be bifurcated so that any claim seeking recovery for damage to
12 real or personal property is adjudicated by the Division of
13 Administrative Hearings.
14 (2) Notwithstanding s. 552.25, the review process
15 contained in this chapter preempts any claims, recovery, or
16 similar procedure of any municipality, agency, board, county,
17 or other subdivision, entity, or special district of the state
18 which would otherwise address a claim for damage caused by the
19 use of explosives in connection with construction materials
20 mining.
21 Section 4. Section 380.58, Florida Statutes, is
22 created to read:
23 380.58 Security requirement.--
24 (1) As a prerequisite to obtaining or renewing a user
25 license under s. 552.091(5)(a), a person who uses explosives
26 in connection with construction materials mining must post and
27 maintain a bond or letter of credit as security. Evidence that
28 the bond has been posted and maintained in compliance with
29 this section must be maintained by any person who uses
30 explosives in connection with construction mining as part of
31 the mandatory requirements for the maintenance of records

1 under s. 552.112. Such person must maintain a completed form,
2 in a format approved by the Division of State Fire Marshal of
3 the Department of Insurance, which shows the amount and
4 location of the bond or identifies the bond surety and current
5 bond value.
6 (2) The bond or letter of credit must be in an amount
7 of at least $100,000, notwithstanding an award made by an
8 administrative law judge under s. 380.60(6). If the user of
9 explosives has not been identifies as a respondent in any
10 pending claim for damages under this chapter, and if no
11 renewal of the user license is sought, the bond required under
12 this section may be released upon the expiration of the user
13 license under s. 552.091(6)
14 (3) The State Fire Marshal may adopt rules to
15 administer this section.
16 Section 5. Section 380.60, Florida Statutes, is
17 created to read:
18 380.60 Administrative remedy for alleged damage due to
19 the use of explosives in connection with construction
20 materials mining.--
21 (1) A person who seeks recovery of damages resulting
22 from the use of explosives in connection with construction
23 materials mining must file a petition with the Division of
24 Administrative Hearings on a form provided by the division and
25 accompanied by a filing fee of $100 within 4 years after the
26 occurrence of the alleged damage.
27 (2) Upon receipt of the petition and accompanying
28 filling fee, the Division of Administrative Hearings shall,
29 within 15 days, assign the matter to an administrative law
30 judge.
31

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1 (3) The administrative law judge shall set the matter
2 for hearing as soon thereafter as possible at a location in
3 the county where the alleged damage occurred. However, a
4 hearing may not be scheduled sooner than 30 days after the
5 date the respondent is served with the petition claiming
6 damages.
7 (4) The petition claiming damages must include:
8 (a) The name and address of the petitioner;
9 (b) The name and address of the respondent;
10 (c) The time, date, and place of the use of explosives
11 which is alleged to have resulted in damage to the petitioner;
12 and
13 (d) A description of the damage caused and the amount
14 sought for recovery.
15 (5) Unless otherwise provided in this chapter, the
16 procedure for recovery provided in this act shall be governed
17 by chapter 120 and the uniform rules of procedure described in
18 s. 120.54(5).
19 (6) If the administrative law judge finds that the
20 substantial competent evidence presented demonstrates that the
21 petitioner's damages were caused by the respondent's use of
22 explosives, the administrative law judge shall set forth in a
23 final order precise findings as to the damages attributable to
24 the respondent and shall direct the respondent to pay such
25 damages within 30 days after the final order, unless the
26 matter is appealed in accordance with s. 380.62. If the
27 respondent fails to pay the damages awarded in a timely
28 manner, the petitioner may request and the administrative law
29 judge may order that the petitioner be paid from the security
30 posted by the respondent under s. 380.58 for the amount of
31 damages awarded. To the extent that the security does not

1 satisfy the damage award, the respondent shall be awarded a
2 judgment directly against the respondent for unrecovered
3 damages.
4 (7) If the administrative law judge finds that the
5 substantial competent evidence presented demonstrates that the
6 petitioner's alleged damages were not caused by the
7 respondent's use of explosives, the administrative law judge
8 shall set forth in a final order precise findings as to the
9 lack of responsibility of the respondent.
10 (8) The prevailing party is entitled to recovery of
11 reasonable costs for the administrative hearing, including
12 reasonable attorney's fees and expert-witness fees.
13 Section 6. Section 380.62, Florida Statutes, is
14 created to read:
15 380.62 Appeal.--The petitioner or respondent may
16 appeal the decision of the administrative law judge to the
17 district court of appeal by filing a notice with the Division
18 of Administrative Hearings within 30 days after the date of
19 rendition of the decision, as provided by the Florida Rules of
20 Appellate Procedure. The payment of any award shall be stayed
21 during the pendency of an appeal.
22 Section 7. Section 380.64, Florida Statutes, is
23 created to read:
24 380.64 Prior claims.--Sections 380.52-380.64 do not
25 affect any claim filed in any tribunal before the effective
26 date of this act.
27 Section 8. Subsection (1) of section 552.30, Florida
28 Statutes, is amended to read:
29 552.30 Construction materials mining activities.--
30 (1) Notwithstanding the provisions of s. 552.25, the
31 State Fire Marshal shall have the sole and exclusive authority

1 to promulgate standards, limits, and regulations regarding the
2 use of explosives in conjunction with construction materials
3 mining activities. Such authority to regulate use shall
4 include, directly or indirectly, the operation, handling,
5 licensure, or permitting of explosives and setting standards
6 or limits, including, but not limited to, ground vibration,
7 frequency, intensity, blast pattern, air blast and time, date,
8 occurrence, and notice restrictions. As used in this section,
9 "construction materials mining activities" means the
10 extraction of limestone and sand suitable for production of
11 construction aggregates, sand, cement, and road base materials
12 for shipment offsite by any person or company primarily
13 engaged in the commercial mining of any such natural
14 resources.
15 Section 9. Paragraphs (c) and (i) of subsection (1) of
16 section 163.3187, Florida Statutes, are amended, and paragraph
17 (k) is added to said subsection, to read:
18 163.3187 Amendment of adopted comprehensive plan.--
19 (1) Amendments to comprehensive plans adopted pursuant
20 to this part may be made not more than two times during any
21 calendar year, except:
22 (c) Any local government comprehensive plan amendments
23 directly related to proposed small scale development
24 activities may be approved without regard to statutory limits
25 on the frequency of consideration of amendments to the local
26 comprehensive plan. A small scale development amendment may be
27 adopted only under the following conditions:
28 1. The proposed amendment involves a use of 10 acres
29 or fewer and:
30
31

