CHAPTER 98-176

Committee Substitute for Senate Bill No. 2474

An act relating to growth management, land use planning, and school concurrency; amending s. 20.18, F.S.; renaming the Division of Resource Planning and Management; amending s. 163.3164, F.S.; defining the term "optional sector plan"; amending s. 163.3171, F.S.; inserting a cross-reference; amending s. 163.3177, F.S.; requiring that the future land use element of a local government's comprehensive plan include certain criteria relating to location of schools; specifying the date by which such plans must comply and providing effect of noncompliance; providing requirements with respect to the data and analyses on which a public school facilities element to implement a school concurrency program should be based; providing for goals, objectives, and policies; providing for future conditions maps; amending s. 163.3180, F.S.; modifying de minimis standards for transportation concurrency; revising requirements for imposition of a school concurrency requirement by a local government and for the local government comprehensive plan or plan amendment to implement such requirement; requiring a public schools facilities element; providing requirements for level of service standards; providing requirements for designation of service areas; providing requirements with respect to financial feasibility; specifying an availability standard; requiring that intergovernmental coordination requirements be satisfied and providing that certain municipalities are not required to be a signatory of the required interlocal agreement; providing duties of such municipalities to evaluate their status and enter into the interlocal agreement when required, and providing effect of failure to do so; providing requirements with respect to the interlocal agreement; directing the state land planning agency to adopt by rule minimum criteria for review and determination of compliance of a public schools facilities element; amending s. 163.3184, F.S.; inserting cross-references; requiring the department to maintain specified documents dealing with amendments to local comprehensive plans; amending s. 163.3187, F.S.; prohibiting local governments from amending comprehensive plans until after adoption of an evaluation and appraisal report; amending s. 163.3191, F.S.; revising the requirements for evaluation and appraisal reports; providing for contents; providing that the local planning agency's periodic report on the comprehensive plan shall assess the coordination of the plan with public schools; amending s. 235.185, F.S.; directing school boards to adopt annually 10-year and 20-year work programs in addition to the required 5-year district facilities work program; amending s. 235.19, F.S.; providing a directive to school boards with respect to school location; amending s. 235.193, F.S.; providing requirements for the 5-year district facilities work program with respect to enrollment and population projections; precluding the siting of new schools in certain jurisdictions; providing for implementation of an alternative public schools concurrency system by counties subject to a final order by the Adminis-

tration Commission; creating s. 163.3245, F.S.; authorizing the adoption of optional sector plans under certain circumstances; providing for agreements with the Department of Community Affairs; amending s. 171.044, F.S.; requiring a municipality to notify the county of voluntary annexation ordinances; amending ss. 186.507, 186.508, 186.511, F.S.; revising responsibilities of the Executive Office of the Governor relating to strategic regional policy plans; amending ss. 186.003, 186.007, 186.008, 186.009, F.S.; deleting references to the state land development plan; creating a committee to be appointed by the Governor to review the state comprehensive plan; revising a definition; deleting obsolete language; revising review responsibilities of the Executive Office of the Governor; amending s. 288.975, F.S.; redefining the term "regional policy plan"; revising criteria for military base reuse plans; amending s. 288.980, F.S.; providing revised standards for military base retention; providing conditions for the award of grants by the Office of Tourism, Trade, and Economic Development; amending s. 380.06, F.S.; deleting reference to the state land development plan; adding day care facilities as an issue in the development-of-regional-impact review process; amending s. 380.061, F.S.; deleting a consistency requirement for certain Florida Quality Developments; amending s. 380.065, F.S.; deleting a reference to the state land development plan; amending s. 380.23, F.S.; adding an element to federal consistency review; creating the Transportation and Land Use Study Committee; requiring the committee to report to the Governor and the Legislature; amending s. 380.031, F.S.; revising a definition; repealing s. 380.0555(7), F.S., which provides for a resource planning and management committee for the Apalachicola Bay Area; providing for severability; providing effective dates.

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

Section 1. Paragraph (c) of subsection (2) of section 20.18, Florida Statutes, is amended to read:

20.18 Department of Community Affairs.—There is created a Department of Community Affairs.

(2) The following units of the Department of Community Affairs are established:

(c) Division of Community ~~Resource~~ Planning ~~and Management~~.

Section 2. Subsection (31) is added to section 163.3164, Florida Statutes, to read:

163.3164 Definitions.—As used in this act:

(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 chapter 163, part II, and chapter 380, part I, reducing overlapping data and analysis requirements, protecting regionally significant resources and facilities, and addressing extrajurisdictional impacts.

Section 3. Subsection (4) of section 163.3171, Florida Statutes, is amended to read:

163.3171 Areas of authority under this act.—

(4) The state land planning agency and a local government shall have the power to enter into agreements with each other and to agree together to enter into agreements with a landowner, developer, or governmental agency as may be necessary or desirable to effectuate the provisions and purposes of s. 163.3177(6)(h) and (11)(a), (b), and (c), and s. 163.3245.

Section 4. Effective July 1, 1998, paragraph (a) of section (6) of section 163.3177, Florida Statutes, is amended, and subsection (12) is added to said section, to read:

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

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

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. The future land use plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. Each land use category shall be defined in terms of the types of uses included and specific standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; and the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an

allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with this paragraph no later than October 1, 1999, or the deadline for the local government evaluation and appraisal report, whichever occurs first ~~1996~~. The failure by a local government to comply with this requirement will result in the prohibition of the local government's ability to amend the local comprehensive plan as provided by s. 163.3187(6). An amendment proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use is exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria which encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible.

(12) A public school facilities element adopted to implement a school concurrency program shall meet the requirements of this subsection.

(a) A public school facilities element shall be based upon data and analyses that address, among other items, how level of service standards will be achieved and maintained. Such data and analyses must include, at a minimum, such items as: the 5-year school district facilities work program adopted pursuant to s. 235.185; the educational plant survey and an existing educational and ancillary plant map or map series; information on existing development and development anticipated for the next 5 years and the long-term planning period; an analysis of problems and opportunities for existing schools and schools anticipated in the future; an analysis of opportunities to collocate future schools with other public facilities such as parks, libraries, and community centers; an analysis of the need for supporting public facilities for existing and future schools; an analysis of opportunities to locate schools to serve as community focal points; projected future population and associated demographics, including development patterns year by year for the upcoming 5-year and long-term planning periods; and anticipated educational and ancillary plants with land area requirements.

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

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

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

(e) The objectives and policies shall address items such as: the procedure for an annual update process; the procedure for school site selection; the procedure for school permitting; provision of supporting infrastructure; location of future school sites so they serve as community focal points; measures to ensure compatibility of school sites and surrounding land uses; coordination with adjacent local governments and the school district on emergency preparedness issues; and coordination with the future land use element.

(f) The element shall include one or more future conditions maps which depict the anticipated location of educational and ancillary plants. The maps will of necessity be general for the long-term planning period and more specific for the 5-year period.

Section 5. Effective July 1, 1998, subsections (1) and (6) of section 163.3180, Florida Statutes, are amended, and subsections (12) and (13) are added to said section, to read:

163.3180 Concurrency.—

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

~~(b) If a local government elects to extend the concurrency requirement to public schools, it should first conduct a study to determine how the requirement would be met and shared by all affected parties. The local government shall provide an opportunity for full participation in this study by the school board. The state land planning agency may provide technical assistance to local governments that study and prepare for extension of the concurrency requirement to public schools. When establishing concurrency requirements for public schools, a local government shall comply with the following criteria for any proposed plan or plan amendment transmitted pursuant to s. 163.3184(3) after July 1, 1995:~~

~~1. Adopt level-of-service standards for public schools with the agreement of the school board. Public school level-of-service standards shall be adopted as part of the capital improvements element in the local government comprehensive plan, which shall contain a financially feasible public school capital facilities program established in conjunction with the school board that will provide educational facilities at an adequate level of service necessary to implement the adopted local government comprehensive plan.~~

~~2. Satisfy the requirement for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2.~~

(6) The Legislature finds that a de minimis impact is consistent with this part. A de minimis impact is an impact that would not affect more than 1

percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the local government. No impact will be de minimis if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility ~~it~~ would exceed 110 percent of the maximum volume at the adopted level of service of the affected ~~sum of existing volumes and the projected volumes from approved projects on a~~ transportation facility; provided however, that an impact of a single family home on an existing lot will constitute a de minimis impact on all roadways regardless of the level of the deficiency of the roadway. Local governments are encouraged to adopt methodologies to encourage de minimis impacts on transportation facilities within an existing urban service area. Further, no impact will be de minimis if it would exceed the adopted level of service standard of any affected designated hurricane evacuation routes.

