A bill to be entitled

An act relating to community affairs; creating s. 14.2017, F.S.; creating the Office of Emergency Management within the Executive Office of the Governor; providing for appointment of a director; amending s. 20.10, F.S.; creating additional divisions of the Department of State; providing for appointment of certain directors of executive directors by the Secretary of State; providing appointment requirements; providing for employment of personnel; specifying certain responsibilities of the department; amending s. 163.3162, F.S.; correcting a cross-reference; amending s. 163.3164, F.S.; revising definitions; amending s. 163.3177, F.S.; revising requirements for adopting amendments to the capital improvements element of a local comprehensive plan; revising requirements for the public school facilities element implementing a school concurrency program; deleting a penalty for local governments that fail to adopt a public school facilities element and interlocal agreement; authorizing the Administration Commission to amending s. 163.3180, F.S.; revising concurrency requirements; revising legislative findings; authorizing local governments to establish areas that are exempt from certain concurrency requirements for transportation facilities; deleting certain requirements for transportation concurrency exception areas; providing procedures and requirements; revising provisions for transportation concurrency exception areas to conform;

providing legislative intent and findings; providing powers, duties, and responsibilities of the state land planning agency and the Department of Transportation; revising transportation concurrency requirements for developments of regional impact; revising proportionate share contribution and mitigation requirements; revising school concurrency requirements; requiring charter schools to be considered as a mitigation option under certain circumstances; amending s. 163.31801, F.S.; revising requirements for adoption of impact fees; creating s. 163.31802, F.S.; prohibiting establishment of local security standards requiring business to expend funds to enhance local governmental services or functions under certain circumstances; amending s. 163.3184, F.S.; authorizing local governments to use a streamlined review process for certain comprehensive plan amendments or amendment packages; providing requirements; amending s. 163.32465, F.S.; providing for alternative state review processes for local comprehensive plan amendments; providing requirements, procedures, and limitations for exemptions from state review of comprehensive plans; replacing an alternative state review process pilot program with a streamlined state review process; providing requirements, procedures, and limitations for a streamlined review process; specifying amendment guidelines for streamlined review processes; requiring that agencies submit comments within a specified period after the state land planning agency notifies the local

government that the plan amendment package is complete; requiring that the local government adopt a plan amendment within a specified period after comments are received; requiring that the state land planning agency adopt rules; deleting provisions relating to reporting requirements for the Office of Program Policy Analysis and Government Accountability; deleting pilot program provisions; providing legislative findings and determinations relating to replacing the transportation concurrency system with a mobility fee system; requiring the state land planning agency and the Department of Transportation to study and develop a methodology for a mobility fee system; specifying criteria; requiring joint reports to the Legislature; specifying report requirements; requiring the Department of Transportation to establish an approved transportation methodology for assessing the traffic impacts of certain developments; providing for extending certain permits, orders, or applications due to expire December 31, 2010; providing for application of the extension to certain related activities; amending ss. 186.513, 186.515, 287.042, 288.975, and 369.303, F.S.; correcting cross-references; amending ss. 420.504 and 420.506, F.S.; conforming provisions to the transfer of the Department of Community Affairs to the Department of State; amending ss. 420.5095, 420.9071, and 420.9076, F.S.; correcting cross-references; transferring the Division of Housing and Community Development and the Division of Community Planning of the Department of

Community Affairs to the Department of State; preserving the validity of certain judicial or administrative actions; transferring the Division of Emergency management of the Department of Community Affairs to the Executive Office of the Governor; preserving the validity of certain judicial or administrative actions; requiring the Division of Statutory Revision to assist substantive committees of the Legislature in developing legislation to conform the Florida Statutes to the transfer of the Department of Community Affairs to the Department of State; repealing s. 20.18, F.S., relating to the Department of Community Affairs; providing an effective date.

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

Section 1. Section 14.2017, Florida Statutes, is created to read:

14.2017 Office of Emergency Management; creation; powers and duties.--The Office of Emergency Management is created within the Executive Office of the Governor. The director of the Office of Emergency Management shall be appointed by and serve at the pleasure of the Governor.

Section 2. Section 20.10, Florida Statutes, is amended to read:

20.10 Department of State.--There is created a Department of State.

(1) The head of the Department of State is the Secretary of State. The Secretary of State shall be appointed by the

Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. The Secretary of State shall perform the functions conferred by the State Constitution upon the custodian of state records.

(2) The following divisions of the Department of State are established:

(a) Division of Elections.

(b) Division of Historical Resources.

(c) Division of Corporations.

(d) Division of Library and Information Services.

(e) Division of Cultural Affairs.

(f) Division of Administration.

(g) Division of Housing and Community Development which shall include the Office of Urban Opportunity.

(h) Division of State and Community Planning.

(3) Unless otherwise provided by law, the Secretary of State shall appoint the directors or executive directors of any commission or council assigned to the department, who shall serve at his or her pleasure as provided for division directors in s. 110.205. The appointment or termination by the secretary shall be with the advice and consent of the commission or council, and the director or executive director may employ, subject to departmental rules and procedures, such personnel as may be authorized and necessary.

(4) The role of state government required by part I of chapter 421, chapter 422, and chapter 423 is the responsibility of the Department of State, and the department is the agency of

state government responsible for the state's role in housing and urban development.

(5)~~(3)~~ The Department of State may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of law conferring duties upon the department.

Section 3. Subsection (5) of section 163.3162, Florida Statutes, is amended to read:

163.3162 Agricultural Lands and Practices Act.--

(5) AMENDMENT TO LOCAL GOVERNMENT COMPREHENSIVE PLAN.--The owner of a parcel of land defined as an agricultural enclave under s. 163.3164~~(33)~~ may apply for an amendment to the local government comprehensive plan pursuant to s. 163.3187. Such amendment is presumed to be consistent with rule 9J-5.006(5), Florida Administrative Code, and may include land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. This presumption may be rebutted by clear and convincing evidence. Each application for a comprehensive plan amendment under this subsection for a parcel larger than 640 acres must include appropriate new urbanism concepts such as clustering, mixed-use development, the creation of rural village and city centers, and the transfer of development rights in order to discourage urban sprawl while protecting landowner rights.

(a) The local government and the owner of a parcel of land that is the subject of an application for an amendment shall have 180 days following the date that the local government receives a complete application to negotiate in good faith to

reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. Within 30 days after the local government's receipt of such an application, the local government and owner must agree in writing to a schedule for information submittal, public hearings, negotiations, and final action on the amendment, which schedule may thereafter be altered only with the written consent of the local government and the owner. Compliance with the schedule in the written agreement constitutes good faith negotiations for purposes of paragraph (c).

(b) Upon conclusion of good faith negotiations under paragraph (a), regardless of whether the local government and owner reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel, the amendment must be transmitted to the state land planning agency for review pursuant to s. 163.3184. If the local government fails to transmit the amendment within 180 days after receipt of a complete application, the amendment must be immediately transferred to the state land planning agency for such review at the first available transmittal cycle. A plan amendment transmitted to the state land planning agency submitted under this subsection is presumed to be consistent with rule 9J-5.006(5), Florida Administrative Code. This presumption may be rebutted by clear and convincing evidence.

(c) If the owner fails to negotiate in good faith, a plan amendment submitted under this subsection is not entitled to the

rebuttable presumption under this subsection in the negotiation and amendment process.