1 a. The cumulative annual effect of the acreage for all
2 small scale development amendments adopted by the local
3 government shall not exceed:
4 (I) A maximum of 120 acres in a local government that
5 contains areas specifically designated in the local
6 comprehensive plan for urban infill, urban redevelopment, or
7 downtown revitalization as defined in s. 163.3164, urban
8 infill and redevelopment areas designated under s. 163.2517,
9 transportation concurrency exception areas approved pursuant
10 to s. 163.3180(5), or regional activity centers and urban
11 central business districts approved pursuant to s.
12 380.06(2)(e); however, amendments under this paragraph may be
13 applied to no more than 60 acres annually of property outside
14 the designated areas listed in this sub-sub-subparagraph.
15 Amendments adopted pursuant to paragraph (k) shall not be
16 counted toward the acreage limitations for small scale
17 amendments under this paragraph.
18 (II) A maximum of 80 acres in a local government that
19 does not contain any of the designated areas set forth in
20 sub-sub-subparagraph (I).
21 (III) A maximum of 120 acres in a county established
22 pursuant to s. 9, Art. VIII of the State Constitution.
23 b. The proposed amendment does not involve the same
24 property granted a change within the prior 12 months.
25 c. The proposed amendment does not involve the same
26 owner's property within 200 feet of property granted a change
27 within the prior 12 months.
28 d. The proposed amendment does not involve a text
29 change to the goals, policies, and objectives of the local
30 government's comprehensive plan, but only proposes a land use
31

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1 change to the future land use map for a site-specific small
2 scale development activity.
3 e. The property that is the subject of the proposed
4 amendment is not located within an area of critical state
5 concern, unless the project subject to the proposed amendment
6 involves the construction of affordable housing units meeting
7 the criteria of s. 420.0004(3), and is located within an area
8 of critical state concern designated by s. 380.0552 or by the
9 Administration Commission pursuant to s. 380.05(1). Such
10 amendment is not subject to the density limitations of
11 sub-subparagraph f., and shall be reviewed by the state land
12 planning agency for consistency with the principles for
13 guiding development applicable to the area of critical state
14 concern where the amendment is located and shall not become
15 effective until a final order is issued under s. 380.05(6).
16 f. If the proposed amendment involves a residential
17 land use, the residential land use has a density of 10 units
18 or less per acre, except that this limitation does not apply
19 to small scale amendments described in sub-sub-subparagraph
20 a.(I) that are designated in the local comprehensive plan for
21 urban infill, urban redevelopment, or downtown revitalization
22 as defined in s. 163.3164, urban infill and redevelopment
23 areas designated under s. 163.2517, transportation concurrency
24 exception areas approved pursuant to s. 163.3180(5), or
25 regional activity centers and urban central business districts
26 approved pursuant to s. 380.06(2)(e).
27 2.a. A local government that proposes to consider a
28 plan amendment pursuant to this paragraph is not required to
29 comply with the procedures and public notice requirements of
30 s. 163.3184(15)(c) for such plan amendments if the local
31 government complies with the provisions in s. 125.66(4)(a) for

1 a county or in s. 166.041(3)(c) for a municipality. If a
2 request for a plan amendment under this paragraph is initiated
3 by other than the local government, public notice is required.
4 b. The local government shall send copies of the
5 notice and amendment to the state land planning agency, the
6 regional planning council, and any other person or entity
7 requesting a copy. This information shall also include a
8 statement identifying any property subject to the amendment
9 that is located within a coastal high hazard area as
10 identified in the local comprehensive plan.
11 3. Small scale development amendments adopted pursuant
12 to this paragraph require only one public hearing before the
13 governing board, which shall be an adoption hearing as
14 described in s. 163.3184(7), and are not subject to the
15 requirements of s. 163.3184(3)-(6) unless the local government
16 elects to have them subject to those requirements.
17 (i) A comprehensive plan amendment for the purpose of
18 designating an urban infill and redevelopment area under s.
19 163.2517 or a Rural Heritage Area or Rural Activity Center
20 under the Florida Rural Heritage and Economic Stimulus Act may
21 be approved without regard to the statutory limits on the
22 frequency of amendments to the comprehensive plan.
23 (k) A local comprehensive plan amendment directly
24 related to providing transportation improvements to enhance
25 life safety on Controlled Access Major Arterial Highways
26 identified in the Florida Intrastate Highway System, in
27 counties as defined in s. 125.011, where such roadways have a
28 high incidence of traffic accidents resulting in serious
29 injury or death. Any such amendment shall not include any
30 amendment modifying the designation on a comprehensive
31 development plan land use map nor any amendment modifying the

1 allowable densities or intensities of any land. An amendment
2 proposed pursuant to this paragraph shall be subject to the
3 review process for small scale amendments described in
4 paragraph (c).
5 Section 10. Subsection (11) of section 163.01, Florida
6 Statutes, is amended to read:
7 163.01 Florida Interlocal Cooperation Act of 1969.--
8 (11) Prior to its effectiveness, an interlocal
9 agreement and subsequent amendments thereto shall be filed
10 with the clerk of the circuit court of each county where a
11 party to the agreement is located. If the parties to the
12 agreement are located in more than one county and the
13 agreement, pursuant to subsection (7), provides for a separate
14 legal or administrative entity to administer the agreement,
15 the interlocal agreement and any amendments thereto may be
16 filed with the clerk of the circuit court in the county where
17 the administrative entity maintains its principal place of
18 business and a memorandum evidencing the filing may be filed
19 with the clerks of the circuit courts in the counties where
20 all other parties to the agreement are located.
21 Section 11. Paragraphs (a) and (h) of subsection (6)
22 of section 163.3177, Florida Statutes, are amended to read:
23 163.3177 Required and optional elements of
24 comprehensive plan; studies and surveys.--
25 (6) In addition to the requirements of subsections
26 (1)-(5), the comprehensive plan shall include the following
27 elements:
28 (a) A future land use plan element designating
29 proposed future general distribution, location, and extent of
30 the uses of land for residential uses, commercial uses,
31 industry, agriculture, recreation, conservation, education,

public buildings and grounds, other public facilities, and other categories of the public and private uses of land. <u>Each future land use category must be defined in terms of uses included and must include standards to be followed in the control and distribution of population densities and building and structure intensities.</u>~~The future land use 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

1 based upon surveys and studies that reflect the need for job
2 creation, capital investment, and the necessity to strengthen
3 and diversify the local economies, and shall not be limited
4 solely by the projected population of the rural community. The
5 future land use plan of a county may also designate areas for
6 possible future municipal incorporation. The land use maps or
7 map series shall generally identify and depict historic
8 district boundaries and shall designate historically
9 significant properties meriting protection. The future land
10 use element must clearly identify the land use categories in
11 which public schools are an allowable use. When delineating
12 the land use categories in which public schools are an
13 allowable use, a local government shall include in the
14 categories sufficient land proximate to residential
15 development to meet the projected needs for schools in
16 coordination with public school boards and may establish
17 differing criteria for schools of different type or size.
18 Each local government shall include lands contiguous to
19 existing school sites, to the maximum extent possible, within
20 the land use categories in which public schools are an
21 allowable use. All comprehensive plans must comply with the
22 school siting requirements of this paragraph no later than
23 October 1, 1999. The failure by a local government to comply
24 with these school siting requirements by October 1, 1999, will
25 result in the prohibition of the local government's ability to
26 amend the local comprehensive plan, except for plan amendments
27 described in s. 163.3187(1)(b), until the school siting
28 requirements are met. An amendment proposed by a local
29 government for purposes of identifying the land use categories
30 in which public schools are an allowable use is exempt from
31 the limitation on the frequency of plan amendments contained