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

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

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

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

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

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

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

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to apply school concurrency to development on a districtwide basis so that a concurrency determination for a specific development will be based upon the availability of school capacity districtwide.

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

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level of service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, then the development order shall be issued and mitigation measures shall not be exacted.

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

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

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

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

(e) Availability standard.—Consistent with the public welfare, a local government may not deny a development permit authorizing residential development for failure to achieve and maintain the level of service standard for public school capacity in a local option school concurrency system where adequate school facilities will be in place or under actual construction within 3 years after permit issuance.

(f) Intergovernmental coordination.—

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

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

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

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

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

2. A municipality which qualifies as having no significant impact on school attendance pursuant to the criteria of subparagraph 1. must review

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

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

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

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

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

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

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

6. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of

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

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

a. The evaluation of development applications for compliance with school concurrency requirements;

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

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

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

(13) The state land planning agency shall, by October 1, 1998, adopt by rule minimum criteria for the review and determination of compliance of a public school facilities element adopted by a local government for purposes of imposition of school concurrency.

Section 6. Effective July 1, 1998, paragraph (i) is added to subsection (2) of section 163.3191, Florida Statutes, to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(2) The report shall present an assessment and evaluation of the success or failure of the comprehensive plan, or element or portion thereof, and shall contain appropriate statements (using words, maps, illustrations, or other forms) related to:

(i) The coordination of the comprehensive plan with existing public schools and those identified in the applicable 5-year school district facilities work program adopted pursuant to s. 235.185. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of

public school facilities. If the issues are not relevant, the local government shall demonstrate that they are not relevant.

Section 7. Effective July 1, 1998, subsection (5) is added to section 235.185, Florida Statutes, as created by chapter 97-384, Laws of Florida, to read:

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

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

Section 8. Effective July 1, 1998, subsection (1) of section 235.19, Florida Statutes, is amended to read:

235.19 Site planning and selection.—

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

Section 9. Effective July 1, 1998, subsection (2) of section 235.193, Florida Statutes, is amended to read:

235.193 Coordination of planning with local governing bodies.—

(2) A school board and the local governing body must share and coordinate information related to existing and planned public school facilities; proposals for development, redevelopment, or additional development; and infrastructure required to support the public school facilities, concurrent with proposed development. A school board shall use Department of Education enrollment projections when preparing the 5-year district facilities work program pursuant to s. 235.185, and a school board shall affirmatively demonstrate in the educational facilities report consideration of local governments' population projections to ensure that the 5-year work program not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. A school board is precluded from siting a new school in a jurisdiction where the school board has failed to provide the annual educational facilities report for the prior year required pursuant to s. 235.194 unless the failure is corrected.

Section 10. Until the minimum criteria for a public school facilities element adopted for purposes of imposition of school concurrency, as required by s. 163.3180(13), Florida Statutes, are in effect, the state land planning agency shall utilize the minimum criteria for a public school facilities element adopted for purposes of imposition of school concurrency contained in the Final Report and Consensus Text by the Department of Community Affairs Public School Construction Working Group, dated March 9, 1998, in any compliance review of any such element.

Section 11. Any county whose adopted public school facilities element is the subject of a final order entered by the Administration Commission prior to the effective date of this act may implement its public school facilities element in accordance with the general law concerning public school facilities concurrency in effect when the final order was entered and in accord with the final order consistent with any appellate court decision. The county shall comply with the requirements of the final order, consistent with any appellate decision, in implementing its public school facilities element and in adopting any necessary amendment to its comprehensive plan.

Section 12. Paragraph (b) of subsection (1) and subsections (2), (4), and (6) of section 163.3184, Florida Statutes, are amended to read:

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

(1) DEFINITIONS.—As used in this section:

(b) "In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, ~~and~~ 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with chapter 163, part II and with the principles for guiding development in designated areas of critical state concern.

(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.

(4) INTERGOVERNMENTAL REVIEW.—If review of a proposed comprehensive plan amendment is requested or otherwise initiated pursuant to subsection (6), the state land planning agency within 5 working days of determining that such a review will be conducted shall transmit a copy of

the proposed plan amendment to various government agencies, as appropriate, for response or comment, including, but not limited to, the department, the Department of Transportation, the water management district, and the regional planning council, and, in the case of municipal plans, to the county land planning agency. These governmental agencies shall provide comments to the state land planning agency within 30 days after receipt of the proposed plan amendment. The appropriate regional planning council shall also provide its written comments to the state land planning agency within 30 days after receipt of the proposed plan amendment and shall specify any objections, recommendations for modifications, and comments of any other regional agencies to which the regional planning council may have referred the proposed plan amendment. Written comments submitted by the public within 30 days after notice of transmittal by the local government of the proposed plan amendment will be considered as if submitted by governmental agencies. All written agency and public comments must be made part of the file maintained under subsection (2).

(6) STATE LAND PLANNING AGENCY REVIEW.—

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

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

(c) The state land planning agency, upon receipt of comments from the various government agencies, as well as written public comments, pursuant to subsection (4), shall have 30 days to review comments from the various government agencies along with a local government's comprehensive plan or plan amendment. During that period, the state land planning agency shall transmit in writing its comments to the local government along with any objections and any recommendations for modifications. When a federal, state, or regional agency has implemented a permitting program, the state land planning agency shall not require a local government to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations. Nothing contained herein shall prohibit the state land planning agency in conducting its review of local plans or plan amendments from making objections, recommendations, and comments or making compliance determinations regarding densities and intensities consistent with the provisions of this part. In preparing its comments, the state land planning agency shall only base its considerations on written, and not oral, comments, from any source.

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

Section 13. Effective October 1, 1998, subsection (6) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Amendment of adopted comprehensive plan.—

(6)(a) No local government may amend its comprehensive plan after the date established by the state land planning agency ~~rule~~ for adoption ~~submittal~~ of its evaluation and appraisal report unless it has submitted its report or addendum to the state land planning agency as prescribed by s. 163.3191, except for plan amendments described in paragraph (1)(b).~~:~~

~~(a) Plan amendments to implement recommendations in the report or addendum.~~

(b) A local government may amend its comprehensive plan after it has submitted its adopted evaluation and appraisal report and for a period of 1 year after the initial determination of sufficiency regardless of whether the report has been determined to be insufficient ~~Plan amendments described in paragraph (1)(b)~~.

(c) A local government may not amend its comprehensive plan, except for plan amendments described in paragraph (1)(b), if the 1-year period after the initial sufficiency determination of the report has expired and the report has not been determined to be sufficient ~~Plan amendments described in s. 163.3184(16)(d) to implement the terms of compliance agreements entered into before the date established for submittal of the report or addendum~~.

(d) When the state land planning agency has determined that the report ~~or addendum~~ has sufficiently addressed all pertinent provisions of s. 163.3191, the local government may amend its comprehensive plan without the limitations imposed by paragraph (a) or paragraph (c) ~~proceed with plan amendments in addition to those necessary to implement recommendations in the report or addendum~~.

(e) Any plan amendment which a local government attempts to adopt in violation of paragraph (a) or paragraph (c) is invalid, but such invalidity may be overcome if the local government readopts the amendment and transmits the amendment to the state land planning agency pursuant to s. 163.3184(7) after the report is determined to be sufficient.

Section 14. Effective October 1, 1998, section 163.3191, Florida Statutes, as amended by this act, is amended to read:

(Substantial rewording of section. See
s. 163.3191, F.S., for present text.)

163.3191 Evaluation and appraisal of comprehensive plan.—

(1) The planning program shall be a continuous and ongoing process. Each local government shall adopt an evaluation and appraisal report once every 7 years assessing the progress in implementing the local government's comprehensive plan. Furthermore, it is the intent of this section that:

(a) Adopted comprehensive plans be reviewed through such evaluation process to respond to changes in state, regional, and local policies on planning and growth management and changing conditions and trends, to ensure effective intergovernmental coordination, and to identify major issues regarding the community's achievement of its goals.

(b) After completion of the initial evaluation and appraisal report and any supporting plan amendments, each subsequent evaluation and appraisal report must evaluate the comprehensive plan in effect at the time of the initiation of the evaluation and appraisal report process.

