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CHAMBER ACTION

Senate

House

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Floor: 1/AD/2R  
5/2/2008 2:10 PM

1 Senator Garcia moved the following **amendment**:

2  
3 **Senate Amendment (with title amendment)**

4 Delete line(s) 223-1114

5 and insert:

6 Section 1. Section 125.379, Florida Statutes, is  
7 transferred, renumbered as section 163.32431, Florida Statutes,  
8 and amended to read:

9 163.32431 ~~125.379~~ Disposition of county property for  
10 affordable housing.--

11 (1) By July 1, 2007, and every 3 years thereafter, each  
12 county shall prepare an inventory list of all real property  
13 within its jurisdiction to which the county holds fee simple  
14 title that is appropriate for use as affordable housing. The  
15 inventory list must include the address and legal description of  
16 each ~~such~~ real property and specify whether the property is  
17 vacant or improved. The governing body of the county must review



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18 | the inventory list at a public hearing and may revise it at the  
19 | conclusion of the public hearing. The governing body of the  
20 | county shall adopt a resolution that includes an inventory list  
21 | of the ~~such~~ property following the public hearing.

22 |       (2) The properties identified as appropriate for use as  
23 | affordable housing on the inventory list adopted by the county  
24 | may be offered for sale and the proceeds used to purchase land  
25 | for the development of affordable housing or to increase the  
26 | local government fund earmarked for affordable housing, or may be  
27 | sold with a restriction that requires the development of the  
28 | property as permanent affordable housing, or may be donated to a  
29 | nonprofit housing organization for the construction of permanent  
30 | affordable housing. Alternatively, the county may otherwise make  
31 | the property available for use for the production and  
32 | preservation of permanent affordable housing. For purposes of  
33 | this section, the term "affordable" has the same meaning as in s.  
34 | 420.0004(3).

35 |       (3) As a precondition to receiving any state affordable  
36 | housing funding or allocation for any project or program within a  
37 | county's jurisdiction, a county must, by July 1 of each year,  
38 | provide certification that the inventory and any update required  
39 | by this section are complete.

40 |       Section 2. Subsection (1) of section 163.3174, Florida  
41 | Statutes, is amended to read:

42 |       163.3174 Local planning agency.--

43 |       (1) The governing body of each local government,  
44 | individually or in combination as provided in s. 163.3171, shall  
45 | designate and by ordinance establish a "local planning agency,"  
46 | unless the agency is otherwise established by law.

47 | Notwithstanding any special act to the contrary, all local



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48 | planning agencies or equivalent agencies that first review  
49 | rezoning and comprehensive plan amendments in each municipality  
50 | and county shall include a representative of the school district  
51 | appointed by the school board as a nonvoting member ~~of the local~~  
52 | ~~planning agency or equivalent agency~~ to attend those meetings at  
53 | which the agency considers comprehensive plan amendments and  
54 | rezonings that would, if approved, increase residential density  
55 | on the property that is the subject of the application. However,  
56 | this subsection does not prevent the ~~governing body of the~~ local  
57 | government from granting voting status to the school board  
58 | member. Members of the local governing body may not serve on  
59 | ~~designate itself as~~ the local planning agency pursuant to this  
60 | subsection, except in a municipality having a population of  
61 | 10,000 or fewer with the addition of a nonvoting school board  
62 | ~~representative~~. The local governing body shall notify the state  
63 | land planning agency of the establishment of its local planning  
64 | agency. All local planning agencies shall provide opportunities  
65 | for involvement by applicable community college boards, which may  
66 | be accomplished by formal representation, membership on technical  
67 | advisory committees, or other appropriate means. The local  
68 | planning agency shall prepare the comprehensive plan or plan  
69 | amendment after hearings to be held after public notice and shall  
70 | make recommendations to the local governing body regarding the  
71 | adoption or amendment of the plan. The local planning agency may  
72 | be a local planning commission, the planning department of the  
73 | local government, or other instrumentality, including a  
74 | countywide planning entity established by special act or a  
75 | council of local government officials created pursuant to s.  
76 | 163.02, provided the composition of the council is fairly



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77 representative of all the governing bodies in the county or  
78 planning area; however:

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

85 (b) In the case of chartered counties, the planning  
86 responsibility between the county and the several municipalities  
87 therein shall be as stipulated in the charter.

88 Section 3. Paragraph (b) of subsection (3), paragraph (a)  
89 of subsection (4), paragraphs (a), (c), (f), (g), and (h) of  
90 subsection (6), paragraph (i) of subsection (10), paragraph (i)  
91 of subsection (12), and subsections (13) and (14) of section  
92 163.3177, Florida Statutes, are amended to read:

93 163.3177 Required and optional elements of comprehensive  
94 plan; studies and surveys.--

95 (3)

96 (b)1. The capital improvements element must be reviewed on  
97 an annual basis and modified as necessary in accordance with s.  
98 163.3187 or s. 163.3189 in order to maintain a financially  
99 feasible 5-year schedule of capital improvements. Corrections and  
100 modifications concerning costs; revenue sources; or acceptance of  
101 facilities pursuant to dedications which are consistent with the  
102 plan may be accomplished by ordinance and shall not be deemed to  
103 be amendments to the local comprehensive plan. A copy of the  
104 ordinance shall be transmitted to the state land planning agency.  
105 An amendment to the comprehensive plan is required to update the  
106 schedule on an annual basis or to eliminate, defer, or delay the



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107 construction for any facility listed in the 5-year schedule. All  
108 public facilities must be consistent with the capital  
109 improvements element. Amendments to implement this section must  
110 be adopted and transmitted no later than December 1, 2009 ~~2008~~.  
111 Thereafter, a local government may not amend its future land use  
112 map, except for plan amendments to meet new requirements under  
113 this part and emergency amendments pursuant to s. 163.3187(1)(a),  
114 after December 1, 2009 ~~2008~~, and every year thereafter, unless  
115 and until the local government has adopted the annual update and  
116 it has been transmitted to the state land planning agency.

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

122 (4) (a) Coordination of the local comprehensive plan with  
123 the comprehensive plans of adjacent municipalities, the county,  
124 adjacent counties, or the region; with the appropriate water  
125 management district's regional water supply plans approved  
126 pursuant to s. 373.0361; with adopted rules pertaining to  
127 designated areas of critical state concern; and with the state  
128 comprehensive plan shall be a major objective of the local  
129 comprehensive planning process. To that end, in the preparation  
130 of a comprehensive plan or element thereof, and in the  
131 comprehensive plan or element as adopted, the governing body  
132 shall include a specific policy statement indicating the  
133 relationship of the proposed development of the area to the  
134 comprehensive plans of adjacent municipalities, the county,  
135 adjacent counties, or the region and to the state comprehensive



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136 plan, as the case may require and as such adopted plans or plans  
137 in preparation may exist.

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

141 (a) A future land use plan element designating proposed  
142 future general distribution, location, and extent of the uses of  
143 land for residential uses, commercial uses, industry,  
144 agriculture, recreation, conservation, education, public  
145 buildings and grounds, other public facilities, and other  
146 categories of the public and private uses of land. Counties are  
147 encouraged to designate rural land stewardship areas, pursuant to  
148 ~~the provisions of~~ paragraph (11) (d), as overlays on the future  
149 land use map.

150 1. Each future land use category must be defined in terms  
151 of uses included, and must include standards for ~~to be followed~~  
152 ~~in~~ the control and distribution of population densities and  
153 building and structure intensities. The proposed distribution,  
154 location, and extent of the various categories of land use shall  
155 be shown on a land use map or map series which shall be  
156 supplemented by goals, policies, and measurable objectives.

157 2. The future land use plan shall be based upon surveys,  
158 studies, and data regarding the area, including the amount of  
159 land required to accommodate anticipated growth; the projected  
160 population of the area; the character of undeveloped land; the  
161 availability of water supplies, public facilities, and services;  
162 the need for redevelopment, including the renewal of blighted  
163 areas and the elimination of nonconforming uses which are  
164 inconsistent with the character of the community; the  
165 compatibility of uses on lands adjacent to or closely proximate



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166 to military installations; the discouragement of urban sprawl;  
167 energy-efficient land use patterns that reduce vehicle miles  
168 traveled; and, in rural communities, the need for job creation,  
169 capital investment, and economic development that will strengthen  
170 and diversify the community's economy.

171 3. The future land use plan may designate areas for future  
172 planned development use involving combinations of types of uses  
173 for which special regulations may be necessary to ensure  
174 development in accord with the principles and standards of the  
175 comprehensive plan and this act.

176 4. The future land use plan element shall include criteria  
177 ~~to be used~~ to achieve the compatibility of adjacent or closely  
178 proximate lands with military installations.

179 5. Counties are encouraged to adopt a rural sub-element as  
180 a part of the future land use plan. The sub-element shall apply  
181 to all lands classified in the future land use plan as  
182 predominantly agricultural, rural, open, open-rural, or a  
183 substantively equivalent land use. The rural sub-element shall  
184 include goals, objectives, and policies that enhance rural  
185 economies, promote the viability of agriculture, provide for  
186 appropriate economic development, discourage urban sprawl, and  
187 ensure the protection of natural resources. The rural sub-element  
188 shall generally identify anticipated areas of rural,  
189 agricultural, and conservation and areas that may be considered  
190 for conversion to urban land use and appropriate sites for  
191 affordable housing. The rural sub-element shall also generally  
192 identify areas that may be considered for rural land stewardship  
193 areas, sector planning, or new communities or towns in accordance  
194 with subsection (11) and s. 163.3245(2). ~~In addition,~~ For rural  
195 communities, the amount of land designated for future planned



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196 industrial use shall be based upon surveys and studies that  
197 reflect the need for job creation, capital investment, and the  
198 necessity to strengthen and diversify the local economies, and  
199 may ~~shall~~ not be limited solely by the projected population of  
200 the rural community.

201 6. The future land use plan of a county may also designate  
202 areas for possible future municipal incorporation.

203 7. The land use maps or map series shall generally identify  
204 and depict historic district boundaries and ~~shall~~ designate  
205 historically significant properties meriting protection.

206 8. For coastal counties, the future land use element must  
207 include, without limitation, regulatory incentives and criteria  
208 that encourage the preservation of recreational and commercial  
209 working waterfronts as defined in s. 342.07.

210 9. The future land use element must clearly identify the  
211 land use categories in which public schools are an allowable use.  
212 When delineating such ~~the~~ land use categories ~~in which public~~  
213 ~~schools are an allowable use~~, a local government shall include in  
214 the categories sufficient land proximate to residential  
215 development to meet the projected needs for schools in  
216 coordination with public school boards and may establish  
217 differing criteria for schools of different type or size. Each  
218 local government shall include lands contiguous to existing  
219 school sites, to the maximum extent possible, within the land use  
220 categories in which public schools are an allowable use. ~~The~~  
221 ~~failure by a local government to comply with these school siting~~  
222 ~~requirements will result in the prohibition of~~ The local  
223 government may not ~~government's ability to~~ amend the local  
224 comprehensive plan, except for plan amendments described in s.  
225 163.3187(1) (b), until the school siting requirements are met.



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226 ~~Amendments proposed by a local government for purposes of~~  
227 ~~identifying the land use categories in which public schools are~~  
228 ~~an allowable use are exempt from the limitation on the frequency~~  
229 ~~of plan amendments contained in s. 163.3187.~~ The future land use  
230 element shall include criteria that encourage the location of  
231 schools proximate to urban residential areas to the extent  
232 possible and shall require that the local government seek to  
233 collocate public facilities, such as parks, libraries, and  
234 community centers, with schools to the extent possible and to  
235 encourage the use of elementary schools as focal points for  
236 neighborhoods. For schools serving predominantly rural counties,  
237 defined as a county having ~~with~~ a population of 100,000 or fewer,  
238 an agricultural land use category shall be eligible for the  
239 location of public school facilities if the local comprehensive  
240 plan contains school siting criteria and the location is  
241 consistent with such criteria. Local governments required to  
242 update or amend their comprehensive plan to include criteria and  
243 address compatibility of adjacent or closely proximate lands with  
244 existing military installations in their future land use plan  
245 element shall transmit the update or amendment to the department  
246 by June 30, 2006.

