

Legal foundation for Infrastructure Fee Provision of the Developer Agreement for Utilities Commission, City of New Smyrna Beach, Florida

At the regular meeting held July 17, 2006, the Utilities Commission approved the attached Resolution 11-06 incorporating an Addendum to the Utilities Commission Developer Agreement after two public hearings and after formal utility infrastructure studies had been conducted. The Utilities Commission electric rate schedules and fees filed with the Public Service Commission remain unchanged by this action.

The Developer Agreement is a contract, approved by the Utilities Commission at a public meeting, specifying terms and conditions among the signatory parties (Developer and Utilities Commission) for services, fees, and infrastructure for water, wastewater, and reuse water within the confines of the specific new development. The Addendum to the Developer Agreement provides for water, wastewater, reuse water, and electric system infrastructure contributions external to the new development. Approving these UC Agreements occur near the end of the local development process (after P&Z, City Commission, and preliminary reviews).

Anticipated growth is underway within the Utilities Commission service area and is occurring in both greenfield and infill areas. Utility infrastructure studies focused upon the condition of each existing utility system and the expected effects from identified growth in three stipulated regions of the service territory. Additionally, Chapter 2005-290 (SB-360) infrastructure planning and funding requirements were incorporated into the Addendum by developing proportional contributions which are tendered by signatory Developers at the time of the Addendum signing. An irrevocable letter of credit may be tendered to satisfy the financial requirements of the Addendum to allow additional timing and financing flexibility for Developer contributions. Such contributions are deposited into an escrow account and may be withdrawn from the account by the Utilities Commission after an infrastructure project is approved at a public meeting. These system infrastructure projects are for construction and related construction costs of assets deemed necessary to be built or upgraded in order for the system to adequately supply the new development and other developments of the that region.

Certain observations were made:

- Generally, asset life cycle for new equipment is 15-50 years for the standard utility infrastructure with periodic regulatory upgrades experienced over this life cycle.
- The depreciation schedule for pipes, pumps, wires, poles, and transformers ranges from 15 to 55 years.
- In terms of the addendum concept, it is expected that after 25-30 years renovations and reconstruction will occur in certain areas as has been witnessed beachside and throughout the service area.
- Consequently the proportional share and infrastructure forecast is equitable by using the maximum land use whereby this same infrastructure will be required to serve the area after the initial development.

The purpose and goal of the Infrastructure Fee Agreement (“Addendum”) is to recognize the benefits of conceptual long-range planning for the build out of an area consistent with the comprehensive plan; to further the intent of Florida Statutes s. 163.3177(11) which supports innovative and flexible planning and development strategies, and the purposes of Chapter 163, Florida Statutes, and to avoid the disproportionate distribution of costs upon existing customers for necessary services for new customers.

In compliance with SB360 to properly create a 10-year plan and also install adequate infrastructure to the development for the anticipated life-cycle of these assets (which generally are in the 40-50 year range), maximum ERU’s were used noting that we cannot begin to presume what developers will actually build over this time, what level of building efficiency and materials will be used, and what upgrading or replacement of buildings and materials will often occur after 30-40 years.

Utility infrastructure studies focused upon the condition of each existing utility system and the expected effects from identified growth in three (3) stipulated regions (“zones”) of our service territory. The zone approach also provides some financial leverage and accommodation for development in areas with existing infrastructure while also accounting for the impacts of the reconstruction or new development on the existing infrastructure. Hence, areas developed west of I-95 incur the greatest costs and the areas developed east of US1 incur the least costs.

Chapter 2005-290 (SB-360) infrastructure planning and funding requirements were incorporated into the Addendum by developing proportional contributions which are tendered by Developers at the time of the Addendum signing. The Utilities Commission seeks to fairly apportion costs to the developers for the future or existing infrastructure to meet needs to serve multiple developments. To establish the costs for the Utility Infrastructure needs to support a given area ERU’s are used. It is virtually impossible to determine infrastructure needs based upon what actually will be constructed. The size, materials, equipment efficiency, landscaping materials, etc. are not known and will often change. Consequently, an ERU concept was used to establish proportions and relative infrastructure sizing through models in the formal studies.

The UC records payments and actual ERU’s and system demands for 10 years to “true up” actual vs. projected. The expectations are that with annual CPI increases and market impacts, the UC will actually under recover costs from developers building during the early years of the 10-year period.

The developer must pay the Addendum calculated fees up front in order to have the appropriate infrastructure provided to developing areas for multiple developments at the time of need. U.C.'s total infrastructure fees amount since inception, in round numbers the total is \$20 million. This includes actual payments and secured contracts - approved agreements.

Developers do not have a property right to existing utility infrastructure nor is there a requirement of existing customers to finance addendum infrastructure for development or infrastructure within the development. The comprehensive growth assessment in our studies does permit existing infrastructure to be leveraged for development to provide an equitable and efficient expansion of the infrastructure rather than assess new infrastructure cost for each development from the electric, water, or wastewater plant source.

The infrastructure must be in place before the development is marketable for retail development including any utility plant internal to the development and regardless of geographic location in the service territory.

The assignment of costs was developed under the concept of equity, not equality or fairness, to produce a reasonable proportionate share for the purposes of compliance with SB 360 and 1194 and a neutral application among developers. Using the maximum ERU's permitted by land use density regulations provided the initial starting point to determine the proportion of the total cost.

An examination of Florida Statutes Section 163, "Intergovernmental Programs) within Title XI "County Organization and Intergovernmental Relations" in light of the changes in the law as reflected by Chapter 2005-290, Senate Bill No. 360 ("SB 360), enacted the last Legislative Session. SB 360 is to become effective July, 2007 follows:

In essence, the legislation strengthens the link between development approval and water supply planning.

The following are excerpts and highlights of the recent legislation as they pertain to the Utilities Commission: As used in this act:

(32) "Financial feasibility" means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements. The requirement that level-of-service standards be achieved and maintained shall not apply if the proportionate-share process set forth in s. 163.3180(12) and (16) is used.

A comprehensive plan is further required to:

(3)(a) The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

1. A component which outlines principles for construction, extension, or

increase in capacity of public facilities, as well as a component which outlines principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.

2. Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.

3. Standards to ensure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.

4. Standards for the management of debt.

5. A schedule of capital improvements which includes publicly funded projects, and which may include privately funded projects for which the local government has no fiscal responsibility, necessary to ensure that adopted level-of-service standards are achieved and maintained. For capital improvements that will be funded by the developer, financial feasibility shall be demonstrated by being guaranteed in an enforceable development agreement or interlocal agreement pursuant to paragraph (10)(h), or other enforceable agreement. These development agreements and interlocal agreements shall be reflected in the schedule of capital improvements if the capital improvement is necessary to serve development within the 5-year schedule. If the local government uses planned revenue sources that require referenda or other actions to secure the revenue source, the plan must, in the event the referenda are not passed or actions do not secure the planned revenue source, identify other existing revenue sources that will be used to fund the capital projects or otherwise amend the plan to ensure financial feasibility.

6. The schedule must include transportation improvements included in the applicable metropolitan planning organization's transportation improvement program adopted pursuant to s. 339.175(7) to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. The schedule must also be coordinated with the applicable metropolitan planning organization's long-range transportation plan adopted pursuant to s. 339.175(6).

(b) 1. The capital improvements element shall be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189 in order to maintain a financially feasible 5-year schedule of capital improvements. Corrections and modifications concerning costs; revenue sources; or acceptance of facilities pursuant to dedications which are consistent with the plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land planning agency. An amendment to the comprehensive plan is required to update the schedule on an annual basis or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule. All public facilities shall be consistent with the capital improvements element. Amendments to

implement this section must be adopted and transmitted no later than December 1, 2007. Thereafter, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments pursuant to s. 163.3187(1)(a), after December 1, 2007, and every year thereafter, unless and until the local government has adopted the annual update and it has been transmitted to the state land planning agency.

2. Capital improvements element amendments adopted after the effective date of this act shall require only a single public hearing before the governing board which shall be an adoption hearing as described in s. 163.3184(7). Such amendments are not subject to the requirements of s. 163.3184(3)-(6).

163.3227. Requirements of a development agreement

(1) A development agreement shall include the following:

- (a) A legal description of the land subject to the agreement, and the names of its legal and equitable owners;
- (b) The duration of the agreement;
- (c) The development uses permitted on the land, including population densities, and building intensities and height;
- (d) A description of public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development;
- (e) A description of any reservation or dedication of land for public purposes;
- (f) A description of all local development permits approved or needed to be approved for the development of the land
- (g) A finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;
- (h) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens; and
- (i) A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.

(2) A development agreement may provide that the entire development or any phase thereof be commenced or completed within a specific period of time.

163.3229. Duration of a development agreement and relationship to local comprehensive plan

The duration of a development agreement shall not exceed 10 years. It may be extended by mutual consent of the governing body and the developer, subject to a public hearing in accordance with [s.163.3225](#). No development agreement shall be effective or be implemented by a local government unless the local government's comprehensive plan and plan amendments implementing or related to the agreement are found in

compliance by the state land planning agency in accordance with [s.163.3184](#), [s.163.3187](#), or [s.163.3189](#).

163.3231. Consistency with the comprehensive plan and land development regulations

A development agreement and authorized development shall be consistent with the local government's comprehensive plan and land development regulations.

163.3233. Local laws and policies governing a development agreement

(1) The local government's laws and policies governing the development of the land at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement.

(2) A local government may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the local government has held a public hearing and determined:

(a) They are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities, or densities in the development agreement;

(b) They are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement;

(c) They are specifically anticipated and provided for in the development agreement;

(d) The local government demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement; or

(e) The development agreement is based on substantially inaccurate information supplied by the developer.

(3) This section does not abrogate any rights that may vest pursuant to common law.

163.3235. Periodic review of a development agreement

A local government shall review land subject to a development agreement at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. For each annual review conducted during years 6 through 10 of a development agreement, the review shall be incorporated into a written report which shall be submitted to the parties to the agreement and the state land planning agency. The state land planning agency shall adopt rules regarding the contents of the report, provided that the report shall be limited to the information sufficient to determine the extent to which the parties are proceeding in good faith to comply with the terms of the development agreement. If the local government finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the local government.

163.3237. Amendment or cancellation of a development agreement

A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

163.3239. Recording and effectiveness of a development agreement

Within 14 days after a local government enters into a development agreement, the local government shall record the agreement with the clerk of the circuit court in the county where the local government is located. A copy of the recorded development agreement shall be submitted to the state land planning agency within 14 days after the agreement is recorded. A development agreement shall not be effective until it is properly recorded in the public records of the county and until 30 days after having been received by the state land planning agency pursuant to this section. The burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

163.3241. Modification or revocation of a development agreement to comply with subsequently enacted state and federal law

If state or federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties' compliance with the terms of a development agreement, such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws.

163.3243. Enforcement

Any party, any aggrieved or adversely affected person as defined in [s.163.3215\(2\)](#), or the state land planning agency may file an action for injunctive relief in the circuit court where the local government is located to enforce the terms of a development agreement or to challenge compliance of the agreement with the provisions of [ss.163.3220-163.3243](#).

Under the Florida Local Government Development Agreement Act, local governments are authorized to enter into development agreements with developers, subject to the procedures and requirements of the Act. The Act is supplemental and additional to the powers conferred upon local governments by other laws and is not to be regarded as in derogation of any powers now existing.

A development agreement is a contract between a local government and a property owner/developer, which provides the developer with vested rights by freezing the existing zoning regulations applicable to a property in exchange for public benefits.

Any local government may, by ordinance, establish procedures and requirements, as provided in the Act, to consider and enter into a development agreement with any person having a legal or equitable interest in real property located within its jurisdiction.

The requirements of a development agreement are statutorily set forth. A development agreement may also provide that the entire development or any phase thereof be commenced or completed within a specific period of time. Furthermore, within 14 days

after a local government enters into a development agreement, the local government must record the agreement with the clerk of the circuit court in the county where the local government is located. A copy of the recorded development agreement must be submitted to the state land planning agency within 14 days after the agreement is recorded. A development agreement will not be effective until it is properly recorded in the public records of the county and until 30 days after having been received by the state land planning agency.

The burdens of the development agreement are binding upon and the benefits of the agreement inure to all successors in interest to the parties to the agreement.

The studies conducted and the determinations made from those studies can be found on the web site for the Utilities Commission (UCNSB.ORG).

Committee Substitute for Committee Substitute for
Committee Substitute for Senate Bill No. 360

An act relating to infrastructure planning and funding; amending s. 163.3164, F.S.; defining the term “financial feasibility”; amending s. 163.3177, F.S.; revising requirements for the capital improvements element of a comprehensive plan; requiring a schedule of capital improvements; providing a deadline for certain amendments; providing an exception; providing for sanctions; requiring incorporation of selected water supply projects in the comprehensive plan; authorizing planning for multijurisdictional water supply facilities; providing requirements for counties and municipalities with respect to the public school facilities element; requiring an interlocal agreement; providing for a waiver under certain circumstances; exempting certain municipalities from such requirements; requiring that the state land planning agency establish a schedule for adopting and updating the public school facilities element; revising the requirements and criteria for establishing a rural land stewardship area; revising the requirements for designating a stewardship receiving area to address listed species; revising requirements for an ordinance adopting a plan amendment to create a rural land stewardship area; encouraging local governments to include a community vision and an urban service boundary as a component of their comprehensive plans; providing an exception; repealing s. 163.31776, F.S., relating to the public educational facilities element; amending s. 163.31777, F.S.; revising the requirements for the public schools interlocal agreement to conform to changes made by the act; requiring the school board to provide certain information to the local government; amending s. 163.3180, F.S.; revising requirements for concurrency; providing for schools to be subject to concurrency requirements; requiring that an adequate water supply be available for new development; revising requirements for transportation facilities; requiring that the Department of Transportation be consulted regarding certain level-of-service standards; revising criteria and providing guidelines for transportation concurrency exception areas; requiring a local government to consider the transportation level-of-service standards of adjacent jurisdictions for certain roads; providing a process to monitor de minimis impacts; revising the requirements for a long-term transportation concurrency management system; providing for a long-term school concurrency management system; requiring that school concurrency be established on less than a districtwide basis within 5 years; providing certain exceptions; authorizing a local government to approve a development order if the developer executes a commitment to mitigate the impacts on public school facilities; providing for the adoption of a transportation concurrency management system by ordinance; providing requirements for proportionate fair-share mitigation; providing an exception; amending s. 163.3184, F.S.; prescribing authority of local governments to adopt plan amendments after adopting community vision and an urban service boundary; providing for small scale plan

amendment review under certain circumstances; providing exemptions; providing concurrency exemption for certain DRI projects; amending s. 163.3191, F.S.; providing additional requirements for the evaluation and assessment of the comprehensive plan for counties and municipalities that do not have a public schools interlocal agreement; revising requirements for the evaluation and appraisal report; providing time limit for amendments relating to the report; amending s. 339.135, F.S., relating to tentative work programs of the Department of Transportation; conforming provisions to changes made by the act; requiring the Office of Program Policy Analysis and Government Accountability to perform a study of the boundaries of specified state entities; requiring a report to the Legislature; creating s. 163.3247, F.S.; providing a popular name; providing legislative findings and intent; creating the Century Commission for certain purposes; providing for appointment of commission members; providing for terms; providing for meetings and votes of members; requiring members to serve without compensation; providing for per diem and travel expenses; providing powers and duties of the commission; requiring the creation of a joint select committee of the Legislature; providing purposes; requiring the Secretary of Community Affairs to select an executive director of the commission; requiring the Department of Community Affairs to provide staff for the commission; providing for other agency staff support for the commission; creating s. 339.2819, F.S.; creating the Transportation Regional Incentive Program within the Department of Transportation; providing matching funds for projects meeting certain criteria; amending s. 337.107, F.S.; allowing the inclusion of right-of-way services in certain design-build contracts; amending s. 337.107, F.S., effective July 1, 2007; eliminating the inclusion of right-of-way services and as part of design-build contracts under certain circumstances; amending s. 337.11, F.S.; allowing the Department of Transportation to include right-of-way services and design and construction into a single contract; providing an exception; delaying construction activities in certain circumstances; amending s. 337.11, F.S., effective July 1, 2007; deleting language allowing right-of-way services and design and construction phases to be combined for certain projects; deleting an exception; amending s. 380.06, F.S.; providing exceptions; amending s. 1013.33, F.S.; conforming provisions to changes made by the act; amending s. 206.46, F.S.; increasing the threshold for maximum debt service for transfers in the State Transportation Trust Fund; amending s. 339.08, F.S.; providing for expenditure of moneys in the State Transportation Trust Fund; amending s. 339.155, F.S.; providing for the development of regional transportation plans in Regional Transportation Areas; amending s. 339.175, F.S.; making conforming changes to provisions of the act; amending s. 339.55, F.S.; providing for loans for certain projects from the state-funded infrastructure bank within the Department of Transportation; amending s. 1013.64, F.S.; providing for the expenditure of funds in the Public Education Capital Outlay and Debt Service Trust Fund; amending s. 1013.65, F.S.; providing funding for the Classrooms for Kids Program; amending s. 201.15, F.S.;

providing for the expenditure of certain excise taxes on documents; providing for appropriations for the 2005-2006 fiscal year on a non-recurring basis for certain purposes; specifying the evidentiary standard a local government must meet when defending a challenge to an ordinance establishing an impact fee; requiring the Department of Transportation to amend the tentative work program and budget for 2005-2006; prohibits reversion of certain funds; providing a declaration of important state interest; creating s. 1013.789, F.S.; establishing the High Growth County Construction Account program; amending s. 339.2818, F.S.; providing for an annual appropriation from the State Transportation Trust Fund for purposes of funding the Small County Outreach Program; amending s. 341.051, F.S.; providing for an annual appropriation from the State Transportation Trust Fund for purposes of funding the New Starts Transit Program; amending s. 339.61, F.S.; providing for appropriations from the State Transportation Trust Fund; creating s. 403.891, F.S.; appropriating funds to the Water Protection and Sustainability Trust Fund; creating s. 1013.78, F.S.; creating the High Growth District Capital Outlay Assistance Grant Program; providing for grants to school districts meeting certain criteria; Amending s. 380.115, F.S.; allowing an applicant under the development-of-regional impact program to proceed under that program after an optional sector plan is adopted; grandfathering certain developments of regional impact from the provisions of this act relating to chs. 163 and 380, F.S.; providing annual appropriations from the Grants and Donations Trust Fund for purposes of implementing the act and supporting the Century Commission; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (32) is added to section 163.3164, Florida Statutes, to read:

163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions.—As used in this act:

(32) “Financial feasibility” means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements. The requirement that level-of-service standards be achieved and maintained shall not apply if the proportionate-share process set forth in s. 163.3180(12) and (16) is used.

