



**2007  
Legislative  
Update  
&  
Capital  
Improvements  
Planning**

**workshops presented by:**

**Withlacoochee  
Regional  
Planning  
Council**

**August 20, 2007**

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# **Legislative Update**

# Withlacoochee Regional Planning Council

## 2007 LEGISLATIVE UPDATE

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Enclosed in this document are summary materials for various bills that have successfully completed Florida's legislative process during the 2006 and 2007 legislative sessions. The bills included were chosen for their impact on land use and growth management issues, or in some cases applicability to current trends within the Withlacoochee region. Senate Bill 7203, (the growth management bill), is included in its entirety.

In the past few years the legislative process has yielded significant changes to our growth management system, placing a new focus on concurrency planning, capital improvements, school facility planning and affordable housing. These new initiatives have emerged from focused efforts to better manage the costs of growth and are an extension of 2005 growth management changes which the Florida Department of Community Affairs billed as the "Pay As You Grow Plan." Since that time Governor Crist has appointed a new, but former, DCA Secretary in Tom Pelham who, in the enclosed *Florida Trend* article, calls for more sweeping changes to Florida's growth management system. Stay tuned for further developments. . . .

This document should be used as a tool to research and access the various areas of interest for each individual user. This document should also be used in conjunction with the Internet to focus in on the specific language of new legislation. The following search technique can be used with any legislation of interest:

- ◆ When an area of interest is found in a bill summary or article look for a citation of the amended section or subsection in the bill's title.
- ◆ Connect to "Online Sunshine" with your internet browser at: [www.leg.state.fl.us/](http://www.leg.state.fl.us/)
- ◆ Navigate to the House or Senate bill of choice. Here you will find a history of the bill including various versions of the bill; committee action; votes that were taken; and the date the bill was signed by the Governor. (Be sure to select the version of the Bill that contains "ER" this is the enrolled version.)
- ◆ Select the "PDF" version of the bill text and use Adobe's search function by typing in the target citation of interest. (The search function icon in Adobe is a pair of binoculars.)
- ◆ Another website that has proven to be a very valuable planning resource is the Division of Community Planning webpage at <http://www.dca.state.fl.us/fdcp/DCP/> This website provides procedural forms, guidelines and flow charts to assist the interested citizen as well as the professional planner. The DCP website also offers access to Florida Administrative Code chapters in MSWord format.

The WRPC annual workshop is geared specifically toward assisting the planning staffs of local governments in the Withlacoochee region. However, this workshop should be very useful to anyone who wants or needs to stay current on the legislative issues of the day. The workshop is held in late summer of each year because most bills are signed into law (or not) by July 15. Therefore, digest this material as soon as possible because . . . next year we will probably see a whole set of new legislation.

# Tallahassee Trend

By Neil Skene

## Act II

Getting growth management  
Tom Pelham wants to do it



Twenty years after he took the job of making Florida's landmark growth-management law work, Tom Pelham is back and ready for a do-over. By this time next year, Pelham hopes, Florida will have a new growth management law, or at least a giant first step, to replace the 1985 act as well as the Santa Claus-sized grab bag of changes the Legislature has passed since then.

"It's badly in need of an overhaul," says Pelham, who heads the Department of Community Affairs and held the same job under Gov. Bob Martinez from 1987-91. "We're trying to manage growth with an unmanageable statute. ... It's a mess. It spraaawwws." Then he adds, "There's a big hunger out there among all the interests to come together and try to reclaim the law and make it something workable."

If the forces of "management," as opposed to the forces of "growth," play their cards right, their negotiating position in Pelham's next effort at consensus will be enhanced by the threat of a citizen initiative called Hometown Democracy, now in the signature-collecting stage. It would give voters a veto over any change to the so-called comprehensive land-use

“We’re trying to manage growth with an unmanageable statute. ... It’s a mess. It spraaawwws.”

Tom Pelham

plans [*“Who’s Lesley Blackner?”* March 2007, FloridaTrend.com].

Developers are appalled at the prospect of democracy run rampant if Hometown Democracy gets on the November 2008 ballot. Even some groups that want tougher growth management, like 1000 Friends of Florida, have opposed the initiative because of the likely unintended and counterproductive consequences. Local versions have emerged. The first was approved last year in St. Pete Beach.

"It's public frustration that has grown into a populist revolution," says Patrick Slevin, a former Republican mayor of Safety Harbor who now runs the Slevin Group, a consulting firm that helps developers work with citizen groups before they reach the point of "Jerry

Springer episodes at city hall." People feel the process is unfair and overindulges development. Slevin says business groups need to respond to the "movement," not just the ballot initiative.

"I think we can't ignore that," Pelham agrees. The best chance of slowing the initiative's momentum is to produce a compelling alternative that shows "we are taking growth management seriously."

The question is whether Pelham and his boss, Gov. Charlie Crist, can pull that off, and do it in time.

Pelham first of all wants to "restore the Department of Community Affairs as an effective advocate and positive force for better planning for growth management in our state." It's an interesting word, "restore." Gov. Jeb Bush wanted deference to local governments and embraced developer-friendly legislation.

This year, under Pelham's leadership, various interests unanimously agreed on changes to the complex growth management legislation of two years ago. The consensus bill (SB 800) loosened some 2005 standards significantly. But it wasn't enough for the House, where Speaker Marco Rubio is a zealot on property rights and where future speaker Dean Cannon comes from GrayRobinson, a powerhouse law firm for developers and road builders. House proposals would have eliminated DCA review in a large number of cases. Environmental groups, which had once again joined a "consensus" proposal only to see legislative leaders ignore it, pushed back. In the end, DCA would be merely "encouraged" not to review fast-tracked smaller developments, and exemptions from DCA review would be just "pilot programs."

If Crist had wanted to really empower his DCA secretary, honor the consensus-driven process and set the tone for future legislation, he would have vetoed the final legislation (HB 7203). But he signed it without any press release, and no one reported it. Crist could still recover the initiative for Pelham's next negotiations with another of his populist crusades seizing upon "the people's frustration" along with a personal commitment for tougher growth management. Platitudes like "I'm an environmentalist" won't get the job done.

## Tallahassee Trend

### 'Let cities be cities'

Even without the political challenges, Pelham has a monstrous task. Nobody really has a good solution to handling 400,000 new residents a year.

Pelham says the first priority is to protect environmentally sensitive areas. He wants to put a lot of focus on rural areas. He says one of the big mistakes 20 years ago was focusing on where the population

was — “from the coasts inward and from south to north” — rather than on undeveloped areas.

Then he wants to “not only let cities be cities, but help them be cities.” Higher population densities, for example, can support public transit to relieve congestion or at least keep it from getting worse as population grows. Under current rules, including the 2007 changes, it will almost surely get worse. Pelham says more congestion will force more public support for public transit, and transit will be more viable economically with higher densities. But can public

transit actually be made a convenient, comfortable, attractive alternative?

“In between” rural and urban areas, Pelham says, developments should be “as well planned as possible to preserve as much of our agricultural and rural character as we can.”

Some likely elements of Pelham's rewrite:

► Different regulatory processes for urban and rural areas and the places in between.

► Further changes in concurrency rules — rules supposedly synchronizing new development and the infrastructure to support it. On the one hand, they have unintentionally promoted sprawl, since developers go where there's less congestion, and the resulting sprawl “is the biggest generator of congestion,” Pelham says. On the other hand, because the infrastructure improvements have to be merely in a government's 10-year plan, developments are still finished long before infrastructure improvements actually happen.

► “Improve the local planning process” and have “better citizen participation.” The question is how. Instead of public hearings, Pelham was asked, wouldn't citizens prefer to stay home with their families and have public officials do their jobs well? Pelham chuckles at the thought and basically says he can't count on that. Slevin's pitch: Require developers to consult with affected residents even before filing a development proposal. Developers could expect greater certainty and faster turnarounds on permitting as a result.

None of that, though, deals with how to actually evaluate proposals, measure their economic costs and benefits and anticipate aftereffects. And the elephant not even in the room is education.

The location and the quality of schools have been largely free from the growth-management process, though school sites were a half-hearted element of the 2005 legislation. Build a school at the edge of town, and plans for nearby developments will pour in. Trying to deal with growth patterns without dealing with education quality (and equality) is a fool's errand. Pelham mentions education only when prompted in the interview, though he then mentions crime and healthcare as other considerations in trying to shift more development to existing urban areas.

Growth management has many tributaries.

“I don't know if he can do it all in one year,” says Charles Pattison, president of 1000 Friends of Florida. But a frustrated electorate seems ready to act if Pelham and Crist fall short. □

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GILCHRIST, P.A.

2007 Intellectual Property Today:

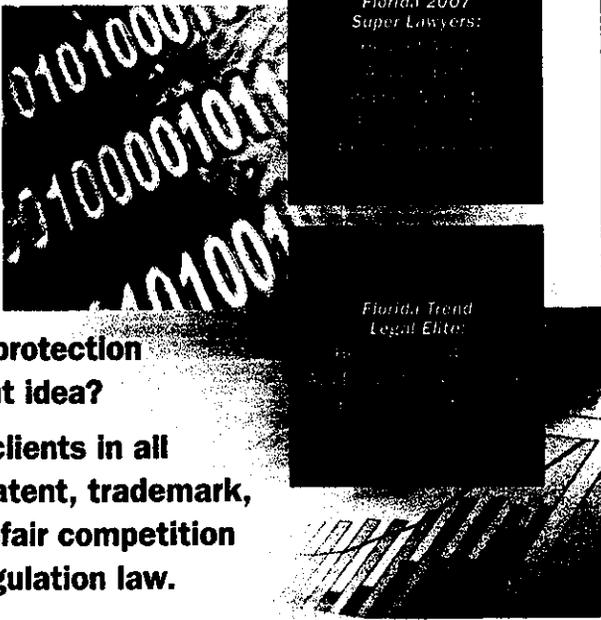
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# **2007 Legislative Session Passed Bills Summary**

## **SB 506 — “Tampa Bay Area Regional Transportation”**

Senator Mike Fasano & Representative Bill Galvano

The bill establishes the Tampa Bay Area Regional Transportation Authority (TBRTA) to improve mobility and expand multimodal transportation options for passengers and freight in the 7 county Tampa Bay region (Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, & Sarasota Counties.)

The TBRTA Board comprises 15 voting members including seven elected officers appointed by each of the represented counties' Boards of County Commissioners, and

- A member of the West Central Florida Chair's Coordinating Committee (CCC);
- The mayor or mayor's elected designee of the largest city served by the Pinellas Suncoast Transit Authority;
- The mayor or mayor's elected designee of the largest city served by Hillsborough Area Regional Transit Authority;
- The mayor or mayor's elected designee of the largest city in Manatee County. (After 2 years the mayor or designee of the largest city in Sarasota County shall be the board member. The seat rotates between these counties every 2 years.); and
- 4 non-elected persons appointed by the Governor representing business, two of which must represent counties within the Tampa Bay Transportation Management Area.

Members of the TBRTA board will serve without compensation and must comply with financial disclosure requirements. The board may employ staff and agents and has the right to plan, develop, finance, construct, own, purchase, operate, maintain, relocate, equip, repair, and manage transportation projects such as:

- Express bus services;
- Bus rapid transit services;
- Light rail, commuter rail, heavy rail, or other transit services;
- Ferry services;
- Transit stations;
- Park and ride lots;
- Transit-oriented development nodes;
- Feeder, reliever, or connector roads;
- Bypasses; or
- Appurtenant facilities.

A master plan, required by July 1, 2009, is to be updated every 2 years and presented to the governing bodies of the seven-county region and to the legislative delegation members representing those counties, as well as the CCC. Any project may be tolled. Projects that will be part of the State Highway System require the concurrence of the DOT. All project planning, development, and implementation must be coordinated with the applicable adopted local government comprehensive plans and may be financed from state infrastructure bank loans and advances from the Toll Facilities Revolving Trust Fund and other sources.

The TBRTA is granted numerous powers including, but not limited to the power to:

- Exercise eminent domain;
- Establish and collect tolls, fares, and fees on TBRTA roads and other facilities within the region;
- Enter lease-purchase agreements with DOT; and
- Borrow money and issue revenue bonds not pledging the credit of the state.

The TBRTA may also participate in public-private partnerships with private entities for the building, operation, ownership, or financing of transportation facilities within the region, if the project:

- Is in the public's best interest;
- Would not require state funds unless the project is on or provides increased mobility on the State Highway System; and
- Includes safeguards against the public realizing additional costs or unreasonable service disruptions in the event of default or cancellation by the authority.

A private entity engaged in a public-private partnership may be authorized to impose tolls or fares subject to regulation by the TBRTA. Any facility constructed via a public-private partnership must comply with all requirements of state, federal, and local laws, state, regional, and local comprehensive plans, and the

TBRTA's rules, policies, and standards. The TBRTA may exercise any of its powers, including eminent domain, in developing and constructing projects via public-private partnerships.

Approved by Governor  
Vote: Senate 40-0; House 117-0

To view the bill in its entirety, go to: [www.myfloridahouse.gov](http://www.myfloridahouse.gov) or [www.flsenate.gov](http://www.flsenate.gov) and enter bill number in "Search for Bills" box.