247 (c) A general sanitary sewer, solid waste, drainage,  
248 potable water, and natural groundwater aquifer recharge element  
249 correlated to principles and guidelines for future land use,  
250 indicating ways to provide for future potable water, drainage,  
251 sanitary sewer, solid waste, and aquifer recharge protection  
252 requirements for the area. The element may be a detailed  
253 engineering plan including a topographic map depicting areas of  
254 prime groundwater recharge. The element shall describe the  
255 problems and needs and the general facilities that will be



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256 required for solution of the problems and needs. The element  
257 shall also include a topographic map depicting any areas adopted  
258 by a regional water management district as prime groundwater  
259 recharge areas for the Floridan or Biscayne aquifers. These areas  
260 shall be given special consideration when the local government is  
261 engaged in zoning or considering future land use for said  
262 designated areas. For areas served by septic tanks, soil surveys  
263 shall be provided which indicate the suitability of soils for  
264 septic tanks. Within 18 months after the governing board approves  
265 an updated regional water supply plan, the element must  
266 incorporate the alternative water supply project or projects  
267 selected by the local government from those identified in the  
268 regional water supply plan pursuant to s. 373.0361(2) (a) or  
269 proposed by the local government under s. 373.0361(7) (b). If a  
270 local government is located within two water management  
271 districts, the local government shall adopt its comprehensive  
272 plan amendment within 18 months after the later updated regional  
273 water supply plan. The element must identify such alternative  
274 water supply projects and traditional water supply projects and  
275 conservation and reuse necessary to meet the water needs  
276 identified in s. 373.0361(2) (a) within the local government's  
277 jurisdiction and include a work plan, covering at least a 10 year  
278 planning period, for building public, private, and regional water  
279 supply facilities, including development of alternative water  
280 supplies, which are identified in the element as necessary to  
281 serve existing and new development. The work plan shall be  
282 updated, at a minimum, every 5 years within 18 months after the  
283 governing board of a water management district approves an  
284 updated regional water supply plan. ~~Amendments to incorporate the~~  
285 ~~work plan do not count toward the limitation on the frequency of~~



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286 ~~adoption of amendments to the comprehensive plan.~~ Local  
287 governments, public and private utilities, regional water supply  
288 authorities, special districts, and water management districts  
289 are encouraged to cooperatively plan for the development of  
290 multijurisdictional water supply facilities that are sufficient  
291 to meet projected demands for established planning periods,  
292 including the development of alternative water sources to  
293 supplement traditional sources of groundwater and surface water  
294 supplies.

295 (f)1. A housing element consisting of standards, plans, and  
296 principles to be followed in:

297 a. The provision of housing for all current and anticipated  
298 future residents of the jurisdiction.

299 b. The elimination of substandard dwelling conditions.

300 c. The structural and aesthetic improvement of existing  
301 housing.

302 d. The provision of adequate sites for future housing,  
303 including affordable workforce housing as defined in s.  
304 380.0651(3)(j), housing for low-income, very low-income, and  
305 moderate-income families, mobile homes, senior affordable  
306 housing, and group home facilities and foster care facilities,  
307 with supporting infrastructure and public facilities. This  
308 includes compliance with the applicable public lands provision  
309 under s. 163.32431 or s. 163.32432.

310 e. Provision for relocation housing and identification of  
311 historically significant and other housing for purposes of  
312 conservation, rehabilitation, or replacement.

313 f. The formulation of housing implementation programs.

314 g. The creation or preservation of affordable housing to  
315 minimize the need for additional local services and avoid the



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316 concentration of affordable housing units only in specific areas  
317 of the jurisdiction.

318 ~~(I)h.~~ By July 1, 2008, each county in which the gap between  
319 the buying power of a family of four and the median county home  
320 sale price exceeds \$170,000, as determined by the Florida Housing  
321 Finance Corporation, and which is not designated as an area of  
322 critical state concern shall adopt a plan for ensuring affordable  
323 workforce housing. At a minimum, the plan shall identify adequate  
324 sites for such housing. For purposes of this sub-subparagraph,  
325 the term "workforce housing" means housing that is affordable to  
326 natural persons or families whose total household income does not  
327 exceed 140 percent of the area median income, adjusted for  
328 household size.

329 ~~(II)i.~~ As a precondition to receiving any state affordable  
330 housing funding or allocation for any project or program within  
331 the jurisdiction of a county that is subject to sub-sub-  
332 subparagraph (I), a county must, by July 1 of each year, provide  
333 certification that the county has complied with the requirements  
334 of sub-sub-subparagraph (I). ~~Failure by a local government to~~  
335 ~~comply with the requirement in sub-subparagraph h. will result in~~  
336 ~~the local government being ineligible to receive any state~~  
337 ~~housing assistance grants until the requirement of sub-~~  
338 ~~subparagraph h. is met.~~

339 2. The goals, objectives, and policies of the housing  
340 element must be based on the data and analysis prepared on  
341 housing needs, including the affordable housing needs assessment.  
342 State and federal housing plans prepared on behalf of the local  
343 government must be consistent with the goals, objectives, and  
344 policies of the housing element. Local governments are encouraged



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345 to use ~~utilize~~ job training, job creation, and economic solutions  
346 to address a portion of their affordable housing concerns.

347 ~~3.2.~~ To assist local governments in housing data collection  
348 and analysis and assure uniform and consistent information  
349 regarding the state's housing needs, the state land planning  
350 agency shall conduct an affordable housing needs assessment for  
351 all local jurisdictions on a schedule that coordinates the  
352 implementation of the needs assessment with the evaluation and  
353 appraisal reports required by s. 163.3191. Each local government  
354 shall use ~~utilize~~ the data and analysis from the needs assessment  
355 as one basis for the housing element of its local comprehensive  
356 plan. The agency shall allow a local government ~~the option~~ to  
357 perform its own needs assessment, if it uses the methodology  
358 established by the agency by rule.

359 (g)1. For those units of local government identified in s.  
360 380.24, a coastal management element, appropriately related to  
361 the particular requirements of paragraphs (d) and (e) and meeting  
362 the requirements of s. 163.3178(2) and (3). The coastal  
363 management element shall set forth the policies that shall guide  
364 the local government's decisions and program implementation with  
365 respect to the following objectives:

366 a. Maintenance, restoration, and enhancement of the overall  
367 quality of the coastal zone environment, including, but not  
368 limited to, its amenities and aesthetic values.

369 b. Continued existence of viable populations of all species  
370 of wildlife and marine life.

371 c. The orderly and balanced utilization and preservation,  
372 consistent with sound conservation principles, of all living and  
373 nonliving coastal zone resources.



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- 374           d. Avoidance of irreversible and irretrievable loss of  
375 coastal zone resources.
- 376           e. Ecological planning principles and assumptions to be  
377 used in the determination of suitability and extent of permitted  
378 development.
- 379           f. Proposed management and regulatory techniques.
- 380           g. Limitation of public expenditures that subsidize  
381 development in high-hazard coastal areas.
- 382           h. Protection of human life against the effects of natural  
383 disasters.
- 384           i. The orderly development, maintenance, and use of ports  
385 identified in s. 403.021(9) to facilitate deepwater commercial  
386 navigation and other related activities.
- 387           j. Preservation, including sensitive adaptive use of  
388 historic and archaeological resources.
- 389           2. As part of this element, a local government that has a  
390 coastal management element in its comprehensive plan is  
391 encouraged to adopt recreational surface water use policies that  
392 include applicable criteria for and consider such factors as  
393 natural resources, manatee protection needs, protection of  
394 working waterfronts and public access to the water, and  
395 recreation and economic demands. Criteria for manatee protection  
396 in the recreational surface water use policies should reflect  
397 applicable guidance outlined in the Boat Facility Siting Guide  
398 prepared by the Fish and Wildlife Conservation Commission. ~~If the~~  
399 ~~local government elects to adopt recreational surface water use~~  
400 ~~policies by comprehensive plan amendment, such comprehensive plan~~  
401 ~~amendment is exempt from the provisions of s. 163.3187(1).~~ Local  
402 governments that wish to adopt recreational surface water use  
403 policies may be eligible for assistance with the development of



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404 such policies through the Florida Coastal Management Program. The  
405 Office of Program Policy Analysis and Government Accountability  
406 shall submit a report on the adoption of recreational surface  
407 water use policies under this subparagraph to the President of  
408 the Senate, the Speaker of the House of Representatives, and the  
409 majority and minority leaders of the Senate and the House of  
410 Representatives no later than December 1, 2010.

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

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

431 b. The intergovernmental coordination element shall provide  
432 for recognition of campus master plans prepared pursuant to s.  
433 1013.30.



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

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

459           3. To foster coordination between special districts and  
460 local general-purpose governments as local general-purpose  
461 governments implement local comprehensive plans, each independent  
462 special district must submit a public facilities report to the  
463 appropriate local government as required by s. 189.415.



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464           4.a. Local governments must execute an interlocal agreement  
465 with the district school board, the county, and nonexempt  
466 municipalities pursuant to s. 163.31777. The local government  
467 shall amend the intergovernmental coordination element to provide  
468 that coordination between the local government and school board  
469 is pursuant to the agreement and shall state the obligations of  
470 the local government under the agreement.

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

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

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

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

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



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

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

505           (10) The Legislature recognizes the importance and  
506 significance of chapter 9J-5, Florida Administrative Code, the  
507 Minimum Criteria for Review of Local Government Comprehensive  
508 Plans and Determination of Compliance of the Department of  
509 Community Affairs that will be used to determine compliance of  
510 local comprehensive plans. The Legislature reserved unto itself  
511 the right to review chapter 9J-5, Florida Administrative Code,  
512 and to reject, modify, or take no action relative to this rule.  
513 Therefore, pursuant to subsection (9), the Legislature hereby has  
514 reviewed chapter 9J-5, Florida Administrative Code, and expresses  
515 the following legislative intent:

516           (i) The Legislature recognizes that due to varying local  
517 conditions, local governments have different planning needs that  
518 cannot be addressed by one uniform set of minimum planning  
519 criteria. Therefore, the state land planning agency may amend  
520 chapter 9J-5, Florida Administrative Code, to establish different  
521 minimum criteria that are applicable to local governments based  
522 on the following factors:

523           1. Current and projected population.



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- 524        2. Size of the local jurisdiction.
- 525        3. Amount and nature of undeveloped land.
- 526        4. The scale of public services provided by the local
- 527 government.

528  
529 The state land planning agency ~~department~~ shall take into account  
530 the factors delineated in rule 9J-5.002(2), Florida  
531 Administrative Code, as it provides assistance to local  
532 governments and applies the rule in specific situations with  
533 regard to the detail of the data and analysis required.

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

542        (i) The state land planning agency shall establish a phased  
543 schedule for adoption of the public school facilities element and  
544 the required updates to the public schools interlocal agreement  
545 pursuant to s. 163.31777. The schedule shall provide for each  
546 county and local government within the county to adopt the  
547 element and update to the agreement no later than December 1,  
548 2009 ~~2008~~. Plan amendments to adopt a public school facilities  
549 element are exempt from the provisions of s. 163.3187(1).

550        (13) (a) The Legislature recognizes and finds that:

551        1. There are a number of rural agricultural industrial  
552 centers in the state which process, produce, or aid in the  
553 production or distribution of a variety of agriculturally based



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554 products, such as fruits, vegetables, timber, and other crops, as  
555 well as juices, paper, and building materials. These rural  
556 agricultural industrial centers may have a significant amount of  
557 existing associated infrastructure that is used for the  
558 processing, production, or distribution of agricultural products.

559 2. Such rural agricultural industrial centers often are  
560 located within or near communities in which the economy is  
561 largely dependent upon agriculture and agriculturally based  
562 products. These centers significantly enhance the economy of such  
563 communities. However, these agriculturally based communities  
564 often are socioeconomically challenged and many such communities  
565 have been designated as rural areas of critical economic concern.  
566 If these existing rural agricultural industrial centers are lost  
567 and or not replaced with other job-creating enterprises, these  
568 agriculturally based communities may lose a substantial amount of  
569 their economies.

570 3. The state has a compelling interest in preserving the  
571 viability of agriculture and protecting rural agricultural  
572 communities and the state from the economic upheaval that could  
573 result from short-term or long-term adverse changes in the  
574 agricultural economy. To protect such communities and promote  
575 viable agriculture for the long term, it is essential to  
576 encourage and permit diversification of existing rural  
577 agricultural industrial centers by providing for jobs that are  
578 not solely dependent upon but are compatible with and complement  
579 existing agricultural industrial operations and to encourage the  
580 creation and expansion of industries that use agricultural  
581 products in innovative or new ways. However, the expansion and  
582 diversification of these existing centers must be accomplished in



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583 a manner that does not promote urban sprawl into surrounding  
584 agricultural and rural areas.

585 (b) As used in this subsection, the term "rural  
586 agricultural industrial center" means a developed parcel of land  
587 in an unincorporated area on which there exists an operating  
588 agricultural industrial facility or facilities that employ at  
589 least 200 full-time employees in the aggregate and that are used  
590 for processing and preparing for transport a farm product, as  
591 defined in s. 163.3162, or any biomass material that could be  
592 used, directly or indirectly, for the production of fuel,  
593 renewable energy, bioenergy, or alternative fuel as defined by  
594 state law. The center may also include land contiguous to the  
595 facility site which is not used for the cultivation of crops, but  
596 on which other existing activities essential to the operation of  
597 such facility or facilities are located or conducted. The parcel  
598 of land must be located within or in reasonable proximity, not to  
599 exceed 10 miles, to a rural area of critical economic concern.