Section 2. Subsections (2) and (3), paragraphs (a), (c), and (h) of subsection (6), paragraph (d) of subsection (11), and subsection (12) of section

163.3177, Florida Statutes, are amended, and subsections (13) and (14) are added to that section, to read:

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

(2) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent, and the comprehensive plan shall be financially economically feasible. Financial feasibility shall be determined using professionally accepted methodologies.

(3)(a) The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

1. A component which outlines principles for construction, extension, or increase in capacity of public facilities, as well as a component which outlines principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.

2. Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.

3. Standards to ensure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.

4. Standards for the management of debt.

5. A schedule of capital improvements which includes publicly funded projects, and which may include privately funded projects for which the local government has no fiscal responsibility, necessary to ensure that adopted level-of-service standards are achieved and maintained. For capital improvements that will be funded by the developer, financial feasibility shall be demonstrated by being guaranteed in an enforceable development agreement or interlocal agreement pursuant to paragraph (10)(h), or other enforceable agreement. These development agreements and interlocal agreements shall be reflected in the schedule of capital improvements if the capital improvement is necessary to serve development within the 5-year schedule. If the local government uses planned revenue sources that require referenda or other actions to secure the revenue source, the plan must, in the event the referenda are not passed or actions do not secure the planned revenue source, identify other existing revenue sources that will be used to fund the capital projects or otherwise amend the plan to ensure financial feasibility.

6. The schedule must include transportation improvements included in the applicable metropolitan planning organization's transportation improvement program adopted pursuant to s. 339.175(7) to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. The schedule must also be coordinated with the applicable metro-

politan planning organization's long-range transportation plan adopted pursuant to s. 339.175(6).

(b)1. The capital improvements element shall be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189 in order to maintain a financially feasible 5-year schedule of capital improvements, ~~except that~~ Corrections, updates, and modifications concerning costs; revenue sources; or acceptance of facilities pursuant to dedications which are consistent with the plan; ~~or the date of construction of any facility enumerated in the capital improvements element~~ may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land planning agency. An amendment to the comprehensive plan is required to update the schedule on an annual basis or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule. All public facilities shall be consistent with the capital improvements element. Amendments to implement this section must be adopted and transmitted no later than December 1, 2007. Thereafter, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments pursuant to s. 163.3187(1)(a), after December 1, 2007, and every year thereafter, unless and until the local government has adopted the annual update and it has been transmitted to the state land planning agency.

2. Capital improvements element amendments adopted after the effective date of this act shall require only a single public hearing before the governing board which shall be an adoption hearing as described in s. 163.3184(7). Such amendments are not subject to the requirements of s. 163.3184(3)-(6).

(c) If the local government does not adopt the required annual update to the schedule of capital improvements or the annual update is found not in compliance, the state land planning agency must notify the Administration Commission. A local government that has a demonstrated lack of commitment to meeting its obligations identified in the capital improvement element may be subject to sanctions by the Administration Commission pursuant to s. 163.3184(11).

(d) If a local government adopts a long-term concurrency management system pursuant to s. 163.3180(9), it must also adopt a long-term capital improvements schedule covering up to a 10-year or 15-year period, and must update the long-term schedule annually. The long-term schedule of capital improvements must be financially feasible.

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to the provisions of paragraph

(11)(d), as overlays on the future land use map. 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. 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. 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 water supplies, public facilities, and 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; the compatibility of uses on lands adjacent to or closely proximate to military installations; 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. The future land use plan element shall include criteria to be used to achieve the compatibility of adjacent or closely proximate lands with military installations. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. ~~All comprehensive plans must comply with the school siting requirements of this paragraph no later than October 1, 1999.~~ The failure by a local government to comply with these school siting requirements ~~by October 1, 1999,~~ will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use ~~or for adopting or amending the school siting maps pursuant to s. 163.31776(3)~~ are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent

possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of adjacent or closely proximate lands with existing military installations in their future land use plan element shall transmit the update or amendment to the department by June 30, 2006.

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. Within 18 months after the governing board approves an updated regional water supply plan ~~By December 1, 2006,~~ the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.0361(2)(a) or proposed by the local government under s. 373.0361(7)(b) consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. ~~If a local government is located within two water management districts, the local government shall adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan.~~ The element must identify such alternative water supply projects and traditional water supply projects and conservation and reuse necessary to meet the water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction and include a work plan, covering at least a 10 year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which that are identified in the element as necessary to serve existing and new development ~~and for which the local government is responsible.~~ The work plan shall be updated, at a minimum, every 5 years within ~~18~~ 12 months after the governing board of a water management district approves an updated regional water supply plan. Amendments to incorporate the work plan do not count toward the limitation on the frequency of adoption of amendments to the comprehensive plan. Local governments, public and private utilities, regional water supply authorities, special districts, and water management

districts are encouraged to cooperatively plan for the development of multi-jurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of ground and surface water supplies.

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

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

b. The intergovernmental coordination element shall provide for recognition of campus master plans prepared pursuant to s. 1013.30.

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

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

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

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

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

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

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

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

a. Identifies all existing or proposed interlocal service-delivery agreements regarding the following: education; sanitary sewer; public safety; solid waste; drainage; potable water; parks and recreation; and transportation facilities.

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

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

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

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

(11)

(d)1. The department, in cooperation with the Department of Agriculture and Consumer Services, the Department of Environmental Protection, water management districts, and regional planning councils, shall provide assistance to local governments in the implementation of this paragraph and rule 9J-5.006(5)(1), Florida Administrative Code. Implementation of those provisions shall include a process by which the department may authorize local governments to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land stewardship area within which planning and economic incentives are applied to encourage the implementation of innovative and flexible planning and development strategies and creative land use planning techniques, including those contained herein and in rule 9J-5.006(5)(1), Florida Administrative Code. Assistance may include, but is not limited to:

a. Assistance from the Department of Environmental Protection and water management districts in creating the geographic information systems land cover database and aerial photogrammetry needed to prepare for a rural land stewardship area;

b. Support for local government implementation of rural land stewardship concepts by providing information and assistance to local governments regarding land acquisition programs that may be used by the local government or landowners to leverage the protection of greater acreage and maximize the effectiveness of rural land stewardship areas; and

c. Expansion of the role of the Department of Community Affairs as a resource agency to facilitate establishment of rural land stewardship areas in smaller rural counties that do not have the staff or planning budgets to create a rural land stewardship area.

2. The department shall encourage participation by local governments of different sizes and rural characteristics in establishing and implementing rural land stewardship areas. It is the intent of the Legislature that rural land stewardship areas be used to further the following broad principles of rural sustainability: restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activity; maintenance of the viability of Florida's agricultural economy; and protection of the character of rural areas of Florida. Rural land stewardship areas may be multicounty in order to encourage coordinated regional stewardship planning.

3. A local government, in conjunction with a regional planning council, a stakeholder organization of private land owners, or another local government, shall notify the department in writing of its intent to designate a rural land stewardship area. The written notification shall describe the basis for the designation, including the extent to which the rural land stewardship area enhances rural land values, controls urban sprawl, provides necessary open space for agriculture and protection of the natural environment, pro-

notes rural economic activity, and maintains rural character and the economic viability of agriculture.

4. A rural land stewardship area shall be not less than 10,000 acres and shall be located outside of municipalities and established urban growth boundaries, and shall be designated by plan amendment. The plan amendment designating a rural land stewardship area shall be subject to review by the Department of Community Affairs pursuant to s. 163.3184 and shall provide for the following:

a. Criteria for the designation of receiving areas within rural land stewardship areas in which innovative planning and development strategies may be applied. Criteria shall at a minimum provide for the following: adequacy of suitable land to accommodate development so as to avoid conflict with environmentally sensitive areas, resources, and habitats; compatibility between and transition from higher density uses to lower intensity rural uses; the establishment of receiving area service boundaries which provide for a separation between receiving areas and other land uses within the rural land stewardship area through limitations on the extension of services; and connection of receiving areas with the rest of the rural land stewardship area using rural design and rural road corridors.

b. Goals, objectives, and policies setting forth the innovative planning and development strategies to be applied within rural land stewardship areas pursuant to the provisions of this section.

c. A process for the implementation of innovative planning and development strategies within the rural land stewardship area, including those described in this subsection and rule 9J-5.006(5)(1), Florida Administrative Code, which provide for a functional mix of land uses, including adequate available work force housing, including low, very-low and moderate income housing for the development anticipated in the receiving area and which are applied through the adoption by the local government of zoning and land development regulations applicable to the rural land stewardship area.

d. A process which encourages visioning pursuant to s. 163.3167(11) to ensure that innovative planning and development strategies comply with the provisions of this section.

e. The control of sprawl through the use of innovative strategies and creative land use techniques consistent with the provisions of this subsection and rule 9J-5.006(5)(1), Florida Administrative Code.

5. A receiving area shall be designated by the adoption of a land development regulation. Prior to the designation of a receiving area, the local government shall provide the Department of Community Affairs a period of 30 days in which to review a proposed receiving area for consistency with the rural land stewardship area plan amendment and to provide comments to the local government. At the time of designation of a stewardship receiving area, a listed species survey will be performed. If listed species occur on the receiving area site, the developer shall coordinate with each appropriate local, state, or federal agency to determine if adequate provisions have been made to protect those species in accordance with applicable regulations. In

determining the adequacy of provisions for the protection of listed species and their habitats, the rural land stewardship area shall be considered as a whole, and the impacts to areas to be developed as receiving areas shall be considered together with the environmental benefits of areas protected as sending areas in fulfilling this criteria.

6. Upon the adoption of a plan amendment creating a rural land stewardship area, the local government shall, by ordinance, establish the methodology for the creation, conveyance, and use of transferrable rural land use credits, otherwise referred to as stewardship credits, the application of assign to the area a certain number of credits, to be known as “transferable rural land use credits,” which shall not constitute a right to develop land, nor increase density of land, except as provided by this section. The total amount of transferable rural land use credits within assigned to the rural land stewardship area must enable the realization of the long-term vision and goals for correspond to the 25-year or greater projected population of the rural land stewardship area. Transferable rural land use credits are subject to the following limitations:

a. Transferable rural land use credits may only exist within a rural land stewardship area.

b. Transferable rural land use credits may only be used on lands designated as receiving areas and then solely for the purpose of implementing innovative planning and development strategies and creative land use planning techniques adopted by the local government pursuant to this section.

c. Transferable rural land use credits assigned to a parcel of land within a rural land stewardship area shall cease to exist if the parcel of land is removed from the rural land stewardship area by plan amendment.

d. Neither the creation of the rural land stewardship area by plan amendment nor the assignment of transferable rural land use credits by the local government shall operate to displace the underlying density of land uses assigned to a parcel of land within the rural land stewardship area; however, if transferable rural land use credits are transferred from a parcel for use within a designated receiving area, the underlying density assigned to the parcel of land shall cease to exist.

e. The underlying density on each parcel of land located within a rural land stewardship area shall not be increased or decreased by the local government, except as a result of the conveyance or use of transferable rural land use credits, as long as the parcel remains within the rural land stewardship area.

f. Transferable rural land use credits shall cease to exist on a parcel of land where the underlying density assigned to the parcel of land is utilized.

g. An increase in the density of use on a parcel of land located within a designated receiving area may occur only through the assignment or use of transferable rural land use credits and shall not require a plan amendment.

h. A change in the density of land use on parcels located within receiving areas shall be specified in a development order which reflects the total

number of transferable rural land use credits assigned to the parcel of land and the infrastructure and support services necessary to provide for a functional mix of land uses corresponding to the plan of development.

i. Land within a rural land stewardship area may be removed from the rural land stewardship area through a plan amendment.

j. Transferable rural land use credits may be assigned at different ratios of credits per acre according to the natural resource or other beneficial use characteristics of the land and according to the land use remaining following the transfer of credits, with the highest number of credits per acre assigned to the most environmentally valuable land or, in locations where the retention of and a lesser number of credits to be assigned to open space and agricultural land is a priority, to such lands.

k. The use or conveyance of transferable rural land use credits must be recorded in the public records of the county in which the property is located as a covenant or restrictive easement running with the land in favor of the county and either the Department of Environmental Protection, Department of Agriculture and Consumer Services, a water management district, or a recognized statewide land trust.

7. Owners of land within rural land stewardship areas should be provided incentives to enter into rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state agencies, water management districts, and local governments to achieve mutually agreed upon conservation objectives. Such incentives may include, but not be limited to, the following:

a. Opportunity to accumulate transferable mitigation credits.

b. Extended permit agreements.

c. Opportunities for recreational leases and ecotourism.

d. Payment for specified land management services on publicly owned land, or property under covenant or restricted easement in favor of a public entity.

e. Option agreements for sale to public entities or private land conservation entities, in either fee or easement, upon achievement of conservation objectives.

8. The department shall report to the Legislature on an annual basis on the results of implementation of rural land stewardship areas authorized by the department, including successes and failures in achieving the intent of the Legislature as expressed in this paragraph.

(e) The Legislature finds that mixed-use, high-density development is appropriate for urban infill and redevelopment areas. Mixed-use projects accommodate a variety of uses, including residential and commercial, and usually at higher densities that promote pedestrian-friendly, sustainable communities. The Legislature recognizes that mixed-use, high-density development improves the quality of life for residents and businesses in urban

areas. The Legislature finds that mixed-use, high-density redevelopment and infill benefits residents by creating a livable community with alternative modes of transportation. Furthermore, the Legislature finds that local zoning ordinances often discourage mixed-use, high-density development in areas that are appropriate for urban infill and redevelopment. The Legislature intends to discourage single-use zoning in urban areas which often leads to lower-density, land-intensive development outside an urban service area. Therefore, the Department of Community Affairs shall provide technical assistance to local governments in order to encourage mixed-use, high-density urban infill and redevelopment projects.

(f) The Legislature finds that a program for the transfer of development rights is a useful tool to preserve historic buildings and create public open spaces in urban areas. A program for the transfer of development rights allows the transfer of density credits from historic properties and public open spaces to areas designated for high-density development. The Legislature recognizes that high-density development is integral to the success of many urban infill and redevelopment projects. The Legislature intends to encourage high-density urban infill and redevelopment while preserving historic structures and open spaces. Therefore, the Department of Community Affairs shall provide technical assistance to local governments in order to promote the transfer of development rights within urban areas for high-density infill and redevelopment projects.

(g) The implementation of this subsection shall be subject to the provisions of this chapter, chapters 186 and 187, and applicable agency rules.

(h) The department may adopt rules necessary to implement the provisions of this subsection.

(12) A public school facilities element adopted to implement a school concurrency program shall meet the requirements of this subsection. Each county and each municipality within the county, unless exempt or subject to a waiver, must adopt a public school facilities element that is consistent with those adopted by the other local governments within the county and enter the interlocal agreement pursuant to s. 163.31777.

(a) The state land planning agency may provide a waiver to a county and to the municipalities within the county if the capacity rate for all schools within the school district is no greater than 100 percent and the projected 5-year capital outlay full-time equivalent student growth rate is less than 10 percent. The state land planning agency may allow for a single school to exceed the 100-percent limitation if it can be demonstrated that the capacity rate for that single school is not greater than 105 percent. In making this determination, the state land planning agency shall consider the following criteria:

1. Whether the exceedance is due to temporary circumstances;
2. Whether the projected 5-year capital outlay full time equivalent student growth rate for the school district is approaching the 10-percent threshold;

3. Whether one or more additional schools within the school district are at or approaching the 100-percent threshold; and

4. The adequacy of the data and analysis submitted to support the waiver request.

(b) A municipality in a nonexempt county is exempt if the municipality meets all of the following criteria for having no significant impact on school attendance:

1. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

2. The municipality has not annexed new land during the preceding 5 years in land use categories that permit residential uses that will affect school attendance rates.