1 in s. 163.3187. The future land use element shall include
2 criteria which encourage the location of schools proximate to
3 urban residential areas to the extent possible and shall
4 require that the local government seek to collocate public
5 facilities, such as parks, libraries, and community centers,
6 with schools to the extent possible. For schools serving
7 predominantly rural counties, defined as a county with a
8 population of 100,000 or fewer, an agricultural land use
9 category shall be eligible for the location of public school
10 facilities if the local comprehensive plan contains school
11 siting criteria and the location is consistent with such
12 criteria.
13 (h)1. An intergovernmental coordination element
14 showing relationships and stating principles and guidelines to
15 be used in the accomplishment of coordination of the adopted
16 comprehensive plan with the plans of school boards and other
17 units of local government providing services but not having
18 regulatory authority over the use of land, with the
19 comprehensive plans of adjacent municipalities, the county,
20 adjacent counties, or the region, and with the state
21 comprehensive plan, as the case may require and as such
22 adopted plans or plans in preparation may exist. This element
23 of the local comprehensive plan shall demonstrate
24 consideration of the particular effects of the local plan,
25 when adopted, upon the development of adjacent municipalities,
26 the county, adjacent counties, or the region, or upon the
27 state comprehensive plan, as the case may require.
28 a. The intergovernmental coordination element shall
29 provide for procedures to identify and implement joint
30 planning areas, especially for the purpose of annexation,
31

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1 municipal incorporation, and joint infrastructure service
2 areas.
3 b. The intergovernmental coordination element shall
4 provide for recognition of campus master plans prepared
5 pursuant to s. 240.155.
6 c. The intergovernmental coordination element may
7 provide for a voluntary dispute resolution process as
8 established pursuant to s. 186.509 for bringing to closure in
9 a timely manner intergovernmental disputes. A local
10 government may develop and use an alternative local dispute
11 resolution process for this purpose.
12 2. The intergovernmental coordination element shall
13 further state principles and guidelines to be used in the
14 accomplishment of coordination of the adopted comprehensive
15 plan with the plans of school boards and other units of local
16 government providing facilities and services but not having
17 regulatory authority over the use of land. In addition, the
18 intergovernmental coordination element shall describe joint
19 processes for collaborative planning and decisionmaking on
20 population projections and public school siting, the location
21 and extension of public facilities subject to concurrency, and
22 siting facilities with countywide significance, including
23 locally unwanted land uses whose nature and identity are
24 established in an agreement. Within 1 year of adopting their
25 intergovernmental coordination elements, each county, all the
26 municipalities within that county, the district school board,
27 and any unit of local government service providers in that
28 county shall establish by interlocal or other formal agreement
29 executed by all affected entities, the joint processes
30 described in this subparagraph consistent with their adopted
31 intergovernmental coordination elements.

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1 3. To foster coordination between special districts
2 and local general-purpose governments as local general-purpose
3 governments implement local comprehensive plans, each
4 independent special district must submit a public facilities
5 report to the appropriate local government as required by s.
6 189.415.
7 4. The state land planning agency shall establish a
8 schedule for phased completion and transmittal of plan
9 amendments to implement subparagraphs 1., 2., and 3. from all
10 jurisdictions so as to accomplish their adoption by December
11 31, 1999. A local government may complete and transmit its
12 plan amendments to carry out these provisions prior to the
13 scheduled date established by the state land planning agency.
14 The plan amendments are exempt from the provisions of s.
15 163.3187(1).
16 5. By January 1, 2004, any county having a population
17 greater than 100,000, and the municipalities and special
18 districts within that county, shall submit a report to the
19 Department of Community Affairs that:
20 a. Identifies all existing or proposed interlocal
21 service delivery agreements regarding the following:
22 education, sanitary sewer, public safety, solid waste,
23 drainage, potable water, parks and recreation, and
24 transportation facilities.
25 b. Identifies any deficits or duplication in the
26 provision of services within its jurisdiction, whether capital
27 or operational. Upon request, the Department of Community
28 Affairs shall provide technical assistance to the local
29 governments in identifying deficits or duplication.
30 6. Within 6 months after submission of the report, the
31 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.

7. Each local government shall update its intergovernmental coordination element based upon the findings in the report submitted pursuant to subparagraph 5. The report may be used as supporting data and analysis for the intergovernmental coordination element.

8. By February 1, 2003, representatives of special districts, municipalities, and counties 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. Paragraph (c) is added to subsection (4) of section 163.3180, Florida Statutes, to read:

163.3180 Concurrency.--

(4)

(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.

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1 Section 13. Paragraph (a) of subsection (1),
2 subsections (3), (4), (6), (7), (8), and (15), and paragraph
3 (d) of subsection (16) of section 163.3184, Florida Statutes,
4 are amended to read:
5 163.3184 Process for adoption of comprehensive plan or
6 plan amendment.--
7 (1) DEFINITIONS.--As used in this section:
8 (a) "Affected person" includes the affected local
9 government; persons owning property, residing, or owning or
10 operating a business within the boundaries of the local
11 government whose plan is the subject of the review; owners of
12 real property abutting real property that is the subject of a
13 proposed change to a future land use map;and adjoining local
14 governments that can demonstrate that the plan or plan
15 amendment will produce substantial impacts on the increased
16 need for publicly funded infrastructure or substantial impacts
17 on areas designated for protection or special treatment within
18 their jurisdiction. Each person, other than an adjoining local
19 government, in order to qualify under this definition, shall
20 also have submitted oral or written comments, recommendations,
21 or objections to the local government during the period of
22 time beginning with the transmittal hearing for the plan or
23 plan amendment and ending with the adoption of the plan or
24 plan amendment.
25 (3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR
26 AMENDMENT.--
27 (a) Each local governing body shall transmit the
28 complete proposed comprehensive plan or plan amendment to the
29 state land planning agency, the appropriate regional planning
30 council and water management district, the Department of
31 Environmental Protection, the Department of State,and the

1 Department of Transportation and, in the case of municipal
2 plans, to the appropriate county and, in the case of county
3 plans, to the Fish and Wildlife Conservation Commission and
4 the Department of Agriculture and Consumer Services
5 immediately following a public hearing pursuant to subsection
6 (15) as specified in the state land planning agency's
7 procedural rules. The local governing body shall also transmit
8 a copy of the complete proposed comprehensive plan or plan
9 amendment to any other unit of local government or government
10 agency in the state that has filed a written request with the
11 governing body for the plan or plan amendment. The local
12 government may request a review by the state land planning
13 agency pursuant to subsection (6) at the time of the
14 transmittal of an amendment.
15 (b) A local governing body shall not transmit portions
16 of a plan or plan amendment unless it has previously provided
17 to all state agencies designated by the state land planning
18 agency a complete copy of its adopted comprehensive plan
19 pursuant to subsection (7) and as specified in the agency's
20 procedural rules. In the case of comprehensive plan
21 amendments, the local governing body shall transmit to the
22 state land planning agency, the appropriate regional planning
23 council and water management district, the Department of
24 Environmental Protection, the Department of State,and the
25 Department of Transportation and, in the case of municipal
26 plans, to the appropriate county and, in the case of county
27 plans, to the Fish and Wildlife Conservation Commission and
28 the Department of Agriculture and Consumer Services the
29 materials specified in the state land planning agency's
30 procedural rules and, in cases in which the plan amendment is
31 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.--The ~~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. These~~ governmental agencies specified in paragraph (3)(a)shall