600 (c) A landowner within a rural agricultural industrial  
601 center may apply for an amendment to the local government  
602 comprehensive plan for the purpose of designating and expanding  
603 the existing agricultural industrial uses or facilities located  
604 in the center or expanding the existing center to include  
605 industrial uses or facilities that are not dependent upon but are  
606 compatible with agriculture and the existing uses and facilities.  
607 An application for a comprehensive plan amendment under this  
608 paragraph:

609 1. May not increase the physical area of the original  
610 existing rural agricultural industrial center by more than 50  
611 percent or 200 acres, whichever is greater;



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612           2. Must propose a project that would create, upon  
613 completion, at least 50 new full-time jobs;

614           3. Must demonstrate that infrastructure capacity exists or  
615 will be provided to support the expanded center at level-of-  
616 service standards adopted in the local government comprehensive  
617 plan;

618           4. Must contain goals, objectives, and policies that will  
619 prevent urban sprawl in the areas surrounding the expanded  
620 center, or demonstrate that the local government comprehensive  
621 plan contains such provisions; and

622           5. Must contain goals, objectives, and policies that will  
623 ensure that any adverse environmental impacts of the expanded  
624 center will be adequately addressed and mitigated, or demonstrate  
625 that the local government comprehensive plan contains such  
626 provisions.

627  
628 An amendment that meets the requirements of this subsection is  
629 presumed to be consistent with rule 9J-5.006(5), Florida  
630 Administrative Code. This presumption may be rebutted by a  
631 preponderance of the evidence.

632           (d) This subsection does not apply to an optional sector  
633 plan adopted pursuant to s. 163.3245 or to a rural land  
634 stewardship area designated pursuant to subsection (11). ~~Local~~  
635 governments are encouraged to develop a community vision that  
636 provides for sustainable growth, recognizes its fiscal  
637 constraints, and protects its natural resources. At the request  
638 of a local government, the applicable regional planning council  
639 shall provide assistance in the development of a community  
640 vision.



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

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

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

654 ~~2. Priorities for economic development;~~

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

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

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

661 ~~6. Appropriate areas and standards for economic development~~  
662 ~~opportunities and employment centers;~~

663 ~~7. Provisions for adequate workforce housing;~~

664 ~~8. An efficient, interconnected multimodal transportation~~  
665 ~~system; and~~

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

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



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671 ~~1. Strategies to preserve open space and environmentally~~  
672 ~~sensitive lands, and to encourage a healthy agricultural economy,~~  
673 ~~including innovative planning and development strategies, such as~~  
674 ~~the transfer of development rights;~~

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

679 ~~3. Incentives for workforce housing;~~

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

682 ~~5. Strategies to provide mobility within the community and~~  
683 ~~to protect the Strategic Intermodal System, including the~~  
684 ~~development of a transportation corridor management plan under s.~~  
685 ~~337.273.~~

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

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



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699 ~~(f) Amendments submitted under this subsection are exempt~~  
700 ~~from the limitation on the frequency of plan amendments in s.~~  
701 ~~163.3187.~~

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

711 ~~(14) Local governments are also encouraged to designate an~~  
712 ~~urban service boundary. This area must be appropriate for~~  
713 ~~compact, contiguous urban development within a 10-year planning~~  
714 ~~timeframe. The urban service area boundary must be identified on~~  
715 ~~the future land use map or map series. The local government shall~~  
716 ~~demonstrate that the land included within the urban service~~  
717 ~~boundary is served or is planned to be served with adequate~~  
718 ~~public facilities and services based on the local government's~~  
719 ~~adopted level of service standards by adopting a 10-year~~  
720 ~~facilities plan in the capital improvements element which is~~  
721 ~~financially feasible. The local government shall demonstrate that~~  
722 ~~the amount of land within the urban service boundary does not~~  
723 ~~exceed the amount of land needed to accommodate the projected~~  
724 ~~population growth at densities consistent with the adopted~~  
725 ~~comprehensive plan within the 10-year planning timeframe.~~

726 ~~(a) As part of the process of establishing an urban service~~  
727 ~~boundary, the local government must hold two public meetings with~~  
728 ~~at least one of those meetings before the local planning agency.~~



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729 ~~Before those public meetings, the local government must hold at~~  
730 ~~least one public workshop with stakeholder groups such as~~  
731 ~~neighborhood associations, community organizations, businesses,~~  
732 ~~private property owners, housing and development interests, and~~  
733 ~~environmental organizations.~~

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

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

747 ~~(c) Amendments submitted under this subsection are exempt~~  
748 ~~from the limitation on the frequency of plan amendments in s.~~  
749 ~~163.3187.~~

750 ~~(d) A local government that has adopted an urban service~~  
751 ~~boundary before July 1, 2005, which substantially accomplishes~~  
752 ~~the goals set forth in this subsection is not required to comply~~  
753 ~~with paragraph (a) or subparagraph 1. of paragraph (b) in order~~  
754 ~~to be eligible for the incentives under s. 163.3184(17). In order~~  
755 ~~to satisfy the provisions of this paragraph, the local government~~  
756 ~~must secure a determination from the state land planning agency~~  
757 ~~that the urban service boundary adopted before July 1, 2005,~~  
758 ~~substantially complies with the criteria of this subsection,~~



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759 ~~based on data and analysis submitted by the local government to~~  
760 ~~support this determination. The determination by the state land~~  
761 ~~planning agency is not subject to administrative challenge.~~

762 Section 4. Subsections (3), (4), (5), and (6) of section  
763 163.31771, Florida Statutes, are amended to read:

764 163.31771 Accessory dwelling units.--

765 (3) Upon a finding by a local government that there is a  
766 shortage of affordable rentals within its jurisdiction, the local  
767 government may amend its comprehensive plan ~~adopt an ordinance~~ to  
768 allow accessory dwelling units in any area zoned for single-  
769 family residential use.

770 (4) If the local government amends its comprehensive plan  
771 pursuant to ~~adopts an ordinance under~~ this section, an  
772 application for a building permit to construct an accessory  
773 dwelling unit must include an affidavit from the applicant which  
774 attests that the unit will be rented at an affordable rate to an  
775 extremely-low-income, very-low-income, low-income, or moderate-  
776 income person or persons.

777 (5) Each accessory dwelling unit allowed by the  
778 comprehensive plan ~~an ordinance adopted under this section~~ shall  
779 apply toward satisfying the affordable housing component of the  
780 housing element in the local government's comprehensive plan  
781 under s. 163.3177(6)(f), and if such unit is subject to a  
782 recorded land use restriction agreement restricting its use to  
783 affordable housing, the unit may not be treated as a new unit for  
784 purposes of transportation concurrency or impact fees. Accessory  
785 dwelling units may not be located on land within a coastal high-  
786 hazard area or on lands identified as environmentally sensitive  
787 in the local comprehensive plan.



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788       ~~(6) The Department of Community Affairs shall evaluate the~~  
789 ~~effectiveness of using accessory dwelling units to address a~~  
790 ~~local government's shortage of affordable housing and report to~~  
791 ~~the Legislature by January 1, 2007. The report must specify the~~  
792 ~~number of ordinances adopted by a local government under this~~  
793 ~~section and the number of accessory dwelling units that were~~  
794 ~~created under these ordinances.~~

795       Section 5. Paragraph (h) of subsection (2) and subsection  
796 (9) of section 163.3178, Florida Statutes, are amended to read:

797       163.3178 Coastal management.--

798       (2) Each coastal management element required by s.  
799 163.3177(6)(g) shall be based on studies, surveys, and data; be  
800 consistent with coastal resource plans prepared and adopted  
801 pursuant to general or special law; and contain:

802       (h) Designation of coastal high-hazard areas and the  
803 criteria for mitigation for a comprehensive plan amendment in a  
804 coastal high-hazard area as provided ~~defined~~ in subsection (9).  
805 The coastal high-hazard area is the area seaward of ~~below~~ the  
806 elevation of the category 1 storm surge line as established by a  
807 Sea, Lake, and Overland Surges from Hurricanes (SLOSH)

808 computerized storm surge model. Except as demonstrated by site-  
809 specific, reliable data and analysis, the coastal high-hazard  
810 area includes all lands within the area from the mean low-water  
811 line to the inland extent of the category 1 storm surge area.

812 Such area is depicted by, but not limited to, the areas  
813 illustrated in the most current SLOSH Storm Surge Atlas.  
814 Application of mitigation and the application of development and  
815 redevelopment policies, pursuant to s. 380.27(2), and any rules  
816 adopted thereunder, shall be at the discretion of the local  
817 government.



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818           (9)~~(a)~~ Local governments may elect to comply with state  
819 coastal high-hazard provisions pursuant to rule 9J-5.012(3)(b)6.  
820 and 7., Florida Administrative Code, through the process provided  
821 in this section.

822           (a) A proposed comprehensive plan amendment shall be found  
823 in compliance with state coastal high-hazard provisions pursuant  
824 to rule 9J-5.012(3)(b)6. and 7., Florida Administrative Code, if:

- 825           1. The area subject to the amendment is not:  
826           a. Within a designated area of critical state concern;  
827           b. Inclusive of areas within the FEMA velocity zones;  
828           c. Subject to coastal erosion;  
829           d. Seaward of the coastal construction control line; or  
830           e. Subject to repetitive damage from coastal storms and  
831 floods.

832           2. The local government has adopted the following as a part  
833 of its comprehensive plan:

834           a. Hazard mitigation strategies that reduce, replace, or  
835 eliminate unsafe structures and properties subject to repetitive  
836 losses from coastal storms or floods.

837           b. Measures that reduce exposure to hazards including:

838           (I) Relocation;

839           (II) Structural modifications of threatened infrastructure;

840           (III) Provisions for operational or capacity improvements

841 to maintain hurricane evacuation clearance times within

842 established limits; and

843           (IV) Prohibiting public expenditures for capital

844 improvements that subsidize increased densities and intensities

845 of development within the coastal high-hazard area.

846           c. A postdisaster redevelopment plan.



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847       3.a. The adopted level of service for out-of-county  
848 hurricane evacuation clearance time is maintained for a category  
849 5 storm event as measured on the Saffir-Simpson scale if the  
850 adopted out-of-county hurricane evacuation clearance time does  
851 not exceed 16 hours and is based upon the time necessary to reach  
852 shelter space;

853       b.2. A 12-hour evacuation time to shelter is maintained for  
854 a category 5 storm event as measured on the Saffir-Simpson scale  
855 and shelter space reasonably expected to accommodate the  
856 residents of the development contemplated by a proposed  
857 comprehensive plan amendment is available; or

858       c.3. Appropriate mitigation is provided to ensure that the  
859 requirements of sub-subparagraph a. or sub-subparagraph b. are  
860 achieved. ~~will satisfy the provisions of subparagraph 1. or~~  
861 ~~subparagraph 2.~~ Appropriate mitigation shall include, without  
862 limitation, payment of money, contribution of land, and  
863 construction of hurricane shelters and transportation facilities.  
864 Required mitigation may shall not exceed the amount required for  
865 a developer to accommodate impacts reasonably attributable to  
866 development. A local government and a developer shall enter into  
867 a binding agreement to establish memorialize the mitigation plan.  
868 The executed agreement must be submitted along with the adopted  
869 plan amendment.

870       (b) For those local governments that have not established a  
871 level of service for out-of-county hurricane evacuation by July  
872 1, 2009 ~~2008~~, but elect to comply ~~with rule 9J-5.012(3)(b)6. and~~  
873 ~~7., Florida Administrative Code,~~ by following the process in  
874 paragraph (a), the level of service may not exceed shall be no  
875 ~~greater than~~ 16 hours for a category 5 storm event as measured on



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876 the Saffir-Simpson scale based upon the time necessary to reach  
877 shelter space.

878 (c) This subsection applies ~~shall become effective~~  
879 ~~immediately and shall apply~~ to all local governments. By ~~No later~~  
880 ~~than~~ July 1, 2009 ~~2008~~, local governments shall amend their  
881 future land use map and coastal management element to include the  
882 ~~new~~ definition of coastal high-hazard area provided in paragraph  
883 (2) (h) and to depict the coastal high-hazard area on the future  
884 land use map.

885 Section 6. Section 163.3180, Florida Statutes, is amended  
886 to read:

887 163.3180 Concurrency.--

888 (1) APPLICABILITY OF CONCURRENCY REQUIREMENT.--

889 (a) Public facility types.--Sanitary sewer, solid waste,  
890 drainage, potable water, parks and recreation, schools, and  
891 transportation facilities, including mass transit, where  
892 applicable, are the only public facilities and services subject  
893 to the concurrency requirement on a statewide basis. Additional  
894 public facilities and services may not be made subject to  
895 concurrency on a statewide basis without appropriate study and  
896 approval by the Legislature; however, any local government may  
897 extend the concurrency requirement ~~so that it applies~~ to apply to  
898 additional public facilities within its jurisdiction.