## **HB 985 – "Transportation"**

Representative Rich Glorioso

The bill addresses a number of transportation issues related to the DOT and other entities.

### ***Florida Transportation Commission***

Section 20.23, F.S., is amended to require the Transportation Commission to monitor expressway authorities and regional transportation authorities' compliance with applicable laws and accounting principles. The commission will periodically review each authority's operations and budget, property acquisition practices, and management of revenue.

### ***Metropolitan Planning Organizations***

Sections 112.061, 121.021, 121.051, 121.055, 121.061, 121.081, and 339.175, F.S., are amended to clarify Metropolitan Planning Organizations (MPOs) are separate and distinct legal entities, provide autonomy to MPOs by requiring independent staff and granting specific powers and authority, and provide MPO staff eligibility to participate in the Florida Retirement System.

### ***Transportation Concurrency***

Section 163.318(e), F.S., is created, allowing DOT to establish a pilot program for studying the benefits of and barriers to creating multimodal transportation concurrency districts extending over more than one local government jurisdiction.

Section 163.3182, F.S., is created to allow county or municipal governing bodies to constitute themselves as transportation concurrency backlog authorities for the purpose of developing plans to eliminate concurrency backlogs. Such plans would be funded by tax increment financing within the jurisdiction.

Section 339.282 is created to allow developers to receive future credit against concurrency requirements for donations or improvements not included in a plan or program, through legally binding agreements.

### ***Local Government Bond Issuance***

Sections 212.055 and 336.025, F.S., are amended to remove prohibitions on local governments from issuing bonds more than once a year when those bonds are based on local government infrastructure tax or local option fuel tax revenues.

### ***Fixed Guideway Revenue Bond Match***

Section 212.055, F.S., is amended to revise the formula used by DOT for matching fixed-guideway revenue bonds issued to finance local fixed-guideway transit projects. Rather than a fixed 50 % match, the revision allows for various matching scenarios up to a limit of 50 % on the State's share of the eligible project cost to allow DOT to participate when state funds are not adequate to fund a 50% match.

### ***Toll and Other Traffic Violation Penalties***

Sections 316.65, 318.14, and 318.18, F.S., are revised to allow motorists cited for toll violations to pay a reduced fine and the unpaid toll directly to the tolling agency, and avoid the court process and assessment of points against the motorist's license. Motorists convicted of 10 toll violations within a 36 month period will have their license suspended for 60 days. A \$3 surcharge will be added to certain criminal and all non-criminal moving traffic violations to fund the statewide law enforcement radio system.

### ***Turnpike FDOT Toll Facility Issues***

Section 338.2275, F.S., is amended to raise the maximum allowable dollar amount of bonds issued by the Florida Turnpike Enterprise from \$4.5 billion to \$10 billion. Under revisions to s. 338.161, F.S., the turnpike enterprise and expressway authorities may contract with private and public entities to expand the use electronic toll transponders to include the payment of parking fees.

Section 338.231, F.S., is amended to extend, through June 2017, the requirement for the turnpike enterprise to program at least 90 percent of the turnpike toll revenues collected in Miami-Dade, Broward, and Palm Beach Counties in those counties. Section 338.234, F.S., is amended to prevent the commercial rental tax authorized under s. 212.031, F.S., from being levied against the turnpike enterprise or its vendors and lessees on any capital improvements made for essential government functions.

Under revisions made to s. 338.165, F.S., tolls on the turnpike enterprise, as well as other toll facilities owned by DOT, must be indexed to the Consumer Price Index at least every 5 years but no more frequently than annually.

### ***DOT Contracting***

The following changes were made to DOT contracting requirements in order to enhance the number of eligible contractors and increase the competition for contracts:

- Section 337.14, F.S., is amended to allow DOT to waive the requirement for contractors to be pre-qualified to bid on jobs when the project is under \$500,000 and noncompliance will not endanger the public health, safety, or welfare.
- Section 337.11, F.S., requires DOT to expand the general advertising of bids to include those projects for which contractors do not need to be pre-qualified.
- Maintenance contractors are permitted to incrementally bond the work on long-term maintenance contracts by revisions to s. 337.18, F.S. which also increases, from \$150,000 to \$250,000, the maximum contract price threshold at which DOT may waive surety bond requirements. The surety bond requirements may be waived for contracts greater than \$250 million provided the contractor can provide alternate means of security for the balance of the contract amount;

### ***Enhanced Bridge Program***

The bill creates s. 339.285, F.S., to establish the Enhanced Bridge Program for Sustainable Transportation within DOT to provide a funding mechanism to improve:

- Local bridges which are not on the State Highway System (SHS), and
- Highly congested roads on the SHS or local roads with high-cost bridges for the purpose of relieving congestion or providing an alternative corridor.

The program allows for state funds to be used to provide up to 50 % of the project's cost and authorizes the expenditure of moneys from the State Transportation Trust Fund to fund the program. The bill also establishes a number of eligibility conditions for candidate projects. Bridge projects on regionally significant corridors connecting to the Strategic Intermodal System will receive preference.

### ***Northwest Florida Transportation Corridor Authority (NFTCA)***

Section 343.81, F.S., is amended to prohibit elected officials from being appointed to the NFTCA. Current members of the authority are exempted. The Emerald Coast Bridge Authority's responsibilities for developing bridge crossings of Choctawhatchee Bay, Santa Rosa Sound, or both are subsumed by the NFTCA.

### ***Public-Private Partnerships***

Revisions to s. 334.30, F.S., establish additional criteria allowing DOT to enter public-private partnerships (P3s) to advance projects outside of the 5-year work program if the project adds transportation capacity, costs more than \$500 million, and is included in the 10-year Strategic Intermodal Plan. The projects may not preclude the ability of DOT or the private entity from increasing capacity on the projects or other competing facilities and the P3 projects must become property of DOT upon completion of the contract.

With the exception of the Florida Turnpike System, DOT may lease its existing toll facilities to private partners for up to 75 years upon approval of the Legislative Budget Commission. DOT may develop new toll facilities or increase capacity on existing toll facilities through P3s. Up to 15 percent of the total federal and state funds from the State Transportation Trust Fund may be obligated to P3s.

Revisions are made to s. 348.0004, F.S., addressing the ability of expressway, bridge, transportation, and toll authorities to enter P3s for projects increasing transportation capacity. Such authorities may sell or lease any transportation facility owned by the facility upon approval of the Legislative Budget Commission. The project may not preclude the ability of the authority or the private entity from increasing capacity on the project or other competing facilities and the P3 project must become property of the authority upon completion of the agreement.

#### ***Construction Aggregates***

A new section of the Florida Statutes is created to form the Strategic Aggregates Review Task Force to evaluate the availability and disposition of construction aggregates defined as crushed stone, limestone, dolomite, limerock, shell rock, cemented coquina, and certain sands providing the basic materials for concrete, asphalt, and road base. The task force is to present its findings to the Governor and Legislature by February 1, 2008.

Local governments must consider the effect of local land-use decisions on the availability, transportation, and extraction of aggregate materials and no local government may impose a moratorium or moratoria on the mining of construction aggregate for more than 12 months duration.

Environmental permitting for limerock extraction is made eligible for the expedited permitting process established in s. 403.973, F.S., and DOT is authorized to use special procurement practices in acquiring aggregate when necessary.

#### ***Aviation***

Section 332.007, F.S., is amended to allow DOT to fund up to 80 percent of the non-federal share of certain aviation development projects at publicly owned and operated airports with no scheduled commercial service. The Secure Airports for Florida's Economy Council is revised removing state agencies from the council. However, the agencies retain the ability to overrule any action of the council.

#### ***Miscellaneous Issues***

- Sections 120.52, 349.03, and 349.04, F.S., are amended to revise Jacksonville Transportation Authority (JTA) membership and staffing, define JTA as an exempt 'agency' under ch. 120, F.S., and to grant JTA the authority to adopt rules.
- The amount of local matching funds required for projects funded through the Small Port Dredging program under s. 311.22, F.S., is reduced from 50 % to 25 %.
- Revisions to s. 316.2123, F.S., allow counties to allow the operation of all terrain vehicles on designated unpaved roads with speed limits less than 35 miles per hour during daylight hours.
- Provisions of ss. 316.605 and 320.061, F.S., related to the placement and legibility of vehicle license plates are revised to clarify prohibitions against obscuring or interfering with the legibility of license plates.
- Section 339.2819, F.S., is amended, revising the requirements of the Transportation Regional Incentive Program to allow the use of federal funds for the local match of public transportation projects.
- Under revisions to s. 339.55, F.S., the State Infrastructure Bank is authorized to make emergency loans to specified public transportation providers in declared disaster areas.
- A number of criteria are established for non-profit organizations desiring to contract with DOT for youth work experience programs under s. 334.351, F.S.
- Local governments are provided authority to regulate wall murals by the creation of s. 479.156, F.S.
- The provisions of ch. 89-383, L.O.F., designating Red Road in Miami-Dade County as a state historic highway are revised to allow certain safety modifications provided no increase in the number of lanes is made.
- Section 341.071, F.S., is amended to require recipients of transit block grants to identify system improvements that would enhance profitability.
- The bill amends s. 316.1951, F.S., to revise provisions relating to parking vehicles on public property for the purpose of displaying the vehicles for sale, hire, or rental. This bill also provides exceptions and prohibits certain acts in the sale of motor vehicles.
- Revisions to s. 348.0003, F.S., require the board of the Miami-Dade Expressway Authority to adhere to the financial disclosure requirements of s. 8, Art. II of the State Constitution.

- Section 348.754, F.S., is revised to allow the Orlando-Orange County Expressway Authority to implement a small business economic development program for contracts between \$200,000 and \$500,000.
- The threshold established in s. 336.41, F.S., at which county construction contracts must be opened to competitive bidding is raised from \$250,000 to \$400,000.

If approved by the Governor, these provisions take effect July 1, 2007.

*Vote: Senate 37-2; House 68-49*

To view the bill in its entirety, go to: [www.myfloridahouse.gov](http://www.myfloridahouse.gov) or [www.flsenate.gov](http://www.flsenate.gov) and enter bill number in "Search for Bills" box.

## **HB 1375 — "Affordable Housing"**

Representative Mike Davis & Senator Rudy Garcia

### ***Comprehensive plans; plan elements***

The bill clarifies that the housing element contained in the local comprehensive plan must identify adequate sites for affordable workforce housing. By July 1, 2008, each county that is not designated as an area of critical state concern, and for which the gap between the buying power of a family of four and the median county home sales prices exceeds \$170,000, must adopt a plan to ensure affordable workforce housing, defined as housing that is affordable to natural persons or families whose total household income does not exceed 140 percent of the area median income, adjusted to household size. The county's failure to adopt an affordable workforce housing plan will result in the county being ineligible to receive any state housing assistance grants until the plan is adopted.

### ***Development of Regional Impact (DRI)***

This bill provides a transportation concurrency exemption for certain affordable housing units in close proximity to employment centers. Specifically, the bill authorizes a local government and a developer of affordable workforce housing units in a project subject to the substantial deviation requirements governing a change in a DRI, or subject to the statutory statewide guidelines and standards to determine review as a DRI, to identify an employment center or centers located within 5 miles from the nearest point of the DRI to the nearest point of the employment center. If at least half of the units are occupied by an employee or employees of an identified employment center or centers, all the affordable workforce housing units are exempt from transportation concurrency requirements, and the local government may not reduce any transportation trip-generation entitlements of an approved DRI development order. The employment center must employ at least 25 or more full-time employees. The bill provides that all phase, build-out, and expiration dates for projects that are DRIs and under active construction on July 1, 2007, are extended for 3 years regardless of any prior extension. The 3-year extension is not a substantial deviation, is not subject to further review, and must not be considered when determining if a subsequent extension is a substantial deviation requiring review as a DRI.

The bill also creates an exemption from review as a substantial deviation for changes that permit the sale of an affordable housing unit to a person who earns less than 120 % of the area median income, if a developer actively markets the unit for a minimum period of six months and is unable to close a sale to a qualified buyer in a lower income qualified class. A certificate of occupancy must have been issued for the unit, and the unit must be sold at a purchase price that is not greater than the purchase price at which the unit was originally marketed to a lower income qualified class. The new exemption may not be applied to residential units already exempt under s. 380.06(19)(b)7. and (i), and expires on July 1, 2009.

The bill amends statewide guidelines and standards for determining when certain developments are required to undergo DRI review to remove a limitation restricting hotel or motel development accommodating 750 or more units, in counties with a population of 500,000 or more, to geographic areas specifically designated as highly suitable for increased threshold intensity in the approval of local comprehensive plans and the strategic regional policy plan. Hotel and motel development may be permitted in other locations but will still be subject to DRI review if the number of units exceeds 750 or more.

### ***Comprehensive plan amendments***

The bill allows any local government that identifies within a comprehensive plan the types of housing development and conditions for which it will consider plan amendments which are consistent with the local

housing incentive strategies required for participation in the State Housing Initiatives Partnership Program, to expedite consideration of those plan amendments. Requirements for consideration of the amendment are provided and the local government is authorized to hold only one public hearing which shall also be the plan amendment adoption hearing. Local government plan amendments which are consistent with the local housing incentive strategies required under s. 420.9076, F.S., are not subject to the twice per year limitation on the frequency of plan amendments required under s. 163.3187(1), F.S.