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1 provide comments to the state land planning agency within 30
2 days after receipt by the state land planning agency of the
3 complete proposed plan amendment. The appropriate regional
4 planning council shall also provide its written comments to
5 the state land planning agency within 30 days after receipt by
6 the state land planning agency of the complete proposed plan
7 amendment and shall specify any objections, recommendations
8 for modifications, and comments of any other regional agencies
9 to which the regional planning council may have referred the
10 proposed plan amendment. Written comments submitted by the
11 public within 30 days after notice of transmittal by the local
12 government of the proposed plan amendment will be considered
13 as if submitted by governmental agencies. All written agency
14 and public comments must be made part of the file maintained
15 under subsection (2).
16 (6) STATE LAND PLANNING AGENCY REVIEW.--
17 (a) The state land planning agency shall review a
18 proposed plan amendment upon request of a regional planning
19 council, affected person, or local government transmitting the
20 plan amendment. The request from the regional planning council
21 or affected person must be ~~if the request is~~ received within
22 30 days after transmittal of the proposed plan amendment
23 pursuant to subsection (3). ~~The agency shall issue a report~~
24 ~~of its objections, recommendations, and comments regarding the~~
25 ~~proposed plan amendment.~~ A regional planning council or
26 affected person requesting a review shall do so by submitting
27 a written request to the agency with a notice of the request
28 to the local government and any other person who has requested
29 notice.
30 (b) The state land planning agency may review any
31 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,

1 the state land planning agency shall only base its
2 considerations on written, and not oral, comments, from any
3 source.
4 (d) The state land planning agency review shall
5 identify all written communications with the agency regarding
6 the proposed plan amendment. If the state land planning agency
7 does not issue such a review, it shall identify in writing to
8 the local government all written communications received 30
9 days after transmittal. The written identification must
10 include a list of all documents received or generated by the
11 agency, which list must be of sufficient specificity to enable
12 the documents to be identified and copies requested, if
13 desired, and the name of the person to be contacted to request
14 copies of any identified document. The list of documents must
15 be made a part of the public records of the state land
16 planning agency.
17 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF
18 PLAN OR AMENDMENTS AND TRANSMITTAL.--
19 (a) The local government shall review the written
20 comments submitted to it by the state land planning agency,
21 and any other person, agency, or government. Any comments,
22 recommendations, or objections and any reply to them shall be
23 public documents, a part of the permanent record in the
24 matter, and admissible in any proceeding in which the
25 comprehensive plan or plan amendment may be at issue. The
26 local government, upon receipt of written comments from the
27 state land planning agency, shall have 120 days to adopt or
28 adopt with changes the proposed comprehensive plan or s.
29 163.3191 plan amendments. In the case of comprehensive plan
30 amendments other than those proposed pursuant to s. 163.3191,
31 the local government shall have 60 days to adopt the

1 amendment, adopt the amendment with changes, or determine that
2 it will not adopt the amendment. The adoption of the proposed
3 plan or plan amendment or the determination not to adopt a
4 plan amendment, other than a plan amendment proposed pursuant
5 to s. 163.3191, shall be made in the course of a public
6 hearing pursuant to subsection (15). The local government
7 shall transmit the complete adopted comprehensive plan or
8 ~~adopted~~ plan amendment, including the names and addresses of
9 persons compiled pursuant to paragraph (15)(c), to the state
10 land planning agency as specified in the agency's procedural
11 rules within 10 working days after adoption. The local
12 governing body shall also transmit a copy of the adopted
13 comprehensive plan or plan amendment to the regional planning
14 agency and to any other unit of local government or
15 governmental agency in the state that has filed a written
16 request with the governing body for a copy of the plan or plan
17 amendment.
18 (b) If the adopted plan amendment is unchanged from
19 the proposed plan amendment transmitted pursuant to subsection
20 (3) and an affected person as defined in paragraph (1)(a) did
21 not raise any objection, the state land planning agency did
22 not review the proposed plan amendment, and the state land
23 planning agency did not raise any objections during its review
24 pursuant to subsection (6), the local government may state in
25 the transmittal letter that the plan amendment is unchanged
26 and was not the subject of objections.
27 (8) NOTICE OF INTENT.--
28 (a) If the transmittal letter correctly states that
29 the plan amendment is unchanged and was not the subject of
30 review or objections pursuant to paragraph (7)(b), the state
31 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~~

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~~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)~~(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,

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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 shall 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 that 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)<u>(e)</u>~~(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 14. 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 <u>or any work or construction within the boundaries of the right-of-way on the federal interstate highway system</u>.

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(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 15. Paragraph (d) of subsection (2), paragraph (b) of subsection (4), paragraph (a) of subsection (8), subsection (12), paragraph (c) of subsection (15), subsection (18), paragraphs (b), (c), (e), and (f) of subsection (19), and paragraph (n) of subsection (25) of section 380.06,

Florida Statutes, are amended, and paragraphs (i), (j), and (k) are added to subsection (24) of said 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:

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a. Less than 100 ~~or equal to 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 <u>100</u> ~~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

1 the preliminary development agreement and otherwise adequately
2 mitigates for the impacts of the development to date.
3
4 In either event, when a developer proposes to abandon said
5 agreement, the developer shall give written notice and state
6 that he or she is no longer proposing a development of
7 regional impact and provide adequate documentation that he or
8 she has met the criteria for abandonment of the agreement to
9 the state land planning agency. Within 30 days of receipt of
10 adequate documentation of such notice, the state land planning
11 agency shall make its determination as to whether or not the
12 developer meets the criteria for abandonment. Once the state
13 land planning agency determines that the developer meets the
14 criteria for abandonment, the state land planning agency shall
15 issue a notice of abandonment which shall be recorded by the
16 developer in accordance with s. 28.222 with the clerk of the
17 circuit court for each county in which land covered by the
18 terms of the agreement is located.
19 (12) REGIONAL REPORTS.--
20 (a) Within 50 days after receipt of the notice of
21 public hearing required in paragraph (11)(c), the regional
22 planning agency, if one has been designated for the area
23 including the local government, shall prepare and submit to
24 the local government a report and recommendations on the
25 regional impact of the proposed development. In preparing its
26 report and recommendations, the regional planning agency shall
27 identify regional issues based upon the following review
28 criteria and make recommendations to the local government on
29 these regional issues, specifically considering whether, and
30 the extent to which:
31

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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

1 403, the regional planning council may comment on the regional
2 implications of the permits but may not offer conflicting
3 recommendations.
4 (c) The regional planning agency shall afford the
5 developer or any substantially affected party reasonable
6 opportunity to present evidence to the regional planning
7 agency head relating to the proposed regional agency report
8 and recommendations.
9 (d) When the location of a proposed development
10 involves land within the boundaries of multiple regional
11 planning councils, the state land planning agency shall
12 designate a lead regional planning council. The lead regional
13 planning council shall prepare the regional report.
14 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--
15 (c) The development order shall include findings of
16 fact and conclusions of law consistent with subsections (13)
17 and (14). The development order:
18 1. Shall specify the monitoring procedures and the
19 local official responsible for assuring compliance by the
20 developer with the development order.
21 2. Shall establish compliance dates for the
22 development order, including a deadline for commencing
23 physical development and for compliance with conditions of
24 approval or phasing requirements, and shall include a
25 termination date that reasonably reflects the time required to
26 complete the development.
27 3. Shall establish a date until which the local
28 government agrees that the approved development of regional
29 impact shall not be subject to downzoning, unit density
30 reduction, or intensity reduction, unless the local government
31 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