(d) Nothing within this subsection relating to agricultural enclaves shall preempt or replace any protection currently existing for any property located within the boundaries of the following areas:

1. The Wekiva Study Area, as described in s. 369.316; or

2. The Everglades Protection Area, as defined in s. 373.4592(2).

Section 4. Section 163.3164, Florida Statutes, is amended to read:

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

(1) "Administration Commission" means the Governor and the Cabinet, and for purposes of this chapter the commission shall act on a simple majority vote, except that for purposes of imposing the sanctions provided in s. 163.3184(11), affirmative action shall require the approval of the Governor and at least three other members of the commission.

(2) ~~(33)~~ "Agricultural enclave" means an unincorporated, undeveloped parcel that:

(a) Is owned by a single person or entity;

(b) Has been in continuous use for bona fide agricultural purposes, as defined by s. 193.461, for a period of 5 years prior to the date of any comprehensive plan amendment application;

(c) Is surrounded on at least 75 percent of its perimeter by:

1. Property that has existing industrial, commercial, or residential development; or

2. Property that the local government has designated, in the local government's comprehensive plan, zoning map, and future land use map, as land that is to be developed for industrial, commercial, or residential purposes, and at least 75 percent of such property is existing industrial, commercial, or residential development;

(d) Has public services, including water, wastewater, transportation, schools, and recreation facilities, available or such public services are scheduled in the capital improvement element to be provided by the local government or can be provided by an alternative provider of local government infrastructure in order to ensure consistency with applicable concurrency provisions of s. 163.3180; and

(e) Does not exceed 1,280 acres; however, if the property is surrounded by existing or authorized residential development that will result in a density at buildout of at least 1,000 residents per square mile, then the area shall be determined to be urban and the parcel may not exceed 4,480 acres.

(3) ~~(2)~~ "Area" or "area of jurisdiction" means the total area qualifying under the provisions of this act, whether this be all of the lands lying within the limits of an incorporated municipality, lands in and adjacent to incorporated municipalities, all unincorporated lands within a county, or areas comprising combinations of the lands in incorporated municipalities and unincorporated areas of counties.

(4) ~~(3)~~ "Coastal area" means the 35 coastal counties and all coastal municipalities within their boundaries designated coastal by the state land planning agency.

(5) ~~(4)~~ "Comprehensive plan" means a plan that meets the requirements of ss. 163.3177 and 163.3178.

(6) "Dense urban area" means a census tract having an average of at least 1,000 people per square mile of land area according to the most recent data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce.

(7) ~~(5)~~ "Developer" means any person, including a governmental agency, undertaking any development as defined in this act.

(8) ~~(6)~~ "Development" has the meaning given it in s. 380.04.

(9) ~~(7)~~ "Development order" means any order granting, denying, or granting with conditions an application for a development permit.

(10) ~~(8)~~ "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

(11) ~~(25)~~ "Downtown revitalization" means the physical and economic renewal of a central business district of a community as designated by local government, and includes both downtown development and redevelopment.

(12) ~~(29)~~ "Existing urban service area" means built-up areas where public facilities and services such as sewage treatment systems, roads, schools, and recreation areas are already in place.

(13) ~~(32)~~ "Financial feasibility" means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements. A comprehensive plan shall be deemed financially feasible for transportation and school facilities throughout the planning period addressed by the capital improvements schedule if it can be demonstrated that the level-of-service standards will be achieved and maintained by the end of the planning period even if in a particular year such improvements are not concurrent as required by s. 163.3180.

(14) ~~(9)~~ "Governing body" means the board of county commissioners of a county, the commission or council of an incorporated municipality, or any other chief governing body of a unit of local government, however designated, or the combination of such bodies where joint utilization of the provisions of this act is accomplished as provided herein.

(15) ~~(10)~~ "Governmental agency" means:

(a) The United States or any department, commission, agency, or other instrumentality thereof.

(b) This state or any department, commission, agency, or other instrumentality thereof.

(c) Any local government, as defined in this section, or any department, commission, agency, or other instrumentality thereof.

(d) Any school board or other special district, authority, or governmental entity.

(16) ~~(11)~~ "Land" means the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

(17) ~~(22)~~ "Land development regulation commission" means a commission designated by a local government to develop and recommend, to the local governing body, land development regulations which implement the adopted comprehensive plan and to review land development regulations, or amendments thereto, for consistency with the adopted plan and report to the governing body regarding its findings. The responsibilities of the land development regulation commission may be performed by the local planning agency.

(18) ~~(23)~~ "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition shall not apply in s. 163.3213.

(19) ~~(12)~~ "Land use" means the development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under an adopted comprehensive plan or element or portion thereof, land development regulations, or a land development code, as the context may indicate.

(20) ~~(13)~~ "Local government" means any county or municipality.

(21) ~~(14)~~ "Local planning agency" means the agency designated to prepare the comprehensive plan or plan amendments required by this act.

(22) ~~(15)~~ ~~A~~ "Newspaper of general circulation" means a newspaper published at least on a weekly basis and printed in the language most commonly spoken in the area within which it circulates, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

(23) ~~(31)~~ "Optional sector plan" means an optional process authorized by s. 163.3245 in which one or more local governments by agreement with the state land planning agency are allowed to address development-of-regional-impact issues within certain designated geographic areas identified in the local comprehensive plan as a means of fostering innovative planning and development strategies in s. 163.3177(11)(a) and (b), furthering the purposes of this part and part I of chapter 380, reducing overlapping data and analysis requirements, protecting

regionally significant resources and facilities, and addressing extrajurisdictional impacts.

(24) ~~(16)~~ "Parcel of land" means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or developer as land to be used, or developed as, a unit or which has been used or developed as a unit.

(25) ~~(17)~~ "Person" means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(26) ~~(28)~~ "Projects that promote public transportation" means projects that directly affect the provisions of public transit, including transit terminals, transit lines and routes, separate lanes for the exclusive use of public transit services, transit stops (shelters and stations), office buildings or projects that include fixed-rail or transit terminals as part of the building, and projects which are transit oriented and designed to complement reasonably proximate planned or existing public facilities.

(27) ~~(24)~~ "Public facilities" means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities, and spoil disposal sites for maintenance dredging located in the intracoastal waterways, except for spoil disposal sites owned or used by ports listed in s. 403.021(9)(b).

(28)~~(18)~~ "Public notice" means notice as required by s. 125.66(2) for a county or by s. 166.041(3)(a) for a municipality. The public notice procedures required in this part are established as minimum public notice procedures.

(29)~~(19)~~ "Regional planning agency" means the agency designated by the state land planning agency to exercise responsibilities under law in a particular region of the state.

(30)~~(20)~~ "State land planning agency" means the Department of State ~~Community Affairs~~.

(31)~~(21)~~ "Structure" has the meaning given it by s. 380.031(19).

(32)~~(30)~~ "Transportation corridor management" means the coordination of the planning of designated future transportation corridors with land use planning within and adjacent to the corridor to promote orderly growth, to meet the concurrency requirements of this chapter, and to maintain the integrity of the corridor for transportation purposes.

(33)~~(27)~~ "Urban infill" means the development of vacant parcels in otherwise built-up areas where public facilities such as sewer systems, roads, schools, and recreation areas are already in place and the average residential density is at least five dwelling units per acre, the average nonresidential intensity is at least a floor area ratio of 1.0 and vacant, developable land does not constitute more than 10 percent of the area.