#### ***Evaluation and appraisal of the comprehensive plan***

The bill allows the appropriate local government to adopt a plan amendment in order to integrate a port comprehensive master plan with the coastal management element of the local comprehensive plan, notwithstanding the prohibition on the adoption of plan amendments until the evaluation and appraisal report update amendments have been adopted and transmitted to DCA. The port comprehensive master plan or the proposed plan amendment cannot have caused or contributed to the failure of the local government to comply with the requirements of the evaluation and appraisal report.

#### ***Affordable Housing Tax Deferral Program***

The bill creates an affordable housing tax deferral program in ss. 193.307 - 197.3079, F.S., by authorizing a board of county commissioners or the governing authority of a municipality to adopt an ordinance to allow for the deferral of ad valorem taxes and non-ad valorem assessments if the owners of the property are engaging in the operation, rehabilitation, or renovation of affordable rental housing property. The ordinance must specify the percentage or amount of the deferral and the type and location of the affordable housing rental property, and the deferral is applicable only to taxes levied by the unit of government granting the deferral. Deferrals may not be granted for taxes and assessments levied for the payment of bonds or for taxes authorized by a vote of the electors, and any deferral granted remains in effect for the period for which it is granted regardless of any change in the authority of the county or municipality to grant the deferral.

The use of the property as affordable housing must be maintained over the deferral period or the total amount of deferred assessments, taxes and interest becomes due and payable on November 1 of the year in which the use of the property was changed. The bill establishes conditions under which a deferral may not be granted; establishes notice requirements; restricts the total amount of deferred taxes and assessments, together with interest, to not more than 85 % of the assessed value of the property; and provides that deferred assessments and interest constitute a prior lien on the affordable rental housing property. An application process and an appeals process are created, and penalties are provided for persons who willfully file incorrect information relating to a deferral.

#### ***State Lands***

The bill requires that by January 1, 2008, and for a consideration of one dollar, the Board of Trustees of the Internal Improvement Trust Fund must convey to Miami-Dade County fee simple title to the property on which the Miami-Dade County State Attorney's office is located, the E.R. Graham building on NW 12th Avenue. The deed conveying title to Miami-Dade County must contain restrictions limiting the use of the property for the purposes of housing the Miami-Dade County State Attorney, and to provide workforce housing. Employees of the Miami-Dade County State Attorney and Public Defender who meet the income qualifications for and who apply for affordable workforce housing shall be given preference over other qualified applicants. The Miami-Dade County Property Appraiser assessed the value of the land being conveyed at a total of \$891,891, and the value of the building at \$5.1 million, in each of the 2005 and 2006 tax years.

#### ***Florida Housing Finance Corporation (FHFC)***

The bill makes several revisions and clarifications relating to the duties and responsibilities of the FHFC. The corporation is deemed to be a state agency for purposes of the state allocation pool, can provide notice of internal review committee meetings by publication on an Internet website, and is not governed by the provisions of ch. 617, F.S. relating to corporations not for profit, but is governed by the requirements of ch. 420, part V, F.S. Outdated language relating to the authority of the corporation to enter into employee lease agreements with the DMS or the DCA is deleted, as is outdated language relating to the transfer of assets from the Florida Housing Finance Agency to the corporation in 1998.

As a condition of financing an affordable housing multifamily rental project, the corporation may require that an agreement be recorded in the official public records of the county in which the real property for the project is located. The agreement must require that the project be used for affordable housing for persons

that meet specific income criteria. The recorded agreement is a state land use regulation limiting the highest and best use of the property for purposes of determining just value under s. 193.011(2), F.S.

The corporation is authorized to forgive a share of a loan to a nonprofit organization, if the loan is made from funds set aside for sponsors of housing for the elderly to make building preservation, health or sanitation repairs or improvements, or life-safety or security-related repairs or improvements. The nonprofit organization must be a sponsor of an affordable housing project for the elderly, and the project must have provided affordable housing to the elderly for 15 years or more. The share of the loan to be forgiven must be attributable to the units in the project that are reserved for extremely-low-income elderly tenants.

#### ***Community Workforce Housing Innovation Program (CWHIP)***

The bill provides the corporation with rulemaking authority to create a loan application process for the CWHIP program. The application process must include selection criteria, an application review process, and a funding process. The corporation must also establish an application review committee that may include up to three private citizens representing the areas of housing or real estate development, banking, community planning, or other areas related to the development or financing of workforce and affordable housing.

The application selection criteria and review process must include a way for errors in the application or in responses to issues raised during the review process to be cured so long as no substantial change is made to the project. The review committee is authorized to approve or reject loan applications or responses due to insufficiency of information provided, and must make recommendations on program participation and funding to the corporation's board of directors. The board of directors must approve or reject the review committee's recommended participants, determine the tentative loan amount to be made available to each application selected for funding, and rank all of the approved applications. After all applications are ranked, the board of directors selects the program participants and determines the maximum loan amount for each participant.

The bill authorizes local governments to use State Housing Initiative Partnership (SHIP) program funds for the CWHIP program to assist persons or families whose total annual income does not exceed 140 percent of the area median income, adjusted for household size. In areas of critical state concern for which the Legislature has declared its intent to provide affordable housing, and in areas that were designated as areas of critical state concern for at least 20 years prior to the removal of the designation, local governments may use SHIP funds for the CWHIP program to assist persons or families whose total annual income does not exceed 150 % of the area median income, adjusted for household size.

The bill requires that CWHIP funding be targeted to innovative projects where the difference between the area median income and the median sales price for a single-family home, and where population growth as a percentage rate of increase are the greatest. Projects must be funded in as many counties and regions of the state as is practicable, and priority funding consideration must be given to specified projects. Clarifications are made to the expedited plan amendment process for CWHIP projects and the adoption of CWHIP plan amendments is not subject to the twice per year limitation on the frequency of plan amendments under s. 163.3187(1), F.S. An expedited process for approvals of development orders or development permits for CWHIP projects is required.

#### ***Local Affordable Housing Advisory Committees***

The bill provides that membership in local affordable housing advisory committee is increased from 9 to 11 members by adding a citizen who represents employers within the jurisdiction, and a citizen who represents essential service personnel as defined in a local housing assistance plan. Local governments that receive a minimum allocation under the SHIP program may have an advisory committee with fewer members.

The bill authorizes the advisory committees to recommend comprehensive plan changes to their local governments. The committees must review the established policies and procedures, ordinances, land development regulations, and the adopted local comprehensive plan amendments every three years, and must submit a report to their local governments recommending and evaluating the implementation of affordable housing incentives. The committees may perform additional responsibilities related to affordable housing at the request of their local governments, including creating best management practices for the development of affordable housing in the community. Local housing and planning departments are directed to cooperatively staff the advisory committees.

### ***Public Housing Authorities Self-Insurance Funds***

The bill authorizes any two or more public housing authorities in the state to create a self-insurance fund for the purpose of self-insuring real or personal property against loss or damage from any hazard or cause, and against any loss consequential to such loss or damage, if the state requirements for local government self-insurance funds established in s. 624.4622, F.S., are met. Public housing authorities who are members of a self-insurance fund created under this provision are exempt from the assessments imposed under the insurance risk apportionment plan, the Florida Insurance Guaranty Association Act, and the Florida Hurricane Catastrophe Trust Fund.

### ***Miscellaneous Provisions***

The bill revises the corporation's annual reporting requirements to include a report on CWHIP addressing the success of the program in meeting the housing needs of the eligible areas. Also, all notes, mortgages, security agreements, letters of credit, or other instruments that arise out of, or that are given to secure the repayment of, loans issued in connection with the financing of the corporation's projects, are exempt from documentary stamp and intangible taxes. The cap on predevelopment loans made by the corporation is raised from \$500,000 to \$750,000, or the lesser of the development and acquisition costs for the project.

If approved by the Governor, these provisions take effect July 1, 2007.

*Vote: Senate 39-0; House 119-0*

To view the bill in its entirety, go to: [www.myfloridahouse.gov](http://www.myfloridahouse.gov) or [www.flsenate.gov](http://www.flsenate.gov) and enter bill number in "Search for Bills" box.

## **HB 7203 — "Growth Management"**

Representative Dean Cannon & Senator Rudy Garcia

The bill makes changes relating to growth management, including the areas of financial feasibility, transportation concurrency, school concurrency, port master plans, DRIs, transportation concurrency backlog areas, tax increment financing, and an alternative [to] state review process pilot program.

### ***Comprehensive Plans and Financial Feasibility***

The definition of "financial feasibility" is revised to provide that a local comprehensive plan is financially feasible for purposes of transportation and school concurrency if the adopted level-of service standards are achieved and maintained by the end of the appropriate planning period. The deadline for local governments to adopt and transmit an update of the capital improvements schedule which meets financial feasibility requirements is extended by one year, to December 1, 2008. Also, penalties for failing to update the capital improvements schedule do not take effect until December 1, 2008.

This bill also provides that, at a local government's discretion and notwithstanding s. 163.3180, F.S., a comprehensive plan is deemed financially feasible with respect to transportation facilities, as revised by a plan amendment, if the amendment is supported by a DRI development order condition or binding agreement that satisfies the requirements of s. 163.3180(12), F.S. Similarly, the comprehensive plan will be deemed financially feasible for transportation concurrency if a plan amendment is supported by a binding agreement that is consistent with s. 163.3180(16), F.S., and the property subject to the amendment is located in an area designated for certain types of urban development and the binding agreement is based on the maximum amount of development allowed under the map amendment.

### ***Transportation Concurrency***

Under this bill, local governments are authorized to waive transportation concurrency in an urban service area that has been designated as a transportation concurrency exception area (TCEA) and includes lands appropriate for compact urban development. The land included in the TCEA may not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the comprehensive plan for a 10-year period. The TCEA must also be served or planned to be served with public facilities.

The roles of the DCA and DOT are revised, relating to the assessment and mitigation of impacts to Strategic Intermodal System (SIS) facilities. The proportionate-share contribution language for multiuse DRIs in s. 163.3180(12), F.S., is broadened to include DRIs, Florida Quality Developments, and certain

optional sector plans. Proportionate fair-share mitigation under s. 163.3180(16), F.S., which applies to sub-DRIs may be used for "pipelining" or multiple transportation improvements reasonably related to the development and those improvements may address one or more modes of travel. This bill expressly limits proportionate share mitigation and proportionate fair-share mitigation to the impacts a development has on a transportation system and this does not include reducing or eliminating backlogs.

#### ***School Concurrency***

The bill allows a development to move forward even if there is inadequate school capacity as long as "accelerated facilities" are included in years 4 or later of the capital improvements schedule, or will be included in the next update of the capital improvements schedule, or there is a binding agreement with the school district to construct these facilities. The cost of the accelerated facility must be equal to or greater than the development's proportionate share. The developer shall receive impact fee credits usable within the attendance zone where the accelerated facility is constructed or in a contiguous attendance zone once the developer conveys the school district to the school district.

#### ***Plan Amendments to Integrate Port Master Plans***

The bill allows the appropriate local government to adopt a plan amendment in order to integrate a port comprehensive master plan with the coastal management element of the local comprehensive plan, notwithstanding the prohibition on the adoption of plan amendments until the evaluation and appraisal report update amendments have been adopted and transmitted to DCA. The port comprehensive master plan or the proposed plan amendment cannot have caused or contributed to the failure of the local government to comply with the requirements of the evaluation and appraisal report.

#### ***Alternative [to] State Review Process Pilot Program***

The bill designates Pinellas and Broward Counties, the municipalities within those two counties, and the Cities of Jacksonville, Miami, Tampa, and Hialeah as pilot communities. Municipalities within the pilot counties may elect, by a super majority vote, not to participate in the pilot program. These pilot communities will follow an alternate, expedited process for plan amendments that provides for limited state agency review. The pilot communities will transmit plan amendments, along with supporting data and analyses to specified state agencies and local governmental entities after the first public hearing on the plan amendment. Comments from state agencies may include technical guidance on issues of agency jurisdiction as it relates to ch. 163, part II, F.S., the Growth Management Act. Comments are due back to the local government proposing the plan amendment within 30 days of receipt of the amendment.

Following a second public hearing that shall be an adoption hearing on the plan amendment, the local government shall transmit the amendment with supporting data and analyses to DCA and any other state agency or local government that provided timely comments. An affected person, as defined in s. 163.3184(1)(a), F.S., or DCA may challenge a plan amendment adopted by a pilot community within 30 days after adoption of the amendment. DCA's challenge is limited to those issues raised in the comments by the reviewing agencies. The bill explicitly states the Legislature strongly encourages DCA to focus any challenge on issues of regional or statewide importance. State agencies are prohibited from promulgating rules to implement the pilot program.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is required to submit a report to the Legislature and the Governor by December 1, 2008, regarding reduced state oversight of local comprehensive planning in urban areas. The report and its recommendations must address specific, identified issues. OPPAGA shall consult with specified entities while preparing the report and recommendations. Four full-time positions are established in the Division of Community Planning in DCA to provide technical assistance and advice to state and local governments regarding growth-related issues and compliance with ch. 163, F.S.