(c) Local governments identify the major issues, if applicable, with input from state agencies, regional agencies, adjacent local governments, and the public in the evaluation and appraisal report process. It is also the intent of this section to establish minimum requirements for information to ensure predictability, certainty, and integrity in the growth management process. The report is intended to serve as a summary audit of the actions that a local government has undertaken and identify changes that it may need to make. The report should be based on the local government's analysis of major issues to further the community's goals consistent with statewide minimum standards. The report is not intended to require a comprehensive rewrite of the elements within the local plan, unless a local government chooses to do so.

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

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

(b) The extent of vacant and developable land.

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

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

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

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

(f) Relevant changes to the state comprehensive plan, the requirements of part II of chapter 163, the minimum criteria contained in Chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments.

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

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

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

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

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

(3) Voluntary scoping meetings may be conducted by each local government or several local governments within the same county that agree to meet together. Joint meetings among all local governments in a county are encouraged. All scoping meetings shall be completed at least 1 year prior to the established adoption date of the report. The purpose of the meetings shall be to distribute data and resources available to assist in the preparation of the report, to provide input on major issues in each community that should be addressed in the report, and to advise on the extent of the effort

for the components of subsection (2). If scoping meetings are held, the local government shall invite each state and regional reviewing agency, as well as adjacent and other affected local governments. A preliminary list of new data and major issues that have emerged since the adoption of the original plan, or the most recent evaluation and appraisal report-based update amendments, should be developed by state and regional entities and involved local governments for distribution at the scoping meeting. For purposes of this subsection, a "scoping meeting" is a meeting conducted to determine the scope of review of the evaluation and appraisal report by parties to which the report relates.

(4) The local planning agency shall prepare the evaluation and appraisal report and shall make recommendations to the governing body regarding adoption of the proposed report. The local planning agency shall prepare the report in conformity with its public participation procedures adopted as required by s. 163.3181. During the preparation of the proposed report and prior to making any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed report. At a minimum, the format and content of the proposed report shall include a table of contents, numbered pages, element headings, section headings within elements, a list of included tables, maps, and figures, a title and sources for all included tables, a preparation date, and the name of the preparer. Where applicable, maps shall include major natural and artificial geographic features, city, county, and state lines, and a legend indicating a north arrow, map scale, and the date.

(5) Ninety days prior to the scheduled adoption date, the local government may provide a proposed evaluation and appraisal report to the state land planning agency and distribute copies to state and regional commenting agencies as prescribed by rule, adjacent jurisdictions, and interested citizens for review. All review comments, including comments by the state land planning agency, shall be transmitted to the local government and state land planning agency within 30 days after receipt of the proposed report.

(6) The governing body, after considering the review comments and recommended changes, if any, shall adopt the evaluation and appraisal report by resolution or ordinance at a public hearing with public notice. The governing body shall adopt the report in conformity with its public participation procedures adopted as required by s. 163.3181. The local government shall submit to the state land planning agency three copies of the report, a transmittal letter indicating the dates of public hearings, and a copy of the adoption resolution or ordinance. The local government shall provide a copy of the report to the reviewing agencies which provided comments for the proposed report, or to all the reviewing agencies if a proposed report was not provided pursuant to subsection (5), including the adjacent local governments. Within 60 days after receipt, the state land planning agency shall review the adopted report and make a preliminary sufficiency determination that shall be forwarded by the agency to the local government for its consideration. The state land planning agency shall issue a final sufficiency determination within 90 days after receipt of the adopted evaluation and appraisal report.

(7) The intent of the evaluation and appraisal process is the preparation of a plan update that clearly and concisely achieves the purpose of this section. Toward this end, the sufficiency review of the state land planning agency shall concentrate on whether the evaluation and appraisal report sufficiently fulfills the components of subsection (2). If the state land planning agency determines that the report is insufficient, the governing body shall adopt a revision of the report and submit the revised report for review pursuant to subsection (6).

(8) The state land planning agency may delegate the review of evaluation and appraisal reports, including all state land planning agency duties under subsections (4)-(7), to the appropriate regional planning council. When the review has been delegated to a regional planning council, any local government in the region may elect to have its report reviewed by the regional planning council rather than the state land planning agency. The state land planning agency shall by agreement provide for uniform and adequate review of reports and shall retain oversight for any delegation of review to a regional planning council.

(9) The state land planning agency may establish a phased schedule for adoption of reports. The schedule shall provide each local government at least 7 years from plan adoption or last established adoption date for a report and shall allot approximately one-seventh of the reports to any 1 year. In order to allow the municipalities to use data and analyses gathered by the counties, the state land planning agency shall schedule municipal report adoption dates between 1 year and 18 months later than the report adoption date for the county in which those municipalities are located. A local government may adopt its report no earlier than 90 days prior to the established adoption date. Small municipalities which were scheduled by Chapter 9J-33, Florida Administrative Code, to adopt their evaluation and appraisal report after February 2, 1999, shall be rescheduled to adopt their report together with the other municipalities in their county as provided in this subsection.

(10) The governing body shall amend its comprehensive plan based on the recommendations in the report and shall update the comprehensive plan based on the components of subsection (2), pursuant to the provisions of ss. 163.3184, 163.3187, and 163.3189. Amendments to update a comprehensive plan based on the evaluation and appraisal report shall be adopted within 18 months after the report is determined to be sufficient by the state land planning agency, except the state land planning agency may grant an extension for adoption of a portion of such amendments. The state land planning agency may grant a 6-month extension for the adoption of such amendments if the request is justified by good and sufficient cause as determined by the agency. An additional extension may also be granted if the request will result in greater coordination between transportation and land use, for the purposes of improving Florida's transportation system, as determined by the agency in coordination with the Metropolitan Planning Organization program. The comprehensive plan as amended shall be in compliance as defined in s. 163.3184(1)(b).

(11) The Administration Commission may impose the sanctions provided by s. 163.3184(11) against any local government that fails to adopt and

submit a report, or that fails to implement its report through timely and sufficient amendments to its local plan, except for reasons of excusable delay or valid planning reasons agreed to by the state land planning agency or found present by the Administration Commission. Sanctions for untimely or insufficient plan amendments shall be prospective only and shall begin after a final order has been issued by the Administration Commission and a reasonable period of time has been allowed for the local government to comply with an adverse determination by the Administration Commission through adoption of plan amendments that are in compliance. The state land planning agency may initiate, and an affected person may intervene in, such a proceeding by filing a petition with the Division of Administrative Hearings, which shall appoint an administrative law judge and conduct a hearing pursuant to ss. 120.569 and 120.57(1) and shall submit a recommended order to the Administration Commission. The affected local government shall be a party to any such proceeding. The commission may implement this subsection by rule.

(12) The state land planning agency shall not adopt rules to implement this section, other than procedural rules.

(13) Within 1 year after the effective date of this act, the state land planning agency shall prepare and submit a report to the Governor, the Administration Commission, the Speaker of the House of Representatives, the President of the Senate, and the respective community affairs committees of the Senate and the House of Representatives on the coordination efforts of local, regional, and state agencies to improve technical assistance for evaluation and appraisal reports and update plan amendments. Technical assistance shall include, but not be limited to, distribution of sample evaluation and appraisal report templates, distribution of data in formats usable by local governments, onsite visits with local governments, and participation in and assistance with the voluntary scoping meetings as described in subsection (3).

(14) The state land planning agency shall regularly review the evaluation and appraisal report process and submit a report to the Governor, the Administration Commission, the Speaker of the House of Representatives, the President of the Senate, and the respective community affairs committees of the Senate and the House of Representatives. The first report shall be submitted by December 31, 2004, and subsequent reports shall be submitted every 5 years thereafter. At least 9 months before the due date of each report, the Secretary of Community Affairs shall appoint a technical committee of at least 15 members to assist in the preparation of the report. The membership of the technical committee shall consist of representatives of local governments, regional planning councils, the private sector, and environmental organizations. The report shall assess the effectiveness of the evaluation and appraisal report process.

(15) An evaluation and appraisal report due for adoption before October 1, 1998, shall be evaluated for sufficiency pursuant to the provisions of this section. A local government which has an established adoption date for its evaluation and appraisal report after September 30, 1998, and before February 2, 1999, may choose to have its report evaluated for sufficiency pursuant

to the provisions of this section if the choice is made in writing to the state land planning agency on or before the date the report is submitted.