(34)~~(26)~~ "Urban redevelopment" means demolition and reconstruction or substantial renovation of existing buildings or infrastructure within urban infill areas, existing urban

service areas, or community redevelopment areas created pursuant to part III.

Section 5. Paragraphs (b) and (c) of subsection (3) and paragraphs (a), (j), and (k) of subsection (12) of section 163.3177, Florida Statutes, are amended, and paragraph (f) is added to subsection (3) of that section, to read:

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

(3)

(b)1. The capital improvements element must be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189 in order to maintain a financially feasible 5-year schedule of capital improvements. Corrections and modifications concerning costs; revenue sources; or acceptance of facilities pursuant to dedications which are consistent with the plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land planning agency.

2. An amendment to the comprehensive plan is required to update the schedule on an annual basis or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule. All public facilities must be consistent with the capital improvements element. ~~Amendments to implement this section must be adopted and transmitted no later than December 1, 2008. Thereafter, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments pursuant~~

~~to s. 163.3187(1)(a), after December 1, 2008, and every year thereafter, unless and until the local government has adopted the annual update and it has been transmitted to the state land planning agency.~~

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

(c) If the local government does not adopt the required annual update to the schedule of capital improvements, the state land planning agency may issue a notice to the local government to show cause why sanctions should not be enforced for failure to submit the annual update and may ~~must~~ notify the Administration Commission. A local government that has a demonstrated lack of commitment to meeting its obligations identified in the capital improvements element may be subject to sanctions by the Administration Commission pursuant to s. 163.3184(11).

(f) A local government that has designated a transportation concurrency exception area in its comprehensive plan pursuant to s. 163.3180(5), shall be deemed to meet the requirement to achieve and maintain level-of-service standards if the capital improvement element and, as appropriate, the capital improvement schedule include any capital improvements planned within the scheduled timeframe based upon the strategies adopted in the plan to promote mobility.

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

(a) The state land planning agency may provide a waiver to a county and to the municipalities within the county if the capacity rate for all schools within the school district is no greater than 100 percent and the projected 5-year capital outlay full-time equivalent student growth rate is less than 10 percent. The state land planning agency may allow for a projected 5-year capital outlay full-time equivalent student growth rate to exceed 10 percent when the projected 10-year capital outlay full-time equivalent student enrollment is less than 2,000 students and the capacity rate for all schools within the school district in the tenth year will not exceed the 100-percent limitation. The state land planning agency may allow for a single school to exceed the 100-percent limitation if it can be demonstrated that the capacity rate for that single school is not greater than 105 percent. In making this determination, the state land planning agency shall consider the following criteria:

1. Whether the exceedance is due to temporary circumstances;

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

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

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

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

~~(k)~~ the state land planning agency may issue ~~the school board~~ a notice to the school board and the local government to show cause why sanctions should not be enforced for failure to enter into an approved interlocal agreement as required by s. 163.31777 or for failure to implement ~~the provisions of~~ this act relating to public school concurrency. The school board may be subject to sanctions imposed by the Administration Commission directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72. The local government may be subject to

sanctions by the Administration Commission pursuant to s. 163.3184(11).

Section 6. Subsections (5) and (12), paragraph (e) of subsection (13), subsection (16) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.--

(5)(a) The Legislature finds that under limited circumstances ~~dealing with transportation facilities~~, countervailing planning and public policy goals may come into conflict with the requirement that adequate public transportation facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the concurrency requirement for transportation facilities is often an impediment to the promotion of vibrant, sustainable multi-use urban communities ~~the discouragement of urban infill development and redevelopment~~. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.

(b) A local government may establish an area within its jurisdiction that is exempt ~~grant an exception~~ from the concurrency requirement for transportation facilities pursuant to the requirements of this subsection ~~if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes~~

V

~~public transportation or is located within an area designated in the comprehensive plan for:~~

~~1. Urban infill development;~~

~~2. Urban redevelopment;~~

~~3. Downtown revitalization;~~

~~4. Urban infill and redevelopment under s. 163.2517; or~~

~~5. An urban service area specifically designated as a transportation concurrency exception area which includes lands appropriate for compact, contiguous urban development, which does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period, and which is served or is planned to be served with public facilities and services as provided by the capital improvements element~~.

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

1.~~(d)~~ A local government shall establish transportation concurrency exception area boundaries ~~guidelines~~ in its ~~the~~ comprehensive plan ~~for granting the exceptions authorized in~~

~~paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions~~.

2.~~(c)~~ The local government shall adopt into the comprehensive plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment must also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided.

3. In addition, the strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote a vibrant, sustainable, multi-use urban community ~~infill, redevelopment, or downtown revitalization~~. The comprehensive plan amendment designating the concurrency exception area must be accompanied by data and analysis supporting the local government's determination of the boundaries of the transportation concurrency exception ~~justifying the size of the~~ area.

~~(f) Prior to the designation of a concurrency exception area, the state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further,~~

4. The local government shall provide strategies~~, in consultation with the state land planning agency and the Department of Transportation, develop a plan~~ to mitigate ~~any~~ impacts to the Strategic Intermodal System, including, if appropriate, but not limited to, access management, parallel reliever roads, and transportation demand management ~~the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted~~.

(d) ~~(g)~~ Before designating a transportation concurrency exception area, the local government shall consult with the state land planning agency, the Department of Transportation, and the appropriate regional planning council to assess the impact the proposed exception area is expected to have on the adopted level of service standards established for Strategic intermodal System facilities and roadway facilities funded in accordance with s. 339.2819 ~~areas existing prior to July 1, 2005, must, at a minimum, meet the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last~~.

(e) It is the intent of the Legislature that establishment of transportation concurrency exception areas are a matter of local authority within the jurisdiction of a municipality or

within the boundary of a dense urban area, as defined in 163.3164, if within the jurisdiction of a county. As such, amendments establishing transportation concurrency exception areas in the comprehensive plan shall be subject to the following review and challenge:

1. The state land planning agency, the Department of Transportation and the appropriate regional planning council may review and comment on the proposed amendment that establishes a transportation concurrency exception area.

2. Plan amendments shall be reviewed in the manner described in ss. 163.3184(1), (2), (7), (14), (15), and (16) and 163.3187. The state land planning agency may not issue a report as described in s. 163.3184(6)(c) giving any objections, recommendations, or comments on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined in s. 163.3184(1)(a), may file a petition for administrative review pursuant to s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment.

(f) Plan amendments establishing transportation concurrency exception areas outside of municipalities or dense urban areas as defined in s. 163.3164 shall be subject to review under s. 163.3184, s. 163.3187, s. 163.3246, or s. 163.32465 as applicable.

(g) The Legislature also finds that certain developments, due to their location or character, should be subject to special consideration when applying concurrency for transportation.

1. Developments located within urban infill, urban redevelopment, existing urban service, or downtown

revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517, that impose only special part-time demands upon the transportation system, are exempt from concurrency requirements for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

2. A development certified by the Office of Tourism, Trade, and Economic Development as a qualified job creation project that meets the criteria of s. 403.973(3) may be exempted from transportation concurrency requirements by the local government after consulting with the Department of Transportation concerning any impacts on the Strategic Intermodal System.