#### ***Transportation Concurrency Backlog Areas***

This bill allows local governments to create, through an inter-local agreement, a transportation concurrency backlog area for the purpose of using tax increment financing to fund the construction and maintenance of transportation improvements to resolve backlog and deficiency issues. The governing board of the county or municipality would comprise the authority's membership and develop and implement a plan to eliminate all backlogs within its jurisdiction. The plan must identify all roads designated as failing to meet concurrency requirements and include a schedule for financing and construction to eliminate the backlog within 10 years of plan adoption. The plan is not subject to the twice-per-year limitation on comprehensive plan amendments.

To fund the plan's implementation, each authority must collect and earmark, in a trust fund, tax increment funds equal to 25 percent of the difference between the ad valorem taxes collected in a given year and the ad valorem taxes which would have been collected using the same rate in effect when the authority is created. Upon adoption of the transportation concurrency backlog plan, all backlogs within the jurisdiction are deemed financially feasible for purposes of calculating transportation concurrency. The authority is dissolved upon completion of all backlogs.

#### ***Tax Increment Financing***

The bill authorizes 2 or more counties, or at least one county and one or more municipalities, to enter into an inter-local agreement establishing a tax increment area that will generate revenue for the purchase of conservation lands. It also allows a water management district in which the conservation lands are located to enter into the inter-local agreement if the district contributes ad valorem revenues for the purchase.

The bill provides minimum requirements for the interlocal agreement. DCA is required to review the boundary of a tax increment area to determine whether the proposed purchase of conservation lands will benefit property owners within the boundary and serve a public purpose. Before any of the identified conservation lands are purchased, the DEP must determine whether the purchase is sufficient to provide additional recreational and ecotourism opportunities for residents in the tax increment area.

The tax increment shall be determined annually, but may not exceed 95 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S. Tax increment revenues are to be paid into a separate reserve account. These tax increment revenues may be spent to purchase the identified conservation lands only if all parties to the inter-local agreement approve the purchase price. There is an interest penalty for failure to pay the tax increment revenues into the separate reserve account as required by the inter-local agreement. The tax increment revenues may be bonded, but revenue bonds are payable solely out of revenues pledged to and deposited in the separate reserve account.

#### ***Developments of Regional Impact (DRI)***

The bill provides that all phase, buildout, and expiration dates for DRI projects that are under active construction on July 1, 2007, are extended for three years regardless of any prior extension. The 3-year extension is not a substantial deviation, is not subject to further review, and must not be considered when determining if a subsequent extension is a substantial deviation requiring review as a DRI.

#### ***Miscellaneous***

The bill extends the duration of certain development agreements between a local government and a developer from 10 to 20 years to coincide with longer-term concurrency management systems that, under existing law, range from 10-15 years.

This bill provides that conservation easements shall survive the issuance of a tax deed. Also, the bill provides DCA with rulemaking authority to implement a provision in the General Appropriations Act relating to the distribution of Local Update Census Addresses (LUCA) technical assistance grants.

This bill includes airport passenger terminals and concourses, air cargo facilities, and hangars for the maintenance or storage of aircraft in the list of public transit facilities that are exempt from concurrency requirements.

Finally, this bill names the Community Workforce Housing Innovation Pilot Program created under s. 420.5095, F.S., after Representative Mike Davis.

If approved by the Governor, these provisions take effect July 1, 2007.

*Vote: Senate 34-5; House 118-0*

*To view the bill in its entirety, go to: [www.myfloridahouse.gov](http://www.myfloridahouse.gov) or [www.flsenate.gov](http://www.flsenate.gov) and enter bill number in "Search for Bills" box.*

# **HB 7203**

## *An Act Relating to Comprehensive Planning*

**HB 7203: An act relating to comprehensive planning**

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1                                   A bill to be entitled  
 2           An act relating to comprehensive planning; amending s.  
 3           163.3164, F.S.; redefining the terms "urban redevelopment"  
 4           and "financial feasibility" for purposes of the Local  
 5           Government Comprehensive Planning and Land Development  
 6           Regulation Act; amending s. 163.3177, F.S.; providing for  
 7           application of requirements for financial feasibility with  
 8           respect to the elements of a comprehensive plan; delaying  
 9           the deadline for amendments conforming public facilities  
 10          with the capital improvements element; specifying  
 11          circumstances under which transportation and school  
 12          facilities shall be deemed to be financially feasible and  
 13          to have achieved level-of-service standards; amending s.  
 14          163.3180, F.S.; providing an exception from concurrency  
 15          requirements for certain airport facilities; providing an  
 16          additional exemption from concurrency requirements for an  
 17          urban service area under specified circumstances;  
 18          requiring that a local government consult with the state  
 19          land planning agency regarding the designation of a  
 20          concurrency exception area; revising provisions providing  
 21          an exception from transportation concurrency requirements  
 22          for a multiuse development of regional impact; providing  
 23          for the application of provisions that authorize payment  
 24          of a proportionate-share contribution to Florida Quality  
 25          Developments and certain plans implementing optional  
 26          sector plans; revising the availability standard for  
 27          achieving school concurrency; authorizing a development to  
 28          proceed under certain circumstances; providing

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29 requirements for proportionate-share mitigation and  
 30 proportionate fair-share mitigation with respect to  
 31 transportation improvements; amending s. 163.3191, F.S.;  
 32 exempting from a prohibition on plan amendments certain  
 33 amendments to local comprehensive plans concerning the  
 34 integration of port master plans; amending s. 163.3229,  
 35 F.S.; extending the duration of a development agreement  
 36 from 10 years to 20 years; amending s. 380.06, F.S.;  
 37 extending the buildout and expiration dates for certain  
 38 projects that are developments of regional impact;  
 39 amending s. 704.06, F.S.; providing that all provisions of  
 40 a conservation easement shall survive and remain  
 41 enforceable after the issuance of a tax deed; authorizing  
 42 two or more counties, or a combination of at least one  
 43 county and municipality, to establish a tax increment area  
 44 for conservation lands by interlocal agreement; providing  
 45 requirements for such an interlocal agreement; requiring  
 46 that a tax increment be determined annually; limiting the  
 47 amount of the tax increment; requiring the establishment  
 48 of a separate reserve account for each tax increment area;  
 49 providing for a refund; requiring an annual audit of the  
 50 separate reserve account; providing for the administration  
 51 of the separate reserve account; providing that the  
 52 governmental body that administers the separate reserve  
 53 account may spend revenues from the tax increment to  
 54 purchase real property only if all parties to the  
 55 interlocal agreement adopt a resolution that approves the  
 56 purchase price; providing that a water management district

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57 | may be a party to the interlocal agreement; requiring  
 58 | certain approvals from the Department of Environmental  
 59 | Protection and the Department of Community Affairs;  
 60 | providing a comparative standard on which the minimum  
 61 | annual funding of the separate reserve account must be  
 62 | based; requiring a taxing authority that does not pay tax  
 63 | increment revenues to the separate reserve account before  
 64 | a specified date to pay a specified amount of interest on  
 65 | the amount of unpaid increment revenues; providing  
 66 | exemptions for certain public bodies, taxing authorities,  
 67 | school districts and special districts; providing that  
 68 | revenue bonds may be paid only from revenues deposited  
 69 | into the separate reserve account; providing that such  
 70 | revenue bonds are not a debt, liability, or obligation of  
 71 | the state or any public body; providing legislative  
 72 | findings; creating s. 163.3182, F.S.; providing for the  
 73 | creation of transportation concurrency backlog  
 74 | authorities; providing powers and responsibilities of such  
 75 | authorities; providing for transportation concurrency  
 76 | backlog plans; providing for the issuance of revenue bonds  
 77 | for certain purposes; providing for the establishment of a  
 78 | local trust fund within each county or municipality having  
 79 | an identified transportation concurrency backlog;  
 80 | providing exemptions from transportation concurrency  
 81 | requirements; providing for the satisfaction of  
 82 | concurrency requirements; providing for dissolution of  
 83 | transportation concurrency backlog authorities;  
 84 | designating the Community Workforce Housing Innovation

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85 | Pilot Program as the "Representative Mike Davis Community  
 86 | Workforce Housing Innovation Pilot Program"; providing  
 87 | rulemaking authority to the Department of Community  
 88 | Affairs; creating s. 163.32465, F.S.; providing for a  
 89 | pilot program to provide a plan review process for certain  
 90 | densely developed areas; providing legislative findings;  
 91 | providing for exempting certain local governments from  
 92 | compliance review by the state land planning agency;  
 93 | authorizing certain municipalities to not participate in  
 94 | the program; providing procedures and requirements for  
 95 | adopting comprehensive plan amendments in such areas;  
 96 | requiring public hearings; providing hearing requirements;  
 97 | providing requirements for local government transmittal of  
 98 | proposed plan amendments; providing for intergovernmental  
 99 | review; providing for regional, county, and municipal  
 100 | review; providing requirements for local government review  
 101 | of certain comments; providing requirements for adoption  
 102 | and transmittal of plan amendments; providing procedures  
 103 | and requirements for challenges to compliance of adopted  
 104 | plan amendments; providing for administrative hearings;  
 105 | providing for applicability of program provisions;  
 106 | requiring the Office of Program Policy Analysis and  
 107 | Governmental Accountability to evaluate the pilot program  
 108 | and prepare and submit a report to the Governor and  
 109 | Legislature; providing report requirements; establishing  
 110 | four full-time equivalent planning positions; providing an  
 111 | appropriation; providing an effective date.

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

114

115 Section 1. Subsections (26) and (32) of section 163.3164,  
 116 Florida Statutes, are amended to read:

117 163.3164 Local Government Comprehensive Planning and Land  
 118 Development Regulation Act; definitions.--As used in this act:

119 (26) "Urban redevelopment" means demolition and  
 120 reconstruction or substantial renovation of existing buildings  
 121 or infrastructure within urban infill areas, ~~or~~ existing urban  
 122 service areas, or community redevelopment areas created pursuant  
 123 to part III.

124 (32) "Financial feasibility" means that sufficient  
 125 revenues are currently available or will be available from  
 126 committed funding sources for the first 3 years, or will be  
 127 available from committed or planned funding sources for years 4  
 128 and 5, of a 5-year capital improvement schedule for financing  
 129 capital improvements, such as ad valorem taxes, bonds, state and  
 130 federal funds, tax revenues, impact fees, and developer  
 131 contributions, which are adequate to fund the projected costs of  
 132 the capital improvements identified in the comprehensive plan  
 133 necessary to ensure that adopted level-of-service standards are  
 134 achieved and maintained within the period covered by the 5-year  
 135 schedule of capital improvements. A comprehensive plan shall be  
 136 deemed financially feasible for transportation and school  
 137 facilities throughout the planning period addressed by the  
 138 capital improvements schedule if it can be demonstrated that the  
 139 level-of-service standards will be achieved and maintained by  
 140 the end of the planning period even if in a particular year such

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141 improvements are not concurrent as required by s. 163.3180. The  
 142 ~~requirement that level of service standards be achieved and~~  
 143 ~~maintained shall not apply if the proportionate share process~~  
 144 ~~set forth in s. 163.3180(12) and (16) is used.~~

145 Section 2. Subsections (2) and (3) of section 163.3177,  
 146 Florida Statutes, are amended to read:

147 163.3177 Required and optional elements of comprehensive  
 148 plan; studies and surveys.--

149 (2) Coordination of the several elements of the local  
 150 comprehensive plan shall be a major objective of the planning  
 151 process. The several elements of the comprehensive plan shall  
 152 be consistent, and the comprehensive plan shall be financially  
 153 feasible. Financial feasibility shall be determined using  
 154 professionally accepted methodologies and applies to the 5-year  
 155 planning period, except in the case of a long-term  
 156 transportation or school concurrency management system, in which  
 157 case a 10-year or 15-year period applies.

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

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

168 2. Estimated public facility costs, including a

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169 delineation of when facilities will be needed, the general  
 170 location of the facilities, and projected revenue sources to  
 171 fund the facilities.

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

175 4. Standards for the management of debt.

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

195 6. The schedule must include transportation improvements  
 196 included in the applicable metropolitan planning organization's

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197 transportation improvement program adopted pursuant to s.  
 198 339.175(7) to the extent that such improvements are relied upon  
 199 to ensure concurrency and financial feasibility. The schedule  
 200 must also be coordinated with the applicable metropolitan  
 201 planning organization's long-range transportation plan adopted  
 202 pursuant to s. 339.175(6).