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

~~(c)~~(a) A public school facilities element shall be based upon data and analyses that address, among other items, how level-of-service standards will be achieved and maintained. Such data and analyses must include, at a minimum, such items as: ~~the interlocal agreement adopted pursuant to s. 163.31777 and~~ the 5-year school district facilities work program adopted pursuant to s. 1013.35; the educational plant survey prepared pursuant to s. 1013.31 and an existing educational and ancillary plant map or map series; information on existing development and development anticipated for the next 5 years and the long-term planning period; an analysis of problems and opportunities for existing schools and schools anticipated in the future; an analysis of opportunities to collocate future schools with other public facilities such as parks, libraries, and community centers; an analysis of the need for supporting public facilities for existing and future schools; an analysis of opportunities to locate schools to serve as community focal points; projected future population and associated demographics, including development patterns year by year for the upcoming 5-year and long-term planning periods; and anticipated educational and ancillary plants with land area requirements.

~~(d)~~(b) The element shall contain one or more goals which establish the long-term end toward which public school programs and activities are ultimately directed.

~~(e)~~(c) The element shall contain one or more objectives for each goal, setting specific, measurable, intermediate ends that are achievable and mark progress toward the goal.

~~(f)~~(d) The element shall contain one or more policies for each objective which establish the way in which programs and activities will be conducted to achieve an identified goal.

~~(g)~~(e) The objectives and policies shall address items such as:

1. The procedure for an annual update process;
2. The procedure for school site selection;
3. The procedure for school permitting;
4. Provision for of supporting infrastructure necessary to support proposed schools, including potable water, wastewater, drainage, solid waste, transportation, and means by which to assure safe access to schools, including sidewalks, bicycle paths, turn lanes, and signalization;
5. Provision for colocation of other public facilities, such as parks, libraries, and community centers, in proximity to public schools;
6. Provision for location of schools proximate to residential areas and to complement patterns of development, including the location of future school sites so they serve as community focal points;
7. Measures to ensure compatibility of school sites and surrounding land uses;
8. Coordination with adjacent local governments and the school district on emergency preparedness issues, including the use of public schools to serve as emergency shelters; and
9. Coordination with the future land use element.

(h)(f) The element shall include one or more future conditions maps which depict the anticipated location of educational and ancillary plants, including the general location of improvements to existing schools or new schools anticipated over the 5-year, or long-term planning period. The maps will of necessity be general for the long-term planning period and more specific for the 5-year period. Maps indicating general locations of future schools or school improvements may not prescribe a land use on a particular parcel of land.

(i) The state land planning agency shall establish a phased schedule for adoption of the public school facilities element and the required updates to the public schools interlocal agreement pursuant to s. 163.31777. The schedule shall provide for each county and local government within the county to adopt the element and update to the agreement no later than December 1, 2008. Plan amendments to adopt a public school facilities element are exempt from the provisions of s. 163.3187(1).

(j) Failure to adopt the public school facility element, to enter into an approved interlocal agreement as required by subparagraph (6)(h)2. and 163.31777, or to amend the comprehensive plan as necessary to implement school concurrency, according to the phased schedule, shall result in a local government being prohibited from adopting amendments to the comprehensive plan which increase residential density until the necessary amendments have been adopted and transmitted to the state land planning agency.

(k) The state land planning agency may issue the school board a notice to show cause why sanctions should not be enforced for failure to enter into

an approved interlocal agreement as required by s. 163.31777 or for failure to implement the provisions of this act relating to public school concurrency. The school board may be subject to sanctions imposed by the Administration Commission directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.

(13) Local governments are encouraged to develop a community vision that provides for sustainable growth, recognizes its fiscal constraints, and protects its natural resources. At the request of a local government, the applicable regional planning council shall provide assistance in the development of a community vision.

(a) As part of the process of developing a community vision under this section, the local government must hold two public meetings with at least one of those meetings before the local planning agency. Before those public meetings, the local government must hold at least one public workshop with stakeholder groups such as neighborhood associations, community organizations, businesses, private property owners, housing and development interests, and environmental organizations.

(b) The local government must, at a minimum, discuss five of the following topics as part of the workshops and public meetings required under paragraph (a):

1. Future growth in the area using population forecasts from the Bureau of Economic and Business Research;

2. Priorities for economic development;

3. Preservation of open space, environmentally sensitive lands, and agricultural lands;

4. Appropriate areas and standards for mixed-use development;

5. Appropriate areas and standards for high-density commercial and residential development;

6. Appropriate areas and standards for economic-development opportunities and employment centers;

7. Provisions for adequate workforce housing;

8. An efficient, interconnected multimodal transportation system; and

9. Opportunities to create land use patterns that accommodate the issues listed in subparagraphs 1.-8.

(c) As part of the workshops and public meetings, the local government must discuss strategies for addressing the topics discussed under paragraph (b), including:

1. Strategies to preserve open space and environmentally sensitive lands, and to encourage a healthy agricultural economy, including innova-

tive planning and development strategies, such as the transfer of development rights;

2. Incentives for mixed-use development, including increased height and intensity standards for buildings that provide residential use in combination with office or commercial space;

3. Incentives for workforce housing;

4. Designation of an urban service boundary pursuant to subsection (2); and

5. Strategies to provide mobility within the community and to protect the Strategic Intermodal System, including the development of a transportation corridor management plan under s. 337.273.

(d) The community vision must reflect the community's shared concept for growth and development of the community, including visual representations depicting the desired land-use patterns and character of the community during a 10-year planning timeframe. The community vision must also take into consideration economic viability of the vision and private property interests.

(e) After the workshops and public meetings required under paragraph (a) are held, the local government may amend its comprehensive plan to include the community vision as a component in the plan. This plan amendment must be transmitted and adopted pursuant to the procedures in ss. 163.3184 and 163.3189 at public hearings of the governing body other than those identified in paragraph (a).

(f) Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

(g) A local government that has developed a community vision or completed a visioning process after July 1, 2000, and before July 1, 2005, which substantially accomplishes the goals set forth in this subsection and the appropriate goals, policies, or objectives have been adopted as part of the comprehensive plan or reflected in subsequently adopted land development regulations and the plan amendment incorporating the community vision as a component has been found in compliance is eligible for the incentives in s. 163.3184(17).

(14) Local governments are also encouraged to designate an urban service boundary. This area must be appropriate for compact, contiguous urban development within a 10-year planning timeframe. The urban service area boundary must be identified on the future land use map or map series. The local government shall demonstrate that the land included within the urban service boundary is served or is planned to be served with adequate public facilities and services based on the local government's adopted level-of-service standards by adopting a 10-year facilities plan in the capital improvements element which is financially feasible. The local government shall demonstrate that the amount of land within the urban service boundary does not exceed the amount of land needed to accommodate the projected

population growth at densities consistent with the adopted comprehensive plan within the 10-year planning timeframe.

(a) As part of the process of establishing an urban service boundary, the local government must hold two public meetings with at least one of those meetings before the local planning agency. Before those public meetings, the local government must hold at least one public workshop with stakeholder groups such as neighborhood associations, community organizations, businesses, private property owners, housing and development interests, and environmental organizations.

(b)1. After the workshops and public meetings required under paragraph (a) are held, the local government may amend its comprehensive plan to include the urban service boundary. This plan amendment must be transmitted and adopted pursuant to the procedures in ss. 163.3184 and 163.3189 at meetings of the governing body other than those required under paragraph (a).

2. This subsection does not prohibit new development outside an urban service boundary. However, a local government that establishes an urban service boundary under this subsection is encouraged to require a full-cost accounting analysis for any new development outside the boundary and to consider the results of that analysis when adopting a plan amendment for property outside the established urban service boundary.

(c) Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

(d) A local government that has adopted an urban service boundary before July 1, 2005, which substantially accomplishes the goals set forth in this subsection is not required to comply with paragraph (a) or subparagraph 1. of paragraph (b) in order to be eligible for the incentives under s. 163.3184(17). In order to satisfy the provisions of this paragraph, the local government must secure a determination from the state land planning agency that the urban service boundary adopted before July 1, 2005, substantially complies with the criteria of this subsection, based on data and analysis submitted by the local government to support this determination. The determination by the state land planning agency is not subject to administrative challenge.

Section 3. Section 163.31776, Florida Statutes, is repealed.

Section 4. Subsections (2), (5), (6), and (7) of section 163.31777, Florida Statutes, are amended to read:

163.31777 Public schools interlocal agreement.—

(2) At a minimum, the interlocal agreement must address interlocal-agreement requirements in s. 163.3180(13)(g), except for exempt local governments as provided in s. 163.3177(12), and must address the following issues:

(a) A process by which each local government and the district school board agree and base their plans on consistent projections of the amount,

type, and distribution of population growth and student enrollment. The geographic distribution of jurisdiction-wide growth forecasts is a major objective of the process.

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

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

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

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

(f) Participation of the local governments in the preparation of the annual update to the district school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 1013.35.

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

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

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

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

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

(6) Except as provided in subsection (7), municipalities meeting the exemption criteria in s. 163.3177(12) having no established need for a new school facility and meeting the following criteria are exempt from the requirements of subsections (1), (2), and (3):

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

(b) ~~The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 1013.35, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.~~

(7) At the time of the evaluation and appraisal report, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under s. 163.3177(12) subsection (6). If the municipality continues to meet these criteria and the district school board verifies in writing that no new school facilities will be needed within the 5-year and 10-year timeframes, the municipality shall continue to be exempt from the interlocal-agreement requirement. Each municipality exempt under s. 163.3177(12) subsection (6) must comply with the provisions of this section within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

Section 5. Paragraph (a) of subsection (1), subsection (2), paragraph (c) of subsection (4), subsections (5), (6), (7), (9), (10), (13), and (15) of section 163.3180, Florida Statutes, are amended, and subsections (16) and (17) are added to that section, to read:

163.3180 Concurrency.—

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

(2)(a) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall

be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent.

(b) Consistent with the public welfare, and except as otherwise provided in this section, parks and recreation facilities to serve new development shall be in place or under actual construction no later than 1 year after issuance by the local government of a certificate of occupancy or its functional equivalent. However, the acreage for such facilities shall be dedicated or be acquired by the local government prior to issuance by the local government of a certificate of occupancy or its functional equivalent, or funds in the amount of the developer's fair share shall be committed no later than prior to issuance by the local government's approval to commence construction ~~government of a certificate of occupancy or its functional equivalent.~~

(c) Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities ~~designated as part of the Florida Intrastate Highway System~~ needed to serve new development shall be in place or under actual construction within 3 not more than 5 years after the local government approves a building permit or its functional equivalent that results in traffic generation ~~issuance by the local government of a certificate of occupancy or its functional equivalent. Other transportation facilities needed to serve new development shall be in place or under actual construction no more than 3 years after issuance by the local government of a certificate of occupancy or its functional equivalent.~~

(4)

(c) The concurrency requirement, except as it relates to transportation facilities and public schools, 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.

(5)(a) The Legislature finds that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the concurrency requirement for transportation facilities is the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. Therefore, exceptions from the concur-

rency requirement for transportation facilities may be granted as provided by this subsection.

(b) A local government may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

1. Urban infill development,
2. Urban redevelopment,
3. Downtown revitalization, or
4. Urban infill and redevelopment under s. 163.2517.

(c) The Legislature also finds that developments located within urban infill, urban redevelopment, existing urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517 which pose only special part-time demands on the transportation system should be excepted from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.

(e) The local government shall adopt into the plan and implement strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment shall also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided. In addition, the strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area shall be accompanied by data and analysis justifying the size of the area.

(f) Prior to the designation of a concurrency exception area, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level of service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to

~~ss. 163.3177(3)(d) and 163.3180(9), in the comprehensive plan. These guidelines must include consideration of the impacts on the Florida Intrastate Highway System, as defined in s. 338.001. The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.~~

(g) Transportation concurrency exception areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.

(6) The Legislature finds that a de minimis impact is consistent with this part. A de minimis impact is an impact that would not affect more than 1 percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the local government. No impact will be de minimis if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility; provided however, that an impact of a single family home on an existing lot will constitute a de minimis impact on all roadways regardless of the level of the deficiency of the roadway. ~~Local governments are encouraged to adopt methodologies to encourage de minimis impacts on transportation facilities within an existing urban service area.~~ Further, no impact will be de minimis if it would exceed the adopted level-of-service standard of any affected designated hurricane evacuation routes. Each local government shall maintain sufficient records to ensure that the 110-percent criterion is not exceeded. Each local government shall submit annually, with its updated capital improvements element, a summary of the de minimis records. If the state land planning agency determines that the 110-percent criterion has been exceeded, the state land planning agency shall notify the local government of the exceedance and that no further de minimis exceptions for the applicable roadway may be granted until such time as the volume is reduced below the 110 percent. The local government shall provide proof of this reduction to the state land planning agency before issuing further de minimis exceptions.

(7) In order to promote infill development and redevelopment, one or more transportation concurrency management areas may be designated in a local government comprehensive plan. A transportation concurrency management area must be a compact geographic area with an existing network of roads where multiple, viable alternative travel paths or modes are available for common trips. A local government may establish an areawide level-of-service standard for such a transportation concurrency management area based upon an analysis that provides for a justification for the areawide level of service, how urban infill development or redevelopment will be promoted, and how mobility will be accomplished within the transportation concurrency management area. Prior to the designation of a concurrency management area, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed concurrency

management area is expected to have on the adopted level of service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to ss. 163.3177(3)(d) and 163.3180(9). Transportation concurrency management areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last. The state land planning agency shall amend chapter 9J-5, Florida Administrative Code, to be consistent with this subsection.

(9)(a) Each local government may adopt as a part of its plan, a long-term transportation and school concurrency management systems system with a planning period of up to 10 years for specially designated districts or areas where significant backlogs exist. The plan may include interim level-of-service standards on certain facilities and shall ~~may~~ rely on the local government's schedule of capital improvements for up to 10 years as a basis for issuing development orders that authorize commencement of construction permits in these designated districts or areas. The concurrency management system. ~~It~~ must be designed to correct existing deficiencies and set priorities for addressing backlogged facilities. The concurrency management system ~~It~~ must be financially feasible and consistent with other portions of the adopted local plan, including the future land use map.

(b) If a local government has a transportation or school facility backlog for existing development which cannot be adequately addressed in a 10-year plan, the state land planning agency may allow it to develop a plan and long-term schedule of capital improvements covering ~~of~~ up to 15 years for good and sufficient cause, based on a general comparison between that local government and all other similarly situated local jurisdictions, using the following factors:

1. The extent of the backlog.
2. For roads, whether the backlog is on local or state roads.
3. The cost of eliminating the backlog.
4. The local government's tax and other revenue-raising efforts.

(c) The local government may issue approvals to commence construction notwithstanding s. 163.3180, consistent with and in areas that are subject to a long-term concurrency management system.

(d) If the local government adopts a long-term concurrency management system, it must evaluate the system periodically. At a minimum, the local government must assess its progress toward improving levels of service within the long-term concurrency management district or area in the evaluation and appraisal report and determine any changes that are necessary to accelerate progress in meeting acceptable levels of service.

(10) With regard to roadway facilities on the Strategic Intermodal System designated in accordance with ss. 339.61, 339.62, 339.63, and 339.64, the Florida Intrastate Highway System as defined in s. 338.001, and roadway facilities funded in accordance with s. 339.2819 with concurrence from the Department of Transportation, the level-of-service standard for general lanes in urbanized areas, as defined in s. 334.03(36), may be established by the local government in the comprehensive plan. For all other facilities on the Florida Intrastate Highway System, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

(13) ~~School concurrency, if imposed by local option, shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). School concurrency shall not become effective in a county until all local governments, except as provided in paragraph (f), have adopted the necessary plan amendments, which together with the interlocal agreement, are determined to be in compliance with the requirements of this part. The minimum requirements for school concurrency are the following:~~

(a) Public school facilities element.—A local government shall adopt and transmit to the state land planning agency a plan or plan amendment which includes a public school facilities element which is consistent with the requirements of s. 163.3177(12) and which is determined to be in compliance as defined in s. 163.3184(1)(b). All local government public school facilities plan elements within a county must be consistent with each other as well as the requirements of this part.

(b) Level-of-service standards.—The Legislature recognizes that an essential requirement for a concurrency management system is the level of service at which a public facility is expected to operate.

1. Local governments and school boards imposing school concurrency shall exercise authority in conjunction with each other to establish jointly adequate level-of-service standards, as defined in chapter 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan, based on data and analysis.

2. Public school level-of-service standards shall be included and adopted into the capital improvements element of the local comprehensive plan and shall apply districtwide to all schools of the same type. Types of schools may include elementary, middle, and high schools as well as special purpose facilities such as magnet schools.

3. Local governments and school boards shall have the option to utilize tiered level-of-service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

(c) Service areas.—The Legislature recognizes that an essential requirement for a concurrency system is a designation of the area within which the level of service will be measured when an application for a residential development permit is reviewed for school concurrency purposes. This delineation is also important for purposes of determining whether the local government has a financially feasible public school capital facilities program that will provide schools which will achieve and maintain the adopted level-of-service standards.