(12)(a) A development of regional impact satisfies ~~may satisfy~~ the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by paying ~~payment of~~ a proportionate-share contribution for local and regionally significant traffic impacts, if:

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

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

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

3.~~(d)~~ If the regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. 334.03(12), other than the local government having ~~with~~ jurisdiction over the development of regional impact, the developer shall ~~is required to~~ enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having maintenance authority or to otherwise assure construction or improvement of the facility.

(b) The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan.~~, but, for the purposes of this subsection,~~

1. The amount of the proportionate-share contribution shall be calculated as follows:

a. The determination of significantly affected roadways shall be based upon the cumulative number of trips from the previously approved stage or phase of development and the proposed new stage or phase of development expected to reach roadways during the peak hour at ~~from~~ the complete buildout of a stage or phase being approved.

b. For significantly affected roadways, the developer's proportionate share shall be based solely upon the number of trips from the proposed new stage or phase being approved which would exceed the peak hour maximum service volume of the roadway

at the adopted level of service or existing volume, if the adopted level of service has been exceeded, divided by the change in the peak hour maximum service volume of the roadways resulting from the construction of an improvement necessary to maintain the adopted level of service or, if existing conditions exceed the adopted level of service, to maintain existing conditions.

c. Existing volume shall be calculated as the peak hour maximum service volume of the roadway at the time the local government reviews the analysis for the phase or stage.

2. In order to determine the proportionate-share contribution, the calculated proportionate-share contribution shall be multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service or existing conditions if the adopted level of service has been exceeded. For purposes of this subparagraph ~~subsection~~, the term "construction cost" includes all associated costs of the improvement.

3. Proportionate-share mitigation shall be limited to ensure that a development of regional impact meeting the requirements of this subsection mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs.

4. Proportionate-share mitigation shall be applied as a credit against any transportation impact fees or exactions assessed for the traffic impacts of a development.

5. Proportionate-share mitigation may be directed toward one or more specific transportation improvements reasonably

related to the mobility demands created by the development and such improvements may address one or more modes of transportation.

6. Payment for improvements that significantly benefit the impacted transportation system satisfies concurrency requirements as a mitigation of the development's stage or phase impacts upon the overall transportation system, even if there remains a failure of concurrency on other impacted facilities.

(c) For purposes of this subsection, the term:

1. "Backlog" or "backlogged transportation facility" means any facility on which the adopted level-of-service standard is exceeded by the existing trips, plus background trip.

2. "Background trips" means trips from sources other than the development project under review that are forecasted by established traffic standards, including, but not limited to, traffic modeling, to be coincident with the particular stage or phase of development under review.

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

(13) School concurrency shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local

777 governments within a county, except as provided in paragraph
778 (f), shall adopt and transmit to the state land planning agency
779 the necessary plan amendments, along with the interlocal
780 agreement, for a compliance review pursuant to s. 163.3184(7)
781 and (8). The minimum requirements for school concurrency are the
782 following:
783 (e) Availability standard.--Consistent with the public
784 welfare, a local government may not deny an application for site
785 plan, final subdivision approval, or the functional equivalent
786 for a development or phase of a development authorizing
787 residential development for failure to achieve and maintain the
788 level-of-service standard for public school capacity in a local
789 school concurrency management system where adequate school
790 facilities will be in place or under actual construction within
791 3 years after the issuance of final subdivision or site plan
792 approval, or the functional equivalent. School concurrency is
793 satisfied if the developer executes a legally binding commitment
794 to provide mitigation proportionate to the demand for public
795 school facilities to be created by actual development of the
796 property, including, but not limited to, the options described
797 in subparagraph 1. Options for proportionate-share mitigation of
798 impacts on public school facilities must be established in the
799 public school facilities element and the interlocal agreement
800 pursuant to s. 163.31777.
801 1. Appropriate mitigation options include the contribution
802 of land; the construction, expansion, or payment for land
803 acquisition or construction of a public school facility; the
804 construction of a charter school that complies with the

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

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof; or the construction of a charter school that complies with the requirements of s. 1002.33(18)(f), as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified

in a financially feasible 5-year district work plan that satisfies the demands created by the development in accordance with a binding developer's agreement.

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

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

(16) It is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the

public and private sectors. The methodology used to calculate proportionate fair-share mitigation under this section shall be as provided for in paragraph ~~subsection~~ (12)(b).

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

(b)1. In its transportation concurrency management system, a local government shall~~, by December 1, 2006,~~ include methodologies that will be applied to calculate proportionate fair-share mitigation. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on ss. 163.3164()~~(32)~~ and 163.3177(3) if additional contributions, payments or funding sources are

reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

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

(c) Proportionate fair-share mitigation includes, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities and may include public funds as determined by the local government. Proportionate fair-share mitigation may be directed toward one or more specific transportation improvements reasonably related to the mobility demands created by the development and such improvements may address one or more modes of travel. The fair market value of the proportionate fair-share mitigation shall not differ based on the form of mitigation. A local government may not require a development to pay more than its proportionate fair-share contribution regardless of the method of mitigation. Proportionate fair-share mitigation shall be limited to ensure that a development meeting the requirements of this section mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs.

(d) This subsection does not require a local government to approve a development that is not otherwise qualified for

approval pursuant to the applicable local comprehensive plan and land development regulations.

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

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

(g) Except as provided in subparagraph (b)1., this section may not prohibit the state land planning agency ~~Department of Community Affairs~~ from finding other portions of the capital

improvements element amendments not in compliance as provided in this chapter.

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

(i) For purposes of this subsection, the term:

1. "Backlog" or "backlogged transportation facility" means any facility on which the adopted level-of-service standard is exceeded by the existing trips, plus background trip.

2. "Background trips" means trips from sources other than the development project under review that are forecasted by established traffic standards, including, but not limited to, traffic modeling, to be coincident with the particular stage or phase of development under review.

Section 7. Paragraph (d) of subsection (3) of section 163.31801, Florida Statutes, is amended to read:

163.31801 Impact fees; short title; intent; definitions; ordinances levying impact fees.--

(3) An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

(d) Require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased ~~amended~~ impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.

Section 8. Section 163.31802, Florida Statutes, is created to read:

163.31802 Prohibited standards for security.--A county, municipality, or other entity of local government may not adopt or maintain in effect an ordinance or rule that establishes standards for security that require a lawful business to expend funds to enhance the services or functions provided by local government unless specifically provided by general law.

Section 9. Subsection (2) of section 163.3184, Florida Statutes, is amended, and paragraph (e) is added to subsection (3) of that section, to read:

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

(2) COORDINATION.--Each comprehensive plan or plan amendment proposed to be adopted pursuant to this part shall be transmitted, adopted, and reviewed in the manner prescribed in this section. The state land planning agency shall have responsibility for plan review, coordination, and the preparation and transmission of comments, pursuant to this section, to the local governing body responsible for the comprehensive plan. The state land planning agency shall maintain a single file concerning any proposed or adopted plan amendment submitted by a local government for any review under this section. Copies of all correspondence, papers, notes, memoranda, and other documents received or generated by the state land planning agency must be placed in the appropriate file. Paper copies of all electronic mail correspondence must be placed in the file. The file and its contents must be available for public inspection and copying as provided in chapter 119. Local governments may elect to use the streamlined review

process in s. 163.32465 for any amendment or amendment package not expressly excluded by s. 163.32465(4). The local government must establish in its transmittal hearing required pursuant to this subsection that it elects to undergo the streamlined review process. If the local government has not specifically approved the streamlined review process for the amendment or amendment package, the amendment or amendment package shall be reviewed subject to the applicable processes established in this section or that of s. 163.3187.