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1 of the development order by the local government. <u>If no</u>
2 <u>additional development pursuant to the development order has</u>
3 <u>occurred since the submission of the previous report, then a</u>
4 <u>letter from the developer stating that no development has</u>
5 <u>occurred shall satisfy the requirement for a report.</u>
6 <u>Development orders that require annual reports may be amended</u>
7 <u>to require biennial reports at the option of the local</u>
8 <u>government.</u>
9 (19) SUBSTANTIAL DEVIATIONS.--
10 (b) Any proposed change to a previously approved
11 development of regional impact or development order condition
12 which, either individually or cumulatively with other changes,
13 exceeds any of the following criteria shall constitute a
14 substantial deviation and shall cause the development to be
15 subject to further development-of-regional-impact review
16 without the necessity for a finding of same by the local
17 government:
18 1. An increase in the number of parking spaces at an
19 attraction or recreational facility by 5 percent or 300
20 spaces, whichever is greater, or an increase in the number of
21 spectators that may be accommodated at such a facility by 5
22 percent or 1,000 spectators, whichever is greater.
23 2. A new runway, a new terminal facility, a 25-percent
24 lengthening of an existing runway, or a 25-percent increase in
25 the number of gates of an existing terminal, but only if the
26 increase adds at least three additional gates. However, if an
27 airport is located in two counties, a 10-percent lengthening
28 of an existing runway or a 20-percent increase in the number
29 of gates of an existing terminal is the applicable criteria.
30 3. An increase in the number of hospital beds by 5
31 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.

1 12. An increase in a recreational vehicle park area by
2 5 percent or 100 vehicle spaces, whichever is less.
3 13. A decrease in the area set aside for open space of
4 5 percent or 20 acres, whichever is less.
5 14. A proposed increase to an approved multiuse
6 development of regional impact where the sum of the increases
7 of each land use as a percentage of the applicable substantial
8 deviation criteria is equal to or exceeds 100 percent. The
9 percentage of any decrease in the amount of open space shall
10 be treated as an increase for purposes of determining when 100
11 percent has been reached or exceeded.
12 15. A 15-percent increase in the number of external
13 vehicle trips generated by the development above that which
14 was projected during the original
15 development-of-regional-impact review.
16 16. Any change which would result in development of
17 any area which was specifically set aside in the application
18 for development approval or in the development order for
19 preservation or special protection of endangered or threatened
20 plants or animals designated as endangered, threatened, or
21 species of special concern and their habitat, primary dunes,
22 or archaeological and historical sites designated as
23 significant by the Division of Historical Resources of the
24 Department of State. The further refinement of such areas by
25 survey shall be considered under sub-subparagraph (e)5.b.
26
27 The substantial deviation numerical standards in subparagraphs
28 4., 6., 10., 14., excluding residential uses, and 15., are
29 increased by 100 percent for a project certified under s.
30 403.973 which creates jobs and meets criteria established by
31 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 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~~ less than 7 ~~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~~

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~~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 7 ~~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.

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1 3. Except for the change authorized by
2 sub-subparagraph 2.f., any addition of land not previously
3 reviewed or any change not specified in paragraph (b) or
4 paragraph (c) shall be presumed to create a substantial
5 deviation. This presumption may be rebutted by clear and
6 convincing evidence.
7 4. Any submittal of a proposed change to a previously
8 approved development shall include a description of individual
9 changes previously made to the development, including changes
10 previously approved by the local government. The local
11 government shall consider the previous and current proposed
12 changes in deciding whether such changes cumulatively
13 constitute a substantial deviation requiring further
14 development-of-regional-impact review.
15 5. The following changes to an approved development of
16 regional impact shall be presumed to create a substantial
17 deviation. Such presumption may be rebutted by clear and
18 convincing evidence.
19 a. A change proposed for 15 percent or more of the
20 acreage to a land use not previously approved in the
21 development order. Changes of less than 15 percent shall be
22 presumed not to create a substantial deviation.
23 b. Except for the types of uses listed in subparagraph
24 (b)16., any change which would result in the development of
25 any area which was specifically set aside in the application
26 for development approval or in the development order for
27 preservation, buffers, or special protection, including
28 habitat for plant and animal species, archaeological and
29 historical sites, dunes, and other special areas.
30 c. Notwithstanding any provision of paragraph (b) to
31 the contrary, a proposed change consisting of simultaneous

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1 increases and decreases of at least two of the uses within an
2 authorized multiuse development of regional impact which was
3 originally approved with three or more uses specified in s.
4 380.0651(3)(c), (d), (f), and (g) and residential use.
5 (f)1. The state land planning agency shall establish
6 by rule standard forms for submittal of proposed changes to a
7 previously approved development of regional impact which may
8 require further development-of-regional-impact review. At a
9 minimum, the standard form shall require the developer to
10 provide the precise language that the developer proposes to
11 delete or add as an amendment to the development order.
12 2. The developer shall submit, simultaneously, to the
13 local government, the regional planning agency, and the state
14 land planning agency the request for approval of a proposed
15 change.
16 3. No sooner than 30 days but no later than 45 days
17 after submittal by the developer to the local government, the
18 state land planning agency, and the appropriate regional
19 planning agency, the local government shall give 15 days'
20 notice and schedule a public hearing to consider the change
21 that the developer asserts does not create a substantial
22 deviation. This public hearing shall be held within 90 days
23 after submittal of the proposed changes, unless that time is
24 extended by the developer.
25 4. The appropriate regional planning agency or the
26 state land planning agency shall review the proposed change
27 and, no later than 45 days after submittal by the developer of
28 the proposed change, unless that time is extended by the
29 developer, and prior to the public hearing at which the
30 proposed change is to be considered, shall advise the local
31 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

1 to a regionally significant archaeological, historical, or
2 natural resource not previously identified in the original
3 development-of-regional-impact review.
4 (24) STATUTORY EXEMPTIONS.--
5 (i) Any proposed facility for the storage of any
6 petroleum product or any expansion of an existing facility is
7 exempt from the provisions of this section, if the facility is
8 consistent with a local comprehensive plan that is in
9 compliance with s. 163.3177 or is consistent with a
10 comprehensive port master plan that is in compliance with s.
11 163.3178.
12 (j) Any renovation or redevelopment within the same
13 land parcel which does not change land use or increase density
14 or intensity of use.
15 (k)1. Any proposal to increase development at a
16 waterport or marina existing on the effective date of this act
17 or any new waterport or marina development is exempt from the
18 provisions of this section, unless located within a county
19 identified in s. 370.12(2)(f).
20 2. Any waterport or marina development located within
21 a county identified in s. 370.12(2)(f) is exempt from the
22 provisions of this section if such county has adopted marina
23 siting policies into the coastal management or land use
24 element of its comprehensive plan. Such policies must be
25 transmitted by December 31, 2003, and must be adopted prior to
26 or within 1 year after the transmittal of the policies to the
27 state land planning agency. If no such policies are adopted
28 into the comprehensive plan by December 31, 2004, any increase
29 or new development in such county shall be exempt from the
30 provisions of this section. The adoption of marina siting
31 policies into the comprehensive plan is exempt from the