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to initially apply school concurrency to development only on a districtwide basis so that a concurrency determination for a specific development will be based upon the availability of school capacity districtwide. To ensure that development is coordinated with schools having available capacity, within 5 years after adoption of school concurrency, local governments shall apply school concurrency on a less than districtwide basis, such as using school attendance zones or concurrency service areas, as provided in subparagraph 2.

2. For local governments applying school concurrency on a less than districtwide basis, such as utilizing school attendance zones or larger school concurrency service areas, local governments and school boards shall have the burden to demonstrate that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified and, included as supporting data and analysis for, and adopted as part of the comprehensive plan. ~~Any subsequent change to the service area boundaries for purposes of a school concurrency system shall be by plan amendment and shall be exempt from the limitation on the frequency of plan amendments in s. 163.3187(1).~~

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concur-

rency service areas, if the adopted level-of-service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, then the local government may not deny an application for site plan or final subdivision approval or the functional equivalent for a development or phase of a development on the basis of school concurrency, and if order shall be issued, development impacts shall be shifted to contiguous service areas with schools having available capacity and mitigation measures shall not be exacted.

(d) Financial feasibility.—The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level-of-service standard. This part and chapter 9J-5, Florida Administrative Code, contain specific standards to determine the financial feasibility of capital programs. These standards were adopted to make concurrency more predictable and local governments more accountable.

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

2. Such amendments shall demonstrate that the public school capital facilities program meets all of the financial feasibility standards of this part and chapter 9J-5, Florida Administrative Code, that apply to capital programs which provide the basis for mandatory concurrency on other public facilities and services.

3. When the financial feasibility of a public school capital facilities program is evaluated by the state land planning agency for purposes of a compliance determination, the evaluation shall be based upon the service areas selected by the local governments and school board.

(e) Availability standard.—Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development ~~permit~~ authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local ~~option~~ school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the permit issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency shall be satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on pub-

lic school facilities shall be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a binding development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased overall residential density. The district school board shall be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement.

4. This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home-rule regulatory powers, except as provided in this part.

(f) Intergovernmental coordination.—

1. When establishing concurrency requirements for public schools, a local government shall satisfy the requirements for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2., except that a municipality is not required to be a signatory to the interlocal agreement required by ss. s. 163.3177(6)(h)2. and 163.31777(6), as a prerequisite for imposition of school concurrency, and as a nonsignatory, shall not participate in the adopted local school concurrency system, if the municipality meets all of the following criteria for having no significant impact on school attendance:

a. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

b. The municipality has not annexed new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates.

- c. The municipality has no public schools located within its boundaries.
- d. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

2. A municipality which qualifies as having no significant impact on school attendance pursuant to the criteria of subparagraph 1. must review and determine at the time of its evaluation and appraisal report pursuant to s. 163.3191 whether it continues to meet the criteria pursuant to s. 163.3177(6). If the municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments based on the evaluation and appraisal report, and enter into the existing interlocal agreement required by ss. s-163.3177(6)(h)2. and 163.31777, in order to fully participate in the school concurrency system. If such a municipality fails to do so, it will be subject to the enforcement provisions of s. 163.3191.

(g) Interlocal agreement for school concurrency.—When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement ~~that which~~ satisfies the requirements in ss. s-163.3177(6)(h)1. and 2. and 163.31777 and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of ss. s-163.3177(6)(h) and 163.31777, the interlocal agreement shall meet the following requirements:

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

~~2.—Establish a process by which each local government and the school board shall agree and base their plans on consistent projections of the amount, type, and distribution of population growth and coordinate and share information relating to existing and planned public school facilities projections and proposals for development and redevelopment, and infrastructure required to support public school facilities.~~

2.3. Establish a process for the development of siting criteria which encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

3.4. Specify uniform, districtwide level-of-service standards for public schools of the same type and the process for modifying the adopted level-of-service standards.

4.5. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

5.6. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

6.7. Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

~~7.8. Include provisions relating to termination, suspension, and amendment of the agreement. The agreement shall provide that if the agreement is terminated or suspended, the application of school concurrency shall be terminated or suspended.~~

8. A process and uniform methodology for determining proportionate-share mitigation pursuant to subparagraph (e)1.

(h) This subsection does not limit the authority of a local government to grant or deny a development permit or its functional equivalent prior to the implementation of school concurrency.

(15)(a) Multimodal transportation districts may be established under a local government comprehensive plan in areas delineated on the future land use map for which the local comprehensive plan assigns secondary priority to vehicle mobility and primary priority to assuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit. Such districts must incorporate community design features that will

reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system. Prior to the designation of multimodal transportation districts, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed multimodal district area is expected to have on the adopted level of service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including the development of a long-term concurrency management system pursuant to ss. 163.3177(3)(d) and 163.3180(9). Multimodal transportation districts existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.

(b) Community design elements of such a district include: a complementary mix and range of land uses, including educational, recreational, and cultural uses; interconnected networks of streets designed to encourage walking and bicycling, with traffic-calming where desirable; appropriate densities and intensities of use within walking distance of transit stops; daily activities within walking distance of residences, allowing independence to persons who do not drive; public uses, streets, and squares that are safe, comfortable, and attractive for the pedestrian, with adjoining buildings open to the street and with parking not interfering with pedestrian, transit, automobile, and truck travel modes.

(c) Local governments may establish multimodal level-of-service standards that rely primarily on nonvehicular modes of transportation within the district, when justified by an analysis demonstrating that the existing and planned community design will provide an adequate level of mobility within the district based upon professionally accepted multimodal level-of-service methodologies. ~~The analysis must take into consideration the impact on the Florida Intrastate Highway System.~~ The analysis must also demonstrate that the capital improvements required to promote community design are financially feasible over the development or redevelopment timeframe for the district and that community design features within the district provide convenient interconnection for a multimodal transportation system. Local governments may issue development permits in reliance upon all planned community design capital improvements that are financially feasible over the development or redevelopment timeframe for the district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements. A determination of financial feasibility shall be based upon currently available funding or funding sources that could reasonably be expected to become available over the planning period.

(d) Local governments may reduce impact fees or local access fees for development within multimodal transportation districts based on the reduction of vehicle trips per household or vehicle miles of travel expected from the development pattern planned for the district.

(16) It is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors. The methodology used to calculate proportionate fair-share mitigation under this section shall be as provided for in s. 163.3180(12).

(a) By December 1, 2006, each local government shall adopt by ordinance a methodology for assessing proportionate fair-share mitigation options. By December 1, 2005, the Department of Transportation shall develop a model transportation concurrency management ordinance with methodologies for assessing proportionate fair-share mitigation options.

(b)1. In its transportation concurrency management system, a local government shall, by December 1, 2006, include methodologies that will be applied to calculate proportionate fair-share mitigation. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on s. 163.3177(3) and s. 163.164(32) if additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

2. Proportionate fair-share mitigation shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the local government's impact fee ordinance.

(c) Proportionate fair-share mitigation includes, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities and may include public funds as determined by the local government. The fair market value of the proportionate fair-share mitigation shall not differ based on the form of mitigation. A local government may not require a development to pay more than its proportionate fair-share contribution regardless of the method of mitigation.

(d) Nothing in this subsection shall require a local government to approve a development that is not otherwise qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

(e) Mitigation for development impacts to facilities on the Strategic Intermodal System made pursuant to this subsection requires the concurrence of the Department of Transportation.

(f) In the event the funds in an adopted 5-year capital improvements element are insufficient to fully fund construction of a transportation improvement required by the local government's concurrency management system, a local government and a developer may still enter into a binding proportionate share agreement authorizing the developer to construct that amount of development on which the proportionate share is calculated if the proportionate share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate share component must be adopted into the 5-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update.

(g) Except as provided in subparagraph (b)1., nothing in this section shall prohibit the Department of Community Affairs from finding other portions of the capital improvements element amendments not in compliance as provided in this chapter.

(h) The provisions of this subsection do not apply to a multiuse development of regional impact satisfying the requirements of subsection (12).

Section 6. Subsections (17) and (18) are added to section 163.3184, Florida Statutes, to read:

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

(17) A local government that has adopted a community vision and urban service boundary under s. 163.31773(13) and (14) may adopt a plan amendment related to map amendments solely to property within an urban service boundary in the manner described in subsections (1), (2), (7), (14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that state and regional agency review is eliminated. The department may not issue an objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by paragraph (1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment. This subsection does not apply to any amendment within an area of critical state concern, to any amendment that increases residential densities allowable in high-hazard coastal areas as defined in s. 163.3178(2)(h), or to a text change to the goals, policies, or objectives of the local government's comprehensive plan. Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

(18) A municipality that has a designated urban infill and redevelopment area under s. 163.2517 may adopt a plan amendment related to map amendments solely to property within a designated urban infill and redevelopment area in the manner described in subsections (1), (2), (7), (14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., 3., such that state and regional agency review is eliminated. The department may not issue an objections, recommendations, and comments report on proposed plan amendments or a notice

of intent on adopted plan amendments; however, affected persons, as defined by paragraph (1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment. This subsection does not apply to any amendment within an area of critical state concern, to any amendment that increases residential densities allowable in high-hazard coastal areas as defined in s. 163.3178(2)(h), or to a text change to the goals, policies, or objectives of the local government's comprehensive plan. Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

Section 7. Paragraph (c) of subsection (1) is amended and paragraph (o) is added to section 163.3187, Florida Statutes, to read:

163.3187 Amendment of adopted comprehensive plan.—

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

(c) Any local government comprehensive plan amendments directly related to proposed small scale development activities may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan. A small scale development amendment may be adopted only under the following conditions:

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

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

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-paragraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

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

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

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

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

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

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

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement or extended use agreement recorded in conjunction with the issuance of tax exempt bond financing or an allocation of federal tax credits issued through the Florida Housing Finance Corporation or a local housing finance authority authorized by the Division of Bond Finance of the State Board of Administration, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

2.a. A local government that proposes to consider a plan amendment pursuant to this paragraph is not required to comply with the procedures and public notice requirements of s. 163.3184(15)(c) for such plan amendments if the local government complies with the provisions in s. 125.66(4)(a) for a county or in s. 166.041(3)(c) for a municipality. If a request for a plan amendment under this paragraph is initiated by other than the local government, public notice is required.

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

3. Small scale development amendments adopted pursuant to this paragraph require only one public hearing before the governing board, which

shall be an adoption hearing as described in s. 163.3184(7), and are not subject to the requirements of s. 163.3184(3)-(6) unless the local government elects to have them subject to those requirements.

4. If the small scale development amendment involves a site within an area that is designated by the Governor as a rural area of critical economic concern under s. 288.0656(7) for the duration of such designation, the 10-acre limit listed in subparagraph 1. shall be increased by 100 percent to 20 acres. The local government approving the small scale plan amendment shall certify to the Office of Tourism, Trade, and Economic Development that the plan amendment furthers the economic objectives set forth in the executive order issued under s. 288.0656(7), and the property subject to the plan amendment shall undergo public review to ensure that all concurrency requirements and federal, state, and local environmental permit requirements are met.

(d) Any comprehensive plan amendment required by a compliance agreement pursuant to s. 163.3184(16) may be approved without regard to statutory limits on the frequency of adoption of amendments to the comprehensive plan.

(e) A comprehensive plan amendment for location of a state correctional facility. Such an amendment may be made at any time and does not count toward the limitation on the frequency of plan amendments.

(f) Any comprehensive plan amendment that changes the schedule in the capital improvements element, and any amendments directly related to the schedule, may be made once in a calendar year on a date different from the two times provided in this subsection when necessary to coincide with the adoption of the local government's budget and capital improvements program.

(g) Any local government comprehensive plan amendments directly related to proposed redevelopment of brownfield areas designated under s. 376.80 may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan.

(h) Any comprehensive plan amendments for port transportation facilities and projects that are eligible for funding by the Florida Seaport Transportation and Economic Development Council pursuant to s. 311.07.

(i) A comprehensive plan amendment for the purpose of designating an urban infill and redevelopment area under s. 163.2517 may be approved without regard to the statutory limits on the frequency of amendments to the comprehensive plan.

(j) Any comprehensive plan amendment to establish public school concurrency pursuant to s. 163.3180(13), including, but not limited to, adoption of a public school facilities element and adoption of amendments to the capital improvements element and intergovernmental coordination element. In order to ensure the consistency of local government public school facilities elements within a county, such elements shall be prepared and adopted on a similar time schedule.

(k) A local comprehensive plan amendment directly related to providing transportation improvements to enhance life safety on Controlled Access Major Arterial Highways identified in the Florida Intrastate Highway System, in counties as defined in s. 125.011, where such roadways have a high incidence of traffic accidents resulting in serious injury or death. Any such amendment shall not include any amendment modifying the designation on a comprehensive development plan land use map nor any amendment modifying the allowable densities or intensities of any land.

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

(m) A comprehensive plan amendment that addresses criteria or compatibility of land uses adjacent to or in close proximity to military installations in a local government's future land use element does not count toward the limitation on the frequency of the plan amendments.

(n) Any local government comprehensive plan amendment establishing or implementing a rural land stewardship area pursuant to the provisions of s. 163.3177(11)(d).

(o) A comprehensive plan amendment that is submitted by an area designated by the Governor as a rural area of critical economic concern under s. 288.0656(7) and that meets the economic development objectives may be approved without regard to the statutory limits on the frequency of adoption of amendments to the comprehensive plan.

Section 8. Subsections (2) and (10) of section 163.3191, Florida Statutes, are amended to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

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

(a) Population growth and changes in land area, including annexation, since the adoption of the original plan or the most recent update amendments.

(b) The extent of vacant and developable land.

(c) The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element, as well as the ability to address infrastructure backlogs and meet the demands of growth on public services and facilities.

(d) The location of existing development in relation to the location of development as anticipated in the original plan, or in the plan as amended

by the most recent evaluation and appraisal report update amendments, such as within areas designated for urban growth.

(e) An identification of the major issues for the jurisdiction and, where pertinent, the potential social, economic, and environmental impacts.

(f) Relevant changes to the state comprehensive plan, the requirements of this part, the minimum criteria contained in chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments.

(g) An assessment of whether the plan objectives within each element, as they relate to major issues, have been achieved. The report shall include, as appropriate, an identification as to whether unforeseen or unanticipated changes in circumstances have resulted in problems or opportunities with respect to major issues identified in each element and the social, economic, and environmental impacts of the issue.

(h) A brief assessment of successes and shortcomings related to each element of the plan.

(i) The identification of any actions or corrective measures, including whether plan amendments are anticipated to address the major issues identified and analyzed in the report. Such identification shall include, as appropriate, new population projections, new revised planning timeframes, a revised future conditions map or map series, an updated capital improvements element, and any new and revised goals, objectives, and policies for major issues identified within each element. This paragraph shall not require the submittal of the plan amendments with the evaluation and appraisal report.

(j) A summary of the public participation program and activities undertaken by the local government in preparing the report.

(k) The coordination of the comprehensive plan with existing public schools and those identified in the applicable educational facilities plan adopted pursuant to s. 1013.35. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities. For those counties or municipalities that do not have a public schools interlocal agreement or public school facility element, the assessment shall determine whether the local government continues to meet the criteria of s. 163.3177(12). If the county or municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments pursuant to the requirements of the public school facility element, and enter into the existing interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777 in order to fully participate in the school concurrency system. If the issues are not relevant, the local government shall demonstrate that they are not relevant.

(l) The extent to which the local government has been successful in identifying alternative water supply projects and traditional water supply projects, including conservation and reuse, necessary to meet the water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction. The report must evaluate the degree to which the local government has implemented the work plan for building public, private, and regional water supply facilities, including development of alternative water supplies. The evaluation must consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. The potable water element must be revised to include a work plan, covering at least a 10-year planning period, for building any water supply facilities that are identified in the element as necessary to serve existing and new development and for which the local government is responsible.

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

(n) An assessment of whether the criteria adopted pursuant to s. 163.3177(6)(a) were successful in achieving compatibility with military installations.

(o) The extent to which a concurrency exception area designated pursuant to s. 163.3180(5), a concurrency management area designated pursuant to s. 163.3180(7), or a multimodal transportation district designated pursuant to s. 163.3180(15) has achieved the purpose for which it was created and otherwise complies with the provisions of s. 163.3180.

(p) An assessment of the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing its concurrency management system in coordination with the municipalities and counties, as appropriate pursuant to s. 163.3180(10).

(10) The governing body shall amend its comprehensive plan based on the recommendations in the report and shall update the comprehensive plan based on the components of subsection (2), pursuant to the provisions of ss. 163.3184, 163.3187, and 163.3189. Amendments to update a comprehensive plan based on the evaluation and appraisal report shall be adopted during a single amendment cycle within 18 months after the report is determined to be sufficient by the state land planning agency, except the state land planning agency may grant an extension for adoption of a portion of such amendments. The state land planning agency may grant a 6-month extension for the adoption of such amendments if the request is justified by good and sufficient cause as determined by the agency. An additional extension

may also be granted if the request will result in greater coordination between transportation and land use, for the purposes of improving Florida's transportation system, as determined by the agency in coordination with the Metropolitan Planning Organization program. Beginning July 1, 2006, failure to timely adopt and transmit update amendments to the comprehensive plan based on the evaluation and appraisal report shall result in a local government being prohibited from adopting amendments to the comprehensive plan until the evaluation and appraisal report update amendments have been adopted and transmitted to the state land planning agency. The prohibition on plan amendments shall commence when the update amendments to the comprehensive plan are past due. The comprehensive plan as amended shall be in compliance as defined in s. 163.3184(1)(b). Within 6 months after the effective date of the update amendments to the comprehensive plan, the local government shall provide to the state land planning agency and to all agencies designated by rule a complete copy of the updated comprehensive plan.