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

(e) At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact the provisions of any proposed plan amendment transmitted pursuant to this subsection. Zoning changes approved by the local government are contingent upon the state land planning agency issuing a notice of intent to find that the comprehensive plan or plan amendment transmitted is in compliance with this act.

Section 10. Section 163.32465, Florida Statutes, is amended to read:

163.32465 Alternative state review processes for ~~of~~ local comprehensive plan amendments ~~plans in urban areas~~.--

(1) LEGISLATIVE FINDINGS.--

(a) The Legislature finds that local governments in this state have a wide diversity of resources, conditions, abilities, and needs. The Legislature also finds that the needs and resources of urban areas are different from those of rural areas

and that different planning and growth management approaches, strategies, and techniques are required ~~in urban areas~~. The state role in overseeing growth management should reflect this diversity and should vary based on local government conditions, capabilities, needs, and extent of development. Thus, the Legislature recognizes and finds that reduced state oversight of local comprehensive planning is justified for some local governments ~~in urban areas~~.

(b) The Legislature finds and declares that the diversity among local governments of this state ~~state's urban areas~~ require recognition that the ~~a reduced~~ level of state oversight should reflect the ~~because of their high~~ degree of urbanization and the planning capabilities and resources available to ~~of many of their~~ local governments. ~~An~~ Alternative state review processes ~~process~~ that are ~~is~~ adequate to protect issues of regional or statewide importance should be reflective of local governments' needs and capabilities ~~created for appropriate local governments in these areas~~. Further, the Legislature finds that development, including urban infill and redevelopment, should be encouraged in ~~these~~ urban areas. The Legislature finds that an alternative process for amending local comprehensive plans in these areas should be established with an objective of streamlining the process and recognizing local responsibility and accountability.

~~(c) The Legislature finds a pilot program will be beneficial in evaluating an alternative, expedited plan amendment adoption and review process. Pilot local governments~~

~~shall represent highly developed counties and the municipalities within these counties and highly populated municipalities.~~

(2) STATE REVIEW EXEMPTIONS.--Counties that have a population greater than 1 million and an average of at least 1,000 resident per square mile and municipalities that have a population greater than 100,000 and an average of at least 1,000 residents per square mile are subject to the review process established in this subsection:

(a) All comprehensive plan amendments, unless specifically identified as not eligible under subsection (4), must be adopted and reviewed in the manner described in ss. 163.3184(1), (2), (7), (14), (15), and (16) and 163.3187, such that state and regional agency review is eliminated. The state land planning agency may not issue a report as described in s. 163.3184(6)(c) giving any objections, recommendations, and comments on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons as defined in s. 163.3184(1)(a) may file a petition for administrative review pursuant to s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment.

(b) The local government's determination that the amendment is in compliance is presumed to be correct and shall be sustained unless it is shown by a preponderance of the evidence that the amendment is not in compliance.

(c) The population and density needed to identify local governments that qualify for state review exemption under this subsection shall be determined annually by the Office of Economic and Demographic Research using the most recent land

area data from the decennial census conducted by the Bureau of the Census of the united States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. For any local government that has a population meeting the criteria specified in this subsection and that has had its boundaries changed by annexation or contraction or by a new incorporation, the office shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The office shall annually submit to the state land planning agency a list of jurisdictions that meet the total population and density criteria necessary to qualify for state review exemption under this subsection and the state land planning agency shall publish the list of jurisdictions on its website within 7 days after receiving the list.

(3) ~~(2)~~ STREAMLINED ~~ALTERNATIVE~~ STATE REVIEW PROCESS ~~PILOT PROGRAM~~.--A local government may elect pursuant to s. 163.3184 to use the streamlined review process for any amendment or amendment package not expressly excluded by subsection (4). ~~Pinellas and Broward Counties, and the municipalities within these counties, and Jacksonville, Miami, Tampa, and Hialeah shall follow an alternative state review process provided in this section. Municipalities within the pilot counties may elect, by super majority vote of the governing body, not to participate in the pilot program.~~

~~(3) PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS UNDER THE PILOT PROGRAM.--~~

~~(a) Plan amendments adopted by the pilot program jurisdictions shall follow the alternate, expedited process in~~

V

~~subsections (4) and (5), except as set forth in paragraphs (b)-(c) of this subsection.~~

~~(b) Amendments that qualify as small-scale development amendments may continue to be adopted by the pilot program jurisdictions pursuant to s. 163.3187(1)(c) and (3).~~

~~(c) Plan amendments that propose a rural land stewardship area pursuant to s. 163.3177(11)(d); propose an optional sector plan; update a comprehensive plan based on an evaluation and appraisal report; implement new statutory requirements; or new plans for newly incorporated municipalities are subject to state review as set forth in s. 163.3184.~~

~~(d) Pilot program jurisdictions shall be subject to the frequency and timing requirements for plan amendments set forth in ss. 163.3187 and 163.3191, except where otherwise stated in this section.~~

~~(e) The mediation and expedited hearing provisions in s. 163.3189(3) apply to all plan amendments adopted by the pilot program jurisdictions.~~

~~(4) INITIAL HEARING ON COMPREHENSIVE PLAN AMENDMENT FOR PILOT PROGRAM.--~~

(a)1. The local government shall hold its first public hearing on a comprehensive plan amendment on a weekday at least 7 days after the day the first advertisement is published pursuant to the requirements of chapter 125 or chapter 166. Upon an affirmative vote of not less than a majority of the members of the governing body present at the hearing, the local government shall immediately transmit the amendment or amendments and appropriate supporting data and analyses to the

state land planning agency; the appropriate regional planning council and water management district; the Department of Environmental Protection; the Department of State; the Department of Transportation; in the case of municipal plans, to the appropriate county; the Fish and Wildlife Conservation Commission; the Department of Agriculture and Consumer Services; and in the case of amendments that include or impact the public school facilities element, the Office of Educational Facilities of the Commissioner of Education. The local governing body shall also transmit a copy of the amendments and supporting data and analyses to any other local government or governmental agency that has filed a written request with the governing body.

2.~~(b)~~ The agencies and local governments specified in subparagraph 1. ~~paragraph (a)~~ may provide comments regarding the amendment or amendments to the local government. The regional planning council review and comment shall be limited to effects on regional resources or facilities identified in the strategic regional policy plan and extrajurisdictional impacts that would be inconsistent with the comprehensive plan of the affected local government. A regional planning council shall not review and comment on a proposed comprehensive plan amendment prepared by such council unless the plan amendment has been changed by the local government subsequent to the preparation of the plan amendment by the regional planning council. County comments on municipal comprehensive plan amendments shall be primarily in the context of the relationship and effect of the proposed plan amendments on the county plan. Municipal comments on county plan amendments shall be primarily in the context of the relationship

and effect of the amendments on the municipal plan. State agency comments shall clearly identify as objections any issues, that if not resolved, may result in an agency request that the state land planning agency challenge the plan amendment and may include technical guidance on issues of agency jurisdiction as it relates to the requirements of this part. ~~Such comments shall clearly identify issues that, if not resolved, may result in an agency challenge to the plan amendment. For the purposes of this pilot program,~~ Agencies shall ~~are encouraged to~~ focus potential challenges on issues of regional or statewide importance. Agencies and local governments must transmit their comments, if issued, to the affected local government within 30 days after the state land planning agency notifies the affected local government that the plan amendment package is complete. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of an amendment package. Any comments from the agencies and local governments shall also be transmitted to the state land planning agency ~~such that they are received by the local government not later than thirty days from the date on which the agency or government received the amendment or amendments~~.