1 provisions of s. 163.3187(1). Any subsequent change to a
2 marina siting policy shall be treated as a small scale
3 development amendment as defined in s. 163.3187(1)(c). Prior
4 to the adoption of marina siting policies or December 31,
5 2004, the current standards and thresholds provided for in
6 subparagraph (19)(b)8. and s. 380.0651(3)(e) are applicable.
7 (25) AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.--
8 (n) After a development order approving an areawide
9 development plan is received, changes shall be subject to the
10 provisions of subsection (19), except that the percentages and
11 numerical criteria shall be double those listed in paragraph
12 (19)(b) and the extension of the date of buildout of a
13 development, or any phase thereof, by less than 10 years shall
14 not create a substantial deviation.
15 Section 16. Whopper Way designated; Department of
16 Transportation to erect suitable markers.--
17 (1) That portion of N.W. 57 Avenue from N.W. 7 Street
18 to State Highway 836 in Miami-Dade County is hereby designated
19 as "Whopper Way."
20 (2) The Department of Transportation is directed to
21 erect suitable markers designating Whopper Way as described in
22 subsection (1).
23 Section 17. Paragraphs (d) and (f) of subsection (3)
24 of section 380.0651, Florida Statutes, are amended to read:
25 380.0651 Statewide guidelines and standards.--
26 (3) The following statewide guidelines and standards
27 shall be applied in the manner described in s. 380.06(2) to
28 determine whether the following developments shall be required
29 to undergo development-of-regional-impact review:
30
31

(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 18. 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

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1 intent of the Legislature to provide efficient alternative
2 mechanisms and incentives to allow for sharing costs of
3 educational facilities necessary to accommodate new growth and
4 development among public agencies, including district school
5 boards, affected local general purpose governments, and
6 benefited private development interests.
7 (2) The Legislature hereby authorizes the creation of
8 educational facilities benefit districts pursuant to
9 interlocal cooperation agreements between a district school
10 board and all local general purpose governments within whose
11 jurisdiction a district is located. The purpose of
12 educational facilities benefit districts is to assist in
13 financing the construction and maintenance of educational
14 facilities.
15 (3)(a) An educational facilities benefit district may
16 be created pursuant to this act and chapters 125, 163, 166,
17 and 189. An educational facilities benefit district charter
18 may be created by a county or municipality by entering into an
19 interlocal agreement, as authorized by s. 163.01, with the
20 district school board and any local general purpose government
21 within whose jurisdiction a portion of the district is located
22 and adoption of an ordinance that includes all provisions
23 contained within s. 189.4041. The creating entity shall be
24 the local general purpose government within whose boundaries a
25 majority of the educational facilities benefit district's
26 lands are located.
27 (b) Creation of any educational facilities benefit
28 district shall be conditioned upon the consent of the district
29 school board, all local general purpose governments within
30 whose jurisdiction any portion of the educational facilities
31 benefit district is located, and all landowners within the

1 district. The membership of the governing board of any
2 educational facilities benefit district shall include
3 representation of the district school board, each cooperating
4 local general purpose government, and the landowners within
5 the district. In the case of an educational facilities
6 benefit district's decision to create a charter school, the
7 board of directors of the charter school may constitute the
8 members of the governing board for the educational facilities
9 benefit district.
10 (4) The educational facilities benefit district shall
11 have, and its governing board may exercise, the following
12 powers:
13 (a) To finance and construct educational facilities
14 within the district's boundaries.
15 (b) To sue and be sued in the name of the district; to
16 adopt and use a seal and authorize the use of a facsimile
17 thereof; to acquire, by purchase, gift, devise, or otherwise,
18 and to dispose of real and personal property or any estate
19 therein; and to make and execute contracts and other
20 instruments necessary or convenient to the exercise of its
21 powers.
22 (c) To contract for the services of consultants to
23 perform planning, engineering, legal, or other appropriate
24 services of a professional nature. Such contracts shall be
25 subject to the public bidding or competitive negotiations
26 required of local general purpose governments.
27 (d) To borrow money and accept gifts; to apply for
28 unused grants or loans of money or other property from the
29 United States, the state, a unit of local government, or any
30 person for any district purposes and enter into agreements
31 required in connection therewith; and to hold, use, and

1 dispose of such moneys or property for any district purposes
2 in accordance with the terms of the gift, grant, loan, or
3 agreement relating thereto.
4 (e) To adopt resolutions and polices prescribing the
5 powers, duties, and functions of the officers of the district,
6 the conduct of the business of the district, and the
7 maintenance of records and documents of the district.
8 (f) To maintain an office at such place or places as
9 it may designate within the district or within the boundaries
10 of the local general purpose government that created the
11 district.
12 (g) To lease as lessor or lessee to or from any
13 person, firm, corporation, association, or body, public or
14 private, any projects of the type that the district is
15 authorized to undertake and facilities or property of any
16 nature for use of the district to carry out any of the
17 purposes authorized by this act.
18 (h) To borrow money and issue bonds, certificates,
19 warrants, notes, or other evidence of indebtedness pursuant to
20 this act for periods not longer than 30 years, provided such
21 bonds, certificates, warrants, notes, or other indebtedness
22 shall only be guaranteed by non-ad valorem assessments legally
23 imposed by the district and other available sources of funds
24 provided in this act and shall not pledge the full faith and
25 credit of any local general purpose government or the district
26 school board.
27 (i) To cooperate with or contract with other
28 governmental agencies as may be necessary, convenient,
29 incidental, or proper in connection with any of the powers,
30 duties, or purposes authorized by this act and to accept
31 funding from local and state agencies as provided in this act.

1 (j) To levy, impose, collect, and enforce non-ad
2 valorem assessments, as defined by s. 197.3632(1)(d), pursuant
3 to this act, chapters 125 and 166, and ss. 197.3631, 197.3632,
4 and 197.3635.
5 (k) To exercise all powers necessary, convenient,
6 incidental, or proper in connection with any of the powers,
7 duties, or purposes authorized by this act.
8 (5) As an alternative to the creation of an
9 educational facilities benefit district, the Legislature
10 hereby recognizes and encourages the consideration of
11 community development district creation pursuant to chapter
12 190 as a viable alternative for financing the construction and
13 maintenance of educational facilities as described in this
14 act. Community development districts are hereby granted the
15 authority to determine, order, levy, impose, collect, and
16 enforce non-ad valorem assessments for such purposes pursuant
17 to this act and chapters 170, 190, and 197. This authority is
18 in addition to any authority granted community development
19 districts under chapter 190. Community development districts
20 are therefore deemed eligible for the financial enhancements
21 available to educational facilities benefit districts
22 providing for financing the construction and maintenance of
23 educational facilities pursuant to s. 235.1852. In order to
24 receive such financial enhancements, a community development
25 district must enter into an interlocal agreement with the
26 district school board and affected local general purpose
27 governments that specifies the obligations of all parties to
28 the agreement. Nothing in this act or in any interlocal
29 agreement entered into pursuant to this act shall require any
30 change in the method of election of a board of supervisors of
31 a community development district provided in chapter 190.