203 (b)1. The capital improvements element must ~~shall~~ be  
 204 reviewed on an annual basis and modified as necessary in  
 205 accordance with s. 163.3187 or s. 163.3189 in order to maintain  
 206 a financially feasible 5-year schedule of capital improvements.  
 207 Corrections and modifications concerning costs; revenue sources;  
 208 or acceptance of facilities pursuant to dedications which are  
 209 consistent with the plan may be accomplished by ordinance and  
 210 shall not be deemed to be amendments to the local comprehensive  
 211 plan. A copy of the ordinance shall be transmitted to the state  
 212 land planning agency. An amendment to the comprehensive plan is  
 213 required to update the schedule on an annual basis or to  
 214 eliminate, defer, or delay the construction for any facility  
 215 listed in the 5-year schedule. All public facilities must ~~shall~~  
 216 be consistent with the capital improvements element. Amendments  
 217 to implement this section must be adopted and transmitted no  
 218 later than December 1, 2008 ~~2007~~. Thereafter, a local government  
 219 may not amend its future land use map, except for plan  
 220 amendments to meet new requirements under this part and  
 221 emergency amendments pursuant to s. 163.3187(1)(a), after  
 222 December 1, 2008 ~~2007~~, and every year thereafter, unless and  
 223 until the local government has adopted the annual update and it  
 224 has been transmitted to the state land planning agency.

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

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

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

244           (e) At the discretion of the local government and  
 245 notwithstanding the requirements of this subsection, a  
 246 comprehensive plan, as revised by an amendment to the plan's  
 247 future land use map, shall be deemed to be financially feasible  
 248 and to have achieved and maintained level-of-service standards  
 249 as required by this section with respect to transportation  
 250 facilities if the amendment to the future land use map is  
 251 supported by a:

252           1. Condition in a development order for a development of

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253 regional impact or binding agreement that addresses  
 254 proportionate-share mitigation consistent with s. 163.3180(12);  
 255 or

256 2. Binding agreement addressing proportionate fair-share  
 257 mitigation consistent with s. 163.3180(16)(f) and the property  
 258 subject to the amendment to the future land use map is located  
 259 within an area designated in a comprehensive plan for urban  
 260 infill, urban redevelopment, downtown revitalization, urban  
 261 infill and redevelopment, or an urban service area. The binding  
 262 agreement must be based on the maximum amount of development  
 263 identified by the future land use map amendment or as may be  
 264 otherwise restricted through a special area plan policy or map  
 265 notation in the comprehensive plan.

266 Section 3. Paragraph (b) of subsection (4), subsections  
 267 (5), (12), paragraph (e) of subsection (13), and subsection (16)  
 268 of section 163.3180, Florida Statutes, are amended to read:

269 163.3180 Concurrency.--

270 (4)

271 (b) The concurrency requirement as implemented in local  
 272 comprehensive plans does not apply to public transit facilities.  
 273 For the purposes of this paragraph, public transit facilities  
 274 include transit stations and terminals;i~~r~~ transit station  
 275 parking;i~~r~~ park-and-ride lots;i~~r~~ intermodal public transit  
 276 connection or transfer facilities;i~~r~~ and fixed bus, guideway, and  
 277 rail stations; and airport passenger terminals and concourses,  
 278 air cargo facilities, and hangars for the maintenance or storage  
 279 of aircraft. As used in this paragraph, the terms "terminals"  
 280 and "transit facilities" do not include ~~airports or~~ seaports or

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281 commercial or residential development constructed in conjunction  
 282 with a public transit facility.

283 (5) (a) The Legislature finds that under limited  
 284 circumstances dealing with transportation facilities,  
 285 countervailing planning and public policy goals may come into  
 286 conflict with the requirement that adequate public facilities  
 287 and services be available concurrent with the impacts of such  
 288 development. The Legislature further finds that often the  
 289 unintended result of the concurrency requirement for  
 290 transportation facilities is the discouragement of urban infill  
 291 development and redevelopment. Such unintended results directly  
 292 conflict with the goals and policies of the state comprehensive  
 293 plan and the intent of this part. Therefore, exceptions from the  
 294 concurrency requirement for transportation facilities may be  
 295 granted as provided by this subsection.

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

- 302 1. Urban infill development;i~~r~~
- 303 2. Urban redevelopment;i~~r~~
- 304 3. Downtown revitalization;i~~r~~~~or~~
- 305 4. Urban infill and redevelopment under s. 163.2517; or~~r~~
- 306 5. An urban service area specifically designated as a  
 307 transportation-concurrency-exception area which includes lands  
 308 appropriate for compact, contiguous urban development, which

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309 does not exceed the amount of land needed to accommodate the  
 310 projected population growth at densities consistent with the  
 311 adopted comprehensive plan within the 10-year planning period,  
 312 and which is served or is planned to be served with public  
 313 facilities and services as provided by the capital improvements  
 314 element.

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

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

330 (e) The local government shall adopt into the plan and  
 331 implement long-term strategies to support and fund mobility  
 332 within the designated exception area, including alternative  
 333 modes of transportation. The plan amendment must ~~shall~~ also  
 334 demonstrate how strategies will support the purpose of the  
 335 exception and how mobility within the designated exception area  
 336 will be provided. In addition, the strategies must address

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337 urban design; appropriate land use mixes, including intensity  
 338 and density; and network connectivity plans needed to promote  
 339 urban infill, redevelopment, or downtown revitalization. The  
 340 comprehensive plan amendment designating the concurrency  
 341 exception area must ~~shall~~ be accompanied by data and analysis  
 342 justifying the size of the area.

343 (f) Prior to the designation of a concurrency exception  
 344 area, the state land planning agency and the Department of  
 345 Transportation shall be consulted by the local government to  
 346 assess the impact that the proposed exception area is expected  
 347 to have on the adopted level-of-service standards established  
 348 for Strategic Intermodal System facilities, as defined in s.  
 349 339.64, and roadway facilities funded in accordance with s.  
 350 339.2819. Further, the local government shall, in consultation  
 351 ~~cooperation~~ with the state land planning agency and the  
 352 Department of Transportation, develop a plan to mitigate any  
 353 impacts to the Strategic Intermodal System, including, if  
 354 appropriate, the development of a long-term concurrency  
 355 management system pursuant to subsection (9) and s.  
 356 163.3177(3)(d). The exceptions may be available only within the  
 357 specific geographic area of the jurisdiction designated in the  
 358 plan. Pursuant to s. 163.3184, any affected person may challenge  
 359 a plan amendment establishing these guidelines and the areas  
 360 within which an exception could be granted.

361 (g) Transportation concurrency exception areas existing  
 362 prior to July 1, 2005, must ~~shall meet~~, at a minimum, meet the  
 363 provisions of this section by July 1, 2006, or at the time of  
 364 the comprehensive plan update pursuant to the evaluation and

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365 appraisal report, whichever occurs last.

366 (12) ~~When authorized by a local comprehensive plan,~~ A  
 367 multiuse development of regional impact may satisfy the  
 368 transportation concurrency requirements of the local  
 369 comprehensive plan, the local government's concurrency  
 370 management system, and s. 380.06 by payment of a proportionate-  
 371 share contribution for local and regionally significant traffic  
 372 impacts, if:

373 ~~(a) The development of regional impact meets or exceeds~~  
 374 ~~the guidelines and standards of s. 380.0651(3)(h) and rule 28-~~  
 375 ~~24.032(2), Florida Administrative Code, and includes a~~  
 376 ~~residential component that contains at least 100 residential~~  
 377 ~~dwelling units or 15 percent of the applicable residential~~  
 378 ~~guideline and standard, whichever is greater;~~

379 (a)(b) The development of regional impact which, based on  
 380 its location or mix of land uses, contains an integrated mix of  
 381 land uses and is designed to encourage pedestrian or other  
 382 nonautomotive modes of transportation;

383 (b)(e) The proportionate-share contribution for local and  
 384 regionally significant traffic impacts is sufficient to pay for  
 385 one or more required mobility improvements that will benefit a  
 386 regionally significant transportation facility;

387 (c)(d) The owner and developer of the development of  
 388 regional impact pays or assures payment of the proportionate-  
 389 share contribution; and

390 (d)(e) If the regionally significant transportation  
 391 facility to be constructed or improved is under the maintenance  
 392 authority of a governmental entity, as defined by s. 334.03(12),

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393 other than the local government with jurisdiction over the  
 394 development of regional impact, the developer is required to  
 395 enter into a binding and legally enforceable commitment to  
 396 transfer funds to the governmental entity having maintenance  
 397 authority or to otherwise assure construction or improvement of  
 398 the facility.

399

400 The proportionate-share contribution may be applied to any  
 401 transportation facility to satisfy the provisions of this  
 402 subsection and the local comprehensive plan, but, for the  
 403 purposes of this subsection, the amount of the proportionate-  
 404 share contribution shall be calculated based upon the cumulative  
 405 number of trips from the proposed development expected to reach  
 406 roadways during the peak hour from the complete buildout of a  
 407 stage or phase being approved, divided by the change in the peak  
 408 hour maximum service volume of roadways resulting from  
 409 construction of an improvement necessary to maintain the adopted  
 410 level of service, multiplied by the construction cost, at the  
 411 time of developer payment, of the improvement necessary to  
 412 maintain the adopted level of service. For purposes of this  
 413 subsection, "construction cost" includes all associated costs of  
 414 the improvement. Proportionate-share mitigation shall be limited  
 415 to ensure that a development of regional impact meeting the  
 416 requirements of this subsection mitigates its impact on the  
 417 transportation system but is not responsible for the additional  
 418 cost of reducing or eliminating backlogs. This subsection also  
 419 applies to Florida Quality Developments pursuant to s. 380.061  
 420 and to detailed specific area plans implementing optional sector

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421 | plans pursuant to s. 163.3245.

422 |       (13) School concurrency shall be established on a  
 423 | districtwide basis and shall include all public schools in the  
 424 | district and all portions of the district, whether located in a  
 425 | municipality or an unincorporated area unless exempt from the  
 426 | public school facilities element pursuant to s. 163.3177(12).  
 427 | The application of school concurrency to development shall be  
 428 | based upon the adopted comprehensive plan, as amended. All local  
 429 | governments within a county, except as provided in paragraph  
 430 | (f), shall adopt and transmit to the state land planning agency  
 431 | the necessary plan amendments, along with the interlocal  
 432 | agreement, for a compliance review pursuant to s. 163.3184(7)  
 433 | and (8). The minimum requirements for school concurrency are the  
 434 | following:

435 |       (e) Availability standard.--Consistent with the public  
 436 | welfare, a local government may not deny an application for site  
 437 | plan, final subdivision approval, or the functional equivalent  
 438 | for a development or phase of a development authorizing  
 439 | residential development for failure to achieve and maintain the  
 440 | level-of-service standard for public school capacity in a local  
 441 | school concurrency management system where adequate school  
 442 | facilities will be in place or under actual construction within  
 443 | 3 years after the issuance of final subdivision or site plan  
 444 | approval, or the functional equivalent. School concurrency is  
 445 | ~~shall be~~ satisfied if the developer executes a legally binding  
 446 | commitment to provide mitigation proportionate to the demand for  
 447 | public school facilities to be created by actual development of  
 448 | the property, including, but not limited to, the options

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449 described in subparagraph 1. Options for proportionate-share  
 450 mitigation of impacts on public school facilities must ~~shall~~ be  
 451 established in the public school facilities element and the  
 452 interlocal agreement pursuant to s. 163.31777.

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

471 2. If the education facilities plan and the public  
 472 educational facilities element authorize a contribution of land;  
 473 the construction, expansion, or payment for land acquisition; or  
 474 the construction or expansion of a public school facility, or a  
 475 portion thereof, as proportionate-share mitigation, the local  
 476 government shall credit such a contribution, construction,

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477 expansion, or payment toward any other impact fee or exaction  
 478 imposed by local ordinance for the same need, on a dollar-for-  
 479 dollar basis at fair market value.

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

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

503 ~~5.4-~~ This paragraph does not limit the authority of a  
 504 local government to deny a development permit or its functional

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505 equivalent pursuant to its home rule regulatory powers, except  
 506 as provided in this part.

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

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

519 (b)1. In its transportation concurrency management system,  
 520 a local government shall, by December 1, 2006, include  
 521 methodologies that will be applied to calculate proportionate  
 522 fair-share mitigation. A developer may choose to satisfy all  
 523 transportation concurrency requirements by contributing or  
 524 paying proportionate fair-share mitigation if transportation  
 525 facilities or facility segments identified as mitigation for  
 526 traffic impacts are specifically identified for funding in the  
 527 5-year schedule of capital improvements in the capital  
 528 improvements element of the local plan or the long-term  
 529 concurrency management system or if such contributions or  
 530 payments to such facilities or segments are reflected in the 5-  
 531 year schedule of capital improvements in the next regularly  
 532 scheduled update of the capital improvements element. Updates to

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533 the 5-year capital improvements element which reflect  
 534 proportionate fair-share contributions may not be found not in  
 535 compliance based on ss. 163.3164(32) and 163.3177(3) if  
 536 additional contributions, payments or funding sources are  
 537 reasonably anticipated during a period not to exceed 10 years to  
 538 fully mitigate impacts on the transportation facilities.

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

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

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561 (d) ~~Nothing in~~ This subsection does not ~~shall~~ require a  
 562 local government to approve a development that is not otherwise  
 563 qualified for approval pursuant to the applicable local  
 564 comprehensive plan and land development regulations.