~~(5) ADOPTION OF COMPREHENSIVE PLAN AMENDMENT FOR PILOT AREAS.--~~

(b)1.~~(a)~~ The local government shall hold its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, on a weekday at least 5 days after the day the second advertisement is published pursuant to the requirements of chapter 125 or chapter 166. Adoption of

comprehensive plan amendments must be by ordinance and requires an affirmative vote of a majority of the members of the governing body present at the second hearing. The hearing must be conducted and the amendment must be adopted, adopted with changes, or not adopted within 120 days after the agency comments are received pursuant to subparagraph (a)2. If a local government fails to adopt the plan amendment within the timeframe set forth in this subparagraph, the plan amendment is deemed abandoned and the plan amendment may not be considered until the next available amendment cycle pursuant to s. 163.3187. However, if the applicant or local government, prior to the expiration of such timeframe, notifies the state land planning agency that the applicant or local government is proceeding in good faith to adopt the plan amendment, the state land planning agency shall grant one or more extensions not to exceed a total of 360 days after the issuance of the agency report or comments. During the pendency of any such extension, the applicant or local government shall provide to the state land planning agency a status report every 90 days identifying the items continuing to be addressed and the manner in which the items are being addressed.

2.~~(b)~~ All comprehensive plan amendments adopted by the governing body along with the supporting data and analysis shall be transmitted within 10 days of the second public hearing to the state land planning agency and any other agency or local government that provided timely comments under subparagraph (a)2 ~~paragraph (4)(b)~~.

V

~~(6) ADMINISTRATIVE CHALLENGES TO PLAN AMENDMENTS FOR PILOT PROGRAM.--~~

(c)1.~~(a)~~ Any "affected person" as defined in s. 163.3184(1)(a) may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge whether the amendments are "in compliance" as defined in s. 163.3184(1)(b). This petition must be filed with the Division within 30 days after the local government adopts the amendment. The state land planning agency may intervene in a proceeding instituted by an affected person.

2.~~(b)~~ The state land planning agency may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing. This petition must be filed with the Division within 30 days after the state land planning agency notifies the local government that the plan amendment package is complete. For purposes of this section, an amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words to be deleted lined through with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate. The state land planning agency shall notify the

local government of any deficiencies within 5 working days of receipt of an amendment package.

3.~~(c)~~ The state land planning agency's challenge shall be limited to those objections ~~issues~~ raised in the comments provided by the reviewing agencies pursuant to subparagraph (a)2. ~~paragraph (4)(b)~~. The state land planning agency may challenge a plan amendment that has substantially changed from the version on which the agencies provided comments. For the purposes of the streamlined review process under this subsection ~~this pilot program~~, the ~~Legislature strongly encourages the~~ state land planning agency shall ~~to~~ focus any challenge on issues of regional or statewide importance.

4.~~(d)~~ An administrative law judge shall hold a hearing in the affected local jurisdiction. In a proceeding involving an affected person as defined in s. 163.3184(1)(a), the local government's determination of compliance is fairly debatable. In a proceeding in which the state land planning agency challenges the local government's determination that the amendment is "in compliance", the determination is presumed to be correct and shall be sustained unless it is shown by a preponderance of the evidence that the amendment is not "in compliance."

5.~~(e)~~ If the administrative law judge recommends that the amendment be found not in compliance, the judge shall submit the recommended order to the Administration Commission for final agency action. The Administration Commission shall enter a final order within 45 days after its receipt of the recommended order.

6.~~(f)~~ If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.

a.~~1.~~ If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall refer, within 30 days of receipt of the recommended order, the recommended order and its determination to the Administration Commission for final agency action. If the commission determines that the amendment is not in compliance, it may sanction the local government as set forth in s. 163.3184(11).

b.~~2.~~ If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall enter its final order not later than 30 days from receipt of the recommended order.

7.~~(g)~~ An amendment adopted under the expedited provisions of this section shall not become effective until the completion of the time period available to the state land planning agency for administrative challenge under this paragraph ~~31 days after adoption~~. If timely challenged, an amendment shall not become effective until the state land planning agency or the Administration Commission enters a final order determining that the adopted amendment is ~~to be~~ in compliance.

8.~~(h)~~ Parties to a proceeding under this section may enter into compliance agreements using the process in s. 163.3184(16). Any remedial amendment adopted pursuant to a settlement agreement shall be provided to the agencies and governments listed in paragraph (4)(a).

(4) AMENDMENT GUIDELINES FOR THE STATE REVIEW EXEMPTIONS AND STREAMLINED STATE REVIEW PROCESSES.--

(a) The following plan amendments are not eligible for the alternative state review processes under this section and shall be reviewed subject to the applicable processes established in ss. 163.3184 and 163.3187:

1. Designate a rural land stewardship area pursuant to s. 163.3177(11)(d).

2. Designate an optional sector plan.

3. Relate to an area of critical state concern or a coastal high hazard area.

4. Make the first change to a land use for lands that have been annexed into a municipality.

5. Update a comprehensive plan based on an evaluation and appraisal report.

6. Implement new plans for newly incorporated municipalities.

(b) Amendments under the alternative review processes are subject to the frequency and timing requirements for plan amendments set forth in ss. 163.3187 and 163.3191, except as otherwise stated in this section.

(c) The mediation and expedited hearing provisions in s. 163.3189(3) apply to all plan amendments adopted pursuant to the alternative state review processes.

~~(7) APPLICABILITY OF PILOT PROGRAM IN CERTAIN LOCAL GOVERNMENTS.--Local governments and specific areas that have been designated for alternate review process pursuant to ss.~~

~~163.3246 and 163.3184(17) and (18) are not subject to this section.~~

(5)~~(8)~~ RULEMAKING AUTHORITY ~~FOR PILOT PROGRAM~~.--The state land planning agency may adopt procedural ~~Agencies shall not promulgate~~ rules to administer ~~implement~~ this section ~~pilot program~~.

(6)~~(9)~~ REPORT.--The state land planning agency may, from time to time, report to ~~Office of Program Policy Analysis and Government Accountability shall submit to the Governor,~~ the President of the Senate~~,~~ and the Speaker of the House of Representatives on the implementation of this section ~~by December 1, 2008, a report and recommendations for implementing a statewide program that addresses the legislative findings in subsection (1) in areas that meet urban criteria. The Office of Program Policy Analysis and Government Accountability in consultation with the state land planning agency shall develop the report and recommendations with input from other state and regional agencies, local governments, and interest groups. Additionally, the office shall review local and state actions and correspondence relating to the pilot program to identify issues of process and substance in recommending changes to the pilot program. At a minimum, the report and recommendations shall include the following:~~

~~(a) Identification of local governments beyond those participating in the pilot program that should be subject to the alternative expedited state review process. The report may recommend that pilot program local governments may no longer be appropriate for such alternative review process.~~

V

~~(b) Changes to the alternative expedited state review process for local comprehensive plan amendments identified in the pilot program.~~

~~(c) Criteria for determining issues of regional or statewide importance that are to be protected in the alternative state review process.~~

~~(d) In preparing the report and recommendations, the Office of Program Policy Analysis and Government Accountability shall consult with the state land planning agency, the Department of Transportation, the Department of Environmental Protection, and the regional planning agencies in identifying highly developed local governments to participate in the alternative expedited state review process. The Office of Program Policy Analysis and Governmental Accountability shall also solicit citizen input in the potentially affected areas and consult with the affected local governments and stakeholder groups~~.