899 (b) Transportation methodologies.--Local governments shall  
900 use professionally accepted techniques for measuring level of  
901 service for automobiles, bicycles, pedestrians, transit, and  
902 trucks. These techniques may be used to evaluate increased  
903 accessibility by multiple modes and reductions in vehicle miles  
904 of travel in an area or zone. The state land planning agency and  
905 the Department of Transportation shall develop methodologies to



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906 assist local governments in implementing this multimodal level-  
907 of-service analysis and. ~~The Department of Community Affairs and~~  
908 ~~the Department of Transportation~~ shall provide technical  
909 assistance to local governments in applying the ~~these~~  
910 methodologies.

911 (2) PUBLIC FACILITY AVAILABILITY STANDARDS.--

912 (a) Sanitary sewer, solid waste, drainage, adequate water  
913 supply, and potable water facilities.--Consistent with public  
914 health and safety, sanitary sewer, solid waste, drainage,  
915 adequate water supplies, and potable water facilities shall be in  
916 place and available to serve new development no later than the  
917 issuance by the local government of a certificate of occupancy or  
918 its functional equivalent. Prior to approval of a building permit  
919 or its functional equivalent, the local government shall consult  
920 with the applicable water supplier to determine whether adequate  
921 water supplies to serve the new development will be available by  
922 ~~no later than~~ the anticipated date of issuance ~~by the local~~  
923 ~~government~~ of the a certificate of occupancy or its functional  
924 equivalent. A local government may meet the concurrency  
925 requirement for sanitary sewer through the use of onsite sewage  
926 treatment and disposal systems approved by the Department of  
927 Health to serve new development.

928 (b) Parks and recreation facilities.--Consistent with the  
929 public welfare, and except as otherwise provided in this section,  
930 parks and recreation facilities to serve new development shall be  
931 in place or under actual construction within ~~no later than~~ 1 year  
932 after issuance by the local government of a certificate of  
933 occupancy or its functional equivalent. However, the acreage for  
934 such facilities must ~~shall~~ be dedicated or be acquired by the  
935 local government prior to issuance ~~by the local government~~ of the



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936 a certificate of occupancy or its functional equivalent, or funds  
937 in the amount of the developer's fair share shall be committed no  
938 later than the local government's approval to commence  
939 construction.

940 (c) Transportation facilities.--Consistent with the public  
941 welfare, and except as otherwise provided in this section,  
942 transportation facilities needed to serve new development must  
943 ~~shall~~ be in place or under actual construction within 3 years  
944 after the local government approves a building permit or its  
945 functional equivalent that results in traffic generation.

946 (3) ESTABLISHING LEVEL-OF-SERVICE STANDARDS.--Governmental  
947 entities that are not responsible for providing, financing,  
948 operating, or regulating public facilities needed to serve  
949 development may not establish binding level-of-service standards  
950 on governmental entities that do bear those responsibilities.  
951 This subsection does not limit the authority of any agency to  
952 recommend or make objections, recommendations, comments, or  
953 determinations during reviews conducted under s. 163.3184.

954 (4) APPLICATION OF CONCURRENCY TO PUBLIC FACILITIES.--

955 (a) State and other public facilities.--The concurrency  
956 requirement as implemented in local comprehensive plans applies  
957 to state and other public facilities and development to the same  
958 extent that it applies to all other facilities and development,  
959 as provided by law.

960 (b) Public transit facilities.--The concurrency requirement  
961 as implemented in local comprehensive plans does not apply to  
962 public transit facilities. For the purposes of this paragraph,  
963 public transit facilities include transit stations and terminals;  
964 transit station parking; park-and-ride lots; intermodal public  
965 transit connection or transfer facilities; fixed bus, guideway,



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966 and rail stations; and airport passenger terminals and  
967 concourses, air cargo facilities, and hangars for the maintenance  
968 or storage of aircraft. As used in this paragraph, the terms  
969 "terminals" and "transit facilities" do not include seaports or  
970 commercial or residential development constructed in conjunction  
971 with a public transit facility.

972 (c) Infill and redevelopment areas.--The concurrency  
973 requirement, except as it relates to transportation facilities  
974 and public schools, as implemented in local government  
975 comprehensive plans, may be waived by a local government for  
976 urban infill and redevelopment areas designated pursuant to s.  
977 163.2517 if such a waiver does not endanger public health or  
978 safety as defined by the local government in its local government  
979 comprehensive plan. The waiver must ~~shall~~ be adopted as a plan  
980 amendment using ~~pursuant to~~ the process ~~set forth~~ in s.  
981 163.3187(3) (a). A local government may grant a concurrency  
982 exception pursuant to subsection (5) for transportation  
983 facilities located within ~~these~~ urban infill and redevelopment  
984 areas.

985 (5) TRANSPORTATION CONCURRENCY EXCEPTION AREAS.--

986 (a) Countervailing planning and public policy goals.--The  
987 Legislature finds that under limited circumstances ~~dealing with~~  
988 ~~transportation facilities~~, countervailing planning and public  
989 policy goals may come into conflict with the requirement that  
990 adequate public transportation facilities and services be  
991 available concurrent with the impacts of such development. The  
992 Legislature further finds that ~~often~~ the unintended result of the  
993 concurrency requirement for transportation facilities is often  
994 the discouragement of urban infill development and redevelopment.  
995 Such unintended results directly conflict with the goals and



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996 policies of the state comprehensive plan and the intent of this  
997 part. The Legislature also finds that in urban centers  
998 transportation cannot be effectively managed and mobility cannot  
999 be improved solely through the expansion of roadway capacity,  
1000 that the expansion of roadway capacity is not always physically  
1001 or financially possible, and that a range of transportation  
1002 alternatives are essential to satisfy mobility needs, reduce  
1003 congestion, and achieve healthy, vibrant centers. Therefore,  
1004 exceptions from the concurrency requirement for transportation  
1005 facilities may be granted as provided by this subsection.

1006 (b) Geographic applicability.--

1007 1. Within municipalities, transportation concurrency  
1008 exception areas are established for geographic areas identified  
1009 in the adopted portion of the comprehensive plan as of July 1,  
1010 2008, for:

1011 a. Urban infill development;

1012 b. Urban redevelopment;

1013 c. Downtown revitalization; or

1014 d. Urban infill and redevelopment under s. 163.2517.

1015 2. In other portions of the state, including municipalities  
1016 and unincorporated areas of counties, a local government may  
1017 adopt a comprehensive plan amendment establishing a  
1018 transportation concurrency exception area ~~grant an exception from~~  
1019 ~~the concurrency requirement for transportation facilities if the~~  
1020 ~~proposed development is otherwise consistent with the adopted~~  
1021 ~~local government comprehensive plan and is a project that~~  
1022 ~~promotes public transportation or is located within an area~~  
1023 designated in the comprehensive plan for:

1024 ~~a.1.~~ Urban infill development;

1025 ~~b.2.~~ Urban redevelopment;



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1026 ~~c.3.~~ Downtown revitalization;  
1027 ~~d.4.~~ Urban infill and redevelopment under s. 163.2517; or  
1028 ~~e.5.~~ An urban service area consisting of specifically  
1029 ~~designated as a transportation concurrency exception area which~~  
1030 ~~includes~~ lands appropriate for compact, contiguous urban  
1031 development, which does not exceed the amount of land needed to  
1032 accommodate the projected population growth at densities  
1033 consistent with the adopted comprehensive plan within the 10-year  
1034 planning period, and which is served or is planned to be served  
1035 with public facilities and services as provided by the capital  
1036 improvements element.

1037 (c) Projects having special part-time demands.--The  
1038 Legislature also finds that developments located within urban  
1039 infill, urban redevelopment, existing urban service, or downtown  
1040 revitalization areas or areas designated as urban infill and  
1041 redevelopment areas under s. 163.2517 which pose only special  
1042 part-time demands on the transportation system should be excepted  
1043 from the concurrency requirement for transportation facilities. A  
1044 special part-time demand is one that does not have more than 200  
1045 scheduled events during any calendar year and does not affect the  
1046 100 highest traffic volume hours.

1047 (d) Long-term strategies within transportation concurrency  
1048 exception areas.--Except for transportation concurrency exception  
1049 areas established pursuant to subparagraph (b)1., the following  
1050 requirements apply: A local government shall establish guidelines  
1051 in the comprehensive plan for granting the exceptions authorized  
1052 in paragraphs (b) and (c) and subsections (7) and (15) which must  
1053 be consistent with and support a comprehensive strategy adopted  
1054 in the plan to promote the purpose of the exceptions.



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1055        1.(e) The local government shall adopt into the plan and  
1056 implement long-term strategies to support and fund mobility  
1057 within the designated exception area, including alternative modes  
1058 of transportation. The plan amendment must ~~also~~ demonstrate how  
1059 strategies will support the purpose of the exception and how  
1060 mobility within the designated exception area will be provided.

1061        2. ~~In addition,~~ The strategies must address urban design;  
1062 appropriate land use mixes, including intensity and density; and  
1063 network connectivity plans needed to promote urban infill,  
1064 redevelopment, or downtown revitalization. The comprehensive plan  
1065 amendment designating the ~~concurrency~~ exception area must be  
1066 accompanied by data and analysis justifying the size of the area.

1067        (e)(f) Strategic Intermodal System.--Prior to the  
1068 designation of a concurrency exception area pursuant to  
1069 subparagraph (b)2., the state land planning agency and the  
1070 Department of Transportation shall be consulted by the local  
1071 government to assess the impact that the proposed exception area  
1072 is expected to have on the adopted level-of-service standards  
1073 established for Strategic Intermodal System facilities, ~~as~~  
1074 ~~defined in s. 339.64,~~ and roadway facilities funded in accordance  
1075 with s. 339.2819 and to provide for mitigation of the impacts.  
1076 Further, as a part of the comprehensive plan amendment  
1077 establishing the exception area, the local government shall  
1078 provide for mitigation of impacts, ~~in consultation with the state~~  
1079 ~~land planning agency and the Department of Transportation,~~  
1080 ~~develop a plan to mitigate any impacts to the Strategic~~  
1081 Intermodal System, including, if appropriate, access management,  
1082 parallel reliever roads, transportation demand management, or  
1083 other measures ~~the development of a long term concurrency~~  
1084 ~~management system pursuant to subsection (9) and s.~~



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1085 ~~163.3177(3)(d). The exceptions may be available only within the~~  
1086 ~~specific geographic area of the jurisdiction designated in the~~  
1087 ~~plan. Pursuant to s. 163.3184, any affected person may challenge~~  
1088 ~~a plan amendment establishing these guidelines and the areas~~  
1089 ~~within which an exception could be granted.~~

1090 ~~(g) Transportation concurrency exception areas existing~~  
1091 ~~prior to July 1, 2005, must, at a minimum, meet the provisions of~~  
1092 ~~this section by July 1, 2006, or at the time of the comprehensive~~  
1093 ~~plan update pursuant to the evaluation and appraisal report,~~  
1094 ~~whichever occurs last.~~

1095 (6) DE MINIMIS IMPACT.--The Legislature finds that a de  
1096 minimis impact is consistent with this part. A de minimis impact  
1097 is an impact that does ~~would~~ not affect more than 1 percent of  
1098 the maximum volume at the adopted level of service of the  
1099 affected transportation facility as determined by the local  
1100 government. An ~~No~~ impact is not ~~will be~~ de minimis if the sum of  
1101 existing roadway volumes and the projected volumes from approved  
1102 projects on a transportation facility exceeds ~~would exceed~~ 110  
1103 percent of the maximum volume at the adopted level of service of  
1104 the affected transportation facility; ~~provided~~ however, the ~~that~~  
1105 ~~an~~ impact of a single family home on an existing lot is ~~will~~  
1106 ~~constitute~~ a de minimis impact on all roadways regardless of the  
1107 level of the deficiency of the roadway. Further, an ~~no~~ impact is  
1108 not ~~will be~~ de minimis if it exceeds ~~would exceed~~ the adopted  
1109 level-of-service standard of any affected designated hurricane  
1110 evacuation routes. Each local government shall maintain  
1111 sufficient records to ensure that the 110-percent criterion is  
1112 not exceeded. ~~Each local government shall submit annually, with~~  
1113 ~~its updated capital improvements element, a summary of the de~~  
1114 ~~minimis records. If the state land planning agency determines~~