1 Section 19. Section 235.1852, Florida Statutes, is
2 created to read:
3 235.1852 Local funding for educational facilities
4 benefit districts or community development districts.--Upon
5 confirmation by a district school board of the commitment of
6 revenues by an educational facilities benefit district or
7 community development district necessary to construct and
8 maintain an educational facility contained within an
9 individual district facilities work program or proposed by an
10 approved charter school or a charter school applicant, the
11 following funds shall be provided to the educational
12 facilities benefit district or community development district
13 annually, beginning with the next fiscal year after
14 confirmation until the district's financial obligations are
15 completed:
16 (1) All educational facilities impact fee revenue
17 collected for new development within the educational
18 facilities benefit district or community development district.
19 Funds provided under this subsection shall be used to fund the
20 construction and capital maintenance costs of educational
21 facilities.
22 (2) For construction and capital maintenance costs not
23 covered by the funds provided under subsection (1), an annual
24 amount contributed by the district school board equal to
25 one-half of the remaining costs of construction and capital
26 maintenance of the educational facility. Any construction
27 costs above the cost-per-student criteria established for the
28 SIT Program in s. 235.216(2) shall be funded exclusively by
29 the educational facilities benefit district or the community
30 development district. Funds contributed by a district school
31 board shall not be used to fund operational costs.

1
2 Educational facilities funded pursuant to this act may be
3 constructed on land that is owned by any person after the
4 district school board has acquired from the owner of the land
5 a long-term lease for the use of this land for a period of not
6 less than 40 years or the life expectancy of the permanent
7 facilities constructed thereon, whichever is longer. All
8 interlocal agreements entered into pursuant to this act shall
9 provide for ownership of educational facilities funded
10 pursuant to this act to revert to the district school board if
11 such facilities cease to be used for public educational
12 purposes prior to 40 years after construction or prior to the
13 end of the life expectancy of the educational facilities,
14 whichever is longer.
15 Section 20. Section 235.1853, Florida Statutes, is
16 created to read:
17 235.1853 Educational facilities benefit district or
18 community development district facility utilization.--The
19 student population of all facilities funded pursuant to this
20 act shall reflect the racial balance of the school district
21 pursuant to state and federal law. However, to the extent
22 allowable pursuant to state and federal law, the interlocal
23 agreement providing for the establishment of the educational
24 facilities benefit district or the interlocal agreement
25 between the community development district and the district
26 school board and affected local general purpose governments
27 may provide for the district school board to establish school
28 attendance zones that allow students residing within a
29 reasonable distance of facilities financed through the
30 interlocal agreement to attend such facilities.
31

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1 Section 21. Paragraph (c) of subsection (1) of
2 163.3187, Florida Statutes, is amended to read:
3 163.3187 Amendment of adopted comprehensive plan.--
4 (1) Amendments to comprehensive plans adopted pursuant
5 to this part may be made not more than two times during any
6 calendar year, except:
7 (c) Any local government comprehensive plan amendments
8 directly related to proposed small scale development
9 activities may be approved without regard to statutory limits
10 on the frequency of consideration of amendments to the local
11 comprehensive plan. A small scale development amendment may
12 be adopted only under the following conditions:
13 1. The proposed amendment involves a use of 10 acres
14 or fewer and:
15 a. The cumulative annual effect of the acreage for all
16 small scale development amendments adopted by the local
17 government shall not exceed:
18 (I) A maximum of 120 acres in a local government that
19 contains areas specifically designated in the local
20 comprehensive plan for urban infill, urban redevelopment, or
21 downtown revitalization as defined in s. 163.3164, urban
22 infill and redevelopment areas designated under s. 163.2517,
23 transportation concurrency exception areas approved pursuant
24 to s. 163.3180(5), or regional activity centers and urban
25 central business districts approved pursuant to s.
26 380.06(2)(e); however, amendments under this paragraph may be
27 applied to no more than 60 acres annually of property outside
28 the designated areas listed in this sub-sub-subparagraph.
29 (II) A maximum of 80 acres in a local government that
30 does not contain any of the designated areas set forth in
31 sub-sub-subparagraph (I).

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1 (III) A maximum of 120 acres in a county established
2 pursuant to s. 9, Art. VIII of the State Constitution.
3 b. The proposed amendment does not involve the same
4 property granted a change within the prior 12 months.
5 c. The proposed amendment does not involve the same
6 owner's property within 200 feet of property granted a change
7 within the prior 12 months.
8 d. The proposed amendment does not involve a text
9 change to the goals, policies, and objectives of the local
10 government's comprehensive plan, but only proposes a land use
11 change to the future land use map for a site-specific small
12 scale development activity.
13 e. The property that is the subject of the proposed
14 amendment is not located within an area of critical state
15 concern, unless the project subject to the proposed amendment
16 involves the construction of affordable housing units meeting
17 the criteria of s. 420.0004(3), and is located within an area
18 of critical state concern designated by s. 380.0552 or by the
19 Administration Commission pursuant to s. 380.05(1). Such
20 amendment is not subject to the density limitations of
21 sub-subparagraph f., and shall be reviewed by the state land
22 planning agency for consistency with the principles for
23 guiding development applicable to the area of critical state
24 concern where the amendment is located and shall not become
25 effective until a final order is issued under s. 380.05(6).
26 f. If the proposed amendment involves a residential
27 land use, the residential land use has a density of 10 units
28 or less per acre, except that this limitation does not apply
29 to small scale amendments described in sub-sub-subparagraph
30 a.(I) that are designated in the local comprehensive plan for
31 urban infill, urban redevelopment, or downtown revitalization

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1 as defined in s. 163.3164, urban infill and redevelopment
2 areas designated under s. 163.2517, transportation concurrency
3 exception areas approved pursuant to s. 163.3180(5), or
4 regional activity centers and urban central business districts
5 approved pursuant to s. 380.06(2)(e).
6 2.a. A local government that proposes to consider a
7 plan amendment pursuant to this paragraph is not required to
8 comply with the procedures and public notice requirements of
9 s. 163.3184(15)(e)~~(c)~~for such plan amendments if the local
10 government complies with the provisions in s. 125.66(4)(a) for
11 a county or in s. 166.041(3)(c) for a municipality. If a
12 request for a plan amendment under this paragraph is initiated
13 by other than the local government, public notice is required.
14 b. The local government shall send copies of the
15 notice and amendment to the state land planning agency, the
16 regional planning council, and any other person or entity
17 requesting a copy. This information shall also include a
18 statement identifying any property subject to the amendment
19 that is located within a coastal high hazard area as
20 identified in the local comprehensive plan.
21 3. Small scale development amendments adopted pursuant
22 to this paragraph require only one public hearing before the
23 governing board, which shall be an adoption hearing as
24 described in s. 163.3184(7), and are not subject to the
25 requirements of s. 163.3184(3)-(6) unless the local government
26 elects to have them subject to those requirements.
27 Section 22. Subsection (4) of section 189.415, Florida
28 Statutes, is amended to read:
29 189.415 Special district public facilities report.--
30 (4) Those special districts building, improving, or
31 expanding public facilities addressed by a development order

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issued to the developer pursuant to s. 380.06 may use the most recent biennial ~~annual~~ report required by s. 380.06(15) and (18) and submitted by the developer, to the extent the annual report provides the information required by subsection (2).