Section 9. Paragraph (b) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(b)1. A tentative work program, including the ensuing fiscal year and the successive 4 fiscal years, shall be prepared for the State Transportation Trust Fund and other funds managed by the department, unless otherwise provided by law. The tentative work program shall be based on the district work programs and shall set forth all projects by phase to be undertaken during the ensuing fiscal year and planned for the successive 4 fiscal years. The total amount of the liabilities accruing in each fiscal year of the tentative work program may not exceed the revenues available for expenditure during the respective fiscal year based on the cash forecast for that respective fiscal year.

2. The tentative work program shall be developed in accordance with the Florida Transportation Plan required in s. 339.155 and must comply with the program funding levels contained in the program and resource plan.

3. The department may include in the tentative work program proposed changes to the programs contained in the previous work program adopted pursuant to subsection (5); however, the department shall minimize changes and adjustments that affect the scheduling of project phases in the 4 common fiscal years contained in the previous adopted work program and the tentative work program. The department, in the development of the tentative work program, shall advance by 1 fiscal year all projects included in the second year of the previous year's adopted work program, unless the secretary specifically determines that it is necessary, for specific reasons, to reschedule or delete one or more projects from that year. Such changes and adjustments shall be clearly identified, and the effect on the 4 common fiscal years contained in the previous adopted work program and the tentative

work program shall be shown. It is the intent of the Legislature that ~~the first 5 years of the adopted work program for facilities designated as part of the Florida Intrastate Highway System and the first 3 years of the adopted work program stand as the commitment of the state to undertake transportation projects that local governments may rely on for planning and concurrency purposes and in the development and amendment of the capital improvements elements of their local government comprehensive plans.~~

4. The tentative work program must include a balanced 36-month forecast of cash and expenditures and a 5-year finance plan supporting the tentative work program.

Section 10. The Office of Program Policy Analysis and Government Accountability shall perform a study on adjustments to the boundaries of Florida Regional Planning Councils, Florida Water Management Districts, and Department of Transportation Districts. The purpose of this study is to organize these regional boundaries to be more coterminous with one another, creating a more unified system of regional boundaries. This study must be completed by December 31, 2005, and submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor by January 15, 2006.

Section 11. Section 163.3247, Florida Statutes, is created to read:

163.3247 Century Commission for a Sustainable Florida.—

(1) POPULAR NAME.—This section may be cited as the “Century Commission for a Sustainable Florida Act.”

(2) FINDINGS AND INTENT.—The Legislature finds and declares that the population of this state is expected to more than double over the next 100 years, with commensurate impacts to the state’s natural resources and public infrastructure. Consequently, it is in the best interests of the people of the state to ensure sound planning for the proper placement of this growth and protection of the state’s land, water, and other natural resources since such resources are essential to our collective quality of life and a strong economy. The state’s growth management system should foster economic stability through regional solutions and strategies, urban renewal and infill, and the continued viability of agricultural economies, while allowing for rural economic development and protecting the unique characteristics of rural areas, and should reduce the complexity of the regulatory process while carrying out the intent of the laws and encouraging greater citizen participation.

(3) CENTURY COMMISSION FOR A SUSTAINABLE FLORIDA; CREATION; ORGANIZATION.—The Century Commission for a Sustainable Florida is created as a standing body to help the citizens of this state envision and plan their collective future with an eye towards both 25-year and 50-year horizons.

(a) The commission shall consist of fifteen members, five appointed by the Governor, five appointed by the President of the Senate, and five appointed by the Speaker of the House of Representatives. Appointments shall

be made no later than October 1, 2005. The membership must represent local governments, school boards, developers and homebuilders, the business community, the agriculture community, the environmental community, and other appropriate stakeholders. One member shall be designated by the Governor as chair of the commission. Any vacancy that occurs on the commission must be filled in the same manner as the original appointment and shall be for the unexpired term of that commission seat. Members shall serve 4-year terms, except that, initially, to provide for staggered terms, the Governor, the President of the Senate, and the Speaker of the House of Representatives, shall each appoint one member to serve a 2-year term, two members to serve 3-year terms, and two members to serve 4-year terms. All subsequent appointments shall be for 4-year terms. An appointee may not serve more than 6 years.

(b) The first meeting of the commission shall be held no later than December 1, 2005, and shall meet at the call of the chair but not less frequently than three times per year in different regions of the state to solicit input from the public or any other individuals offering testimony relevant to the issues to be considered.

(c) Each member of the commission is entitled to one vote and actions of the commission are not binding unless taken by a three-fifths vote of the members present. A majority of the members is required to constitute a quorum, and the affirmative vote of a quorum is required for a binding vote.

(d) Members of the commission shall serve without compensation but shall be entitled to receive per diem and travel expenses in accordance with s. 112.061 while in performance of their duties.

(4) POWERS AND DUTIES.—The commission shall:

(a) Annually conduct a process through which the commission envisions the future for the state and then develops and recommends policies, plans, action steps, or strategies to assist in achieving the vision.

(b) Continuously review and consider statutory and regulatory provisions, governmental processes, and societal and economic trends in its inquiry of how state, regional, and local governments and entities and citizens of this state can best accommodate projected increased populations while maintaining the natural, historical, cultural, and manmade life qualities that best represent the state.

(c) Bring together people representing varied interests to develop a shared image of the state and its developed and natural areas. The process should involve exploring the impact of the estimated population increase and other emerging trends and issues; creating a vision for the future; and developing a strategic action plan to achieve that vision using 25-year and 50-year intermediate planning timeframes.

(d) Focus on essential state interests, defined as those interests that transcend local or regional boundaries and are most appropriately conserved, protected, and promoted at the state level.

(e) Serve as an objective, nonpartisan repository of exemplary community-building ideas and as a source to recommend strategies and practices to assist others in working collaboratively to problem solve on issues relating to growth management.

(f) Annually, beginning January 16, 2007, and every year thereafter on the same date, provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a written report containing specific recommendations for addressing growth management in the state, including executive and legislative recommendations. Further, the report shall contain discussions regarding the need for intergovernmental cooperation and the balancing of environmental protection and future development and recommendations on issues, including, but not limited to, recommendations regarding dedicated sources of funding for sewer facilities, water supply and quality, transportation facilities that are not adequately addressed by the Strategic Intermodal System, and educational infrastructure to support existing development and projected population growth.

(g) Beginning with the 2007 Regular Session of the Legislature, the President of the Senate and Speaker of the House of Representatives shall create a joint select committee, the task of which shall be to review the findings and recommendations of the Century Commission for a Sustainable Florida for potential action.

(5) EXECUTIVE DIRECTOR; STAFF AND OTHER ASSISTANCE.—

(a) The Secretary of Community Affairs shall select an executive director of the commission, and the executive director shall serve at the pleasure of the secretary under the supervision and control of the commission.

(b) The Department of Community Affairs shall provide staff and other resources necessary to accomplish the goals of the commission based upon recommendations of the Governor.

(c) All agencies under the control of the Governor are directed, and all other agencies are requested, to render assistance to, and cooperate with, the commission.

Section 12. Section 339.2819, Florida Statutes, is created to read:

339.2819 Transportation Regional Incentive Program.—

(1) There is created within the Department of Transportation a Transportation Regional Incentive Program for the purpose of providing funds to improve regionally significant transportation facilities in regional transportation areas created pursuant to s. 339.155(5).

(2) The percentage of matching funds provided from the Transportation Regional Incentive Program shall be 50 percent of project costs, or up to 50 percent of the nonfederal share of the eligible project cost for a public transportation facility project.

(3) The department shall allocate funding available for the Transportation Regional Incentive Program to the districts based on a factor derived

from equal parts of population and motor fuel collections for eligible counties in regional transportation areas created pursuant to s. 339.155(5).

(4)(a) Projects to be funded with Transportation Regional Incentive Program funds shall, at a minimum:

1. Support those transportation facilities that serve national, statewide, or regional functions and function as an integrated regional transportation system.

2. Be identified in the capital improvements element of a comprehensive plan that has been determined to be in compliance with part II of chapter 163, after July 1, 2005, or to implement a long-term concurrency management system adopted by a local government in accordance with s. 163.3177(9). Further, the project shall be in compliance with local government comprehensive plan policies relative to corridor management.

3. Be consistent with the Strategic Intermodal System Plan developed under s. 339.64.

4. Have a commitment for local, regional, or private financial matching funds as a percentage of the overall project cost.

(b) In allocating Transportation Regional Incentive Program funds, priority shall be given to projects that:

1. Provide connectivity to the Strategic Intermodal System developed under s. 339.64.

2. Support economic development and the movement of goods in rural areas of critical economic concern designated under s. 288.0656(7).

3. Are subject to a local ordinance that establishes corridor management techniques, including access management strategies, right-of-way acquisition and protection measures, appropriate land use strategies, zoning, and setback requirements for adjacent land uses.

4. Improve connectivity between military installations and the Strategic Highway Network or the Strategic Rail Corridor Network.

(5) Funds paid into the State Transportation Trust Fund pursuant to s. 201.15(1)(d) for the purposes of the Transportation Regional Incentive Program are hereby annually appropriated for expenditure to support that program.

Section 13. Section 337.107, Florida Statutes, is amended to read:

337.107 Contracts for right-of-way services.—The department may enter into contracts pursuant to s. 287.055 for right-of-way services on transportation corridors and transportation facilities, or the department may include right-of-way services as part of design-build contracts awarded under s. 337.11. Right-of-way services include negotiation and acquisition services, appraisal services, demolition and removal of improvements, and asbestos-abatement services.

Section 14. Effective July 1, 2007, section 337.107, Florida Statutes, as amended by this act is amended to read:

337.107 Contracts for right-of-way services.—The department may enter into contracts pursuant to s. 287.055 for right-of-way services on transportation corridors and transportation facilities, ~~or the department may include right-of-way services as part of design-build contracts awarded under s. 337.11.~~ Right-of-way services include negotiation and acquisition services, appraisal services, demolition and removal of improvements, and asbestos-abatement services.

Section 15. Paragraph (a) of subsection (7) of section 337.11, Florida Statutes, is amended to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(7)(a) If the head of the department determines that it is in the best interests of the public, the department may combine the right-of-way services and design and construction phases of any a building, a major bridge, a limited access facility, or a rail corridor project into a single contract, except for a resurfacing or minor bridge project, the right-of-way services and design and construction phases of which may be combined under s. 337.025. Such contract is referred to as a design-build contract. Design-build contracts may be advertised and awarded notwithstanding the requirements of paragraph (3)(c). However, construction activities may not begin on any portion of such projects until title to the necessary rights-of-way and easements for the construction of that portion of the project has vested in the state or a local governmental entity and all railroad crossing and utility agreements have been executed. Title to rights-of-way vests in the state when the title has been dedicated to the public or acquired by prescription.

Section 16. Effective July 1, 2007, paragraph (a) of subsection (7) of section 337.11, Florida Statutes, as amended by this act, is amended to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(7)(a) If the head of the department determines that it is in the best interests of the public, the department may combine the ~~right-of-way services and design and construction phases of a building, a major bridge, a limited access facility, or a rail corridor~~ any project into a single contract, ~~except for a resurfacing or minor bridge project, the right-of-way services and design and construction phase of which may be combined under s. 337.025.~~ Such contract is referred to as a design-build contract. Design-build contracts may be advertised and awarded notwithstanding the requirements of paragraph (3)(c). However, construction activities may not begin on any portion of such projects for which the department has not yet obtained title to the necessary rights-of-way and easements for the construc-

tion of that portion of the project has vested in the state or a local governmental entity and all railroad crossing and utility agreements have been executed. Title to rights-of-way shall be deemed to have vested in the state when the title has been dedicated to the public or acquired by prescription.

Section 17. Paragraphs (l), (m), and (n) are added to subsection (24) of section 380.06, Florida Statutes, to read:

380.06 Developments of regional impact.—

(24) STATUTORY EXEMPTIONS.—

(l) Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary and has entered into a binding agreement with adjacent jurisdictions and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(m) Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(n) Any proposed development or redevelopment within an area designated as an urban infill and redevelopment area under s. 163.2517 is exempt from the provisions of this section if the local government has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

Section 18. Subsections (3), (7), and (8) of section 1013.33, Florida Statutes, are amended to read:

1013.33 Coordination of planning with local governing bodies.—

(3) At a minimum, the interlocal agreement must address interlocal agreement requirements in s. 163.3180(13)(g), except for exempt local governments as provided in s. 163.3177(12), and must address the following issues:

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

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

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

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

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

(f) Participation of the local governments in the preparation of the annual update to the school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 1013.35.

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

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

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

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

(7) Except as provided in subsection (8), municipalities meeting the exemption criteria in s. 163.3177(12) ~~having no established need for a new facility and meeting the following criteria~~ are exempt from the requirements of subsections (2), (3), and (4):

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

(b) ~~The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 1013.35, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.~~

(8) At the time of the evaluation and appraisal report, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under s. 163.3177(12) subsection (7). If the municipality continues to meet these criteria ~~and the district school board verifies in writing that no new school facilities will be needed within the 5-year and 10-year timeframes~~, the municipality shall continue to be exempt from the interlocal-agreement requirement. Each municipality exempt under s. 163.3177(12) subsection (7) must comply with the provisions of subsections (2)-(8) within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

Section 19. Subsection (2) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(2) Notwithstanding any other provisions of law, from the revenues deposited into the State Transportation Trust Fund a maximum of 7 percent in each fiscal year shall be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund created in s. 215.605, as needed to meet the requirements of the documents authorizing the bonds issued or proposed to be issued under ss. 215.605 and 337.276 or at a minimum amount sufficient to pay for the debt service coverage requirements of outstanding bonds. Notwithstanding the 7 percent annual transfer authorized in this subsection, the annual amount transferred under this subsection shall not exceed an amount necessary to provide the required debt service coverage levels for a maximum debt service not to exceed ~~\$275~~ \$200 million. Such transfer shall be payable primarily from the motor and diesel fuel taxes transferred to the State Transportation Trust Fund from the Fuel Tax Collection Trust Fund.

Section 20. Subsection (1) of section 339.08, Florida Statutes, is amended to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(1) The department shall expend moneys in the State Transportation Trust Fund accruing to the department, in accordance with its annual budget. The use of such moneys shall be restricted to the following purposes:

(a) To pay administrative expenses of the department, including administrative expenses incurred by the several state transportation districts, but excluding administrative expenses of commuter rail authorities that do not operate rail service.

- (b) To pay the cost of construction of the State Highway System.
- (c) To pay the cost of maintaining the State Highway System.
- (d) To pay the cost of public transportation projects in accordance with chapter 341 and ss. 332.003-332.007.
- (e) To reimburse counties or municipalities for expenditures made on projects in the State Highway System as authorized by s. 339.12(4) upon legislative approval.
- (f) To pay the cost of economic development transportation projects in accordance with s. 288.063.
- (g) To lend or pay a portion of the operating, maintenance, and capital costs of a revenue-producing transportation project that is located on the State Highway System or that is demonstrated to relieve traffic congestion on the State Highway System.
- (h) To match any federal-aid funds allocated for any other transportation purpose, including funds allocated to projects not located in the State Highway System.
- (i) To pay the cost of county road projects selected in accordance with the Small County Road Assistance Program created in s. 339.2816.
- (j) To pay the cost of county or municipal road projects selected in accordance with the County Incentive Grant Program created in s. 339.2817 and the Small County Outreach Program created in s. 339.2818.
- (k) To provide loans and credit enhancements for use in constructing and improving highway transportation facilities selected in accordance with the state-funded infrastructure bank created in s. 339.55.
- (l) To pay the cost of projects on the Florida Strategic Intermodal System created in s. 339.61.
- (m) To pay the cost of transportation projects selected in accordance with the Transportation Regional Incentive Program created in s. 339.2819.

(n)~~(m)~~ To pay other lawful expenditures of the department.

Section 21. Paragraphs (c), (d), and (e) are added to subsection (5) of section 339.155, Florida Statutes, to read:

339.155 Transportation planning.—

(5) ADDITIONAL TRANSPORTATION PLANS.—

(c) Regional transportation plans may be developed in regional transportation areas in accordance with an interlocal agreement entered into pursuant to s. 163.01 by two or more contiguous metropolitan planning organizations; one or more metropolitan planning organizations and one or more contiguous counties, none of which is a member of a metropolitan planning

organization; a multicounty regional transportation authority created by or pursuant to law; two or more contiguous counties that are not members of a metropolitan planning organization; or metropolitan planning organizations comprised of three or more counties.

(d) The interlocal agreement must, at a minimum, identify the entity that will coordinate the development of the regional transportation plan; delineate the boundaries of the regional transportation area; provide the duration of the agreement and specify how the agreement may be terminated, modified, or rescinded; describe the process by which the regional transportation plan will be developed; and provide how members of the entity will resolve disagreements regarding interpretation of the interlocal agreement or disputes relating to the development or content of the regional transportation plan. Such interlocal agreement shall become effective upon its recordation in the official public records of each county in the regional transportation area.