Section 11. (1)(a) The Legislature finds that the existing transportation concurrency system has not adequately addressed the transportation needs of this state in an effective, predictable, and equitable manner and is not producing a sustainable transportation system for the state. The Legislature finds that the current system is complex, lacks uniformity among jurisdictions, is too focused on roadways to the detriment of desired land use patterns and transportation alternatives, and frequently prevents the attainment of important growth management goals.

(b) The Legislature determines that the state shall

V

evaluate and, as deemed feasible, implement a different adequate public facility requirement for transportation which uses a mobility fee. The mobility fee shall be designed to provide for mobility needs, ensure that development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts, fairly distribute financial burdens, and promote compact, mixed-use, and energy efficient development.

(2) The Legislature directs the state land planning agency and the Department of Transportation, both of which are currently performing independent mobility fee studies, to coordinate and use those studies in developing a methodology for a mobility fee system as follows:

(a) The uniform mobility fee methodology for statewide application is intended to replace existing transportation concurrency management systems adopted and implemented by local governments. The studies shall focus upon developing a methodology that includes:

1. A determination of the amount, distribution, and timing of vehicular and people-miles traveled by applying professionally accepted standards and practices in the disciplines of land use and transportation planning, including requirements of constitutional and statutory law.

2. The development of an equitable mobility fee that provides funding for future mobility needs whereby new development mitigates in approximate proportionality its impacts on the transportation system, yet is not delayed or held accountable for system backlogs or failures that are not

directly attributable to the proposed development.

3. The replacement of transportation related financial feasibility obligations, proportionate-share contributions for developments of regional impacts, proportionate fair-share contributions, and locally adopted transportation impact fees with the mobility fee, such that a single transportation fee may be applied uniformly on a statewide basis by application of the mobility fee formula developed by these studies.

4. Applicability of the mobility fee on a statewide or more limited geographic basis, accounting for special requirements arising from implementation for urban, suburban, and rural areas, including recommendations for an equitable implementation in these areas.

5. The feasibility of developer contributions of land for right-of-way or developer-funded improvements to the transportation network to be recognized as credits against the mobility fee by entering into mutually acceptable agreements reached with the impacted jurisdiction.

6. An equitable methodology for distribution of the mobility fee proceeds among those jurisdictions responsible for construction and maintenance of the impacted roadways, such that the collected mobility fees are used for improvements to the overall transportation network of the impacted jurisdiction.

(b) The state land planning agency and the Department of Transportation shall develop and submit to the President of the Senate and the Speaker of the House of Representatives, no later than July 15, 2009, an initial interim joint report on the status of the mobility fee methodology study, no later than

October 1, 2009, a second interim joint report on the status of study, and no later than December 1, 2009, a final joint report on the mobility fee methodology study, complete with recommended legislation and a plan to implement the mobility fee as a replacement for the existing transportation concurrency management systems adopted and implemented by local governments. The final joint report shall also contain, but is not limited to, an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector.

Section 12. The Department of Transportation shall establish an approved transportation methodology that recognizes that a planned, sustainable, or self-sufficient development area will likely achieve a community internal capture rate in excess of 30 percent when fully developed. A sustainable or self-sufficient development area consists of 500 acres or more of large-scale developments individually or collectively designed to achieve self containment by providing a balance of land uses to fulfill a majority of the community's needs. The adopted transportation methodology shall use a regional transportation model that incorporates professionally accepted modeling techniques applicable to well-planned, sustainable communities of the size, location, mix of uses, and design features consistent with such communities. The adopted transportation methodology shall serve as the basis for traffic impact assessments by the department of sustainable or self-sufficient

developments. The methodology review must be completed and in use no later than October 1, 2009.

Section 13. Statewide Permit Extension.--

(1) In recognition of 2009 real estate market conditions, any construction or operating permit, development order, building or environmental permit, or other land use application that has been approved by a state or local governmental agency pursuant to chapter 161, chapter 163, chapter 253, chapter 373, chapter 378, chapter 379, chapter 380, chapter 381, chapter 403, or chapter 553, Florida Statutes, or pursuant to a local ordinance or resolution, and that has an expiration date prior to December 31, 2010, is extended and renewed for a period of 3 years following its date of expiration.

(2) The 3-year extension also applies to phase, commencement, and buildout dates for any development order including any build-out date extension previously granted under s. 380.06(19)(c), local land use approval, or related permits, including a certificate of concurrency or developer agreement or the equivalent thereof that has an expiration date or a previously extended expiration date prior to December 31, 2010. The completion date for any required mitigation associated with any phase of construction is similarly extended so that such mitigation takes place within the phase originally intended.

(3) The permit holder shall notify the permitting agencies of the intent to use this extension.

Section 14. Section 186.513, Florida Statutes, is amended to read:

186.513 Reports.--Each regional planning council shall prepare and furnish an annual report on its activities to the state land planning agency as defined in s. 163.3164~~(20)~~ and the local general-purpose governments within its boundaries and, upon payment as may be established by the council, to any interested person. The regional planning councils shall make a joint report and recommendations to appropriate legislative committees.

Section 15. Section 186.515, Florida Statutes, is amended to read:

186.515 Creation of regional planning councils under chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and 186.515 is intended to repeal or limit the provisions of chapter 163; however, the local general-purpose governments serving as voting members of the governing body of a regional planning council created pursuant to ss. 186.501-186.507, 186.513, and 186.515 are not authorized to create a regional planning council pursuant to chapter 163 unless an agency, other than a regional planning council created pursuant to ss. 186.501-186.507, 186.513, and 186.515, is designated to exercise the powers and duties in any one or more of ss. 163.3164(29)~~(19)~~ and 380.031(15); in which case, such a regional planning council is also without authority to exercise the powers and duties in s. 163.3164(29)~~(19)~~ or s. 380.031(15).

Section 16. Paragraph (a) of subsection (15) of section 287.042, Florida Statutes, is amended to read:

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

V

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

Section 17. Paragraph (a) of subsection (2) of section 288.975, Florida Statutes, is amended to read:

288.975 Military base reuse plans.--

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

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

Section 18. Subsection (5) of section 369.303, Florida Statutes, is amended to read:

369.303 Definitions.--As used in this part:

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

Section 19. Subsections (1) and (3) of section 420.504, Florida Statutes, are amended to read:

420.504 Public corporation; creation, membership, terms, expenses.--

(1) There is created within the Department of State ~~Community Affairs~~ a public corporation and a public body corporate and politic, to be known as the "Florida Housing Finance Corporation." It is declared to be the intent of and constitutional construction by the Legislature that the Florida Housing Finance Corporation constitutes an entrepreneurial public corporation organized to provide and promote the public welfare by administering the governmental function of financing or refinancing housing and related facilities in Florida and that the corporation is not a department of the executive branch of state government within the scope and meaning of s. 6, Art. IV of the State Constitution, but is functionally related to the Department of State ~~Community Affairs~~ in which it is placed. The executive function of state government to be performed by the secretary of the department in the conduct of the business of the Florida Housing Finance Corporation must be performed pursuant to a contract to monitor and set performance standards for the implementation of the business plan for the provision of housing approved for the corporation as provided in s. 420.0006. This contract shall include the performance standards for the provision of affordable housing in Florida established in the business plan described in s. 420.511.