Section 23. (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 s. 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 ss. 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 provisions of s. 380.06(26), Florida Statutes.

(2) A development with an application for development approval pending, and determined sufficient pursuant to s. 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 s. 380.06, Florida Statutes. At the conclusion of the pending review, including any appeals pursuant to s.

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1 380.07, Florida Statutes, the resulting development order
2 shall be governed by the provisions of subsection (1).
3 Section 24. Subsection (6) of section 163.3164,
4 Florida Statutes, is repealed.
5 Section 25. Section 163.3165, Florida Statutes, is
6 created to read:
7 163.3165 Definition of development.--
8 (1) The term "development" means the carrying out of
9 any building activity or mining operation, the making of any
10 material change in the use or appearance of any structure or
11 land, or the dividing of land into three or more parcels.
12 (2) The following activities or uses shall be taken
13 for the purposes of this chapter to involve "development," as
14 defined in this section:
15 (a) A reconstruction, alteration of the size, or
16 material change in the external appearance of a structure on
17 land.
18 (b) A change in the intensity of use of land, such as
19 an increase in the number of dwelling units in a structure or
20 on land or a material increase in the number of businesses,
21 manufacturing establishments, offices, or dwelling units in a
22 structure or on land.
23 (c) Alteration of a shore or bank of a seacoast,
24 river, stream, lake, pond, or canal, including any "coastal
25 construction" as defined in s. 161.021.
26 (d) Commencement of drilling, except to obtain soil
27 samples, mining, or excavation on a parcel of land.
28 (e) Demolition of a structure.
29 (f) Clearing of land as an adjunct of construction.
30 (g) Deposit of refuse, solid or liquid waste, or fill
31 on a parcel of land.

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1 (3) The following operations or uses shall not be
2 taken for the purpose of this chapter to involve "development"
3 as defined in this section:
4 (a) Work by a highway or road agency or railroad
5 company for the maintenance or improvement of a road or
6 railroad track, if the work is carried out on land within the
7 boundaries of the right-of-way or any work or construction
8 within the boundaries of the right-of-way on the federal
9 interstate highway system.
10 (b) Work by any utility and other persons engaged in
11 the distribution or transmission of electricity, gas, or
12 water, for the purpose of inspecting, repairing, renewing, or
13 constructing on established rights-of-way any sewers, mains,
14 pipes, cables, utility tunnels, power lines, towers, poles,
15 tracks, or the like.
16 (c) Work for the maintenance, renewal, improvement, or
17 alteration of any structure, if the work affects only the
18 interior or the color of the structure or the decoration of
19 the exterior of the structure.
20 (d) The use of any structure or land devoted to
21 dwelling uses for any purpose customarily incidental to
22 enjoyment of the dwelling.
23 (e) The use of any land for the purpose of growing
24 plants, crops, trees, and other agricultural or forestry
25 products; raising livestock; or for other agricultural
26 purposes.
27 (f) A change in use of land or structure from a use
28 within a class specified in an ordinance or rule to another
29 use in the same class.
30 (g) A change in the ownership or form of ownership of
31 any parcel or structure.

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

(4) "Development," as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of subsection (1).

Section 26. Section 186.515, Florida Statutes, is amended to read:

186.515 Creation of regional planning councils under chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and 186.515 is intended to repeal or limit the provisions of chapter 163; however, the local general-purpose governments serving as voting members of the governing body of a regional planning council created pursuant to ss. 186.501-186.507, 186.513, and 186.515 are not authorized to create a regional planning council pursuant to chapter 163 unless an agency, other than a regional planning council created pursuant to ss. 186.501-186.507, 186.513, and 186.515, is designated to exercise the powers and duties in any one or more of ss. 163.3164(18)~~(19)~~and 380.031(15); in which case, such a regional planning council is also without authority to exercise the powers and duties in s. 163.3164(19) or s. 380.031(15).

Section 27. Paragraph (a) of subsection (16) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.--The department shall have the following powers, duties, and functions:

(16)(a) To enter into joint agreements with governmental agencies, as defined in s. 163.3164(9)~~(10)~~for the purpose of pooling funds for the purchase of commodities or information technology that can be used by multiple agencies. However, the department shall consult with the State Technology Office on joint agreements that involve the purchase of information technology. Agencies entering into joint purchasing agreements with the department or the State Technology Office shall authorize the department or the State Technology Office to contract for such purchases on their behalf.

Section 28. Paragraph (a) of subsection (2) of section 288.975, Florida Statutes, is amended to read:

288.975 Military base reuse plans.--

(2) As used in this section, the term:

(a) "Affected local government" means a local government adjoining the host local government and any other unit of local government that is not a host local government but that is identified in a proposed military base reuse plan as providing, operating, or maintaining one or more public facilities as defined in s. 163.3164(23)~~(24)~~on lands within or serving a military base designated for closure by the Federal Government.

Section 29. Subsection (5) of section 369.303, Florida Statutes, is amended to read:

369.303 Definitions.--As used in this part:

(5) "Land development regulation" means a regulation covered by the definition in s. 163.3164(22)~~(23)~~and any of the types of regulations described in s. 163.3202.

Section 30. Subsection (16) of section 420.9071, Florida Statutes, is amended to read:

420.9071 Definitions.--As used in ss. 420.907-420.9079, the term:

(16) "Local housing incentive strategies" means local regulatory reform or incentive programs to encourage or facilitate affordable housing production, which include at a minimum, assurance that permits as defined in s. 163.3164(6)~~(7)~~and(7)~~(8)~~for affordable housing projects are expedited to a greater degree than other projects; an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption; and a schedule for implementing the incentive strategies. Local housing incentive strategies may also include other regulatory reforms, such as those enumerated in s. 420.9076 and adopted by the local governing body.

Section 31. Paragraph (a) of subsection (4) of section 420.9076, Florida Statutes, is amended to read:

420.9076 Adoption of affordable housing incentive strategies; committees.--

(4) The advisory committee shall review the established policies and procedures, ordinances, land development regulations, and adopted local government comprehensive plan of the appointing local government and shall recommend specific initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value. Such recommendations may include the modification or repeal of existing policies,

1 procedures, ordinances, regulations, or plan provisions; the
2 creation of exceptions applicable to affordable housing; or
3 the adoption of new policies, procedures, regulations,
4 ordinances, or plan provisions. At a minimum, each advisory
5 committee shall make recommendations on affordable housing
6 incentives in the following areas:
7 (a) The processing of approvals of development orders
8 or permits, as defined in s. 163.3164(6) ~~(7)~~ and (7) ~~(8)~~, for
9 affordable housing projects is expedited to a greater degree
10 than other projects.
11 Section 32. This act shall take effect upon becoming a
12 law.
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