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

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

588 (g) Except as provided in subparagraph (b)1., ~~nothing in~~

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589 this section may not ~~shall~~ prohibit the Department of Community  
 590 Affairs from finding other portions of the capital improvements  
 591 element amendments not in compliance as provided in this  
 592 chapter.

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

596 Section 4. Subsection (14) is added to section 163.3191,  
 597 Florida Statutes, to read:

598 163.3191 Evaluation and appraisal of comprehensive plan.--

599 (14) The requirement of subsection (10) prohibiting a  
 600 local government from adopting amendments to the local  
 601 comprehensive plan until the evaluation and appraisal report  
 602 update amendments have been adopted and transmitted to the state  
 603 land planning agency does not apply to a plan amendment proposed  
 604 for adoption by the appropriate local government as defined in  
 605 s. 163.3178(2)(k) in order to integrate a port comprehensive  
 606 master plan with the coastal management element of the local  
 607 comprehensive plan as required by s. 163.3178(2)(k) if the port  
 608 comprehensive master plan or the proposed plan amendment does  
 609 not cause or contribute to the failure of the local government  
 610 to comply with the requirements of the evaluation and appraisal  
 611 report.

612 Section 5. Section 163.3229, Florida Statutes, is amended  
 613 to read:

614 163.3229 Duration of a development agreement and  
 615 relationship to local comprehensive plan.--The duration of a  
 616 development agreement shall not exceed 20 ~~10~~ years. It may be

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617 extended by mutual consent of the governing body and the  
 618 developer, subject to a public hearing in accordance with s.  
 619 163.3225. No development agreement shall be effective or be  
 620 implemented by a local government unless the local government's  
 621 comprehensive plan and plan amendments implementing or related  
 622 to the agreement are found in compliance by the state land  
 623 planning agency in accordance with s. 163.3184, s. 163.3187, or  
 624 s. 163.3189.

625 Section 6. Paragraph (c) of subsection (19) of section  
 626 380.06, Florida Statutes, is amended to read:

627 380.06 Developments of regional impact.--

628 (19) SUBSTANTIAL DEVIATIONS.--

629 (c) An extension of the date of buildout of a development,  
 630 or any phase thereof, by more than 7 years is ~~shall be~~ presumed  
 631 to create a substantial deviation subject to further  
 632 development-of-regional-impact review. An extension of the date  
 633 of buildout, or any phase thereof, of more than 5 years but not  
 634 more than 7 years is ~~shall be~~ presumed not to create a  
 635 substantial deviation. The extension of the date of buildout of  
 636 an areawide development of regional impact by more than 5 years  
 637 but less than 10 years is presumed not to create a substantial  
 638 deviation. These presumptions may be rebutted by clear and  
 639 convincing evidence at the public hearing held by the local  
 640 government. An extension of 5 years or less is not a substantial  
 641 deviation. For the purpose of calculating when a buildout or  
 642 phase date has been exceeded, the time shall be tolled during  
 643 the pendency of administrative or judicial proceedings relating  
 644 to development permits. Any extension of the buildout date of a

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645 project or a phase thereof shall automatically extend the  
 646 commencement date of the project, the termination date of the  
 647 development order, the expiration date of the development of  
 648 regional impact, and the phases thereof if applicable by a like  
 649 period of time. In recognition of the 2007 real estate market  
 650 conditions, all phase, buildout, and expiration dates for  
 651 projects that are developments of regional impact and under  
 652 active construction on July 1, 2007, are extended for 3 years  
 653 regardless of any prior extension. The 3-year extension is not a  
 654 substantial deviation, is not subject to further development-of-  
 655 regional-impact review, and may not be considered when  
 656 determining whether a subsequent extension is a substantial  
 657 deviation under this subsection.

658 Section 7. Subsection (4) of section 704.06, Florida  
 659 Statutes, is amended to read:

660 704.06 Conservation easements; creation; acquisition;  
 661 enforcement.--

662 (4) Conservation easements shall run with the land and be  
 663 binding on all subsequent owners of the servient estate.  
 664 Notwithstanding the provisions of s. 197.552, all provisions of  
 665 a conservation easement shall survive and are enforceable after  
 666 the issuance of a tax deed. No conservation easement shall be  
 667 unenforceable on account of lack of privity of contract or lack  
 668 of benefit to particular land or on account of the benefit being  
 669 assignable. Conservation easements may be enforced by injunction  
 670 or proceeding in equity or at law, and shall entitle the holder  
 671 to enter the land in a reasonable manner and at reasonable times  
 672 to assure compliance. A conservation easement may be released

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673 by the holder of the easement to the holder of the fee even  
 674 though the holder of the fee may not be a governmental body or a  
 675 charitable corporation or trust.

676 Section 8. Tax increment financing for conservation  
 677 lands.--

678 (1) Two or more counties, or a combination of at least one  
 679 county and one or more municipalities, may establish, through an  
 680 interlocal agreement, a tax increment area for conservation  
 681 lands. The interlocal agreement, at a minimum, must:

682 (a) Identify the geographic boundaries of the tax  
 683 increment area;

684 (b) Identify the real property to be acquired as  
 685 conservation land within the tax increment area;

686 (c) Establish the percentage of tax increment financing  
 687 for each jurisdiction in the tax increment area which is a party  
 688 to the interlocal agreement;

689 (d) Identify the governing body of the jurisdiction that  
 690 will administer a separate reserve account in which the tax  
 691 increment will be deposited;

692 (e) Require that any tax increment revenues not used to  
 693 purchase conservation lands by a date certain be refunded to the  
 694 parties to the interlocal agreement. Any refund shall be  
 695 proportionate to the parties' payment of tax increment revenues  
 696 into the separate reserve account;

697 (f) Provide for an annual audit of the separate reserve  
 698 account;

699 (g) Designate an entity to hold title to any conservation  
 700 lands purchased using the tax increment revenues;

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701 (h) Provide for a continuing management plan for the  
 702 conservation lands; and

703 (i) Identify the entity that will manage these  
 704 conservation lands.

705 (2) The water management district in which conservation  
 706 lands proposed for purchase under this section are located may  
 707 also enter into the interlocal agreement if the district  
 708 provides any funds for the purchase of the conservation lands.  
 709 The water management districts may only use ad valorem tax  
 710 revenues for agreements described within this section.

711 (3) The governing body of the jurisdiction that will  
 712 administer the separate reserve account shall provide  
 713 documentation to the Department of Community Affairs identifying  
 714 the boundary of the tax increment area. The department shall  
 715 determine whether the boundary is appropriate in that property  
 716 owners within the boundary will receive a benefit from the  
 717 proposed purchase of identified conservation lands. The  
 718 department must issue a letter of approval stating that the  
 719 establishment of the tax increment area and the proposed  
 720 purchases would benefit property owners within the boundary and  
 721 serve a public purpose before any tax increment funds are  
 722 deposited into the separate reserve account. If the department  
 723 fails to provide the required letter within 90 days after  
 724 receiving sufficient documentation of the boundary, the  
 725 establishment of the area and the proposed purchases are deemed  
 726 to provide such benefit and serve a public purpose.

727 (4) Prior to the purchase of conservation lands under this  
 728 section, the Department of Environmental Protection must

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729 determine whether the proposed purchase is sufficient to provide  
 730 additional recreational and ecotourism opportunities for  
 731 residents in the tax increment area. If the department fails to  
 732 provide a letter of approval within 90 days after receipt of the  
 733 request for such a letter, the purchase is deemed sufficient to  
 734 provide recreation and ecotourism opportunities.

735 (5) The tax increment authorized under this section shall  
 736 be determined annually and may not exceed 95 percent of the  
 737 difference in ad valorem taxes as provided in s. 163.387(1)(a),  
 738 Florida Statutes.

739 (6) A separate reserve account must be established for  
 740 each tax increment area for conservation lands which is created  
 741 under this section. The separate reserve account must be  
 742 administered pursuant to the terms of the interlocal agreement.  
 743 Tax increment funds allocated to this separate reserve account  
 744 shall be used to acquire the real property identified for  
 745 purchase in the interlocal agreement. Pursuant to the interlocal  
 746 agreement, the governing body of the local government that will  
 747 administer the separate reserve account may spend increment  
 748 revenues to purchase the real property only if all parties to  
 749 the interlocal agreement adopt a resolution approving the  
 750 purchase price.

751 (7) The annual funding of the separate reserve account may  
 752 not be less than the increment income of each taxing authority  
 753 which is held as provided in the interlocal agreement for the  
 754 purchase of conservation lands.

755 (8) Unless otherwise provided in the interlocal agreement,  
 756 a taxing authority that does not pay the tax increment revenues

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757 to the separate reserve account by January 1 shall pay interest  
 758 on the amount of unpaid increment revenues equal to 1 percent  
 759 for each month that the increment revenue remains outstanding.

760 (9) The public bodies and taxing authorities listed in s.  
 761 163.387(2)(c), Florida Statutes, school districts and special  
 762 districts that levy ad valorem taxes within a tax increment area  
 763 are exempt from this section.

764 (10) Revenue bonds under this section are payable solely  
 765 out of revenues pledged to and received by the local government  
 766 administering the separate reserve account and deposited into  
 767 the separate reserve account. The revenue bonds issued under  
 768 this section do not constitute a debt, liability, or obligation  
 769 of a public body, the state, or any of the state's political  
 770 subdivisions.

771 Section 9. The Legislature finds that an inadequate supply  
 772 of conservation lands limits recreational opportunities and  
 773 negatively impacts the economy, health, and welfare of the  
 774 surrounding community. The Legislature also finds that acquiring  
 775 conservation lands for recreational opportunities and ecotourism  
 776 serves a valid public purpose.

777 Section 10. Section 163.3182, Florida Statutes, is created  
 778 to read:

779 163.3182 Transportation concurrency backlogs.--

780 (1) DEFINITIONS.--For purposes of this section, the term:

781 (a) "Transportation concurrency backlog area" means the  
 782 geographic area within the unincorporated portion of a county or  
 783 within the municipal boundary of a municipality designated in a  
 784 local government comprehensive plan for which a transportation

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785 concurrency backlog authority is created pursuant to this  
 786 section. A transportation concurrency backlog area created  
 787 within the corporate boundary of a municipality shall be made  
 788 pursuant to an interlocal agreement between a county, a  
 789 municipality or municipalities, and any affected taxing  
 790 authority or authorities.

791 (b) "Authority" or "transportation concurrency backlog  
 792 authority" means the governing body of a county or municipality  
 793 within which an authority is created.

794 (c) "Governing body" means the council, commission, or  
 795 other legislative body charged with governing the county or  
 796 municipality within which a transportation concurrency backlog  
 797 authority is created pursuant to this section.

798 (d) "Transportation concurrency backlog" means an  
 799 identified deficiency where the existing extent of traffic  
 800 volume exceeds the level of service standard adopted in a local  
 801 government comprehensive plan for a transportation facility.

802 (e) "Transportation concurrency backlog plan" means the  
 803 plan adopted as part of a local government comprehensive plan by  
 804 the governing body of a county or municipality acting as a  
 805 transportation concurrency backlog authority.

806 (f) "Transportation concurrency backlog project" means any  
 807 designated transportation project identified for construction  
 808 within the jurisdiction of a transportation concurrency backlog  
 809 authority.

810 (g) "Debt service millage" means any millage levied  
 811 pursuant to s. 12, Art. VII of the State Constitution.

812 (h) "Increment revenue" means the amount calculated

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813 pursuant to subsection (5).

814 (i) "Taxing authority" means a public body that levies or  
 815 is authorized to levy an ad valorem tax on real property located  
 816 within a transportation concurrency backlog area, except a  
 817 school district.

818 (2) CREATION OF TRANSPORTATION CONCURRENCY BACKLOG  
 819 AUTHORITIES.--

820 (a) A county or municipality may create a transportation  
 821 concurrency backlog authority if it has an identified  
 822 transportation concurrency backlog.

823 (b) Acting as the transportation concurrency backlog  
 824 authority within the authority's jurisdictional boundary, the  
 825 governing body of a county or municipality shall adopt and  
 826 implement a plan to eliminate all identified transportation  
 827 concurrency backlogs within the authority's jurisdiction using  
 828 funds provided pursuant to subsection (5) and as otherwise  
 829 provided pursuant to this section.

830 (3) POWERS OF A TRANSPORTATION CONCURRENCY BACKLOG  
 831 AUTHORITY.--Each transportation concurrency backlog authority  
 832 has the powers necessary or convenient to carry out the purposes  
 833 of this section, including the following powers in addition to  
 834 others granted in this section:

835 (a) To make and execute contracts and other instruments  
 836 necessary or convenient to the exercise of its powers under this  
 837 section.

838 (b) To undertake and carry out transportation concurrency  
 839 backlog projects for transportation facilities that have a  
 840 concurrency backlog within the authority's jurisdiction.

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841 Concurrency backlog projects may include transportation  
 842 facilities that provide for alternative modes of travel  
 843 including sidewalks, bikeways, and mass transit which are  
 844 related to a backlogged transportation facility.

845 (c) To invest any transportation concurrency backlog funds  
 846 held in reserve, sinking funds, or any such funds not required  
 847 for immediate disbursement in property or securities in which  
 848 savings banks may legally invest funds subject to the control of  
 849 the authority and to redeem such bonds as have been issued  
 850 pursuant to this section at the redemption price established  
 851 therein, or to purchase such bonds at less than redemption  
 852 price. All such bonds redeemed or purchased shall be canceled.