(3) The corporation is a separate budget entity and is not subject to control, supervision, or direction by the Department

V

of State ~~Community Affairs~~ in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters. The corporation shall consist of a board of directors composed of the Secretary of State ~~Community Affairs~~ as an ex officio and voting member and eight members appointed by the Governor subject to confirmation by the Senate from the following:

(a) One citizen actively engaged in the residential home building industry.

(b) One citizen actively engaged in the banking or mortgage banking industry.

(c) One citizen who is a representative of those areas of labor engaged in home building.

(d) One citizen with experience in housing development who is an advocate for low-income persons.

(e) One citizen actively engaged in the commercial building industry.

(f) One citizen who is a former local government elected official.

(g) Two citizens of the state who are not principally employed as members or representatives of any of the groups specified in paragraphs (a)-(f).

Section 20. Section 420.506, Florida Statutes, is amended to read:

420.506 Executive director; agents and employees.--The appointment and removal of an executive director shall be by the Secretary of State ~~Community Affairs~~, with the advice and consent of the corporation's board of directors. The executive

director shall employ legal and technical experts and such other agents and employees, permanent and temporary, as the corporation may require, and shall communicate with and provide information to the Legislature with respect to the corporation's activities. The board is authorized, notwithstanding the provisions of s. 216.262, to develop and implement rules regarding the employment of employees of the corporation and service providers, including legal counsel. The board of directors of the corporation is entitled to establish travel procedures and guidelines for employees of the corporation. The executive director's office and the corporation's files and records must be located in Leon County.

Section 21. Subsection (10) of section 420.5095, Florida Statutes, is amended to read:

420.5095 Community Workforce Housing Innovation Pilot Program.--

(10) The processing of approvals of development orders or development permits, as defined in s. 163.3164~~(7) and (8)~~, for innovative community workforce housing projects shall be expedited.

Section 22. Subsection (16) of section 420.9071, Florida Statutes, is amended to read:

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

(16) "Local housing incentive strategies" means local regulatory reform or incentive programs to encourage or facilitate affordable housing production, which include at a minimum, assurance that development orders and development

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

Section 23. Paragraph (a) of subsection (4) of section 420.9076, Florida Statutes, is amended to read:

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

(4) Triennially, the advisory committee shall review the established policies and procedures, ordinances, land development regulations, and adopted local government comprehensive plan of the appointing local government and shall recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value. The recommendations may include the modification or repeal of existing policies, procedures, ordinances, regulations, or plan provisions; the creation of exceptions applicable to affordable housing; or the adoption of new policies, procedures, regulations, ordinances, or plan provisions, including recommendations to amend the local government comprehensive plan and corresponding regulations, ordinances, and other policies. At a minimum, each advisory committee shall submit a report to the local governing body that

includes recommendations on, and triennially thereafter evaluates the implementation of, affordable housing incentives in the following areas:

(a) The processing of approvals of development orders or development permits, as defined in s. 163.3164~~(7) and (8)~~, for affordable housing projects is expedited to a greater degree than other projects.

The advisory committee recommendations may also include other affordable housing incentives identified by the advisory committee. Local governments that receive the minimum allocation under the State Housing Initiatives Partnership Program shall perform the initial review but may elect to not perform the triennial review.

Section 24. (1) Effective October 1, 2009, the Division of Housing and Community Development and the Division of Community Planning of the Department of Community Affairs are hereby transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of State. The transfer includes:

(a) All statutory powers, duties, functions, records, personnel, and property of the divisions of Housing and Community Development and Community Planning within the Department of Community Affairs.

(b) All unexpended balances of appropriations, allocations, trust funds, and other funds used to fund the operations of the Division of Housing and Community Development and the Division of Community Planning within the Department of

Community Affairs.

(c) All existing legal authorities and actions of the divisions of Housing and Community Development and Community Planning, including, but not limited to, all pending and completed action on orders and rules, all enforcement matters, and all delegations, interagency agreements, and contracts with federal, state, regional, and local governments and private entities.

(2) This section shall not affect the validity of any judicial or administrative action involving the Division of Housing and Community Development or the Division of Community Planning within the Department of Community Affairs pending on October 1, 2009, and the Department of State shall be substituted as a party in interest in any such action.

Section 25. (1) Effective October 1, 2009, the Division of Emergency Management of the Department of Community Affairs is hereby transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Executive Office of the Governor and is renamed the Office of Emergency Management. The transfer includes:

(a) All statutory powers, duties, functions, records, personnel, and property of the Division of Emergency Management within the Department of Community Affairs.

(b) All unexpended balances of appropriations, allocations, trust funds, and other funds used to fund the operations of the Division of Emergency Management within the Department of Community Affairs.

(c) All existing legal authorities and actions of the

Division of Emergency Management, including, but not limited to, all pending and completed action on orders and rules, all enforcement matters, and all delegations, interagency agreements, and contracts with federal, state, regional, and local governments and private entities.

(2) This section shall not affect the validity of any judicial or administrative action involving the Division of Emergency Management within the Department of Community Affairs pending on October 1, 2009, and the Executive Office of the Governor shall be substituted as a party in interest in any such action.

Section 26. Conforming legislation.--The Legislature recognizes that there is a need to conform the Florida Statutes to the policy decisions reflected in this act and that there is a need to resolve apparent conflicts between this act and any other legislation enacted during 2009 relating to the Department of Community Affairs, the Department of State, and the Executive Office of the Governor. Therefore, in the interim between this act becoming a law and the 2010 Regular Session of the Legislature or an earlier special session addressing this issue, the Division of Statutory Revision shall, upon request, provide the relevant substantive committees of the Senate and the House of Representatives with assistance to enable such committees to prepare draft legislation to conform the Florida Statutes and any legislation enacted during 2009 to the provisions of this act.

Section 27. The Secretary of State shall evaluate the programs, functions, and activities transferred to the

Department of State by this act and recommend statutory changes to best effectuate and incorporate the programs, functions, and activities within the Department of State, including recommendations for achieving efficiencies in management and operation, improving service delivery to the public, and ensuring compliance with federal and state laws. The secretary shall submit his or her recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 1, 2010.

Section 28. Except as otherwise provided in this act, it is the intent of the Legislature that the programs, functions, and activities of the Department of Community Affairs continue without significant change during the 2009-10 fiscal year, and no change in department rules shall be made until July 1, 2010, except as is required to reflect changes in or for compliance with new federal or state laws. This limitation on rule adoption shall not apply to rules regarding the Florida Building Code adopted under the authority of chapter 553, Florida Statutes.

Section 29. Section 20.18, Florida Statutes, is repealed.

Section 30. Except as otherwise expressly provide in this act, this act shall take effect July 1, 2009.