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1115 ~~that the 110-percent criterion has been exceeded, the state land~~  
1116 ~~planning agency shall notify the local government of the~~  
1117 ~~exceedance and that no further de minimis exceptions for the~~  
1118 ~~applicable roadway may be granted until such time as the volume~~  
1119 ~~is reduced below the 110 percent. The local government shall~~  
1120 ~~provide proof of this reduction to the state land planning agency~~  
1121 ~~before issuing further de minimis exceptions.~~

1122 (7) CONCURRENCY MANAGEMENT AREAS.--In order to promote  
1123 infill development and redevelopment, one or more transportation  
1124 concurrency management areas may be designated in a local  
1125 government comprehensive plan. A transportation concurrency  
1126 management area must be a compact geographic area that has with  
1127 an existing network of roads where multiple, viable alternative  
1128 travel paths or modes are available for common trips. A local  
1129 government may establish an areawide level-of-service standard  
1130 for ~~such~~ a transportation concurrency management area based upon  
1131 an analysis that provides for a justification for the areawide  
1132 level of service, how urban infill development or redevelopment  
1133 will be promoted, and how mobility will be accomplished within  
1134 the transportation concurrency management area. Prior to the  
1135 designation of a concurrency management area, the local  
1136 government shall consult with the state land planning agency and  
1137 ~~the Department of Transportation shall be consulted by the local~~  
1138 ~~government~~ to assess the impact that the proposed concurrency  
1139 management area is expected to have on the adopted level-of-  
1140 service standards established for Strategic Intermodal System  
1141 facilities, ~~as defined in s. 339.64,~~ and roadway facilities  
1142 funded in accordance with s. 339.2819. Further, the local  
1143 government shall, in cooperation with the state land planning  
1144 agency and the Department of Transportation, develop a plan to



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1145 mitigate any impacts to the Strategic Intermodal System,  
1146 including, if appropriate, the development of a long-term  
1147 concurrency management system pursuant to subsection (9) and s.  
1148 163.3177(3) (d). ~~Transportation concurrency management areas~~  
1149 ~~existing prior to July 1, 2005, shall meet, at a minimum, the~~  
1150 ~~provisions of this section by July 1, 2006, or at the time of the~~  
1151 ~~comprehensive plan update pursuant to the evaluation and~~  
1152 ~~appraisal report, whichever occurs last.~~ The state land planning  
1153 agency shall amend chapter 9J-5, Florida Administrative Code, to  
1154 be consistent with this subsection.

1155 (8) URBAN REDEVELOPMENT.--When assessing the transportation  
1156 impacts of proposed urban redevelopment within an established  
1157 existing urban service area, 150 ~~110~~ percent of the actual  
1158 transportation impact caused by the previously existing  
1159 development must be reserved for the redevelopment, even if the  
1160 previously existing development has a lesser or nonexistent  
1161 impact pursuant to the calculations of the local government.  
1162 Redevelopment requiring less than 150 ~~110~~ percent of the  
1163 previously existing capacity may ~~shall~~ not be prohibited due to  
1164 the reduction of transportation levels of service below the  
1165 adopted standards. This does not preclude the appropriate  
1166 assessment of fees or accounting for the impacts within the  
1167 concurrency management system and capital improvements program of  
1168 the affected local government. This paragraph does not affect  
1169 local government requirements for appropriate development  
1170 permits.

1171 (9) LONG-TERM CONCURRENCY MANAGEMENT.--

1172 (a) Each local government may adopt, as a part of its plan,  
1173 long-term transportation and school concurrency management  
1174 systems that have ~~with~~ a planning period of up to 10 years for



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1175 specially designated districts or areas where significant  
1176 backlogs exist. The plan may include interim level-of-service  
1177 standards on certain facilities and shall rely on the local  
1178 government's schedule of capital improvements for up to 10 years  
1179 as a basis for issuing development orders that authorize  
1180 commencement of construction in these designated districts or  
1181 areas. The concurrency management system must be designed to  
1182 correct existing deficiencies and set priorities for addressing  
1183 backlogged facilities and be coordinated with the appropriate  
1184 metropolitan planning organization. The concurrency management  
1185 system must be financially feasible and consistent with other  
1186 portions of the adopted local plan, including the future land use  
1187 map.

1188 (b) If a local government has a transportation or school  
1189 facility backlog for existing development which cannot be  
1190 adequately addressed in a 10-year plan, the state land planning  
1191 agency may allow it to develop a plan and long-term schedule of  
1192 capital improvements covering up to 15 years for good and  
1193 sufficient cause, based on a general comparison between the ~~that~~  
1194 local government and all other similarly situated local  
1195 jurisdictions, using the following factors:

- 1196 1. The extent of the backlog.
- 1197 2. For roads, whether the backlog is on local or state  
1198 roads.
- 1199 3. The cost of eliminating the backlog.
- 1200 4. The local government's tax and other revenue-raising  
1201 efforts.

1202 (c) The local government may issue approvals to commence  
1203 construction notwithstanding this section, consistent with and in



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1204 areas that are subject to a long-term concurrency management  
1205 system.

1206 (d) If the local government adopts a long-term concurrency  
1207 management system, it must evaluate the system periodically. At a  
1208 minimum, the local government must assess its progress toward  
1209 improving levels of service within the long-term concurrency  
1210 management district or area in the evaluation and appraisal  
1211 report and determine any changes that are necessary to accelerate  
1212 progress in meeting acceptable levels of service.

1213 (e) The Department of Transportation shall develop a  
1214 transportation methodology to determine the internal capture rate  
1215 of a development of regional impact when fully developed. The  
1216 transportation methodology must use a regional transportation  
1217 model that incorporates professionally accepted modeling  
1218 techniques applicable to such developments. The methodology  
1219 review must be completed by March 1, 2009.

1220 (10) TRANSPORTATION LEVEL-OF-SERVICE STANDARDS.--With  
1221 regard to roadway facilities on the Strategic Intermodal System  
1222 designated in accordance with s. ss. ~~339.61, 339.62, 339.63, and~~  
1223 ~~339.64,~~ the Florida Intrastate Highway System as defined in s.  
1224 ~~338.001,~~ and roadway facilities funded in accordance with s.  
1225 339.2819, local governments shall adopt the level-of-service  
1226 standard established by the Department of Transportation by rule.  
1227 For all other roads on the State Highway System, local  
1228 governments shall establish an adequate level-of-service standard  
1229 that need not be consistent with any level-of-service standard  
1230 established by the Department of Transportation. In establishing  
1231 adequate level-of-service standards for any arterial roads, or  
1232 collector roads as appropriate, which traverse multiple  
1233 jurisdictions, local governments shall consider compatibility



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1234 with the roadway facility's adopted level-of-service standards in  
1235 adjacent jurisdictions. Each local government within a county  
1236 shall use a professionally accepted methodology for measuring  
1237 impacts on transportation facilities for the purposes of  
1238 implementing its concurrency management system. Counties are  
1239 encouraged to coordinate with adjacent counties, and local  
1240 governments within a county are encouraged to coordinate, for the  
1241 purpose of using common methodologies for measuring impacts on  
1242 transportation facilities for the purpose of implementing their  
1243 concurrency management systems.

1244 (11) LIMITATION OF LIABILITY.--In order to limit the  
1245 liability of local governments, a local government may allow a  
1246 landowner to proceed with development of a specific parcel of  
1247 land notwithstanding a failure of the development to satisfy  
1248 transportation concurrency, if ~~when~~ all the following factors ~~are~~  
1249 ~~shown to~~ exist:

1250 (a) The local government that has ~~with~~ jurisdiction over  
1251 the property has adopted a local comprehensive plan that is in  
1252 compliance.

1253 (b) The proposed development is ~~would be~~ consistent with  
1254 the future land use designation for the specific property and  
1255 with pertinent portions of the adopted local plan, as determined  
1256 by the local government.

1257 (c) The local plan includes a financially feasible capital  
1258 improvements element that provides for transportation facilities  
1259 adequate to serve the proposed development, and the local  
1260 government has not implemented that element.

1261 (d) The local government has provided a means for assessing  
1262 ~~by which~~ the landowner for ~~will be assessed~~ a fair share of the



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1263 cost of providing the transportation facilities necessary to  
1264 serve the proposed development.

1265 (e) The landowner has made a binding commitment to the  
1266 local government to pay the fair share of the cost of providing  
1267 the transportation facilities to serve the proposed development.

1268 (12) REGIONAL IMPACT PROPORTIONATE SHARE.--

1269 (a) A development of regional impact may satisfy the  
1270 transportation concurrency requirements of the local  
1271 comprehensive plan, the local government's concurrency management  
1272 system, and s. 380.06 by payment of a proportionate-share  
1273 contribution for local and regionally significant traffic  
1274 impacts, if:

1275 1.(a) The development of regional impact which, based on  
1276 its location or mix of land uses, is designed to encourage  
1277 pedestrian or other nonautomotive modes of transportation;

1278 2.(b) The proportionate-share contribution for local and  
1279 regionally significant traffic impacts is sufficient to pay for  
1280 one or more required mobility improvements that will benefit the  
1281 network of a regionally significant transportation facilities.

1282 The state land planning agency may appeal the development order  
1283 pursuant to s.380.07 if the development order directs  
1284 transportation mobility improvements under this subsection to one  
1285 or more local governments in a manner that is substantially  
1286 disproportionate to the extrajurisdictional impacts of the  
1287 development of regional impact on significantly affected local  
1288 governments after taking into consideration the overall benefit  
1289 to the regional transportation network facility;

1290 3.(c) The owner and developer of the development of  
1291 regional impact pays or assures payment of the proportionate-  
1292 share contribution; and



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1293        4.(d) ~~If~~ The regionally significant transportation facility  
1294 to be constructed or improved is under the maintenance authority  
1295 of a governmental entity, as defined by s. 334.03 ~~334.03(12)~~,  
1296 other than the local government that has ~~with~~ jurisdiction over  
1297 the development of regional impact, the developer must ~~is~~  
1298 ~~required to~~ enter into a binding and legally enforceable  
1299 commitment to transfer funds to the governmental entity having  
1300 maintenance authority or to otherwise assure construction or  
1301 improvement of the facility.

1302        (b) The proportionate-share contribution may be applied to  
1303 any transportation facility to satisfy the provisions of this  
1304 subsection and the local comprehensive plan. ~~but~~ For the  
1305 purposes of this subsection, the amount of the proportionate-  
1306 share contribution shall be calculated based upon the cumulative  
1307 number of trips from the proposed development expected to reach  
1308 roadways during the peak hour from the complete buildout of a  
1309 stage or phase being approved, divided by the change in the peak  
1310 hour maximum service volume of roadways resulting from  
1311 construction of an improvement necessary to maintain the adopted  
1312 level of service, multiplied by the construction cost, at the  
1313 time of developer payment, of the improvement necessary to  
1314 maintain the adopted level of service. The determination of  
1315 mitigation for a subsequent phase or stage of development shall  
1316 account for any mitigation required by the development order and  
1317 provided by the developer for any earlier phase or stage,  
1318 calculated at present value. For purposes of this subsection, the  
1319 term:

1320        1. "Backlogged transportation facility" means a facility on  
1321 which the adopted level-of-service standard is exceeded by the  
1322 existing trips plus committed trips. A developer may not be



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1323 required to fund or construct proportionate-share mitigation for  
1324 any backlogged transportation facility which is more extensive  
1325 than mitigation necessary to offset the impact of the development  
1326 project in question.

1327 2. For purposes of this subsection, "Construction cost"  
1328 includes all associated costs of the improvement. The  
1329 proportionate-share contribution shall include the costs  
1330 associated with accommodating a transit facility within the  
1331 development of regional impact which is in a county's or the  
1332 Department of Transportation's long-range plan and shall be  
1333 credited against a development of regional impact's  
1334 proportionate-share contribution. Proportionate-share mitigation  
1335 shall be limited to ensure that a development of regional impact  
1336 meeting the requirements of this subsection mitigates its impact  
1337 on the transportation system but is not responsible for the  
1338 additional cost of reducing or eliminating backlogs.

1339 3. "Present value" means the fair market value of right-of-  
1340 way at the time of contribution or the actual dollar value of the  
1341 construction improvements contribution adjusted by the Consumer  
1342 Price Index.

1343  
1344 This subsection also applies to Florida Quality Developments  
1345 pursuant to s. 380.061 and to detailed specific area plans  
1346 implementing optional sector plans pursuant to s. 163.3245.