Section 15. Section 163.3245, Florida Statutes, is created to read:

163.3245 Optional sector plans.—

(1) In recognition of the benefits of conceptual long-range planning for the buildout of an area, and detailed planning for specific areas, as a demonstration project the requirements of s. 380.06 may be addressed as identified by this section for up to five local governments or combinations of local governments which adopt into the comprehensive plan an optional sector plan in accordance with this section. This section is intended to further the intent of s. 163.3177(11), which supports innovative and flexible planning and development strategies, and the purposes of chapter 163, part II, and chapter 380, part I, and to avoid duplication of effort in terms of the level of data and analysis required for a development of regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Optional sector plans are intended for substantial geographic areas including at least 5,000 acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of regionally significant resources and facilities. The state land planning agency may approve optional sector plans of less than 5,000 acres based on local circumstances if it is determined that the plan would further the purposes of chapter 163, part II, and chapter 380, part I. Preparation of an optional sector plan is authorized by agreement between the state land planning agency and the applicable local governments under s. 163.3171(4). An optional sector plan may be adopted through one or more comprehensive plan amendments under s. 163.3184. However, an optional sector plan may not be authorized in an area of critical state concern.

(2) The state land planning agency may enter into an agreement to authorize preparation of an optional sector plan upon the request of one or more local governments based on consideration of problems and opportunities presented by existing development trends; the effectiveness of current comprehensive plan provisions; the potential to further the state comprehensive plan, applicable strategic regional policy plans, chapter 163, part II, and chapter 380, part I; and those factors identified by s. 163.3177(10)(i). The applicable regional planning council shall conduct a scoping meeting with affected local governments and those agencies identified in s. 163.3184(4) before execution of the agreement authorized by this section. The purpose of this meeting is to assist the state land planning agency and the local government in the identification of the relevant planning issues to be addressed and the data and resources available to assist in the preparation of subsequent plan amendments. The regional planning council shall make written recommendations to the state land planning agency and affected local governments, including whether a sustainable sector plan would be appropriate. The agreement must define the geographic area to be subject to the sector plan, the planning issues that will be emphasized, requirements for intergovernmental coordination to address extrajurisdictional impacts, supporting application materials including data and analysis, and

procedures for public participation. An agreement may address previously adopted sector plans that are consistent with the standards in this section. Before executing an agreement under this subsection, the local government shall hold a duly noticed public workshop to review and explain to the public the optional sector planning process and the terms and conditions of the proposed agreement. The local government shall hold a duly noticed public hearing to execute the agreement. All meetings between the department and the local government must be open to the public.

(3) Optional sector planning encompasses two levels: adoption under s. 163.3184 of a conceptual long-term buildout overlay to the comprehensive plan, having no immediate effect on the issuance of development orders or the applicability of s. 380.06, and adoption under s. 163.3184 of detailed specific area plans that implement the conceptual long-term buildout overlay and authorize issuance of development orders, and within which s. 380.06 is waived. Until such time as a detailed specific area plan is adopted, the underlying future land use designations apply.

(a) In addition to the other requirements of this chapter, a conceptual long-term buildout overlay must include:

1. A long-range conceptual framework map that at a minimum identifies anticipated areas of urban, agricultural, rural, and conservation land use.

2. Identification of regionally significant public facilities consistent with Rule 9J-2, Florida Administrative Code, irrespective of local governmental jurisdiction necessary to support buildout of the anticipated future land uses.

3. Identification of regionally significant natural resources consistent with Rule 9J-2, Florida Administrative Code.

4. Principles and guidelines that address the urban form and interrelationships of anticipated future land uses and a discussion, at the applicant's option, of the extent, if any, to which the plan will address restoring key ecosystems, achieving a more clean, healthy environment, limiting urban sprawl, protecting wildlife and natural areas, advancing the efficient use of land and other resources, and creating quality communities and jobs.

5. Identification of general procedures to ensure intergovernmental coordination to address extrajurisdictional impacts from the long-range conceptual framework map.

(b) In addition to the other requirements of this chapter, including those in subsection (a), the detailed specific area plans must include:

1. An area of adequate size to accommodate a level of development which achieves a functional relationship between a full range of land uses within the area and to encompass at least 1,000 acres. The state land planning agency may approve detailed specific area plans of less than 1,000 acres based on local circumstances if it is determined that the plan furthers the purposes of chapter 163, part II, and chapter 380, part I.

2. Detailed identification and analysis of the distribution, extent, and location of future land uses.

3. Detailed identification of regionally significant public facilities, including public facilities outside the jurisdiction of the host local government, anticipated impacts of future land uses on those facilities, and required improvements consistent with Rule 9J-2, Florida Administrative Code.

4. Public facilities necessary for the short term, including developer contributions in a financially feasible 5-year capital improvement schedule of the affected local government.

5. Detailed analysis and identification of specific measures to assure the protection of regionally significant natural resources and other important resources both within and outside the host jurisdiction, including those regionally significant resources identified in Rule 9J-2, Florida Administrative Code.

6. Principles and guidelines that address the urban form and interrelationships of anticipated future land uses and a discussion, at the applicant's option, of the extent, if any, to which the plan will address restoring key ecosystems, achieving a more clean, healthy environment, limiting urban sprawl, protecting wildlife and natural areas, advancing the efficient use of land and other resources, and creating quality communities and jobs.

7. Identification of specific procedures to ensure intergovernmental coordination to address extrajurisdictional impacts of the detailed specific area plan.

(c) This subsection may not be construed to prevent preparation and approval of the optional sector plan and detailed specific area plan concurrently or in the same submission.

(4) The host local government shall submit a monitoring report to the state land planning agency and applicable regional planning council on an annual basis after adoption of a detailed specific area plan. The annual monitoring report must provide summarized information on development orders issued, development that has occurred, public facility improvements made, and public facility improvements anticipated over the upcoming 5 years.

(5) When a plan amendment adopting a detailed specific area plan has become effective under ss. 163.3184 and 163.3189(2), the provisions of s. 380.06 do not apply to development within the geographic area of the detailed specific area plan. However, any development-of-regional-impact development order that is vested from the detailed specific area plan may be enforced under s. 380.11.

(a) The local government adopting the detailed specific area plan is primarily responsible for monitoring and enforcing the detailed specific area plan. Local governments shall not issue any permits or approvals or provide any extensions of services to development that are not consistent with the detailed sector area plan.

(b) If the state land planning agency has reason to believe that a violation of any detailed specific area plan, or of any agreement entered into under this section, has occurred or is about to occur, it may institute an administrative or judicial proceeding to prevent, abate, or control the conditions or activity creating the violation, using the procedures in s. 380.11.

(c) In instituting an administrative or judicial proceeding involving an optional sector plan or detailed specific area plan, including a proceeding pursuant to s. 163.3245(5)(b), the complaining party shall comply with the requirements of subsections (4), (5), (6), and (7) of s. 163.3215.

(6) Beginning December 1, 1999, and each year thereafter, the department shall provide a status report to the Legislative Committee on Intergovernmental Relations regarding each optional sector plan authorized under this section.

(7) This section may not be construed to abrogate the rights of any person under this chapter.

Section 16. Subsection (6) is added to section 171.044, Florida Statutes, to read:

171.044 Voluntary annexation.—

(6) Upon publishing or posting the ordinance notice required under subsection (2), the governing body of the municipality must provide a copy of the notice, via certified mail, to the board of the county commissioners of the county wherein the municipality is located. The notice provision provided in this subsection shall not be the basis of any cause of action challenging the annexation.

Section 17. Section 186.003, Florida Statutes, is amended to read:

186.003 Definitions.—As used in ss. 186.001-186.031 and 186.801-186.911, the term:

(1) "Executive Office of the Governor" means the Office of Planning and Budgeting of the Executive Office of the Governor.

(2) "Goal" means the long-term end toward which programs and activities are ultimately directed.

(3) "Objective" means a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

(4) "Policy" means the way in which programs and activities are conducted to achieve an identified goal.

(5) "Regional planning agency" means the regional planning council created pursuant to ss. 186.501-186.515 to exercise responsibilities under ss. 186.001-186.031 and 186.801-186.911 in a particular region of the state.

(6) "State agency" means each executive department, the Game and Fresh Water Fish Commission, the Parole Commission, and the Department of Military Affairs.

(7) "State agency strategic plan" means the statement of priority directions that an agency will take to carry out its mission within the context of the state comprehensive plan and within the context of any other statutory mandates and authorizations given to the agency, pursuant to ss. 186.021-186.022.