(e) The regional transportation plan developed pursuant to this section must, at a minimum, identify regionally significant transportation facilities located within a regional transportation area and contain a prioritized list of regionally significant projects. The level-of-service standards for facilities to be funded under this subsection shall be adopted by the appropriate local government in accordance with s. 163.3180(10). The projects shall be adopted into the capital improvements schedule of the local government comprehensive plan pursuant to s. 163.3177(3).

Section 22. Section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed. To ensure that the process is integrated with the statewide planning process, M.P.O.'s shall develop plans and programs that identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to facilities that serve important national, state, and regional transportation functions. For the purposes of this section, those facilities include the facilities on the Strategic Intermodal System designated under s. 339.63 and facilities for which projects have been identified pursuant to s. 339.2819(4).

(1) DESIGNATION.—

(a)1. An M.P.O. shall be designated for each urbanized area of the state; however, this does not require that an individual M.P.O. be designated for each such area. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the M.P.O. jurisdiction, as defined by the United States Bureau of the Census, must be a party to such agreement.

2. More than one M.P.O. may be designated within an existing metropolitan planning area only if the Governor and the existing M.P.O. determine that the size and complexity of the existing metropolitan planning area makes the designation of more than one M.P.O. for the area appropriate.

(b) Each M.P.O. shall be created and operated under the provisions of this section pursuant to an interlocal agreement entered into pursuant to s. 163.01. The signatories to the interlocal agreement shall be the department and the governmental entities designated by the Governor for membership on the M.P.O. If there is a conflict between this section and s. 163.01, this section prevails.

(c) The jurisdictional boundaries of an M.P.O. shall be determined by agreement between the Governor and the applicable M.P.O. The boundaries must include at least the metropolitan planning area, which is the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, and may encompass the entire metropolitan statistical area or the consolidated metropolitan statistical area.

(d) In the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in this section. If more than one M.P.O. has authority within a metropolitan area or an area that is designated as a nonattainment area, each M.P.O. shall consult with other M.P.O.'s designated for such area and with the state in the coordination of plans and programs required by this section.

Each M.P.O. required under this section must be fully operative no later than 6 months following its designation.

(2) VOTING MEMBERSHIP.—

(a) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 19 apportioned members, the exact number to be determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general-purpose local government as required by federal rules and regulations. The Governor, in accordance with 23 U.S.C. s. 134, may also provide for M.P.O. members who represent

municipalities to alternate with representatives from other municipalities within the metropolitan planning area that do not have members on the M.P.O. County commission members shall compose not less than one-third of the M.P.O. membership, except for an M.P.O. with more than 15 members located in a county with a five-member county commission or an M.P.O. with 19 members located in a county with no more than 6 county commissioners, in which case county commission members may compose less than one-third percent of the M.P.O. membership, but all county commissioners must be members. All voting members shall be elected officials of general-purpose governments, except that an M.P.O. may include, as part of its apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of the Florida Space Authority. The county commission shall compose not less than 20 percent of the M.P.O. membership if an official of an agency that operates or administers a major mode of transportation has been appointed to an M.P.O.

(b) In metropolitan areas in which authorities or other agencies have been or may be created by law to perform transportation functions and are performing transportation functions that are not under the jurisdiction of a general purpose local government represented on the M.P.O., they shall be provided voting membership on the M.P.O. In all other M.P.O.'s where transportation authorities or agencies are to be represented by elected officials from general purpose local governments, the M.P.O. shall establish a process by which the collective interests of such authorities or other agencies are expressed and conveyed.

(c) Any other provision of this section to the contrary notwithstanding, a chartered county with over 1 million population may elect to reapportion the membership of an M.P.O. whose jurisdiction is wholly within the county. The charter county may exercise the provisions of this paragraph if:

1. The M.P.O. approves the reapportionment plan by a three-fourths vote of its membership;
2. The M.P.O. and the charter county determine that the reapportionment plan is needed to fulfill specific goals and policies applicable to that metropolitan planning area; and
3. The charter county determines the reapportionment plan otherwise complies with all federal requirements pertaining to M.P.O. membership.

Any charter county that elects to exercise the provisions of this paragraph shall notify the Governor in writing.

(d) Any other provision of this section to the contrary notwithstanding, any county chartered under s. 6(e), Art. VIII of the State Constitution may elect to have its county commission serve as the M.P.O., if the M.P.O. jurisdiction is wholly contained within the county. Any charter county that elects to exercise the provisions of this paragraph shall so notify the Governor in writing. Upon receipt of such notification, the Governor must designate the county commission as the M.P.O. The Governor must appoint four

additional voting members to the M.P.O., one of whom must be an elected official representing a municipality within the county, one of whom must be an expressway authority member, one of whom must be a person who does not hold elected public office and who resides in the unincorporated portion of the county, and one of whom must be a school board member.

(3) APPORTIONMENT.—

(a) The Governor shall, with the agreement of the affected units of general-purpose local government as required by federal rules and regulations, apportion the membership on the applicable M.P.O. among the various governmental entities within the area and shall prescribe a method for appointing alternate members who may vote at any M.P.O. meeting that an alternate member attends in place of a regular member. An appointed alternate member must be an elected official serving the same governmental entity or a general-purpose local government with jurisdiction within all or part of the area that the regular member serves. The governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting members of the M.P.O. Nonvoting advisers may be appointed by the M.P.O. as deemed necessary. The Governor shall review the composition of the M.P.O. membership in conjunction with the decennial census as prepared by the United States Department of Commerce, Bureau of the Census, and reapportion it as necessary to comply with subsection (2).

(b) Except for members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (2)(a), the members of an M.P.O. shall serve 4-year terms. Members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (2)(a) may serve terms of up to 4 years as further provided in the interlocal agreement described in paragraph (1)(b). The membership of a member who is a public official automatically terminates upon the member's leaving his or her elective or appointive office for any reason, or may be terminated by a majority vote of the total membership of a county or city governing entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be reappointed for one or more additional 4-year terms.

(c) If a governmental entity fails to fill an assigned appointment to an M.P.O. within 60 days after notification by the Governor of its duty to appoint, that appointment shall be made by the Governor from the eligible representatives of that governmental entity.

(4) AUTHORITY AND RESPONSIBILITY.—The authority and responsibility of an M.P.O. is to manage a continuing, cooperative, and comprehensive transportation planning process that, based upon the prevailing principles provided in s. 334.046(1), results in the development of plans and programs which are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government the boundaries of which are within the metropolitan area of the M.P.O. An M.P.O. shall be the forum for cooperative decisionmaking by officials of

the affected governmental entities in the development of the plans and programs required by subsections (5), (6), (7), and (8).

(5) **POWERS, DUTIES, AND RESPONSIBILITIES.**—The powers, privileges, and authority of an M.P.O. are those specified in this section or incorporated in an interlocal agreement authorized under s. 163.01. Each M.P.O. shall perform all acts required by federal or state laws or rules, now and subsequently applicable, which are necessary to qualify for federal aid. It is the intent of this section that each M.P.O. shall be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law.

(a) Each M.P.O. shall, in cooperation with the department, develop:

1. A long-range transportation plan pursuant to the requirements of subsection (6);
2. An annually updated transportation improvement program pursuant to the requirements of subsection (7); and
3. An annual unified planning work program pursuant to the requirements of subsection (8).

(b) In developing the long-range transportation plan and the transportation improvement program required under paragraph (a), each M.P.O. shall provide for consideration of projects and strategies that will:

1. Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;
2. Increase the safety and security of the transportation system for motorized and nonmotorized users;
3. Increase the accessibility and mobility options available to people and for freight;
4. Protect and enhance the environment, promote energy conservation, and improve quality of life;
5. Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
6. Promote efficient system management and operation; and
7. Emphasize the preservation of the existing transportation system.

(c) In order to provide recommendations to the department and local governmental entities regarding transportation plans and programs, each M.P.O. shall:

1. Prepare a congestion management system for the metropolitan area and cooperate with the department in the development of all other transportation management systems required by state or federal law;

2. Assist the department in mapping transportation planning boundaries required by state or federal law;
3. Assist the department in performing its duties relating to access management, functional classification of roads, and data collection;
4. Execute all agreements or certifications necessary to comply with applicable state or federal law;
5. Represent all the jurisdictional areas within the metropolitan area in the formulation of transportation plans and programs required by this section; and
6. Perform all other duties required by state or federal law.

(d) Each M.P.O. shall appoint a technical advisory committee that includes planners; engineers; representatives of local aviation authorities, port authorities, and public transit authorities or representatives of aviation departments, seaport departments, and public transit departments of municipal or county governments, as applicable; the school superintendent of each county within the jurisdiction of the M.P.O. or the superintendent's designee; and other appropriate representatives of affected local governments. In addition to any other duties assigned to it by the M.P.O. or by state or federal law, the technical advisory committee is responsible for considering safe access to schools in its review of transportation project priorities, long-range transportation plans, and transportation improvement programs, and shall advise the M.P.O. on such matters. In addition, the technical advisory committee shall coordinate its actions with local school boards and other local programs and organizations within the metropolitan area which participate in school safety activities, such as locally established community traffic safety teams. Local school boards must provide the appropriate M.P.O. with information concerning future school sites and in the coordination of transportation service.

(e)1. Each M.P.O. shall appoint a citizens' advisory committee, the members of which serve at the pleasure of the M.P.O. The membership on the citizens' advisory committee must reflect a broad cross section of local residents with an interest in the development of an efficient, safe, and cost-effective transportation system. Minorities, the elderly, and the handicapped must be adequately represented.

2. Notwithstanding the provisions of subparagraph 1., an M.P.O. may, with the approval of the department and the applicable federal governmental agency, adopt an alternative program or mechanism to ensure citizen involvement in the transportation planning process.

(f) The department shall allocate to each M.P.O., for the purpose of accomplishing its transportation planning and programming duties, an appropriate amount of federal transportation planning funds.

(g) Each M.P.O. may employ personnel or may enter into contracts with local or state agencies, private planning firms, or private engineering firms to accomplish its transportation planning and programming duties required by state or federal law.

(h) A chair's coordinating committee is created, composed of the M.P.O.'s serving Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. The committee must, at a minimum:

1. Coordinate transportation projects deemed to be regionally significant by the committee.
2. Review the impact of regionally significant land use decisions on the region.
3. Review all proposed regionally significant transportation projects in the respective transportation improvement programs which affect more than one of the M.P.O.'s represented on the committee.
4. Institute a conflict resolution process to address any conflict that may arise in the planning and programming of such regionally significant projects.

(i)1. The Legislature finds that the state's rapid growth in recent decades has caused many urbanized areas subject to M.P.O. jurisdiction to become contiguous to each other. As a result, various transportation projects may cross from the jurisdiction of one M.P.O. into the jurisdiction of another M.P.O. To more fully accomplish the purposes for which M.P.O.'s have been mandated, M.P.O.'s shall develop coordination mechanisms with one another to expand and improve transportation within the state. The appropriate method of coordination between M.P.O.'s shall vary depending upon the project involved and given local and regional needs. Consequently, it is appropriate to set forth a flexible methodology that can be used by M.P.O.'s to coordinate with other M.P.O.'s and appropriate political subdivisions as circumstances demand.

2. Any M.P.O. may join with any other M.P.O. or any individual political subdivision to coordinate activities or to achieve any federal or state transportation planning or development goals or purposes consistent with federal or state law. When an M.P.O. determines that it is appropriate to join with another M.P.O. or any political subdivision to coordinate activities, the M.P.O. or political subdivision shall enter into an interlocal agreement pursuant to s. 163.01, which, at a minimum, creates a separate legal or administrative entity to coordinate the transportation planning or development activities required to achieve the goal or purpose; provide the purpose for which the entity is created; provide the duration of the agreement and the entity, and specify how the agreement may be terminated, modified, or rescinded; describe the precise organization of the entity, including who has voting rights on the governing board, whether alternative voting members are provided for, how voting members are appointed, and what the relative voting strength is for each constituent M.P.O. or political subdivision; provide the manner in which the parties to the agreement will provide for the financial support of the entity and payment of costs and expenses of the entity; provide the manner in which funds may be paid to and disbursed from the entity; and provide how members of the entity will resolve disagreements regarding interpretation of the interlocal agreement or disputes relating to the operation of the entity. Such interlocal agreement shall become effective upon its recordation in the official public records of each county in

which a member of the entity created by the interlocal agreement has a voting member. This paragraph does not require any M.P.O.'s to merge, combine, or otherwise join together as a single M.P.O.

(6) **LONG-RANGE TRANSPORTATION PLAN.**—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, spaceports, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range transportation plan must give emphasis to those transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in s. 339.155. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the long-range transportation plan.

(b) Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the M.P.O. and the department shall cooperatively develop estimates of funds that will be available to support the plan implementation. Innovative financing techniques may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, the use of value capture financing, or the use of value pricing.

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

(d) Indicate, as appropriate, proposed transportation enhancement activities, including, but not limited to, pedestrian and bicycle facilities, scenic easements, landscaping, historic preservation, mitigation of water pollution due to highway runoff, and control of outdoor advertising.

(e) In addition to the requirements of paragraphs (a)-(d), in metropolitan areas that are classified as nonattainment areas for ozone or carbon monoxide, the M.P.O. must coordinate the development of the long-range transportation plan with the State Implementation Plan developed pursuant to the requirements of the federal Clean Air Act.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

(7) **TRANSPORTATION IMPROVEMENT PROGRAM.**—Each M.P.O. shall, in cooperation with the state and affected public transportation operators, develop a transportation improvement program for the area within the jurisdiction of the M.P.O. In the development of the transportation improvement program, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed transportation improvement program.

(a) Each M.P.O. is responsible for developing, annually, a list of project priorities and a transportation improvement program. The prevailing principles to be considered by each M.P.O. when developing a list of project priorities and a transportation improvement program are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The transportation improvement program will be used to initiate federally aided transportation facilities and improvements as well as other transportation facilities and improvements including transit, rail, aviation, spaceport, and port facilities to be funded from the State Transportation Trust Fund within its metropolitan area in accordance with existing and subsequent federal and state laws and rules and regulations related thereto. The transportation improvement program shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O. and include those projects programmed pursuant to s. 339.2819(4).

(b) Each M.P.O. annually shall prepare a list of project priorities and shall submit the list to the appropriate district of the department by October

1 of each year; however, the department and a metropolitan planning organization may, in writing, agree to vary this submittal date. The list of project priorities must be formally reviewed by the technical and citizens' advisory committees, and approved by the M.P.O., before it is transmitted to the district. The approved list of project priorities must be used by the district in developing the district work program and must be used by the M.P.O. in developing its transportation improvement program. The annual list of project priorities must be based upon project selection criteria that, at a minimum, consider the following:

1. The approved M.P.O. long-range transportation plan;
2. The Strategic Intermodal System Plan developed under s. 339.64.
3. The priorities developed pursuant to s. 339.2819(4).
- ~~4.3.~~ The results of the transportation management systems; and
- ~~5.4.~~ The M.P.O.'s public-involvement procedures.

(c) The transportation improvement program must, at a minimum:

1. Include projects and project phases to be funded with state or federal funds within the time period of the transportation improvement program and which are recommended for advancement during the next fiscal year and 4 subsequent fiscal years. Such projects and project phases must be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. For informational purposes, the transportation improvement program shall also include a list of projects to be funded from local or private revenues.

2. Include projects within the metropolitan area which are proposed for funding under 23 U.S.C. s. 134 of the Federal Transit Act and which are consistent with the long-range transportation plan developed under subsection (6).

3. Provide a financial plan that demonstrates how the transportation improvement program can be implemented; indicates the resources, both public and private, that are reasonably expected to be available to accomplish the program; identifies any innovative financing techniques that may be used to fund needed projects and programs; and may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available. Innovative financing techniques may include the assessment of tolls, the use of value capture financing, or the use of value pricing. The transportation improvement program may include a project or project phase only if full funding can reasonably be anticipated to be available for the project or project phase within the time period contemplated for completion of the project or project phase.

4. Group projects and project phases of similar urgency and anticipated staging into appropriate staging periods.

5. Indicate how the transportation improvement program relates to the long-range transportation plan developed under subsection (6), including providing examples of specific projects or project phases that further the goals and policies of the long-range transportation plan.

6. Indicate whether any project or project phase is inconsistent with an approved comprehensive plan of a unit of local government located within the jurisdiction of the M.P.O. If a project is inconsistent with an affected comprehensive plan, the M.P.O. must provide justification for including the project in the transportation improvement program.

7. Indicate how the improvements are consistent, to the maximum extent feasible, with affected seaport, airport, and spaceport master plans and with public transit development plans of the units of local government located within the jurisdiction of the M.P.O. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the transportation improvement program.

(d) Projects included in the transportation improvement program and that have advanced to the design stage of preliminary engineering may be removed from or rescheduled in a subsequent transportation improvement program only by the joint action of the M.P.O. and the department. Except when recommended in writing by the district secretary for good cause, any project removed from or rescheduled in a subsequent transportation improvement program shall not be rescheduled by the M.P.O. in that subsequent program earlier than the 5th year of such program.