1347 (13) SCHOOL CONCURRENCY.--School concurrency shall be  
1348 established on a districtwide basis and ~~shall~~ include all public  
1349 schools in the district and all portions of the district, whether  
1350 located in a municipality or an unincorporated area unless exempt  
1351 from the public school facilities element pursuant to s.  
1352 163.3177(12). The application of school concurrency to



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1353 development shall be based upon the adopted comprehensive plan,  
1354 as amended. All local governments within a county, except as  
1355 provided in paragraph (f), shall adopt and transmit to the state  
1356 land planning agency the necessary plan amendments, along with  
1357 the interlocal agreement, for a compliance review pursuant to s.  
1358 163.3184(7) and (8). The minimum requirements for school  
1359 concurrency are the following:

1360 (a) Public school facilities element.--A local government  
1361 shall adopt and transmit to the state land planning agency a plan  
1362 or plan amendment which includes a public school facilities  
1363 element which is consistent with the requirements of s.  
1364 163.3177(12) and which is determined to be in compliance as  
1365 defined in s. 163.3184(1)(b). All local government public school  
1366 facilities plan elements within a county must be consistent with  
1367 each other as well as the requirements of this part.

1368 (b) Level-of-service standards.--The Legislature recognizes  
1369 that an essential requirement for a concurrency management system  
1370 is the level of service at which a public facility is expected to  
1371 operate.

1372 1. Local governments and school boards imposing school  
1373 concurrency shall exercise authority in conjunction with each  
1374 other to establish jointly adequate level-of-service standards,  
1375 as defined in chapter 9J-5, Florida Administrative Code,  
1376 necessary to implement the adopted local government comprehensive  
1377 plan, based on data and analysis.

1378 2. Public school level-of-service standards shall be  
1379 included and adopted into the capital improvements element of the  
1380 local comprehensive plan and shall apply districtwide to all  
1381 schools of the same type. Types of schools may include



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1382 elementary, middle, and high schools as well as special purpose  
1383 facilities such as magnet schools.

1384 3. Local governments and school boards may use ~~shall have~~  
1385 ~~the option to utilize~~ tiered level-of-service standards to allow  
1386 time to achieve an adequate and desirable level of service as  
1387 circumstances warrant.

1388 4. For purposes of determining whether levels of service  
1389 have been achieved, a school district that includes relocatables  
1390 in its inventory of student stations shall include the capacity  
1391 of such relocatables as provided in s. 1013.35(2)(b)2.f.

1392 (c) Service areas.--The Legislature recognizes that an  
1393 essential requirement for a concurrency system is a designation  
1394 of the area within which the level of service will be measured  
1395 when an application for a residential development permit is  
1396 reviewed for school concurrency purposes. This delineation is  
1397 also important for ~~purposes of~~ determining whether the local  
1398 government has a financially feasible public school capital  
1399 facilities program for ~~that will provide~~ schools which will  
1400 achieve and maintain the adopted level-of-service standards.

1401 1. In order to balance competing interests, preserve the  
1402 constitutional concept of uniformity, and avoid disruption of  
1403 existing educational and growth management processes, local  
1404 governments are encouraged to initially apply school concurrency  
1405 to development only on a districtwide basis so that a concurrency  
1406 determination for a specific development is ~~will be~~ based upon  
1407 the availability of school capacity districtwide. To ensure that  
1408 development is coordinated with schools having available  
1409 capacity, within 5 years after adoption of school concurrency,  
1410 local governments shall apply school concurrency on a less than



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1411 districtwide basis, such as using school attendance zones or  
1412 concurrency service areas, as provided in subparagraph 2.

1413         2. For local governments applying school concurrency on a  
1414 less than districtwide basis, such as utilizing school attendance  
1415 zones or larger school concurrency service areas, local  
1416 governments and school boards shall have the burden of  
1417 demonstrating ~~to demonstrate~~ that the utilization of school  
1418 capacity is maximized to the greatest extent possible in the  
1419 comprehensive plan and amendment, taking into account  
1420 transportation costs and court-approved desegregation plans, as  
1421 well as other factors. In addition, in order to achieve  
1422 concurrency within the service area boundaries selected by local  
1423 governments and school boards, the service area boundaries,  
1424 together with the standards for establishing those boundaries,  
1425 shall be identified and included as supporting data and analysis  
1426 for the comprehensive plan.

1427         3. Where school capacity is available on a districtwide  
1428 basis but school concurrency is applied on a less than  
1429 districtwide basis in the form of concurrency service areas, if  
1430 the adopted level-of-service standard cannot be met in a  
1431 particular service area as applied to an application for a  
1432 development permit and if the needed capacity for the particular  
1433 service area is available in one or more contiguous service  
1434 areas, as adopted by the local government, ~~then~~ the local  
1435 government may not deny an application for site plan or final  
1436 subdivision approval or the functional equivalent for a  
1437 development or phase of a development on the basis of school  
1438 concurrency, and if issued, development impacts shall be shifted  
1439 to contiguous service areas with schools having available  
1440 capacity.



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1441 (d) Financial feasibility.--The Legislature recognizes that  
1442 financial feasibility is an important issue because the premise  
1443 of concurrency is that ~~the~~ public facilities will be provided in  
1444 order to achieve and maintain the adopted level-of-service  
1445 standard. This part and chapter 9J-5, Florida Administrative  
1446 Code, contain specific standards for determining ~~to determine~~ the  
1447 financial feasibility of capital programs. These standards were  
1448 adopted to make concurrency more predictable and local  
1449 governments more accountable.

1450 1. A comprehensive plan amendment seeking to impose school  
1451 concurrency must ~~shall~~ contain appropriate amendments to the  
1452 capital improvements element of the comprehensive plan,  
1453 consistent with ~~the requirements of~~ s. 163.3177(3) and rule 9J-  
1454 5.016, Florida Administrative Code. The capital improvements  
1455 element must ~~shall~~ set forth a financially feasible public school  
1456 capital facilities program, established in conjunction with the  
1457 school board, that demonstrates that the adopted level-of-service  
1458 standards will be achieved and maintained.

1459 2. Such amendments to the capital improvements element must  
1460 ~~shall~~ demonstrate that the public school capital facilities  
1461 program meets all of the financial feasibility standards of this  
1462 part and chapter 9J-5, Florida Administrative Code, that apply to  
1463 capital programs which provide the basis for mandatory  
1464 concurrency on other public facilities and services.

1465 3. If ~~When~~ the financial feasibility of a public school  
1466 capital facilities program is evaluated by the state land  
1467 planning agency for purposes of a compliance determination, the  
1468 evaluation must ~~shall~~ be based upon the service areas selected by  
1469 the local governments and school board.



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1470 (e) Availability standard.--Consistent with the public  
1471 welfare, and except as otherwise provided in this subsection,  
1472 public school facilities needed to serve new residential  
1473 development shall be in place or under actual construction within  
1474 3 years after the issuance of final subdivision or site plan  
1475 approval, or the functional equivalent. A local government may  
1476 not deny an application for site plan, final subdivision  
1477 approval, or the functional equivalent for a development or phase  
1478 of a development authorizing residential development for failure  
1479 to achieve and maintain the level-of-service standard for public  
1480 school capacity in a local school concurrency management system  
1481 where adequate school facilities will be in place or under actual  
1482 construction within 3 years after the issuance of final  
1483 subdivision or site plan approval, or the functional equivalent.  
1484 Any mitigation required of a developer shall be limited to ensure  
1485 that a development mitigates its own impact on public school  
1486 facilities, but is not responsible for the additional cost of  
1487 reducing or eliminating backlogs or addressing class size  
1488 reduction. School concurrency is satisfied if the developer  
1489 executes a legally binding commitment to provide mitigation  
1490 proportionate to the demand for public school facilities to be  
1491 created by actual development of the property, including, but not  
1492 limited to, the options described in subparagraph 1. Options for  
1493 proportionate-share mitigation of impacts on public school  
1494 facilities must be established in the public school facilities  
1495 element and the interlocal agreement pursuant to s. 163.31777.  
1496 1. Appropriate mitigation options include the contribution  
1497 of land; the construction, expansion, or payment for land  
1498 acquisition or construction of a public school facility; the  
1499 construction of a charter school that complies with the



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1500 requirements of s. 1002.33(18)(f); or the creation of mitigation  
1501 banking based on the construction of a public school facility in  
1502 exchange for the right to sell capacity credits. Such options  
1503 must include execution by the applicant and the local government  
1504 of a development agreement that constitutes a legally binding  
1505 commitment to pay proportionate-share mitigation for the  
1506 additional residential units approved by the local government in  
1507 a development order and actually developed on the property,  
1508 taking into account residential density allowed on the property  
1509 prior to the plan amendment that increased the overall  
1510 residential density. The district school board must be a party to  
1511 such an agreement. As a condition of its entry into such a  
1512 development agreement, the local government may require the  
1513 landowner to agree to continuing renewal of the agreement upon  
1514 its expiration.

1515       2. If the education facilities plan and the public  
1516 educational facilities element authorize a contribution of land;  
1517 the construction, expansion, or payment for land acquisition; or  
1518 the construction or expansion of a public school facility, or a  
1519 portion thereof, or the construction of a charter school that  
1520 complies with the requirements of s. 1002.33(18)(f), as  
1521 proportionate-share mitigation, the local government shall credit  
1522 such a contribution, construction, expansion, or payment toward  
1523 any other impact fee or exaction imposed by local ordinance for  
1524 the same need, on a dollar-for-dollar basis at fair market value.  
1525 For proportionate-share calculations, the percentage of  
1526 relocatables, as provided in s. 1013.35(2)(b)2.f., which are used  
1527 by a school district shall be considered in determining the  
1528 average cost of a student station.



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1529 |       ~~4.3.~~ Any proportionate-share mitigation must be directed by  
1530 | the school board toward a school capacity improvement identified  
1531 | in a financially feasible 5-year district work plan that  
1532 | satisfies the demands created by the development in accordance  
1533 | with a binding developer's agreement.

1534 |       ~~5.4.~~ If a development is precluded from commencing because  
1535 | there is inadequate classroom capacity to mitigate the impacts of  
1536 | the development, the development may nevertheless commence if  
1537 | there are accelerated facilities in an approved capital  
1538 | improvement element scheduled for construction in year four or  
1539 | later of such plan which, when built, will mitigate the proposed  
1540 | development, or if such accelerated facilities will be in the  
1541 | next annual update of the capital facilities element, the  
1542 | developer enters into a binding, financially guaranteed agreement  
1543 | with the school district to construct an accelerated facility  
1544 | within the first 3 years of an approved capital improvement plan,  
1545 | and the cost of the school facility is equal to or greater than  
1546 | the development's proportionate share. When the completed school  
1547 | facility is conveyed to the school district, the developer shall  
1548 | receive impact fee credits usable within the zone where the  
1549 | facility is constructed or any attendance zone contiguous with or  
1550 | adjacent to the zone where the facility is constructed.

1551 |       ~~6.5.~~ This paragraph does not limit the authority of a local  
1552 | government to deny a development permit or its functional  
1553 | equivalent pursuant to its home rule regulatory powers, except as  
1554 | provided in this part.

1555 |       (f) Intergovernmental coordination.--

1556 |       1. When establishing concurrency requirements for public  
1557 | schools, a local government shall satisfy the requirements for  
1558 | intergovernmental coordination set forth in s. 163.3177(6)(h)1.



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1559 and 2., except that a municipality is not required to be a  
1560 signatory to the interlocal agreement required by ss.  
1561 163.3177(6)(h)2. and 163.31777(6), as a prerequisite for  
1562 imposition of school concurrency, and as a nonsignatory, may  
1563 ~~shall~~ not participate in the adopted local school concurrency  
1564 system, if the municipality meets all of the following criteria  
1565 for not having a a ~~ne~~ significant impact on school attendance:

1566 a. The municipality has issued development orders for fewer  
1567 than 50 residential dwelling units during the preceding 5 years,  
1568 or the municipality has generated fewer than 25 additional public  
1569 school students during the preceding 5 years.

1570 b. The municipality has not annexed new land during the  
1571 preceding 5 years in land use categories which permit residential  
1572 uses that will affect school attendance rates.

1573 c. The municipality has no public schools located within  
1574 its boundaries.

1575 d. At least 80 percent of the developable land within the  
1576 boundaries of the municipality has been built upon.

1577 2. A municipality that ~~which~~ qualifies as not having a a ~~ne~~  
1578 significant impact on school attendance pursuant to ~~the criteria~~  
1579 ~~of~~ subparagraph 1. must review and determine at the time of its  
1580 evaluation and appraisal report pursuant to s. 163.3191 whether  
1581 it continues to meet the criteria pursuant to s. 163.31777(6). If  
1582 the municipality determines that it no longer meets the criteria,  
1583 it must adopt appropriate school concurrency goals, objectives,  
1584 and policies in its plan amendments based on the evaluation and  
1585 appraisal report, and enter into the existing interlocal  
1586 agreement required by ss. 163.3177(6)(h)2. and 163.31777, in  
1587 order to fully participate in the school concurrency system. If



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1588 such a municipality fails to do so, it is ~~will be~~ subject to the  
1589 enforcement provisions of s. 163.3191.