(8) "State comprehensive plan" means the state planning document required in Article III, s. 19 of the State Constitution and published as ss. 187.101 and 187.201. ~~goals and policies contained within the state comprehensive plan initially prepared by the Executive Office of the Governor and adopted pursuant to s. 186.008.~~

Section 18. Subsections (4) and (8) of section 186.007, Florida Statutes, are amended and subsection (9) is added to that section to read:

186.007 State comprehensive plan; preparation; revision.—

(4)(a) The Executive Office of the Governor shall prepare statewide goals, objectives, and policies related to the opportunities, problems, and needs associated with growth and development in this state, which goals, objectives, and policies shall constitute the growth management portion of the state comprehensive plan. In preparing the growth management goals, objectives, and policies, the Executive Office of the Governor initially shall emphasize the management of land use, water resources, and transportation system development.

(b) The purpose of the growth management portion of the state comprehensive plan is to establish clear, concise, and direct goals, objectives, and policies related to land development, water resources, transportation, and related topics. In doing so, the plan should, where possible, draw upon the work that agencies have invested in ~~the state land development plan,~~ the Florida Transportation Plan, the Florida water plan, and similar planning documents.

(8) The revision of the state comprehensive plan is a continuing process. Each section of the plan shall be reviewed and analyzed biennially by the Executive Office of the Governor in conjunction with the planning officers of other state agencies significantly affected by the provisions of the particular section under review. In conducting this review and analysis, the Executive Office of the Governor shall review and consider, with the assistance of the state land planning agency and regional planning councils, the evaluation and appraisal reports submitted pursuant to s. 163.3191 and the evaluation and appraisal reports prepared pursuant to s. 186.511. Any necessary revisions of the state comprehensive plan shall be proposed by the Governor in a written report and be accompanied by an explanation of the need for such changes. If the Governor determines that changes are unnecessary, the written report must explain why changes are unnecessary. The proposed revisions and accompanying explanations may be submitted in the report required by s. 186.031. Any proposed revisions to the plan shall be submitted to the Legislature as provided in s. 186.008(2) at least 30 days prior to the regular legislative session occurring in each even-numbered year.

(9) The Governor shall appoint a committee to review and make recommendations as to appropriate revisions to the state comprehensive plan that should be considered for the Governor's recommendations to the Administration Commission for October 1, 1999, pursuant to s. 186.008(1). The committee must consist of persons from the public and private sectors representing the broad range of interests covered by the state comprehensive plan, including state, regional, and local government representatives. In reviewing the goals and policies contained in chapter 187, the committee must identify portions that have become outdated or have not been implemented, and, based upon best available data, the state's progress toward achieving the goals and policies. In reviewing the goals and policies relating to growth and development, the committee shall consider the extent to which the plan adequately addresses the guidelines set forth in s. 186.009, and recommend revisions as appropriate. In addition, the committee shall consider and make recommendations on the purpose and function of the state land development plan, as set forth in s. 380.031(17), including whether said plan should be retained and, if so, its future application. The committee may also make recommendations as to data and information needed in the continuing process to evaluate and update the state comprehensive plan. All meetings of the committee must be open to the public for input on the state planning process and amendments to the state comprehensive plan. The Executive Office of the Governor is hereby appropriated $50,000 in nonrecurring general revenue for costs associated with the committee, including travel and per diem reimbursement for the committee members.

Section 19. Section 186.008, Florida Statutes, is amended to read:

186.008 State comprehensive plan; revision; implementation.—

(1) On or before October 1 of every odd-numbered year ~~beginning in 1995~~, the Executive Office of the Governor shall prepare, and the Governor shall recommend to the Administration Commission, any proposed revisions to the state comprehensive plan deemed necessary. The Governor shall transmit his or her recommendations and explanation as required by s. 186.007(8). Copies shall also be provided to each state agency, to each regional planning agency, to any other unit of government that requests a copy, and to any member of the public who requests a copy.

(2) On or before December 15 of every odd-numbered year ~~beginning in 1995~~, the Administration Commission shall review the proposed revisions to the state comprehensive plan prepared by the Governor. The commission shall adopt a resolution, after public notice and a reasonable opportunity for public comment, and transmit the proposed revisions to the state comprehensive plan to the Legislature, together with any amendments approved by the commission and any dissenting reports. The commission shall identify those portions of the plan that are not based on existing law.

(3) All amendments, revisions, or updates to the plan shall be adopted by the Legislature as a general law.

(4) The state comprehensive plan shall be implemented and enforced by all state agencies consistent with their lawful responsibilities whether it is

put in force by law or by administrative rule. The Governor, as chief planning officer of the state, shall oversee the implementation process.

(5) All state agency budgets and programs shall be consistent with the adopted state comprehensive plan and shall support and further its goals and policies.

(6) The Florida Public Service Commission, in approving the plans of utilities subject to its regulation, shall take into consideration the compatibility of the plan of each utility and all related utility plans taken together with the adopted state comprehensive plan.

Section 20. Subsections (2) and (3) of section 186.009, Florida Statutes, are amended to read:

186.009 Growth management portion of the state comprehensive plan.—

(2) The growth management portion of the state comprehensive plan shall:

(a) Provide strategic guidance for state, regional, and local actions necessary to implement the state comprehensive plan with regard to the physical growth and development of the state.

(b) Identify metropolitan and urban growth centers.

(c) Identify areas of state and regional environmental significance and establish strategies to protect them.

(d) Set forth and integrate state policy for Florida's future growth as it relates to land development, air quality, transportation, and water resources.

(e) Provide guidelines for determining where urban growth is appropriate and should be encouraged.

(f) Provide guidelines for state transportation corridors, public transportation corridors, new interchanges on limited access facilities, and new airports of regional or state significance.

(g) Promote land acquisition programs to provide for natural resource protection, open space needs, urban recreational opportunities, and water access.

(h) Set forth policies to establish state and regional solutions to the need for affordable housing.

(i) Provide coordinated state planning of road, rail, and waterborne transportation facilities designed to take the needs of agriculture into consideration and to provide for the transportation of agricultural products and supplies.

(j) Establish priorities regarding coastal planning and resource management.

(k) Provide a statewide policy to enhance the multiuse waterfront development of existing deepwater ports, ensuring that priority is given to water-dependent land uses.

(l) Set forth other goals, objectives, and policies related to the state's natural and built environment that are necessary to effectuate those portions of the state comprehensive plan which are related to physical growth and development.

(m) Set forth recommendations on when and to what degree local government comprehensive plans must be consistent with the proposed growth management portion of the state comprehensive plan.

(n) Set forth recommendations on how to integrate the Florida water plan required by s. 373.036, ~~the state land development plan required by s. 380.031(17),~~ and transportation plans required by chapter 339.

(o) Set forth recommendations concerning what degree of consistency is appropriate for the strategic regional policy plans.

The growth management portion of the state comprehensive plan shall not include a land use map.

(3)~~(a) On or before October 15, 1993, the Executive Office of the Governor shall prepare, and the Governor shall recommend to the Administration Commission, the proposed growth management portion of the state comprehensive plan. Copies shall also be provided to each state agency, to each regional planning agency, to any other unit of government that requests a copy, and to any member of the public who requests a copy.~~

~~(b) On or before December 1, 1993, the Administration Commission shall review the proposed growth management portion of the state comprehensive plan prepared by the Governor. The commission shall adopt a resolution, after public notice and a reasonable opportunity for public comment, and transmit the proposed growth management portion of the state comprehensive plan to the Legislature, together with any amendments approved by the commission and any dissenting reports. The commission shall identify those portions of the plan that are not based on existing law.~~

~~(c)~~ The growth management portion of the state comprehensive plan, and all amendments, revisions, or updates to the plan, shall have legal effect only upon adoption by the Legislature as general law. The Legislature shall indicate, in adopting the growth management portion of the state comprehensive plan, which plans, activities, and permits must be consistent with the growth management portion of the state comprehensive plan.

~~(d) The Executive Office of the Governor shall evaluate and the Governor shall propose any necessary revisions to the adopted growth management portion of the state comprehensive plan in conjunction with the process for evaluating and proposing revisions to the state comprehensive plan.~~

Section 21. Subsection (2) of section 186.507, Florida Statutes, is amended to read:

186.507 Strategic regional policy plans.—

(2) The Executive Office of the Governor may ~~shall~~ adopt by rule minimum criteria to be addressed in each strategic regional policy plan and a uniform format for each plan. Such criteria must emphasize the requirement that each regional planning council, when preparing and adopting a strategic regional policy plan, must focus on regional rather than local resources and facilities.