(e) During the development of the transportation improvement program, the M.P.O. shall, in cooperation with the department and any affected public transit operation, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

(f) The adopted annual transportation improvement program for M.P.O.'s in nonattainment or maintenance areas must be submitted to the district secretary and the Department of Community Affairs at least 90 days before the submission of the state transportation improvement program by the department to the appropriate federal agencies. The annual transportation improvement program for M.P.O.'s in attainment areas must be submitted to the district secretary and the Department of Community Affairs at least 45 days before the department submits the state transportation improvement program to the appropriate federal agencies; however, the department, the Department of Community Affairs, and a metropolitan planning organization may, in writing, agree to vary this submittal date. The Governor or the Governor's designee shall review and approve each transportation improvement program and any amendments thereto.

(g) The Department of Community Affairs shall review the annual transportation improvement program of each M.P.O. for consistency with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of each M.P.O. and

shall identify those projects that are inconsistent with such comprehensive plans. The Department of Community Affairs shall notify an M.P.O. of any transportation projects contained in its transportation improvement program which are inconsistent with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.

(h) The M.P.O. shall annually publish or otherwise make available for public review the annual listing of projects for which federal funds have been obligated in the preceding year. Project monitoring systems must be maintained by those agencies responsible for obligating federal funds and made accessible to the M.P.O.'s.

(8) UNIFIED PLANNING WORK PROGRAM.—Each M.P.O. shall develop, in cooperation with the department and public transportation providers, a unified planning work program that lists all planning tasks to be undertaken during the program year. The unified planning work program must provide a complete description of each planning task and an estimated budget therefor and must comply with applicable state and federal law.

(9) AGREEMENTS.—

(a) Each M.P.O. shall execute the following written agreements, which shall be reviewed, and updated as necessary, every 5 years:

1. An agreement with the department clearly establishing the cooperative relationship essential to accomplish the transportation planning requirements of state and federal law.

2. An agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan areas, specifying the means by which activities will be coordinated and how transportation planning and programming will be part of the comprehensive planned development of the area.

3. An agreement with operators of public transportation systems, including transit systems, commuter rail systems, airports, seaports, and spaceports, describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, seaport, and aerospace planning and programming will be part of the comprehensive planned development of the metropolitan area.

(b) An M.P.O. may execute other agreements required by state or federal law or as necessary to properly accomplish its functions.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in this section.

(b) The council shall consist of one representative from each M.P.O. and shall elect a chairperson annually from its number. Each M.P.O. shall also

elect an alternate representative from each M.P.O. to vote in the absence of the representative. Members of the council do not receive any compensation for their services, but may be reimbursed from funds made available to council members for travel and per diem expenses incurred in the performance of their council duties as provided in s. 112.061.

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.
2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.
3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.
4. Establish bylaws and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.
5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.
6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.
7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 110 and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.
8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

(11) APPLICATION OF FEDERAL LAW.—Upon notification by an agency of the Federal Government that any provision of this section conflicts with federal laws or regulations, such federal laws or regulations will take precedence to the extent of the conflict until such conflict is resolved. The department or an M.P.O. may take any necessary action to comply with such federal laws and regulations or to continue to remain eligible to receive federal funds.

Section 23. Section 339.55, Florida Statutes, is amended to read:

339.55 State-funded infrastructure bank.—

(1) There is created within the Department of Transportation a state-funded infrastructure bank for the purpose of providing loans and credit enhancements to government units and private entities for use in constructing and improving transportation facilities.

(2) The bank may lend capital costs or provide credit enhancements for:

(a) A transportation facility project that is on the State Highway System or that provides for increased mobility on the state's transportation system or provides intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals, pursuant to s. 341.053, for the movement of people and goods.

(b) Projects of the Transportation Regional Incentive Program which are identified pursuant to s. 339.2819(4).

(3) Loans from the bank may be subordinated to senior project debt that has an investment grade rating of "BBB" or higher.

~~(4)~~(3) Loans from the bank may bear interest at or below market interest rates, as determined by the department. Repayment of any loan from the bank shall commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later, and shall be repaid in no more than 30 years.

~~(5)~~(4) ~~Except as provided in s. 339.137,~~ To be eligible for consideration, projects must be consistent, to the maximum extent feasible, with local metropolitan planning organization plans and local government comprehensive plans and must provide a dedicated repayment source to ensure the loan is repaid to the bank.

(6) Funding awarded for projects under paragraph (2)(b) must be matched by a minimum of 25 percent from funds other than the state-funded infrastructure bank loan.

~~(7)~~(5) The department may consider, but is not limited to, the following criteria for evaluation of projects for assistance from the bank:

(a) The credit worthiness of the project.

(b) A demonstration that the project will encourage, enhance, or create economic benefits.

(c) The likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible.

(d) The extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment.

(e) The extent to which the project would use new technologies, including intelligent transportation systems, that would enhance the efficient operation of the project.

(f) The extent to which the project would maintain or protect the environment.

(g) A demonstration that the project includes transportation benefits for improving intermodalism, cargo and freight movement, and safety.

(h) The amount of the proposed assistance as a percentage of the overall project costs with emphasis on local and private participation.

(i) The extent to which the project will provide for connectivity between the State Highway System and airports, seaports, rail facilities, and other transportation terminals and intermodal options pursuant to s. 341.053 for the increased accessibility and movement of people and goods.

~~(8)(6)~~ Loan assistance provided by the bank shall be included in the department's work program developed in accordance with s. 339.135.

~~(9)(7)~~ The department is authorized to adopt rules to implement the state-funded infrastructure bank.

(10) Funds paid into the State Transportation Trust Fund pursuant to s. 201.15(1)(d) for the purposes of the State Infrastructure Bank are hereby annually appropriated for expenditure to support that program.

Section 24. Subsection (7) is added to section 1013.64, Florida Statutes, to read:

1013.64 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(7) Moneys distributed to the Public Education Capital Outlay and Debt Service Trust Fund pursuant to s. 201.15(1)(d) to fund the Classrooms for Kids Program created in s. 1013.735 and the High Growth County District Capital Outlay Assistance Grant Program created in s. 1013.738, shall be distributed as provided by those sections.

Section 25. Paragraph (a) of subsection (2) of section 1013.65, Florida Statutes, is amended to read:

1013.65 Educational and ancillary plant construction funds; Public Education Capital Outlay and Debt Service Trust Fund; allocation of funds.—

(2)(a) The Public Education Capital Outlay and Debt Service Trust Fund shall be comprised of the following sources, which are hereby appropriated to the trust fund:

1. Proceeds, premiums, and accrued interest from the sale of public education bonds and that portion of the revenues accruing from the gross receipts tax as provided by s. 9(a)(2), Art. XII of the State Constitution, as amended, interest on investments, and federal interest subsidies.

2. General revenue funds appropriated to the fund for educational capital outlay purposes.

3. All capital outlay funds previously appropriated and certified forward pursuant to s. 216.301.

4.a. Funds paid pursuant to s. 201.15(1)(d).

b. The sum of \$41.75 million of such funds shall be appropriated annually for expenditure to fund the Classrooms for Kids Program created in s. 1013.735 and shall be distributed as provided by that section.

c. Thirty million dollars of such funds are hereby annually appropriated for expenditure to fund the High Growth County District Capital Outlay Assistance Grant Program created in s. 1013.738 and shall be distributed as provided in that section.

[The above paragraph c. was vetoed by the Governor.]

Section 26. Subsection (1) of section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Amounts as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Preservation 2000 bonds issued pursuant to s. 375.051 and Florida Forever bonds issued pursuant to s. 215.618, shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund for such purposes shall not exceed \$300 million in fiscal year 1999-2000 and thereafter for Preservation 2000 bonds and bonds issued to refund Preservation 2000 bonds, and \$300 million in fiscal year 2000-2001 and thereafter for Florida Forever bonds. The annual amount transferred to the Land Acquisition Trust Fund for Florida Forever bonds shall not exceed \$30 million in the first fiscal year in which bonds are issued. The limitation on the amount transferred shall be increased by an additional \$30 million in each subsequent fiscal year, but shall not exceed a total of \$300 million in any fiscal year for all bonds issued. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2030. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act. For purposes of refunding Preservation 2000 bonds, amounts designated within this section for Preservation 2000 and Florida Forever bonds may be transferred between the two programs to the extent provided

for in the documents authorizing the issuance of the bonds. The Preservation 2000 bonds and Florida Forever bonds shall be equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to this section, except to the extent specifically provided otherwise by the documents authorizing the issuance of the bonds. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds.

(b) The remainder of the moneys distributed under this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the Save Our Everglades Trust Fund in amounts necessary to pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to bonds issued under s. 215.619.

(c) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a) and (b), shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund and may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used. Payments made under this paragraph shall continue until the cumulative amount credited to the Land Acquisition Trust Fund for the fiscal year under this paragraph and paragraph (2)(b) equals 70 percent of the current official forecast for distributions of taxes collected under this chapter pursuant to subsection (2). As used in this paragraph, the term "current official forecast" means the most recent forecast as determined by the Revenue Estimating Conference. If the current official forecast for a fiscal year changes after payments under this paragraph have ended during that fiscal year, no further payments are required under this paragraph during the fiscal year.

(d) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a), (b), and (c), shall be paid into the State Treasury to the credit of:

1. The State Transportation Trust Fund in the Department of Transportation in the amount of \$541.75 million in each fiscal year, to be paid in quarterly installments and used for the following specified purposes notwithstanding any other law to the contrary:

a. For the purposes of capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. 5309 and specified in s. 341.051, 10 percent of these funds;

b. For the purposes of the Small County Outreach Program specified in s. 339.2818, 5 percent of these funds;

c. For the purposes of the Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent of these funds after allocating for the New Starts Transit Program described in sub-subparagraph a. and the Small County Outreach Program described in sub-subparagraph b.; and

d. For the purposes of the Transportation Regional Incentive Program specified in s. 339.2819, 25 percent of these funds after allocating for the

New Starts Transit Program described in sub-subparagraph a. and the Small County Outreach Program described in sub-subparagraph b.

2. The Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection in the amount of \$100 million in each fiscal year, to be paid in quarterly installments and used as required by s. 403.890.

3. The Public Education Capital Outlay and Debt Service Trust Fund in the Department of Education in the amount of \$105 million in each fiscal year, to be paid in monthly installments with \$75 million used to fund the Classrooms for Kids Program created in s. 1013.735, and \$30 million to be used to fund the High Growth County District Capital Outlay Assistance Grant Program created in s. 1013.738. If required, new facilities constructed under the Classroom for Kids Program must meet the requirements of s. 1013.372.

4. The Grants and Donations Trust Fund in the Department of Community Affairs in the amount of \$3.25 million in each fiscal year to be paid in monthly installments, with \$3 million to be used to fund technical assistance to local governments and school boards on the requirements and implementation of this act and \$250,000 to be used to fund the Century Commission established in s. 163.3247.

Moneys distributed pursuant to this paragraph may not be pledged for debt service unless such pledge is approved by referendum of the voters.

(e)(d) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a), (b), and (c), and (d), shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund or to the Marine Resources Conservation Trust Fund as provided in subsection (11).

Section 27. (1) The following appropriations are made for the 2005-2006 fiscal year only from the General Revenue Fund, from revenues deposited into the fund pursuant to section 201.15(1)(e), Florida Statutes, on a nonrecurring basis and in quarterly installments:

(a) To the State Transportation Trust Fund in the Department of Transportation, \$575 million.

(b) To the Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection, \$100 million or if the Water Protection and Sustainability Trust Fund is not created, to the Ecosystem Management and Restoration Trust Fund in the Department of Environmental Protection.

(c) To the Public Education Capital Outlay and Debt Service Trust Fund in the Department of Education, \$71.65 million.

(d) To the Grants and Donations Trust Fund in the Department of Community Affairs, \$3.35 million.

(2) The following appropriations are made for the 2005-2006 fiscal year only on a nonrecurring basis:

(a) From the State Transportation Trust Fund in the Department of Transportation:

1. Two hundred million dollars for the purposes specified in sections 339.61, 339.62, 339.63, and 339.64, Florida Statutes.

2. Two hundred seventy-five million dollars for the purposes specified in section 339.2819, Florida Statutes.

3. One hundred million dollars for the purposes specified in section 339.55, Florida Statutes.

4. Twenty-five million for the purposes specified in section 339.2817, Florida Statutes.

(b) From the Water Protection and Sustainability Program Trust Fund or, if that trust fund is not created, from the Ecosystem Management and Restoration Trust Fund, in the Department of Environmental Protection, \$100 million for the purposes specified in section 403.890, Florida Statutes.

(c) From the Public Education Capital Outlay and Debt Service Trust Fund in the Department of Education, the sum of \$71.65 million with \$41.65 million for the purpose of funding the Classrooms for Kids Program created in section 1013.735, Florida Statutes and \$30 million to be used to fund the High Growth County District Capital Outlay Assistance Grant Program created in section 1013.738, Florida Statutes. Notwithstanding the requirements of sections 1013.64 and 1013.65, Florida Statutes, these moneys may not be distributed as part of the comprehensive plan for the Public Education Capital Outlay and Debt Service Trust Fund. If required, new facilities constructed under the Classroom for Kids Program must meet the requirements of section 1013.372, Florida Statutes.

(d) From the Grants and Donations Trust Fund in the Department of Community Affairs:

1. Three million dollars to provide technical assistance to local governments and school boards on the requirements and implementation of this act. The department shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2006, on the progress made toward implementing this act and a recommendation on whether additional funds should be appropriated to provide additional technical assistance.

2. Two hundred and fifty thousand dollars to support the Century Commission, created by section 163.3247, Florida Statutes.

3. Fifty thousand dollars to support the School Concurrency Task Force.

[The above paragraph 3. was vetoed by the Governor.]

4. Fifty thousand dollars to support the Impact Fee Task Force.

Section 28. Beginning in fiscal year 2005-2006, the Department of Transportation shall allocate sufficient funds to implement the provisions relating to transportation in this act. The department shall amend the tentative work program for 2005-2006. Before amending the tentative work program, the department shall submit a budget amendment pursuant to section 339.135(7), Florida Statutes. Notwithstanding the provisions of section 216.301(1), Florida Statutes, the funds appropriated from general revenue to the State Transportation Trust Fund in this act shall not revert at the end of fiscal year 2005-2006.

Section 29. The Legislature finds that planning for and adequately funding infrastructure is critically important for the safety and welfare of the residents of Florida. Therefore, the Legislature finds that the provisions of this act fulfill an important state interest.

Section 30. School Concurrency Task Force.—

(1) The School Concurrency Task Force is created to review the requirements for school concurrency in law and make recommendations regarding streamlining the process and procedures for establishing school concurrency. The task force shall also examine the methodology and processes used for the funding of construction of public schools and make recommendations on revisions to provisions of law and rules which will help ensure that schools are built and available when the expected demands of growth produce the need for new school facilities.

(2) The task force shall be composed of 11 members. The membership must represent local governments, school boards, developers and homebuilders, the business community, the agriculture community, the environmental community, and other appropriate stakeholders. The task force shall include two members appointed by the Governor, two members appointed by the President of the Senate, two members appointed by the Speaker of the House of Representatives, one member appointed by the Florida School Boards Association, one member appointed by the Florida Association of Counties, and one member appointed by the Florida League of Cities. The Secretary of the Department of Community Affairs, or a senior management designee, and the Commissioner of Education, or a senior management designee, shall also be ex officio nonvoting members on the task force.

(3) The task force shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2005, with specific recommendations for revisions to provisions of law and rules.

Section 31. Florida Impact Fee Review Task Force.—

(1) The Legislature recognizes that impact fees have been an important source of revenues to local governments to fund new growth. Local governments have assumed this responsibility under their constitutional home

rule authority. With the increased use of impact fees, questions have arisen about whether their use should be regulated by law.

(2) Effective upon this act becoming law, the Florida Impact Fee Review Task Force is created.

(3) The task force is to be composed of 15 members, who shall be appointed within 30 days after the effective date of this section.

1. Five voting members selected by the President of the Senate and five voting members selected by the Speaker of the House of Representative, none of whom may be a member of the Legislature at the time of the appointment, as follows: one member of a county commission, one member of a city commission or council, one member of a local school board, one member of the development community, and one member of the homebuilding community. The Governor shall appoint two members, one of whom shall be an affordable housing advocate who shall have no current or past direct relationship to local government, school boards, or the development or homebuilding industries. The Governor shall designate one of his or her appointees as the chair.

2. One member of the Senate appointed by the President of the Senate, and one member of the House of Representatives appointed by the Speaker of the House of Representatives, who shall be ex officio, nonvoting members.

3. The Secretary of the Department of Community Affairs or his designee is to serve as an ex officio, nonvoting member.

(4)(a) The task force shall act as an advisory body to the Governor and the Legislature.

(b) The task force shall convene its initial meeting within 60 days after the effective date of this section and thereafter at the call of its chair.

(c) Task Force members shall not receive remuneration for their services, but are entitled to reimbursement by the Legislative Committee on Intergovernmental Relations for travel and per diem expenses in accordance with section 112.061, Florida Statutes.

(5) The Task Force shall survey and review current use of impact fees as a method of financing local infrastructure to accommodate new growth and current case law controlling the use of impact fees. To the extent feasible, the review is to include consideration of the following:

(a) Local government criteria and methodology used for the determination of the amount of impact fees.