1590 (g) Interlocal agreement for school concurrency.--When  
1591 establishing concurrency requirements for public schools, a local  
1592 government must enter into an interlocal agreement that satisfies  
1593 the requirements in ss. 163.3177(6)(h)1. and 2. and 163.31777 and  
1594 the requirements of this subsection. The interlocal agreement  
1595 must ~~shall~~ acknowledge both the school board's constitutional and  
1596 statutory obligations to provide a uniform system of free public  
1597 schools on a countywide basis, and the land use authority of  
1598 local governments, including their authority to approve or deny  
1599 comprehensive plan amendments and development orders. The  
1600 interlocal agreement shall be submitted to the state land  
1601 planning agency by the local government as a part of the  
1602 compliance review, along with the other necessary amendments to  
1603 the comprehensive plan required by this part. In addition to the  
1604 requirements of ss. 163.3177(6)(h) and 163.31777, the interlocal  
1605 agreement must ~~shall~~ meet the following requirements:

1606 1. Establish ~~the~~ mechanisms for coordinating the  
1607 development, adoption, and amendment of each local government's  
1608 public school facilities element with each other and the plans of  
1609 the school board to ensure a uniform districtwide school  
1610 concurrency system.

1611 2. Establish a process for developing ~~the development of~~  
1612 siting criteria that ~~which~~ encourages the location of public  
1613 schools proximate to urban residential areas to the extent  
1614 possible and seeks to collocate schools with other public  
1615 facilities such as parks, libraries, and community centers to the  
1616 extent possible.



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1617           3. Specify uniform, districtwide level-of-service standards  
1618 for public schools of the same type and the process for modifying  
1619 the adopted level-of-service standards.

1620           4. Establish a process for the preparation, amendment, and  
1621 joint approval by each local government and the school board of a  
1622 public school capital facilities program that ~~which~~ is  
1623 financially feasible, and a process and schedule for  
1624 incorporation of the public school capital facilities program  
1625 into the local government comprehensive plans on an annual basis.

1626           5. Define the geographic application of school concurrency.  
1627 If school concurrency is to be applied on a less than  
1628 districtwide basis in the form of concurrency service areas, the  
1629 agreement must ~~shall~~ establish criteria and standards for the  
1630 establishment and modification of school concurrency service  
1631 areas. The agreement must ~~shall~~ also establish a process and  
1632 schedule for the mandatory incorporation of the school  
1633 concurrency service areas and the criteria and standards for  
1634 establishment of the service areas into the local government  
1635 comprehensive plans. The agreement must ~~shall~~ ensure maximum  
1636 utilization of school capacity, taking into account  
1637 transportation costs and court-approved desegregation plans, as  
1638 well as other factors. The agreement must ~~shall~~ also ensure the  
1639 achievement and maintenance of the adopted level-of-service  
1640 standards for the geographic area of application throughout the 5  
1641 years covered by the public school capital facilities plan and  
1642 thereafter by adding a new fifth year during the annual update.

1643           6. Establish a uniform districtwide procedure for  
1644 implementing school concurrency which provides for:

1645           a. The evaluation of development applications for  
1646 compliance with school concurrency requirements, including



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1647 information provided by the school board on affected schools,  
1648 impact on levels of service, ~~and~~ programmed improvements for  
1649 affected schools, and any options to provide sufficient capacity;

1650 b. An opportunity for the school board to review and  
1651 comment on the effect of comprehensive plan amendments and  
1652 rezonings on the public school facilities plan; and

1653 c. The monitoring and evaluation of the school concurrency  
1654 system.

1655 7. Include provisions relating to amendment of the  
1656 agreement.

1657 8. A process and uniform methodology for determining  
1658 proportionate-share mitigation pursuant to subparagraph (e)1.

1659 (h) Local government authority.--This subsection does not  
1660 limit the authority of a local government to grant or deny a  
1661 development permit or its functional equivalent prior to the  
1662 implementation of school concurrency.

1663 (14) RULEMAKING AUTHORITY.--The state land planning agency  
1664 shall, by October 1, 1998, adopt by rule minimum criteria for the  
1665 review and determination of compliance of a public school  
1666 facilities element adopted by a local government for purposes of  
1667 imposition of school concurrency.

1668 (15) MULTIMODAL DISTRICTS.--

1669 (a) Multimodal transportation districts may be established  
1670 under a local government comprehensive plan in areas delineated  
1671 on the future land use map for which the local comprehensive plan  
1672 assigns secondary priority to vehicle mobility and primary  
1673 priority to assuring a safe, comfortable, and attractive  
1674 pedestrian environment, with convenient interconnection to  
1675 transit. Such districts must incorporate community design  
1676 features that will reduce the number of automobile trips or



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1677 | vehicle miles of travel and will support an integrated,  
1678 | multimodal transportation system. Prior to the designation of  
1679 | multimodal transportation districts, the Department of  
1680 | Transportation shall be consulted by the local government to  
1681 | assess the impact that the proposed multimodal district area is  
1682 | expected to have on the adopted level-of-service standards  
1683 | established for Strategic Intermodal System facilities, as  
1684 | designated in s. 339.63 ~~defined in s. 339.64~~, and roadway  
1685 | facilities funded in accordance with s. 339.2819. Further, the  
1686 | local government shall, in cooperation with the Department of  
1687 | Transportation, develop a plan to mitigate any impacts to the  
1688 | Strategic Intermodal System, including the development of a long-  
1689 | term concurrency management system pursuant to subsection (9) and  
1690 | s. 163.3177(3) (d). ~~Multimodal transportation districts existing~~  
1691 | ~~prior to July 1, 2005, shall meet, at a minimum, the provisions~~  
1692 | ~~of this section by July 1, 2006, or at the time of the~~  
1693 | ~~comprehensive plan update pursuant to the evaluation and~~  
1694 | ~~appraisal report, whichever occurs last.~~

1695 |       (b) Community design elements of ~~such~~ a multimodal  
1696 | transportation district include: a complementary mix and range of  
1697 | land uses, including educational, recreational, and cultural  
1698 | uses; interconnected networks of streets designed to encourage  
1699 | walking and bicycling, with traffic-calming where desirable;  
1700 | appropriate densities and intensities of use within walking  
1701 | distance of transit stops; daily activities within walking  
1702 | distance of residences, allowing independence to persons who do  
1703 | not drive; public uses, streets, and squares that are safe,  
1704 | comfortable, and attractive for the pedestrian, with adjoining  
1705 | buildings open to the street and with parking not interfering  
1706 | with pedestrian, transit, automobile, and truck travel modes.



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1707 (c) Local governments may establish multimodal level-of-  
1708 service standards that rely primarily on nonvehicular modes of  
1709 transportation within the district, if ~~when~~ justified by an  
1710 analysis demonstrating that the existing and planned community  
1711 design will provide an adequate level of mobility within the  
1712 district based upon professionally accepted multimodal level-of-  
1713 service methodologies. The analysis must also demonstrate that  
1714 the capital improvements required to promote community design are  
1715 financially feasible over the development or redevelopment  
1716 timeframe for the district and that community design features  
1717 within the district provide convenient interconnection for a  
1718 multimodal transportation system. Local governments may issue  
1719 development permits in reliance upon all planned community design  
1720 capital improvements that are financially feasible over the  
1721 development or redevelopment timeframe for the district, without  
1722 regard to the period of time between development or redevelopment  
1723 and the scheduled construction of the capital improvements. A  
1724 determination of financial feasibility shall be based upon  
1725 currently available funding or funding sources that could  
1726 reasonably be expected to become available over the planning  
1727 period.

1728 (d) Local governments may reduce impact fees or local  
1729 access fees for development within multimodal transportation  
1730 districts based on the reduction of vehicle trips per household  
1731 or vehicle miles of travel expected from the development pattern  
1732 planned for the district.

1733 (e) By December 1, 2007, the Department of Transportation,  
1734 in consultation with the state land planning agency and  
1735 interested local governments, may designate a study area for  
1736 conducting a pilot project to determine the benefits of and



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1737 barriers to establishing a regional multimodal transportation  
1738 concurrency district that extends over more than one local  
1739 government jurisdiction. If designated:

1740 1. The study area must be in a county that has a population  
1741 of at least 1,000 persons per square mile, be within an urban  
1742 service area, and have the consent of the local governments  
1743 within the study area. The Department of Transportation and the  
1744 state land planning agency shall provide technical assistance.

1745 2. The local governments within the study area and the  
1746 Department of Transportation, in consultation with the state land  
1747 planning agency, shall cooperatively create a multimodal  
1748 transportation plan that meets the requirements of this section.  
1749 The multimodal transportation plan must include viable local  
1750 funding options and incorporate community design features,  
1751 including a range of mixed land uses and densities and  
1752 intensities, which will reduce the number of automobile trips or  
1753 vehicle miles of travel while supporting an integrated,  
1754 multimodal transportation system.

1755 3. To effectuate the multimodal transportation concurrency  
1756 district, participating local governments may adopt appropriate  
1757 comprehensive plan amendments.

1758 4. The Department of Transportation, in consultation with  
1759 the state land planning agency, shall submit a report by March 1,  
1760 2009, to the Governor, the President of the Senate, and the  
1761 Speaker of the House of Representatives on the status of the  
1762 pilot project. The report must identify any factors that support  
1763 or limit the creation and success of a regional multimodal  
1764 transportation district including intergovernmental coordination.

1765 (f) The state land planning agency may designate up to five  
1766 local governments as Urban Placemaking Initiative Pilot Projects.



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1767 The purpose of the pilot project program is to assist local  
1768 communities with redevelopment of primarily single-use suburban  
1769 areas that surround strategic corridors and crossroads, and to  
1770 create livable, sustainable communities that have a sense of  
1771 place. Pilot communities must have a county population of at  
1772 least 350,000, be able to demonstrate an ability to administer  
1773 the pilot project, and have appropriate potential redevelopment  
1774 areas suitable for the pilot project. Recognizing that both the  
1775 form of existing development patterns and strict application of  
1776 transportation concurrency requirements create obstacles to such  
1777 redevelopment, the pilot project program shall further the  
1778 ability of such communities to cultivate mixed-use and form-based  
1779 communities that integrate all modes of transportation. The pilot  
1780 project program shall provide an alternative regulatory framework  
1781 that allows for the creation of a multimodal concurrency district  
1782 that over the planning time period allows pilot project  
1783 communities to incrementally realize the goals of the  
1784 redevelopment area by guiding redevelopment of parcels and  
1785 cultivating multimodal development in targeted transitional  
1786 suburban areas. The Department of Transportation shall provide  
1787 technical support to the state land planning agency and the  
1788 department and the agency shall provide technical assistance to  
1789 the local governments in the implementation of the pilot  
1790 projects.

1791 1. Each pilot project community shall adopt criteria for  
1792 designation of specific urban placemaking redevelopment areas and  
1793 general location maps in the future land use element of its  
1794 comprehensive plan. Such redevelopment areas must be within an  
1795 urban service area that meets the requirements of sub-  
1796 paragraph (5) (b) 2.e. Each pilot project community shall also



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1797 adopt comprehensive plan amendments that set forth criteria for  
1798 the development of the urban placemaking areas and that contain  
1799 land use and transportation strategies, including, but not  
1800 limited to, the community design elements set forth in paragraph  
1801 (b). A pilot project community shall undertake a process of  
1802 public engagement to coordinate community vision, citizen  
1803 interest, and development goals for developments within the urban  
1804 placemaking redevelopment areas.

1805 2. Each pilot project community may assign transportation  
1806 concurrency or trip generation credits and impact fee exemptions  
1807 or reductions and establish concurrency exceptions for  
1808 developments that meet the adopted comprehensive plan criteria  
1809 for urban placemaking redevelopment areas.

1810 (16) FAIR-SHARE MITIGATION.--It is the intent of the  
1811 Legislature to provide a method by which the impacts of  
1812 development on transportation facilities can be mitigated by the  
1813 cooperative efforts of the public and private sectors. The  
1814 methodology used to calculate proportionate fair-share mitigation  
1815 under this section shall be as provided for in subsection (12).

1816 (a) By December 1, 2006, each local government shall adopt  
1817 by ordinance a methodology for assessing proportionate fair-share  
1818 mitigation options. By December 1, 2005, the Department of  
1819 Transportation shall develop a model transportation concurrency  
1820 management ordinance that has ~~with~~ methodologies for assessing  
1821 proportionate fair-share mitigation options.

1822 (b)~~1.~~ In its transportation concurrency management system,  
1823 a local government shall, ~~by December 1, 2006,~~ include  
1824 methodologies to be applied in calculating ~~that will be applied~~  
1825 ~~to calculate~~ proportionate fair-share mitigation.