Section 22. Section 186.508, Florida Statutes, is amended to read:

186.508 Strategic regional policy plan adoption; consistency with state comprehensive plan.—

(1) Each regional planning council shall submit to the Executive Office of the Governor its proposed strategic regional policy plan on a schedule established ~~adopted by rule~~ by the Executive Office of the Governor to coordinate implementation of the strategic regional policy plans with the evaluation and appraisal reports required by s. 163.3191. The Executive Office of the Governor, or its designee, shall review the proposed strategic regional policy plan to ensure ~~for~~ consistency with the adopted state comprehensive plan and shall, within 60 days, provide any recommended revisions. ~~return the proposed strategic regional policy plan to the council, together with any revisions recommended by the Governor.~~ The Governor's recommended revisions shall be included in the plans in a comment section. However, nothing herein shall preclude a regional planning council from adopting or rejecting any or all of the revisions as a part of its plan prior to the effective date of the plan. The rules adopting the strategic regional policy plan shall not be subject to rule challenge under s. 120.56(2) or to drawout proceedings under s. 120.54(3)(c)2., but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3) by substantially affected persons, including the Executive Office of the Governor. The rules shall be adopted by the regional planning councils ~~within 90 days after receipt of the revisions recommended by the Executive Office of the Governor~~, and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

(2) If a local government within the jurisdiction of a regional planning council challenges a portion of the council's regional policy plan pursuant to s. 120.56, the applicable portion of that local government's comprehensive plan shall not be required to be consistent with the challenged portion of the regional policy plan until 12 months after the challenge has been resolved by an administrative law judge.

(3) All amendments to the adopted regional policy plan shall be subject to all challenges pursuant to chapter 120.

Section 23. Section 186.511, Florida Statutes, is amended to read:

186.511 Evaluation of strategic regional policy plan; changes in plan.—The regional planning process shall be a continuous and ongoing process. Each regional planning council shall prepare an evaluation and appraisal report on its strategic regional policy plan at least once every 5 years; assess

the successes or failures of the plan; address changes to the state comprehensive plan; and prepare and adopt by rule amendments, revisions, or updates to the plan as needed. Each regional planning council shall involve the appropriate local health councils in its region if the regional planning council elects to address regional health issues. The evaluation and appraisal report shall be prepared and submitted for review on a schedule established ~~by rule~~ by the Executive Office of the Governor. The schedule shall facilitate and be coordinated with, to the maximum extent feasible, the evaluation and revision of local comprehensive plans pursuant to s. 163.3191 for the local governments within each comprehensive planning district.

Section 24. Paragraph (f) of subsection (2) and subsections (3), (8), (9), (10), and (12) of section 288.975, Florida Statutes, are amended to read:

288.975 Military base reuse plans.—

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

(f) "Regional policy plan" means a ~~comprehensive regional policy plan that has been adopted by rule by a regional planning council until the council's rule adopting its strategic regional policy plan in accordance with the requirements of chapter 93-206, Laws of Florida, becomes effective, at which time "regional policy plan" shall mean a~~ strategic regional policy plan that has been adopted by rule by a regional planning council pursuant to s. 186.508.

(3) No later than 6 months ~~after May 31, 1994, or 6 months~~ after the designation of a military base for closure by the Federal Government, ~~whichever is later,~~ each host local government shall notify the secretary of the Department of Community Affairs and the director of the Office of Tourism, Trade, and Economic Development in writing, by hand delivery or return receipt requested, as to whether it intends to use the optional provisions provided in this act. If a host local government does not opt to use the provisions of this act, land use planning and regulation pertaining to base reuse activities within those host local governments shall be subject to all applicable statutory requirements, including those contained within chapters 163 and 380.

(8) At the request of a host local government, the Office of Tourism, Trade, and Economic Development shall coordinate a presubmission workshop concerning a military base reuse plan within the boundaries of the host jurisdiction. Agencies that shall participate in the workshop shall include any affected local governments; the Department of Environmental Protection; the Office of Tourism, Trade, and Economic Development; the Department of Community Affairs; the Department of Transportation; the Department of Health ~~and Rehabilitative Services~~; the Department of Children and Family Services; the Department of Agriculture and Consumer Services; the Department of State; the Game and Fresh Water Fish Commission; and any applicable water management districts and regional planning councils. The purposes of the workshop shall be to assist the host local government to understand issues of concern to the above listed entities pertaining to the military base site and to identify opportunities for better coordination of

planning and review efforts with the information and analyses generated by the federal environmental impact statement process and the federal community base reuse planning process.

(9) If a host local government elects to use the optional provisions of this act, it shall, no later than 12 months after notifying the agencies of its intent pursuant to subsection (3) either:

(a) Send a copy of the proposed military base reuse plan for review to any affected local governments; the Department of Environmental Protection; the Office of Tourism, Trade, and Economic Development; the Department of Community Affairs; the Department of Transportation; the Department of Health ~~and Rehabilitative Services~~; the Department of Children and Family Services; the Department of Agriculture and Consumer Services; the Department of State; the Florida Game and Fresh Water Fish Commission; and any applicable water management districts and regional planning councils, or

(b) Petition the secretary of the Department of Community Affairs for an extension of the deadline for submitting a proposed reuse plan. Such an extension request must be justified by changes or delays in the closure process by the federal Department of Defense or for reasons otherwise deemed to promote the orderly and beneficial planning of the subject military base reuse. The secretary of the Department of Community Affairs may grant extensions ~~up to a 1-year extension~~ to the required submission date of the reuse plan.

(10)~~(a)~~ Within 60 days after receipt of a proposed military base reuse plan, these entities shall review and provide comments to the host local government. The commencement of this review period shall be advertised in newspapers of general circulation within the host local government and any affected local government to allow for public comment. No later than 180 ~~60~~ days after receipt and consideration of all comments, and the holding of at least two public hearings, the host local government shall adopt the military base reuse plan. The host local government shall comply with the notice requirements set forth in s. 163.3184(15) to ensure full public participation in this planning process.

~~(b) Notwithstanding paragraph (a), a host local government may waive the requirement that the military base reuse plan be adopted within 60 days after receipt and consideration of all comments and the second public hearing. The waiver may extend the time period in which to adopt the military reuse plan to 180 days after the 60th day following the receipt and consideration of all comments and the second public hearing, or the date upon which this act becomes a law, whichever is later.~~

~~(c) The host local government may exercise the waiver after the 60th day following the receipt and consideration of all comments and the second public hearing. However, the host local government must exercise this waiver no later than 180 days after the 60th day following the receipt and consideration of all comments and the second public hearing, or the date upon which this act becomes a law, whichever is later.~~

~~(d) Any action by a host local government to adopt a military base reuse plan after the expiration of the 60-day period is deemed an exercise of the waiver pursuant to paragraph (b), without further action by the host local government.~~

(12) Following receipt of a petition, the petitioning party or parties and the host local government shall seek resolution of the issues in dispute. The issues in dispute shall be resolved as follows:

(a) The petitioning parties and host local government shall have 45 days to resolve the issues in dispute. Other affected parties that submitted comments on the proposed military base reuse plan may be given the opportunity to formally participate in decisions and agreements made in these and subsequent proceedings by mutual consent of the petitioning party and the host local government. A third-party mediator may be used to help resolve the issues in dispute.

(b) If resolution of the dispute cannot be achieved within 45 days, the petitioning parties and host local government may extend such dispute resolution for up to 45 days. If resolution of the dispute cannot be achieved with the above timeframes, the issues in dispute shall be submitted to the state land planning agency. If the issues stem from multiple petitions, the mediation shall be consolidated into a single proceeding. The state land planning agency shall have 45 days to hold informal hearings, if necessary, identify the issues in dispute, prepare a record of the proceedings, and provide recommended solutions to the parties. If the parties fail to implement the recommended solutions within 45 days, the state land planning agency shall submit the matter to the Administration Commission for final action. The report to the Administration Commission shall list each issue in dispute, describe the nature and basis for each dispute, identify the recommended solutions provided to the parties, and make recommendations for actions the Administration Commission should take to resolve the disputed issues.

(c) <u>If</u> ~~In the event~~ the state land planning agency is a party to the dispute, the <u>issues in</u> dispute shall be <u>submitted to</u> ~~resolved by~~ a party jointly selected by the state land planning agency and the host local government. The selected party shall comply with the responsibilities placed upon the state land planning agency in this section.