853 (d) To borrow money, apply for and accept advances, loans,  
 854 grants, contributions, and any other forms of financial  
 855 assistance from the Federal Government or the state, county, or  
 856 any other public body or from any sources, public or private,  
 857 for the purposes of this part, to give such security as may be  
 858 required, to enter into and carry out contracts or agreements,  
 859 and to include in any contracts for financial assistance with  
 860 the Federal Government for or with respect to a transportation  
 861 concurrency backlog project and related activities such  
 862 conditions imposed pursuant to federal laws as the  
 863 transportation concurrency backlog authority considers  
 864 reasonable and appropriate and which are not inconsistent with  
 865 the purposes of this section.

866 (e) To make or have made all surveys and plans necessary  
 867 to the carrying out of the purposes of this section, to contract  
 868 with any persons, public or private, in making and carrying out

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869 such plans, and to adopt, approve, modify, or amend such  
 870 transportation concurrency backlog plans.

871 (f) To appropriate such funds and make such expenditures  
 872 as are necessary to carry out the purposes of this section, and  
 873 to enter into agreements with other public bodies, which  
 874 agreements may extend over any period notwithstanding any  
 875 provision or rule of law to the contrary.

876 (4) TRANSPORTATION CONCURRENCY BACKLOG PLANS.--

877 (a) Each transportation concurrency backlog authority  
 878 shall adopt a transportation concurrency backlog plan as a part  
 879 of the local government comprehensive plan within 6 months after  
 880 the creation of the authority. The plan shall:

881 1. Identify all transportation facilities that have been  
 882 designated as deficient and require the expenditure of moneys to  
 883 upgrade, modify, or mitigate the deficiency.

884 2. Include a priority listing of all transportation  
 885 facilities that have been designated as deficient and do not  
 886 satisfy concurrency requirements pursuant to s. 163.3180, and  
 887 the applicable local government comprehensive plan.

888 3. Establish a schedule for financing and construction of  
 889 transportation concurrency backlog projects that will eliminate  
 890 transportation concurrency backlogs within the jurisdiction of  
 891 the authority within 10 years after the transportation  
 892 concurrency backlog plan adoption. The schedule shall be adopted  
 893 as part of the local government comprehensive plan.

894 (b) The adoption of the transportation concurrency backlog  
 895 plan shall be exempt from the provisions of s. 163.3187(1).

896 (5) ESTABLISHMENT OF LOCAL TRUST FUND.--The transportation

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897 concurrency backlog authority shall establish a local  
 898 transportation concurrency backlog trust fund upon creation of  
 899 the authority. Each local trust fund shall be administered by  
 900 the transportation concurrency backlog authority within which a  
 901 transportation concurrency backlog has been identified.  
 902 Beginning in the first fiscal year after the creation of the  
 903 authority, each local trust fund shall be funded by the proceeds  
 904 of an ad valorem tax increment collected within each  
 905 transportation concurrency backlog area to be determined  
 906 annually and shall be 25 percent of the difference between:  
 907 (a) The amount of ad valorem tax levied each year by each  
 908 taxing authority, exclusive of any amount from any debt service  
 909 millage, on taxable real property contained within the  
 910 jurisdiction of the transportation concurrency backlog authority  
 911 and within the transportation backlog area; and  
 912 (b) The amount of ad valorem taxes which would have been  
 913 produced by the rate upon which the tax is levied each year by  
 914 or for each taxing authority, exclusive of any debt service  
 915 millage, upon the total of the assessed value of the taxable  
 916 real property within the transportation concurrency backlog area  
 917 as shown on the most recent assessment roll used in connection  
 918 with the taxation of such property of each taxing authority  
 919 prior to the effective date of the ordinance funding the trust  
 920 fund.  
 921 (6) EXEMPTIONS.--  
 922 (a) The following public bodies or taxing authorities are  
 923 exempt from the provision of this section:  
 924 1. A special district that levies ad valorem taxes on

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925 taxable real property in more than one county.

926 2. Special district for which the sole available source of  
 927 revenue is the authority to levy ad valorem taxes at the time an  
 928 ordinance is adopted under this section. However, revenues or  
 929 aid that may be dispensed or appropriated to a district as  
 930 defined in s. 388.011 at the discretion of an entity other than  
 931 such district shall not be deemed available.

932 3. A library district.

933 4. A neighborhood improvement district created under the  
 934 Safe Neighborhoods Act.

935 5. A metropolitan transportation authority.

936 6. A water management district created under s. 373.069.

937 7. A community redevelopment agency.

938 (b) A transportation concurrency exemption authority may  
 939 also exempt from this section a special district that levies ad  
 940 valorem taxes within the transportation concurrency backlog area  
 941 pursuant to s. 163.387(2)(d).

942 Section 11. The Community Workforce Housing Innovation  
 943 Pilot Program created under s. 420.5095, Florida Statutes, shall  
 944 be known as the "Representative Mike Davis Community Workforce  
 945 Housing Innovation Pilot Program."

946 Section 12. For the purpose of implementing Specific  
 947 Appropriation 1661A of the 2007-2008 General Appropriations Act,  
 948 the Department of Community Affairs may use expedited rulemaking  
 949 authority in order to implement the distribution of the Local  
 950 Update Census Addresses (LUCA) technical assistance grants.

951 Section 13. Section 163.32465, Florida Statutes, is  
 952 created to read:

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953 163.32465 State review of local comprehensive plans in  
 954 urban areas.--

955 (1) LEGISLATIVE FINDINGS.--

956 (a) The Legislature finds that local governments in this  
 957 state have a wide diversity of resources, conditions, abilities,  
 958 and needs. The Legislature also finds that the needs and  
 959 resources of urban areas are different from those of rural areas  
 960 and that different planning and growth management approaches,  
 961 strategies, and techniques are required in urban areas. The  
 962 state role in overseeing growth management should reflect this  
 963 diversity and should vary based on local government conditions,  
 964 capabilities, needs, and extent of development. Thus, the  
 965 Legislature recognizes and finds that reduced state oversight of  
 966 local comprehensive planning is justified for some local  
 967 governments in urban areas.

968 (b) The Legislature finds and declares that this state's  
 969 urban areas require a reduced level of state oversight because  
 970 of their high degree of urbanization and the planning  
 971 capabilities and resources of many of their local governments.  
 972 An alternative state review process that is adequate to protect  
 973 issues of regional or statewide importance should be created for  
 974 appropriate local governments in these areas. Further, the  
 975 Legislature finds that development, including urban infill and  
 976 redevelopment, should be encouraged in these urban areas. The  
 977 Legislature finds that an alternative process for amending local  
 978 comprehensive plans in these areas should be established with an  
 979 objective of streamlining the process and recognizing local  
 980 responsibility and accountability.

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981 (c) The Legislature finds a pilot program will be  
 982 beneficial in evaluating an alternative, expedited plan  
 983 amendment adoption and review process. Pilot local governments  
 984 shall represent highly developed counties and the municipalities  
 985 within these counties and highly populated municipalities.

986 (2) ALTERNATIVE STATE REVIEW PROCESS PILOT PROGRAM.--  
 987 Pinellas and Broward Counties, and the municipalities within  
 988 these counties, and Jacksonville, Miami, Tampa, and Hialeah,  
 989 shall follow an alternative state review process provided in  
 990 this section. Municipalities within the pilot counties may  
 991 elect, by super majority vote of the governing body, not to  
 992 participate in the pilot program.

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

995 (a) Plan amendments adopted by the pilot program  
 996 jurisdictions shall follow the alternate, expedited process in  
 997 subsections (4) and (5), except as set forth in paragraphs (b)  
 998 through (e) of this subsection.

999 (b) Amendments that qualify as small-scale development  
 1000 amendments may continue to be adopted by the pilot program  
 1001 jurisdictions pursuant to ss. 163.3187(1)(c) and (3).

1002 (c) Plan amendments that propose a rural land stewardship  
 1003 area pursuant to s. 163.3177(11)(d); propose an optional sector  
 1004 plan; update a comprehensive plan based on an evaluation and  
 1005 appraisal report; implement new statutory requirements; or new  
 1006 plans for newly incorporated municipalities are subject to state  
 1007 review as set forth in s. 163.3184.

1008 (d) Pilot program jurisdictions shall be subject to the

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1009 frequency and timing requirements for plan amendments set forth  
 1010 in ss. 163.3187 and 163.3191, except where otherwise stated in  
 1011 this section.

1012 (e) The mediation and expedited hearing provisions in s.  
 1013 163.3189(3) apply to all plan amendments adopted by the pilot  
 1014 program jurisdictions.

1015 (4) INITIAL HEARING ON COMPREHENSIVE PLAN AMENDMENT FOR  
 1016 PILOT PROGRAM.--

1017 (a) The local government shall hold its first public  
 1018 hearing on a comprehensive plan amendment on a weekday at least  
 1019 seven days after the day the first advertisement is published  
 1020 pursuant to the requirements of chapters 125 or 166. Upon an  
 1021 affirmative vote of not less than a majority of the members of  
 1022 the governing body present at the hearing, the local government  
 1023 shall immediately transmit the amendment or amendments and  
 1024 appropriate supporting data and analyses to the state land  
 1025 planning agency; the appropriate regional planning council and  
 1026 water management district; the Department of Environmental  
 1027 Protection; the Department of State; the Department of  
 1028 Transportation; in the case of municipal plans, to the  
 1029 appropriate county; the Fish and Wildlife Conservation  
 1030 Commission; the Department of Agriculture and Consumer Services;  
 1031 and in the case of amendments that include or impact the public  
 1032 school facilities element, the Office of Educational Facilities  
 1033 of the Commissioner of Education. The local governing body shall  
 1034 also transmit a copy of the amendments and supporting data and  
 1035 analyses to any other local government or governmental agency  
 1036 that has filed a written request with the governing body.

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1037        (b) The agencies and local governments specified in  
 1038 paragraph (a) may provide comments regarding the amendment or  
 1039 amendments to the local government. The regional planning  
 1040 council review and comment shall be limited to effects on  
 1041 regional resources or facilities identified in the strategic  
 1042 regional policy plan and extrajurisdictional impacts that would  
 1043 be inconsistent with the comprehensive plan of the affected  
 1044 local government. A regional planning council shall not review  
 1045 and comment on a proposed comprehensive plan amendment prepared  
 1046 by such council unless the plan amendment has been changed by  
 1047 the local government subsequent to the preparation of the plan  
 1048 amendment by the regional planning council. County comments on  
 1049 municipal comprehensive plan amendments shall be primarily in  
 1050 the context of the relationship and effect of the proposed plan  
 1051 amendments on the county plan. Municipal comments on county plan  
 1052 amendments shall be primarily in the context of the relationship  
 1053 and effect of the amendments on the municipal plan. State agency  
 1054 comments may include technical guidance on issues of agency  
 1055 jurisdiction as it relates to the requirements of this part.  
 1056 Such comments shall clearly identify issues that, if not  
 1057 resolved, may result in an agency challenge to the plan  
 1058 amendment. For the purposes of this pilot program, agencies are  
 1059 encouraged to focus potential challenges on issues of regional  
 1060 or statewide importance. Agencies and local governments must  
 1061 transmit their comments to the affected local government such  
 1062 that they are received by the local government not later than  
 1063 thirty days from the date on which the agency or government  
 1064 received the amendment or amendments.

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1065 (5) ADOPTION OF COMPREHENSIVE PLAN AMENDMENT FOR PILOT  
 1066 AREAS.--

1067 (a) The local government shall hold its second public  
 1068 hearing, which shall be a hearing on whether to adopt one or  
 1069 more comprehensive plan amendments, on a weekday at least five  
 1070 days after the day the second advertisement is published  
 1071 pursuant to the requirements of chapters 125 or 166. Adoption of  
 1072 comprehensive plan amendments must be by ordinance and requires  
 1073 an affirmative vote of a majority of the members of the  
 1074 governing body present at the second hearing.

1075 (b) All comprehensive plan amendments adopted by the  
 1076 governing body along with the supporting data and analysis shall  
 1077 be transmitted within ten days of the second public hearing to  
 1078 the state land planning agency and any other agency or local  
 1079 government that provided timely comments under subsection 4(b).

1080 (6) ADMINISTRATIVE CHALLENGES TO PLAN AMENDMENTS FOR PILOT  
 1081 PROGRAM.--

1082 (a) Any "affected person" as defined in s. 163.3184(1)(a)  
 1083 may file a petition with the Division of Administrative Hearings  
 1084 pursuant to ss. 120.569 and 120.57, with a copy served on the  
 1085 affected local government, to request a formal hearing to  
 1086 challenge whether the amendments are "in compliance" as defined  
 1087 in s. 163.3184(1)(b). This petition must be filed with the  
 1088 Division within 30 days after the local government adopts the  
 1089 amendment. The state land planning may intervene in a proceeding  
 1090 instituted by an affected person.

1091 (b) The state land planning agency may file a petition  
 1092 with the Division of Administrative Hearings pursuant to ss.