(b) Application and relative burden of impact fees in different areas of the state in relation to other methods of financing new infrastructure.

(c) The range of use of impact fees as a percentage of the total capital costs for infrastructure needs created by new development.

(d) The methods used by local governments for the accounting and reporting of the collection and expenditure of all impact fees.

(e) Notice provisions prior to adoption and the effective date of local ordinances creating a new impact fee or increasing an existing impact fee.

(f) Interlocal agreements between counties and cities to allocate impact fee proceeds between them.

(g) Requirements and options related to timing of impact fees payments.

(h) The importance of impact fees to the ability of local government to fund infrastructure needed to mitigate the impacts of development and meet statutory requirements for concurrency.

(i) Methods used by local governments to ameliorate the effect of impact fee costs on affordable housing.

(6) The task force shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2006. The report shall include the task force's recommendations regarding:

(a) Whether there is a need for statutory direction on the methodology and data used to calculate impact fees.

(b) Whether there should be statutory direction on payment, exemption, or waiver of impact fees for affordable housing.

(c) Whether there should be statutory direction on the accounting and reporting of the collection and expenditure of all impact fees.

(d) Whether there is a need for statutory direction on the notice given in advance of the effective date of a new or amended impact fee ordinance.

(e) Whether there is a need for statutory direction on the sharing of impact fees between counties and cities.

(f) Whether there is a need for statutory direction on the timing of payment of impact fees.

(g) Any other recommendation the Task Force deems appropriate.

If the task force makes a recommendation for statutory direction, the report shall also contain the task force's recommendation for statutory changes.

(7) The Legislative Committee on Intergovernmental Relations shall serve as staff to the task force and is authorized to employ technical support and expend funds appropriated to the committee for carrying out the official duties of the task force. All state agencies are directed to cooperate with and assist the task force to the fullest extent possible. All local governments are encouraged to assist and cooperate with the commission as necessary.

(8) Effective July 1, 2005, the sum of \$50,000 is appropriated, for fiscal year 2005-2006 only, from the Department of Community Affairs' Grants

and Donations Trust Fund to the Legislative Committee on Intergovernmental Relations to fund the per diem and travel expenses of the task force pursuant to section 112.061, Florida Statutes.

Section 32. Subsection (4) of section 339.2817, Florida Statutes, is amended to read:

339.2817 County Incentive Grant Program.—

~~(4) The department shall provide 50 percent of project costs for eligible projects. percentage of matching funds provided from the County Incentive Grant Program to the eligible county will be based on the following:~~

~~(a) For projects on the Florida Intrastate Highway System the department shall provide 60 percent of project costs.~~

~~(b) For projects on the State Highway System the department shall provide 50 percent of project costs.~~

~~(c) For local projects which are demonstrated to relieve traffic congestion on the State Highway System the department shall provide 35 percent of project costs.~~

Section 33. Subsection (6) is added to section 339.2818, Florida Statutes, to read:

339.2818 Small County Outreach Program.—

(6) Funds paid into the State Transportation Trust Fund pursuant to s. 201.15(1)(d) for the purposes of the Small County Outreach Program are hereby annually appropriated for expenditure to support the Small County Outreach Program.

Section 34. Subsection (6) is added to section 341.051, Florida Statutes, to read:

341.051 Administration and financing of public transit and intercity bus service programs and projects.—

(6) ANNUAL APPROPRIATION.—Funds paid into the State Transportation Trust Fund pursuant to s. 201.15(1)(d) for the New Starts Transit Program are hereby annually appropriated for expenditure to support the New Starts Transit Program.

For purposes of this section, the term “net operating costs” means all operating costs of a project less any federal funds, fares, or other sources of income to the project.

Section 35. Subsection (3) is added to section 339.61, Florida Statutes, to read:

339.61 Florida Strategic Intermodal System; legislative findings, declaration, and intent.—

(3) Funds paid into the State Transportation Trust Fund pursuant to s. 201.15(1)(d) for the purposes of the Florida Strategic Intermodal System are hereby annually appropriated for expenditure to support that program.

Section 36. Section 403.891, Florida Statutes, is created to read:

403.891 Annual appropriation from the Water Protection and Sustainability Trust Fund.—

(1) Funds paid into the Water Protection and Sustainability Trust Fund pursuant to s. 201.15(1)(d) are hereby annually appropriated for expenditure for the purposes for which the Water Protection and Sustainability Trust Fund is established.

(2) If the Water Protection and Sustainability Trust Fund is not created, such funds are hereby annually appropriated for expenditure from the Ecosystem Management and Restoration Trust Fund solely for the purposes established in s. 403.890.

Section 37. Section 1013.738, Florida Statutes, is created to read:

1013.738 High Growth District District Capital Outlay Assistance Grant Program.—

(1) Subject to funds provided in the General Appropriations Act, the High Growth District Capital Outlay Assistance Grant Program is hereby established. Funds provided pursuant to this section may only be used to construct new student stations.

(2) In order to qualify for a grant, a school district must meet the following criteria:

(a) The district must have levied the full 2 mills of nonvoted discretionary capital outlay millage authorized in s. 1011.71(2), for each of the past 4 fiscal years.

(b) Fifty percent of the revenue derived from the 2-mill nonvoted discretionary capital outlay millage for the past 4 fiscal years, when divided by the district's growth in capital outlay FTE students over this period, produces a value that is less than the average cost per student station calculated pursuant to s. 1013.72(2), and weighted by statewide growth in capital outlay FTE students in elementary, middle, and high schools for the past 4 fiscal years.

(c) The district must have equaled or exceeded twice the statewide average of growth in capital outlay FTE students over this same 4-year period.

(d) The Commissioner of Education must have released all funds allocated to the district from the Classrooms First Program authorized in s. 1013.68, and these funds were fully expended by the district as of February 1 of the current fiscal year.

(e) The total capital outlay FTE students of the district is greater than 15,000 students.

(3) The funds provided in the General Appropriations Act shall be allocated pursuant to the following methodology:

(a) For each eligible district, the Department of Education shall calculate the value of 50 percent of the revenue derived from the 2-mill nonvoted discretionary capital outlay millage for the past 4 fiscal years divided by the increase in capital outlay FTE students for the same period.

(b) The Department of Education shall determine, for each eligible district, the amount that must be added to the value calculated pursuant to paragraph (a) to produce the weighted average value per student station calculated pursuant to paragraph (2)(b).

(c) The value calculated for each eligible district pursuant to paragraph (b) shall be multiplied by the average increase in capital outlay FTE students for the past 4 fiscal years to determine the maximum amount of a grant that may be awarded to a district pursuant to this section.

(d) In the event the funds provided in the General Appropriations Act are insufficient to fully fund the maximum grants calculated pursuant to paragraph (c), the Department of Education shall allocate the funds based on each district's prorated share of the total maximum award amount calculated for all eligible districts.

(4) Moneys distributed to the Public Education Capital Outlay and Debt Service Trust Fund pursuant to s. 201.15(1)(d) for the High Growth District Capital Outlay Assistance Grant Program created in this section shall be distributed as provided by this section.

Section 38. Subsection (3) is added to section 380.115, Florida Statutes, to read:

380.115 Vested rights and duties; effect of chs. 2002-20 and 2002-296.—

(3) A landowner that has filed an application for a development of regional impact review prior to the adoption of an optional sector plan pursuant to s. 163.3245 may elect to have the application reviewed pursuant to s. 380.06, comprehensive plan provisions in force prior to adoption of the sector plan and any requested comprehensive plan amendments that accompany the application.

Section 39. Unless the developer elects otherwise in writing, the provisions of this act amending chapters 163 and 380, Florida Statutes, shall not apply to any developments of regional impact for which a development order has been issued prior to the effective date of this act or for which a development of regional impact application has been submitted prior to May 1, 2005.

Section 40. From the funds paid into the Grants and Donations Trust Fund of the Department of Community Affairs pursuant to section 201.15(1)(d), Florida Statutes, \$3 million is hereby annually appropriated to provide technical assistance to local governments and school boards concerning the requirements and implementation of this act, [and \$250,000 is

hereby annually appropriated to support the Century Commission, created by section 163.3247, Florida Statutes.

[The bracketed portion of the above paragraph was vetoed by the Governor.]

Section 41. This act shall take effect July 1, 2005.

Approved by the Governor June 24, 2005.

Filed in Office Secretary of State June 24, 2005.

RESOLUTION NO. 11-06

A RESOLUTION AUTHORIZING AN ADDENDUM TO DEVELOPER AGREEMENTS FOR THE ESTABLISHMENT OF DEVELOPER CONTRIBUTIONS TO INFRASTRUCTURE COSTS OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, RESCINDING ALL RESOLUTIONS, OR PORTIONS THEREOF, IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Utilities Commission, City of New Smyrna Beach, Florida, has the full and exclusive authority over the management, supply, operation and control of all the City's electric, water and wastewater (sanitary sewer), and reuse (reclaimed) water utilities and has the duty to prescribe rules, rates and regulations governing the use of such facilities, wherever such are provided by the Utilities Commission, and to make such changes from time to time in the rules, rates and regulations as it deems necessary; and

WHEREAS, a change in apportioning the utility infrastructure needs and costs is necessary in order to support growth and to avoid the disproportionate distribution of costs upon existing customers; and

WHEREAS, for clarification, the infrastructure costs are not applicable to the construction of a single family home by a property owner for which the home is being constructed as the owner's primary residence and not as a for-profit venture; and

WHEREAS, the Utilities Commission presented said proposed change in policy and Addendum to the Developer Agreements to the customers of the Utilities Commission, and to other parties of interest, at two public hearings, which were duly noticed and advertised on this matter; preliminary public hearing held on June 22, 2006 and final public hearing held on July 17, 2006.

NOW, THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: That the following Addendum to the Developer Agreements is hereby adopted, shown as Exhibit A, which is attached to and made a part of this resolution.

SECTION 2: If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3: All Resolutions, or portions thereof, in conflict herewith are hereby rescinded and superseded.

SECTION 4: After adoption by the Utilities Commission, this Resolution shall take effect immediately upon passage.

THE ABOVE AND FOREGOING RESOLUTION was introduced at a meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held on July 17, 2006, by Commissioner Diesen, who moved its adoption, which motion was seconded by Commissioner Spangler, and upon roll call vote of the Commission was as follows:

CHAIRMAN	<u>[Signature]</u>	<u>yes</u>
VICE CHAIRMAN	<u>[Signature]</u>	<u>yes</u>
SECY.-TREAS.	<u>William E. Hall</u>	<u>ABSENT</u>
ASST. SECY.-TREAS.	<u>[Signature]</u>	<u>yes</u>
COMMISSIONER	<u>[Signature]</u>	<u>yes</u>

APPROVED:
[Signature]
CHAIRMAN

ATTEST:
[Signature]
SECRETARY-TREASURER

S E A L

APPROVED AS TO FORM AND
CORRECTNESS:
[Signature]
Utilities Commission Attorney

ADDENDUM TO THE DEVELOPER AGREEMENT

This **ADDENDUM TO THE DEVELOPER AGREEMENT** is made this _____ day of _____, 2006, by and between the **UTILITIES COMMISSION**, City of New Smyrna Beach, Florida, hereinafter referred to as the **COMMISSION**, and _____, (OWNER), (GENERAL PARTNER), (AUTHORIZED AGENT), (CORPORATION), LICENSED IN THE STATE OF FLORIDA and authorized to do business in the State of Florida and hereinafter referred to as the **DEVELOPER**.

WHEREAS, the **COMMISSION** and **DEVELOPER** entered into a **DEVELOPER'S AGREEMENT FOR WATER , WASTEWATER, RECLAIMED WATER, AND ELECTRIC ENERGY SERVICES** on _____, 2006 which provides for services to the Developer by the Commission;

WHEREAS, the utility infrastructure (involving electric, water, wastewater, and reclaimed water supply facilities herein referred to as utility infrastructure) of the **COMMISSION** to support growth as planned is impacted by the aggregate of all surrounding development;

WHEREAS, to apportion the costs for the utility infrastructure needs to support a given area, the **COMMISSION** desires to fairly apportion costs to the **DEVELOPER** for the future or existing infrastructure to meet needs to serve multiple developments of differing size, use, and scope; and,

WHEREAS, in recognition of the benefits of conceptual long-range planning for the build out of an area pursuant to the comprehensive plan, and detailed planning for specific areas, consistent with the comprehensive plan; to further the intent of Florida Statutes s. 163.3177(11) which supports innovative and flexible planning and development strategies, and the purposes of Chapter 163, Florida Statutes, and to avoid the disproportionate distribution of costs upon existing customers for necessary services for new customers;

ACCORDINGLY, in consideration of the **RECITALS** hereof, for and in consideration of the mutual understanding and agreement herein contained and assumed, and other good and valuable considerations received by each party from the other, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby **AGREE** as follows:

ARTICLE I DEFINITIONS

The parties agree that in construing this **ADDENDUM**, the words, phrases, and terms herein shall have the same meanings as defined in the **DEVELOPER'S AGREEMENT FOR WATER, WASTEWATER, RECLAIMED WATER, AND ELECTRIC ENERGY SERVICES** except as provided below:

- 1.1. ERU means the equivalent residential unit and is defined as used in UCNSB "Rates Charges and Fees Summary" as follows; SECTION II for water, SECTION III for waste water, and Section IV for reclaimed water. For electric energy an ERU is defined as a single phase service with a Main Breaker rating of up to 200 amps, each additional 100 amps of rated capacity or fraction thereof is an additional ERU. Three phase service is calculated the same multiplied by a factor of 3.0. **EXAMPLE:** a 300 amp service is 2.0 ERU if single phase, 6.0 ERU if 3 phase.
- 1.2. **FINAL PERMIT** – This is the time when the applicant and the UC have both approved and formally executed this agreement.

ARTICLE II
INFRASTRUCTURE PAYMENTS

DEVELOPER shall pay into an interest bearing escrow account the amount as set forth below in the DEVELOPER CONTRIBUTIONS TO INFRASTRUCTURE to pay for such infrastructure improvements necessary to support the planned growth. The UTILITIES COMMISSION shall use all or a portion of such escrowed monies at any time for said utility infrastructure improvements as deemed necessary by said UTILITIES COMMISSION.

ARTICLE II
ADJUSTMENTS TO INFRASTRUCTURE PAYMENTS

If the DEVELOPER alters the Plans and Specifications to the DEVELOPER's facilities and is re-permitted for such alterations, and the number of ERUs is affected, the amount paid hereby shall be adjusted upward or downward accordingly.

ARTICLE II
TIME FOR PAYMENT

Payment shall be made, in full, at or before the time of the issuance of the Final Permit for construction.

ARTICLE II
USE OF INFRASTRUCTURE PAYMENTS

The amounts collected shall be used for the design and improvement of the utility infrastructure and supporting systems.

ARTICLE II
REVISION OF CALCULATION OF INFRASTRUCTURE PAYMENTS

If the calculation for each ERU shall be revised downward prior to Final Permit being issued to DEVELOPER, DEVELOPER shall be reimbursed any difference from the calculation thereof and the amount paid. If plans are changed resulting in a higher recalculated ERU count, the payment shall be revised upward accordingly at the rate in effect at the time of revision, and paid prior to revised construction proceeding.

(the rest of the page is left blank intentionally)

DEVELOPER CONTRIBUTIONS TO UTILITY INFRASTRUCTURE*

TOTAL NUMBER ERU'S & PTU'S:

WASTEWATER Supply	\$ _____ per ERU	= \$ _____
WATER Supply	\$ _____ per ERU	= \$ _____
RECLAIMED WATER Supply	\$ _____ per ERU/PTU	= \$ _____
ELECTRICAL Supply	\$ _____ per ERU	= \$ _____

* Distances, water-related line size, and costs will be determined from published studies or existing infrastructure maps applied to meet code, standards, and UC requirements and use most recent costs for supply. Electrical distances, load ratings, and costs will be determined from published studies or existing infrastructure maps applied to meet code, standards, and UC requirements and use most recent costs for transmission and subtransmission supply circuits. The UC's utility cost infrastructure plan will be used to calculate the costs per ERU/PTU and exclusively reserves the right to change such plan for future applications. Rates may be adjusted by the UC after one year initially and as often as yearly thereafter.

TOTAL DEVELOPER CONTRIBUTIONS TO UTILITY INFRASTRUCTURE*

= \$ _____

* Should the Utilities Commission participate in the future in a Community Development District or other appropriate funding mechanism to finance such utility infrastructure, such remaining monies deposited in an escrow account herein referred will be returned after such contributing developer participates in such other funding mechanism whereby the Utilities Commission will be equally compensated for such utility infrastructure.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed in their respective name, by their proper officers and their seals to be affixed this _____ day of _____, 2006.

Signed, Sealed and
Delivered in the presence of:

FOR THE DEVELOPER:

Company Name:

Name:

Title:

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF VOLUSIA

Before me, personally appeared _____, Agent of
_____ Corporation, well known and known to be the person acknowledged
to and before me that he/she executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid, this _____ day of
_____, 2006.

Notary Public, State of Florida

My commission expires:

UTILITIES COMMISSION, CITY OF NEW SMYRNA
BEACH, FLORIDA

GENERAL MANAGER/CEO

Approved as to form and correctness:

UTILITIES COMMISSION ATTORNEY