(d) Within 45 days after receiving the report from the state land planning agency, the Administration Commission shall take action to resolve the issues in dispute. In deciding upon a proper resolution, the Administration Commission shall consider the nature of the issues in dispute, <u>any requests for a formal administrative hearing pursuant to chapter 120,</u> the compliance of the parties with this section, the extent of the conflict between the parties, the comparative hardships and the public interest involved. If the Administration Commission incorporates in its final order a term or condition that requires any local government to amend its local government comprehensive plan, the local government shall amend its plan within 60 days after the issuance of the order. Such amendment or amendments shall be exempt from the limitation of the frequency of plan amendments contained in s.

163.3187(2), and a public hearing on such amendment or amendments pursuant to s. 163.3184(15)(b)1. shall not be required. The final order of the Administration Commission is subject to appeal pursuant to s. 120.68. If the order of the Administration Commission is appealed, the time for the local government to amend its plan shall be tolled during the pendency of any local, state, or federal administrative or judicial proceeding relating to the military base reuse plan.

Section 25. Section 288.980, Florida Statutes, is amended to read:

288.980 Military base ~~closure,~~ retention~~, realignment, or defense-related readjustment and diversification~~; legislative intent; grants program.—

(1) It is the intent of this state to provide the necessary means to assist communities with military installations that would be adversely affected by federal base realignment or closure actions. It is further the intent to encourage communities to ~~establish local or regional community base realignment or closure commissions to~~ initiate a coordinated program of response and plan of action in advance of future actions of the federal Base Realignment and Closure Commission. It is critical that closure-vulnerable communities develop such a program to preserve affected military installations. The Legislature, therefore, declares that providing such assistance to support the defense-related initiatives within this section is a public purpose for which public money may be used.

(2)(a) The Office of Tourism, Trade, and Economic Development is authorized to award grants from any funds available to it to support activities ~~specifically appropriated for this purpose to applicants' eligible projects. Eligible projects shall be limited to:~~

~~1. Activities~~ related to the retention of military installations potentially affected by federal base closure or realignment.

~~2. Activities related to preventing the potential realignment or closure of a military installation officially identified by the Federal Government for potential realignment or closure.~~

(b) The term "activities" as used in this section means studies, presentations, analyses, plans, and modeling. Travel and costs incidental thereto, and staff salaries, are not considered an "activity" for which grant funds may be awarded.

(c) The amount of any grant provided to an applicant ~~in any one year~~ may not exceed $250,000. The Office of Tourism, Trade, and Economic Development shall require that an applicant:

1. Represent a local government ~~community~~ with a military installation or military installations that could be adversely affected by federal base realignment or closure.

2. Agree to match at least 50 ~~25~~ percent of any grant awarded ~~by the department in cash or in-kind services. Such match must be directly related to the activities for which the grant is being sought~~.

3. Prepare a coordinated program or plan of action delineating how the eligible project will be administered and accomplished.

4. Provide documentation describing the potential for realignment or closure of a military installation located in the applicant's community and the adverse impacts such realignment or closure will have on the applicant's community.

(d) In making grant awards ~~for eligible projects,~~ the office shall consider, at a minimum, the following factors:

1. The relative value of the particular military installation in terms of its importance to the local and state economy relative to other military installations vulnerable to closure.

2. The potential job displacement within the local community should the military installation be closed.

3. The potential adverse impact on industries and technologies which service the military installation.

~~(e) For purposes of base closure and realignment, "applicant" means one or more counties, or a base closure or realignment commission created by one or more counties, to oversee the potential or actual realignment or closure of a military installation within the jurisdiction of such local government.~~

(3) The Florida Economic Reinvestment Initiative is established to respond to the need for this state and defense-dependent communities in this state to develop alternative economic diversification strategies to lessen reliance on national defense dollars in the wake of base closures and reduced federal defense expenditures and the need to formulate specific base reuse plans and identify any specific infrastructure needed to facilitate reuse. The initiative shall consist of the following three distinct grant programs to be administered by the Office of Tourism, Trade, and Economic Development ~~Department of Commerce~~:

(a) The Florida Defense Planning Grant Program, through which funds shall be used to analyze the extent to which the state is dependent on defense dollars and defense infrastructure and prepare alternative economic development strategies. The state shall work in conjunction with defense-dependent communities in developing strategies and approaches that will help communities make the transition from a defense economy to a nondefense economy. Grant awards may not exceed $100,000 per applicant and shall be available on a competitive basis.

(b) The Florida Defense Implementation Grant Program, through which funds shall be made available to defense-dependent communities to implement the diversification strategies developed pursuant to paragraph (a). Eligible applicants include defense-dependent counties and cities, and local economic development councils located within such communities. Grant awards may not exceed $100,000 per applicant and shall be available on a competitive basis. Awards shall be matched on a one-to-one basis.

(c) The Florida Military Installation Reuse Planning and Marketing Grant Program, through which funds shall be used to help counties, cities, and local economic development councils develop and implement plans for the reuse of closed or realigned military installations, including any necessary infrastructure improvements needed to facilitate reuse and related marketing activities. Grant awards are limited to not more than $100,000 per eligible applicant and made available through a competitive process. Awards shall be matched on a one-to-one basis.

Applications for grants under this subsection must include a coordinated program of work or plan of action delineating how the eligible project will be administered and accomplished, which must include a plan for ensuring close cooperation between civilian and military authorities in the conduct of the funded activities and a plan for public involvement.

(4)(a) The Defense-Related Business Adjustment Program is hereby created. The Director of the Office of Tourism, Trade, and Economic Development ~~Secretary of Commerce~~ shall coordinate the development of the Defense-Related Business Adjustment Program. Funds shall be available to assist defense-related companies in the creation of increased commercial technology development through investments in technology. Such technology must have a direct impact on critical state needs for the purpose of generating investment-grade technologies and encouraging the partnership of the private sector and government defense-related business adjustment. The following areas shall receive precedence in consideration for funding commercial technology development: law enforcement or corrections, environmental protection, transportation, education, and health care. Travel and costs incidental thereto, and staff salaries, are not considered an "activity" for which grant funds may be awarded.

(b) The office ~~department~~ shall require that an applicant:

1. Be a defense-related business that could be adversely affected by federal base realignment or closure or reduced defense expenditures.

2. Agree to match at least 50 percent of any funds awarded by the department in cash or in-kind services. Such match shall be directly related to activities for which the funds are being sought.

3. Prepare a coordinated program or plan delineating how the funds will be administered.

4. Provide documentation describing how defense-related realignment or closure will adversely impact defense-related companies.

(5) The director ~~Secretary of Commerce~~ may award nonfederal matching funds specifically appropriated for construction, maintenance, and analysis of a Florida defense workforce database. Such funds will be used to create a registry of worker skills that can be used to match the worker needs of companies that are relocating to this state or to assist workers in relocating to other areas within this state where similar or related employment is available.

(6) The Office of Tourism, Trade, and Economic Development shall establish guidelines to implement and carry out the purpose and intent of this section.

Section 26. Paragraph (d) is added to subsection (5) of section 380.06, Florida Statutes, and subsections (12) and (14) of that section are amended to read:

380.06 Developments of regional impact.—

(5) AUTHORIZATION TO DEVELOP.—

(a)1. A developer who is required to undergo development-of-regional-impact review may undertake a development of regional impact if the development has been approved under the requirements of this section.

2. If the land on which the development is proposed is within an area of critical state concern, the development must also be approved under the requirements of s. 380.05.

(b) State or regional agencies may inquire whether a proposed project is undergoing or will be required to undergo development-of-regional-impact review. If a project is undergoing or will be required to undergo development-of-regional-impact review, any state or regional permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, upon expiration of the time allowed for an administrative appeal of the development or upon final action following an administrative appeal or judicial review, whichever is later. However, if the application for development approval is not filed within 18 months after the issuance of the permit, the time of validity of the permit shall be considered to be from the date of issuance of the permit. If a project is required to obtain a binding letter under subsection (4), any state or regional agency permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, only after the developer obtains a binding letter stating that the project is not required to undergo development-of-regional-impact review or after the developer obtains a development order pursuant to this section.

(c) Prior to the issuance of a final development order, the developer may elect to be bound by the rules adopted pursuant to chapters 373 and 403 in effect when such development order is issued. The rules adopted pursuant to chapters 373 and 403 in effect at the time such development order is issued shall be applicable to all applications for permits pursuant to those chapters and which are necessary for and consistent with the development authorized in such development order, except that a later adopted rule shall be applicable to an application if:

1. The later adopted rule is determined by the rule-adopting agency to be essential to the public health, safety, or welfare;

2. The later adopted rule is adopted pursuant to s. 403.061(27);

3. The later adopted rule is being adopted pursuant to a subsequently enacted statutorily mandated program;

4. The later adopted rule is mandated in order for the state to maintain delegation of a federal program; or

5. The later adopted rule is required by state or federal law.

(d) The provision of day care service facilities in developments approved pursuant to this section is permissible but is not required.