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1826 |        1. A developer may choose to satisfy all transportation  
1827 | concurrency requirements by contributing or paying proportionate  
1828 | fair-share mitigation if transportation facilities or facility  
1829 | segments identified as mitigation for traffic impacts are  
1830 | specifically identified for funding in the 5-year schedule of  
1831 | capital improvements in the capital improvements element of the  
1832 | local plan or the long-term concurrency management system or if  
1833 | such contributions or payments to such facilities or segments are  
1834 | reflected in the 5-year schedule of capital improvements in the  
1835 | next regularly scheduled update of the capital improvements  
1836 | element. Updates to the 5-year capital improvements element which  
1837 | reflect proportionate fair-share contributions may not be found  
1838 | not in compliance based on ss. 163.3164(32) and 163.3177(3) if  
1839 | additional contributions, payments or funding sources are  
1840 | reasonably anticipated during a period not to exceed 10 years to  
1841 | fully mitigate impacts on the transportation facilities.

1842 |        2. Proportionate fair-share mitigation shall be applied as  
1843 | a credit against impact fees to the extent that all or a portion  
1844 | of the proportionate fair-share mitigation is used to address the  
1845 | same capital infrastructure improvements contemplated by the  
1846 | local government's impact fee ordinance.

1847 |        (c) Proportionate fair-share mitigation includes, without  
1848 | limitation, separately or collectively, private funds,  
1849 | contributions of land, and construction and contribution of  
1850 | facilities and may include public funds as determined by the  
1851 | local government. Proportionate fair-share mitigation may be  
1852 | directed toward one or more specific transportation improvements  
1853 | reasonably related to the mobility demands created by the  
1854 | development and such improvements may address one or more modes  
1855 | of travel. The fair market value of the proportionate fair-share



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1856 mitigation may ~~shall~~ not differ based on the form of mitigation.  
1857 A local government may not require a development to pay more than  
1858 its proportionate fair-share contribution regardless of the  
1859 method of mitigation. Proportionate fair-share mitigation shall  
1860 be limited to ensure that a development meeting the requirements  
1861 of this section mitigates its impact on the transportation system  
1862 but is not responsible for the additional cost of reducing or  
1863 eliminating backlogs. For purposes of this subsection, the term  
1864 "backlogged transportation facility" means a facility on which  
1865 the adopted level-of-service standard is exceeded by the existing  
1866 trips plus committed trips. A developer may not be required to  
1867 fund or construct proportionate-share mitigation for any  
1868 backlogged transportation facility that is more extensive than  
1869 mitigation necessary to offset the impact of the development  
1870 project in question.

1871 (d) This subsection does not require a local government to  
1872 approve a development that is not otherwise qualified for  
1873 approval pursuant to the applicable local comprehensive plan and  
1874 land development regulations.

1875 (e) Mitigation for development impacts to facilities on the  
1876 Strategic Intermodal System made pursuant to this subsection  
1877 requires the concurrence of the Department of Transportation.

1878 (f) If the funds in an adopted 5-year capital improvements  
1879 element are insufficient to fully fund construction of a  
1880 transportation improvement required by the local government's  
1881 concurrency management system, a local government and a developer  
1882 may still enter into a binding proportionate-share agreement  
1883 authorizing the developer to construct that amount of development  
1884 on which the proportionate share is calculated if the  
1885 proportionate-share amount in the ~~such~~ agreement is sufficient to



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1886 pay for one or more improvements which will, in the opinion of  
1887 the governmental entity or entities maintaining the  
1888 transportation facilities, significantly benefit the impacted  
1889 transportation system. The improvements funded by the  
1890 proportionate-share component must be adopted into the 5-year  
1891 capital improvements schedule of the comprehensive plan at the  
1892 next annual capital improvements element update. The funding of  
1893 any improvements that significantly benefit the impacted  
1894 transportation system satisfies concurrency requirements as a  
1895 mitigation of the development's impact upon the overall  
1896 transportation system even if there remains a failure of  
1897 concurrency on other impacted facilities.

1898 (g) Except as provided in subparagraph (b)1., this section  
1899 does ~~may~~ not prohibit the state land planning agency ~~Department~~  
1900 ~~of Community Affairs~~ from finding other portions of the capital  
1901 improvements element amendments not in compliance as provided in  
1902 this chapter.

1903 (h) ~~The provisions of~~ This subsection does ~~do~~ not apply to  
1904 a development of regional impact satisfying the requirements of  
1905 subsection (12).

1906 (i) The determination of mitigation for a subsequent phase  
1907 or stage of development shall account for any mitigation required  
1908 by the development order and provided by the developer for any  
1909 earlier phase or stage, calculated at present value. For purposes  
1910 of this subsection, the term "present value" means the fair  
1911 market value of right-of-way at the time of contribution or the  
1912 actual dollar value of the construction improvements contribution  
1913 adjusted by the Consumer Price Index.

1914 (17) TRANSPORTATION MOBILITY FEE.--The Legislature finds  
1915 that the existing transportation concurrency system has not



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1916 adequately addressed the state's transportation needs in an  
1917 effective, predictable, and equitable manner and is not producing  
1918 a sustainable transportation system for the state. The current  
1919 system is complex, lacks uniformity among jurisdictions, is too  
1920 focused on roadways to the detriment of desired land use patterns  
1921 and transportation alternatives, and frequently prevents the  
1922 attainment of important growth management goals. The state,  
1923 therefore, should consider a different transportation concurrency  
1924 approach that uses a mobility fee based on vehicle and people  
1925 miles traveled. Therefore, the Legislature directs the state land  
1926 planning agency to study and develop a methodology for a mobility  
1927 fee system as follows:

1928 (a) The state land planning agency, in consultation with  
1929 the Department of Transportation, shall convene a study group  
1930 that includes representatives from the Department of  
1931 Transportation, regional planning councils, local governments,  
1932 the development community, land use and transportation  
1933 professionals, and the Legislature to develop a uniform mobility  
1934 fee methodology for statewide application to replace the existing  
1935 transportation concurrency management system. The methodology  
1936 shall be based on the amount, distribution, and timing of the  
1937 vehicle and people miles traveled, professionally accepted  
1938 standards and practices in the fields of land use and  
1939 transportation planning, and the requirements of constitutional  
1940 and statutory law. The mobility fee shall be designed to provide  
1941 for mobility needs, ensure that development provides mitigation  
1942 for its impacts on the transportation system, and promote  
1943 compact, mixed-use, and energy-efficient development. The  
1944 mobility fee shall be used to fund improvements to the  
1945 transportation system.



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1946       (b) By February 15, 2009, the state land planning agency  
 1947 shall provide a report to the Legislature containing  
 1948 recommendations concerning an appropriate uniform mobility fee  
 1949 methodology and whether a mobility fee system should be applied  
 1950 statewide or to more limited geographic areas, a schedule to  
 1951 amend comprehensive plans and land development rules to  
 1952 incorporate the mobility fee, a system for collecting and  
 1953 allocating mobility fees among state and local transportation  
 1954 facilities, and whether and how mobility fees should replace,  
 1955 revise, or supplement transportation impact fees.

1956       ~~(18)-(17)~~ A local government and the developer of affordable  
 1957 workforce housing units developed in accordance with s.  
 1958 380.06(19) or s. 380.0651(3) may identify an employment center or  
 1959 centers in close proximity to the affordable workforce housing  
 1960 units. If at least 50 percent of the units are occupied by an  
 1961 employee or employees of an identified employment center or  
 1962 centers, all of the affordable workforce housing units are exempt  
 1963 from transportation concurrency requirements, and the local  
 1964 government may not reduce any transportation trip-generation  
 1965 entitlements of an approved development-of-regional-impact  
 1966 development order. As used in this subsection, the term "close  
 1967 proximity" means 5 miles from the nearest point of the  
 1968 development of regional impact to the nearest point of the  
 1969 employment center, and the term "employment center" means a place  
 1970 of employment that employs at least 25 or more full-time  
 1971 employees.

1972  
 1973 ===== T I T L E   A M E N D M E N T =====

1974 And the title is amended as follows:

1975       Delete line(s) 2-92

Bill No. CS for CS for SB 474



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1976 | and insert:

1977 |       An act relating to growth management; transferring,  
1978 |       renumbering, and amending s. 125.379, F.S.; requiring  
1979 |       counties to certify that they have prepared a list of  
1980 |       county-owned property appropriate for affordable housing  
1981 |       before obtaining certain funding; amending s. 163.3174,  
1982 |       F.S.; prohibiting the members of the local governing body  
1983 |       from serving on the local planning agency; providing an  
1984 |       exception; amending s. 163.3177, F.S.; extending the date  
1985 |       for local governments to adopt plan amendments to  
1986 |       implement a financially feasible capital improvements  
1987 |       element; extending the date for prohibiting future land  
1988 |       use map amendments if a local government does not adopt  
1989 |       and transmit its annual update to the capital improvements  
1990 |       element; revising standards for the future land use plan  
1991 |       in a local comprehensive plan; including a provision  
1992 |       encouraging rural counties to adopt a rural sub-element as  
1993 |       part of their future land use plan; revising standards for  
1994 |       the housing element of a local comprehensive plan;  
1995 |       requiring certain counties to certify that they have  
1996 |       adopted a plan for ensuring affordable workforce housing  
1997 |       before obtaining certain funding; authorizing the state  
1998 |       land planning agency to amend administrative rules  
1999 |       relating to planning criteria to allow for varying local  
2000 |       conditions; deleting exemptions from the limitation on the  
2001 |       frequency of plan amendments; extending the deadline for  
2002 |       local governments to adopt a public school facilities  
2003 |       element and interlocal agreement; providing legislative  
2004 |       findings concerning the need to preserve agricultural land  
2005 |       and protect rural agricultural communities from adverse



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2006 | changes in the agricultural economy; defining the term  
2007 | "rural agricultural industrial center"; authorizing a  
2008 | landowner within a rural agricultural industrial center to  
2009 | apply for an amendment to the comprehensive plan to expand  
2010 | an existing center; providing requirements for such an  
2011 | application; providing a rebuttable presumption that such  
2012 | an amendment is consistent with state rule; providing  
2013 | certain exceptions to the approval of such an amendment;  
2014 | deleting provisions encouraging local governments to  
2015 | develop a community vision and to designate an urban  
2016 | service boundary; amending s. 163.31771, F.S.; requiring a  
2017 | local government to amend its comprehensive plan to allow  
2018 | accessory dwelling units in an area zoned for single-  
2019 | family residential use; prohibiting such units from being  
2020 | treated as new units if there is a land use restriction  
2021 | agreement that restricts use to affordable housing;  
2022 | prohibiting accessory dwelling units from being located on  
2023 | certain land; amending s. 163.3178, F.S.; revising  
2024 | provisions relating to coastal management and coastal  
2025 | high-hazard areas; providing factors for demonstrating the  
2026 | compliance of a comprehensive plan amendment with rule  
2027 | provisions relating to coastal areas; amending s.  
2028 | 163.3180, F.S.; revising concurrency requirements;  
2029 | specifying municipal areas for transportation concurrency  
2030 | exception areas; revising provisions relating to the  
2031 | Strategic Intermodal System; deleting a requirement for  
2032 | local governments to annually submit a summary of de  
2033 | minimus records; increasing the percentage of  
2034 | transportation impacts that must be reserved for urban  
2035 | redevelopment; requiring concurrency management systems to



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2036 | be coordinated with the appropriate metropolitan planning  
2037 | organization; revising regional impact proportionate share  
2038 | provisions to allow for improvements outside the  
2039 | jurisdiction in certain circumstances; requiring the  
2040 | Department of Transportation to establish a transportation  
2041 | methodology to serve as the basis for sustainable  
2042 | development impact assessments; providing for the  
2043 | determination of mitigation to include credit for certain  
2044 | mitigation provided under an earlier phase, calculated at  
2045 | present value; defining the terms "present value" and  
2046 | "backlogged transportation facility"; redefining the term  
2047 | "construction cost"; revising the calculation of school  
2048 | capacity to include relocatables used by a school  
2049 | district; providing a minimum state availability standard  
2050 | for school concurrency; providing that a developer may not  
2051 | be required to reduce or eliminate backlog or address  
2052 | class size reduction; requiring charter schools to be  
2053 | considered as a mitigation option under certain  
2054 | circumstances; requiring school districts to include  
2055 | relocatables in their calculation of school capacity in  
2056 | certain circumstances; providing for an Urban Placemaking  
2057 | Initiative Pilot Project Program; providing for  
2058 | designating certain local governments as urban placemaking  
2059 | initiative pilot projects; providing purposes,  
2060 | requirements, criteria, procedures, and limitations for  
2061 | such local governments, the pilot projects, and the  
2062 | program; providing for recommendations for the  
2063 | establishment of a uniform mobility fee methodology to  
2064 | replace the current transportation concurrency management  
2065 | system; amending s. 163.31801, F.S.; requiring the