Further, in order for any developer to apply for permits pursuant to this provision, the application must be filed within 5 years from the issuance of the final development order and the permit shall not be effective for more than 8 years from the issuance of the final development order. Nothing in this paragraph shall be construed to alter or change any permitting agency's authority to approve permits or to determine applicable criteria for longer periods of time.

(12) REGIONAL REPORTS.—

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

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

2. The development will significantly impact adjacent jurisdictions. At the request of the appropriate local government, regional planning agencies may also review and comment upon issues that affect only the requesting local government.

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

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

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

(14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.— If the development is not located in an area of critical state concern, in considering whether the development shall be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:

~~(a) The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;~~

(a)~~(b)~~ The development is consistent with the local comprehensive plan and local land development regulations;

(b)~~(c)~~ The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12); and

(c)~~(d)~~ The development is consistent with the State Comprehensive Plan. In consistency determinations the plan shall be construed and applied in accordance with s. 187.101(3).

Section 27. Paragraph (a) of subsection (3) of section 380.061, Florida Statutes, is amended to read:

380.061 The Florida Quality Developments program.—

(3)(a) To be eligible for designation under this program, the developer shall comply with each of the following requirements which is applicable to the site of a qualified development:

1. Have donated or entered into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of the types of land listed below. In lieu of the above requirement, the developer may enter into a binding commitment which runs with the land to set aside such areas on the property, in perpetuity, as open space to be retained in a natural condition or as otherwise permitted under this subparagraph. Under the requirements of this subparagraph, the developer may reserve the right to use such areas for the purpose of passive recreation that is consistent with the purposes for which the land was preserved.

a. Those wetlands and water bodies throughout the state as would be delineated if the provisions of s. 373.4145(1)(b) were applied. The developer may use such areas for the purpose of site access, provided other routes of access are unavailable or impracticable; may use such areas for the purpose of stormwater or domestic sewage management and other necessary utilities to the extent that such uses are permitted pursuant to chapter 403; or may redesign or alter wetlands and water bodies within the jurisdiction of the Department of Environmental Protection which have been artificially created, if the redesign or alteration is done so as to produce a more naturally functioning system.

b. Active beach or primary and, where appropriate, secondary dunes, to maintain the integrity of the dune system and adequate public accessways to the beach. However, the developer may retain the right to construct and maintain elevated walkways over the dunes to provide access to the beach.

c. Known archaeological sites determined to be of significance by the Division of Historical Resources of the Department of State.

d. Areas known to be important to animal species designated as endangered or threatened animal species by the United States Fish and Wildlife Service or by the Florida Game and Fresh Water Fish Commission, for reproduction, feeding, or nesting; for traveling between such areas used for reproduction, feeding, or nesting; or for escape from predation.

e. Areas known to contain plant species designated as endangered plant species by the Department of Agriculture and Consumer Services.

2. Produce, or dispose of, no substances designated as hazardous or toxic substances by the United States Environmental Protection Agency or by the Department of Environmental Protection or the Department of Agriculture and Consumer Services. This subparagraph is not intended to apply to the production of these substances in nonsignificant amounts as would occur through household use or incidental use by businesses.

3. Participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area.

4. Incorporate no dredge and fill activities in, and no stormwater discharge into, waters designated as Class II, aquatic preserves, or Outstanding Florida Waters, except as activities in those waters are permitted pursuant to s. 403.813(2) and the developer demonstrates that those activities meet the standards under Class II waters, Outstanding Florida Waters, or aquatic preserves, as applicable.

5. Include open space, recreation areas, Xeriscape as defined in s. 373.185, and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project.

6. Provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with local government to provide an appropriate fair-share contribution toward the offsite impacts which the development will impose on publicly funded

facilities and services, except offsite transportation, and condition or phase the commencement of development to ensure that public facilities and services, except offsite transportation, will be available concurrent with the impacts of the development. For the purposes of offsite transportation impacts, the developer shall comply, at a minimum, with the standards of the state land planning agency's development-of-regional-impact transportation rule, the approved strategic regional policy plan, any applicable regional planning council transportation rule, and the approved local government comprehensive plan and land development regulations adopted pursuant to part II of chapter 163.

7. Design and construct the development in a manner that is consistent with the adopted state plan, ~~the state land development plan,~~ the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.

Section 28. Subsection (3) of section 380.065, Florida Statutes, is amended to read:

380.065 Certification of local government review of development.—

(3) Development orders issued pursuant to this section are subject to the provisions of s. 380.07; however, a certified local government's findings of fact and conclusions of law are presumed to be correct on appeal. The grounds for appeal of a development order issued by a certified local government under this section shall be limited to:

(a) Inconsistency with the local government's comprehensive plan or land use regulations.

(b) Inconsistency with the ~~state land development plan and the~~ state comprehensive plan.

(c) Inconsistency with any regional standard or policy identified in an adopted strategic regional policy plan for use in reviewing a development of regional impact.

(d) Whether the public facilities meet or exceed the standards established in the capital improvements plan required by s. 163.3177 and will be available when needed for the proposed development, or that development orders and permits are conditioned on the availability of the public facilities necessary to serve the proposed development. Such development orders and permit conditions shall not allow a reduction in the level of service for affected regional public facilities below the level of services provided in the adopted strategic regional policy plan.

Section 29. Paragraph (d) is added to subsection (3) of section 380.23, Florida Statutes, to read:

380.23 Federal consistency.—

(3) Consistency review shall be limited to review of the following activities, uses, and projects to ensure that such activities and uses are conducted in accordance with the state's coastal management program:

(d) Federal activities within the territorial limits of neighboring states when the governor and the department determine that significant individual or cumulative impact to the land or water resources of the state would result from the activities.

Section 30. Transportation and Land Use Study Committee.—The state land planning agency and the Department of Transportation shall evaluate the statutory provisions relating to land use and transportation coordination and planning issues, including community design, required in part II of chapter 163, Florida Statutes, and shall consider changes to statutes, as well as to all pertinent rules associated with the statutes. The evaluation must include an evaluation of the roles of local government, regional planning councils, state agencies, regional transportation authorities, and metropolitan planning organizations in addressing these subject areas. Special emphasis must be given in this evaluation to concurrency on the highway system, levels of service methodologies, and land use impact assessments used to project transportation needs. The evaluation must be conducted in consultation with a technical committee of at least 15 members to be known as the Transportation and Land Use Study Committee, appointed jointly by the secretary of the state land planning agency and the Secretary of Transportation. The membership may be representative of local governments, regional planning councils, the private sector, metropolitan planning organizations, regional transportation authorities, and citizen and environmental organizations. By January 15, 1999, the committee shall send an evaluation report to the Governor, the President of the Senate, and the Speaker of the House of Representatives to provide recommendations for appropriate changes to the transportation planning requirements in chapter 163, Florida Statutes, and other statutes, as appropriate.

Section 31. Subsection (7) of section 380.0555, and paragraph (a) of subsection (14) of section 380.06, Florida Statutes, are repealed.

Section 32. Subsection (17) of section 380.031, Florida Statutes, is amended to read:

380.031 Definitions.—As used in this chapter:

(17) "State land development plan" means a comprehensive statewide plan or any portion thereof setting forth state land development policies. Such plan shall not have any legal effect until enacted by general law or the Legislature confers express rulemaking authority on the state land planning agency to adopt such plan by rule for specific application.

Section 33. Severability.—If any provision of this act or the application thereof to any person, government entity, or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 34. The Department of Community Affairs, the Department of Environmental Protection, Miami-Dade County, and the municipalities of Key Biscayne and Miami must jointly conduct discussions, pursuant to

section 163.3171(3) and (4), Florida Statutes, for the purpose of establishing agreements concerning land use, economic development, emergency management, and environmental protection for a planning area defined as eastward of the toll plaza at the entrance of the area known as "Key Biscayne." The departments, the county, and the municipalities must, after such discussions, enter into agreements by December 1, 1998 that provide for and ensure orderly development of the planning area. They shall also report to the Legislature by February 1, 1999, on the agreement and implementation thereof. In the event that no agreement is executed, the report to the Legislature shall include all items that at least three of the five governmental entities agreed upon and list the entities that agreed to each item.

Section 35. Except as otherwise provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor May 22, 1998.

Filed in Office Secretary of State May 22, 1998.