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1093 120.569 and 120.57, with a copy served on the affected local  
 1094 government, to request a formal hearing. This petition must be  
 1095 filed with the Division within 30 days after the state land  
 1096 planning agency notifies the local government that the plan  
 1097 amendment package is complete. For purposes of this section, an  
 1098 amendment shall be deemed complete if it contains a full,  
 1099 executed copy of the adoption ordinance or ordinances; in the  
 1100 case of a text amendment, a full copy of the amended language in  
 1101 legislative format with new words inserted in the text  
 1102 underlined, and words to be deleted lined through with hyphens;  
 1103 in the case of a future land use map amendment, a copy of the  
 1104 future land use map clearly depicting the parcel, its existing  
 1105 future land use designation, and its adopted designation; and a  
 1106 copy of any data and analyses the local government deems  
 1107 appropriate. The state land planning agency shall notify the  
 1108 local government of any deficiencies within five working days of  
 1109 receipt of amendment package.

1110 (c) The state land planning agency's challenge shall be  
 1111 limited to those issues raised in the comments provided by the  
 1112 reviewing agencies pursuant to subsection (4)(b). The state land  
 1113 planning agency may challenge a plan amendment that has  
 1114 substantially changed from the version on which the agencies  
 1115 provided comments. For the purposes of this pilot program, the  
 1116 Legislature strongly encourages the state land planning agency  
 1117 to focus any challenge on issues of regional or statewide  
 1118 importance.

1119 (d) An administrative law judge shall hold a hearing in  
 1120 the affected local jurisdiction. The local government's

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1121 determination that the amendment is "in compliance" is presumed  
 1122 to be correct and shall be sustained unless it is shown by a  
 1123 preponderance of the evidence that the amendment is not "in  
 1124 compliance."

1125 (e) If the administrative law judge recommends that the  
 1126 amendment be found not in compliance, the judge shall submit the  
 1127 recommended order to the Administration Commission for final  
 1128 agency action. The Administration Commission shall enter a final  
 1129 order within 45 days after its receipt of the recommended order.

1130 (f) If the administrative law judge recommends that the  
 1131 amendment be found in compliance, the judge shall submit the  
 1132 recommended order to the state land planning agency.

1133 1. If the state land planning agency determines that the  
 1134 plan amendment should be found not in compliance, the agency  
 1135 shall refer, within 30 days of receipt of the recommended order,  
 1136 the recommended order and its determination to the  
 1137 Administration Commission for final agency action. If the  
 1138 commission determines that the amendment is not in compliance,  
 1139 it may sanction the local government as set forth in s.  
 1140 163.3184(11).

1141 2. If the state land planning agency determines that the  
 1142 plan amendment should be found in compliance, the agency shall  
 1143 enter its final order not later than 30 days from receipt of the  
 1144 recommended order.

1145 (g) An amendment adopted under the expedited provisions of  
 1146 this section shall not become effective until 31 days after  
 1147 adoption. If timely challenged, an amendment shall not become  
 1148 effective until the state land planning agency or the

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1149 Administration Commission enters a final order determining the  
 1150 adopted amendment to be in compliance.

1151 (h) Parties to a proceeding under this section may enter  
 1152 into compliance agreements using the process in s. 163.3184(16).

1153 Any remedial amendment adopted pursuant to a settlement  
 1154 agreement shall be provided to the agencies and governments  
 1155 listed in paragraph (4) (a).

1156 (7) APPLICABILITY OF PILOT PROGRAM IN CERTAIN LOCAL  
 1157 GOVERNMENTS.--Local governments and specific areas that have  
 1158 been designated for alternate review process pursuant to ss.  
 1159 163.3246 and 163.3184(17) and (18) are not subject to this  
 1160 section.

1161 (8) RULEMAKING AUTHORITY FOR PILOT PROGRAM.--Agencies  
 1162 shall not promulgate rules to implement this pilot program.

1163 (9) REPORT.--The Office of Program Policy Analysis and  
 1164 Government Accountability shall submit to the Governor, the  
 1165 President of the Senate, and the Speaker of the House of  
 1166 Representatives by December 1, 2008, a report and  
 1167 recommendations for implementing a statewide program that  
 1168 addresses the legislative findings in subsection (1) in areas  
 1169 that meet urban criteria. The Office of Program Policy Analysis  
 1170 and Government Accountability in consultation with the state  
 1171 land planning agency shall develop the report and  
 1172 recommendations with input from other state and regional  
 1173 agencies, local governments and interest groups. Additionally,  
 1174 the office shall review local and state actions and  
 1175 correspondence relating to the pilot program to identify issues  
 1176 of process and substance in recommending changes to the pilot

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1177 program. At a minimum, the report and recommendations shall  
 1178 include the following:

1179 (a) Identification of local governments beyond those  
 1180 participating in the pilot program that should be subject to the  
 1181 alternative expedited state review process. The report may  
 1182 recommend that pilot program local governments may no longer be  
 1183 appropriate for such alternative review process.

1184 (b) Changes to the alternative expedited state review  
 1185 process for local comprehensive plan amendments identified in  
 1186 the pilot program.

1187 (c) Criteria for determining issues of regional or  
 1188 statewide importance that are to be protected in the alternative  
 1189 state review process.

1190 (d) In preparing the report and recommendations, the  
 1191 Office of Program Policy Analysis and Government Accountability  
 1192 shall consult with the state land planning agency, the  
 1193 Department of Transportation, the Department of Environmental  
 1194 Protection, and the regional planning agencies in identifying  
 1195 highly developed local governments to participate in the  
 1196 alternative expedited state review process. The Office of  
 1197 Program Policy Analysis and Governmental Accountability shall  
 1198 also solicit citizen input in the potentially affected areas and  
 1199 consult with the affected local governments, and stakeholder  
 1200 groups.

1201 Section 14. There is established four full-time equivalent  
 1202 planning positions and appropriated rate in the amount of  
 1203 \$220,000 and salary budget authority in the amount of \$326,620  
 1204 from the Grants and Donations Trust Fund in the Division of

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1205 | Community Planning for the purposes of providing technical  
1206 | assistance and advice to state and local governments in their  
1207 | ability to respond to growth-related issues, and to ensure  
1208 | compliance with chapter 163 comprehensive planning issues.  
1209 |       Section 15. This act shall take effect July 1, 2007.

**HB 985: An act relating to transportation**

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# **Capital Improvements Planning**

## **CAPITAL IMPROVEMENTS ELEMENT (CIE): DISCUSSION OF REQUIREMENTS**

### **I. Statutory Requirements**

#### **A. Section 163.3177: The Capital Improvements Element and its relationship to the Comprehensive Plan.**

1. Statutes require a Capital Improvements Element (CIE) and that the CIE be coordinated with other comprehensive plan elements. [163.31772], [163.3177(3)a]
2. The CIE outlines the following changes to public facilities:
  - a. Construction of new facilities
  - b. Those actions increasing the capacity of existing facilities in reference to level of service standards.
  - c. Both *a* and *b* (above) must be addressed at least over a 5 year planning time frame.

[163.3177(3)(a)1]

1. Treatment of facilities in the element requires discussion of when the capital facilities will be needed, the cost, likely revenue sources, and location of scheduled capital improvements (within the 5 year period). [163.3177(3)(a)2]
2. The CIE establishes standards to ensure the availability of public facilities as organized by guidelines for level of service (LOS) requirements. [163.3177(3)(a)3]
3. Likewise, all facilities provided should follow standards, outlined in the CIE, that will promote their functioning to meet LOS requirements. [163.3177(3)(a)3]
4. The CIE also requires standards to manage public debt. [163.3177(3)(a)4]

#### **B. Definition of the Five (5) year Schedule of Capital Improvements:**

1. The CIE must include a Five (5) year Schedule of Capital Improvements
2. The CIE must list all publicly funded capital improvements necessary to maintain LOS. [163.3177(3)(a)5]
3. It must also detail privately funded improvements that contribute and for which the city has no responsibility but aid LOS. [163.3177(3)(a)5]

- a. Privately provided capital improvements proceed based on enforceable development or interlocal agreements. [163.3177(3)(a)5]
4. The Five (5) year Schedule of Capital Improvements must be *financially feasible*, as defined by Section 163.3164(32) of the Florida State Statutes.
- a. Section 163.3164(32) states, " ...Sufficient revenues are currently available or will be available from committed funding sources for the first three (3) years, or will be available from committed or planned funding sources in years four (4) and five (5) of a capital improvements schedule for the purposes of funding capital improvements.
    - i. Committed/Dedicated Funding Sources (Years 1 to 3): Ad valorem taxes, approved bonds, state and federal funds, tax revenue, impact fees, and enforceable developer agreements.
    - ii. Planned Funds (Years 4 and 5): Grants, proposed bonds, other sources of revenue based on contingent sources not already secured.
    - iii. Local governments demonstrate financial feasibility through a balance sheet approach where revenues are shown to meet or exceed expenditures.
    - iv. A balance sheet demonstrating financial feasibility shall be incorporated into CIE text as a stand alone item or merged with the five (5) Capital Improvements Schedule.
    - v. The balance sheet must also be included in the Goals, Objectives and Policies of the CIE.
  - b. The feasibility requirement applies to the entire five (5) year planning period of the CIE.
  - c. A feasibility requirement would also apply to ten (10) to (15) year period of a concurrency management system.
  - d. The local government must demonstrate that LOS is achieved by the end of the planning period, even if in a particular year such improvements are not concurrent.
  - e. If the local government uses planned sources of revenue that require referenda or introduce similar contingencies into funding of a given improvement, then the plan must specify how the improvement would be accomplished in the absence of planned funding. [163.3177(3)(a)5]

## II. Procedural Requirements and Changes

### A. Executing Changes to the Capital Improvements Element

1. The CIE may be effectively updated per those actions taken over the planning cycle to amend the comprehensive plan—i.e., a future large scale amendment to the comprehensive plan, initiated for other reasons, would also be an opportunity to update the CIE.
2. Specifically, the CIE must be updated on an annual basis as well. [163.3177(3)(b)1]
  - a. The primary purpose of the annual update is to ensure continued financial feasibility as movement through the five (5) year schedule occurs (e.g., one year after adoption—year 4 becomes year 3, year 5 becomes year 4, and year one drops from the schedule with a new year 5 added, and this necessarily implies change especially over the committed and planned funding divide.)
3. How to alter the CIE:
  - a. Minor changes to the CIE may be made on an ongoing basis as information changes. Correcting costs or revenue figures and those changes consistent with the plan may be handled by passage of an ordinance amending the CIE by the local government. Subsequently, the ordinance is transmitted to DCA, and it is not judged to be an amendment to the comprehensive plan.
  - b. The required annual update to the CIE must be handled as a text amendment to the comprehensive plan. Therefore, the annual update proceeds under a large scale amendment to the comprehensive plan.
  - c. Section 163.3177(3)(b)2 allows an expedited review for a single public adoption hearing.
  - d. The annual CIE update may also proceed without use of the statutory exception and follow both an adoption and transmittal hearing.
4. Once added to the five (5) year schedule, a comprehensive plan amendment is then required to change, alter, defer or delay a given capital improvement. [163.3177(3)(b)1]
5. All local governments must alter their Capital Improvements Elements to reflect the new requirements no later than December 1, 2008. The annual update will continue as a requirement thereafter.
  - a. Failure to amend the comprehensive plan by said date carries three main implications:

- i. Local governments failing to diligently revise their capital improvements elements by December 1, 2008 may be sanctioned by the Administration Commission. [163.3177(3)(b)(2)c]
- ii. After December 1, 2008, local governments with a CIE found not in compliance may be prevented from amending its future land use map for reasons other than emergency or new growth management requirements. [163.3177(3)(b)1]
- iii. To resolve questions regarding CIE, a local government might voluntarily request a DCA ORC Review during the comprehensive plan amendment process or seek a courtesy review from DCA. This will identify any problems within the CIE. In effect, this course of action proofs the document, preempting any designation of not in compliance.

### III. Coordination Requirements

#### A. Water Management District Coordination

- 1. The CIE schedule must incorporate water supply projects 18 months after the Water Management District updates the Regional Water Supply Plan. [163.3177(6)c]

#### B. Transportation Coordination

- 1. The CIE must reflect proportionate fair-share projects for transportation. A developer may satisfy proportionate fair share requirements by paying proportionate fair-share mitigation to transportation facilities or facility segments identified in the CIE. [163.3180(16)(b)1]
- 2. The CIE schedule must also reflect the Metropolitan Planning Organization's (MPO)'s Transportation Improvement Program (TIP) to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. [163.3180(3)(a)6]
- 3. *De Minimis* Records Reporting
  - a. *De minimus* Impact: "an impact not affecting more than 1% of the volume at the adopted level of service of the affected transportation facility as determined by the local government."
  - b. Local governments determine when they will allow above stated exceptions.
  - c. Main task is to devise system for de minimus reporting and incorporate it into annual CIE update. (See attached De minimus reporting sheet.)

4. Local government should review FDOT five (5) year District Work Plan, but only need adopt into CIE if relying on specific projects to ensure concurrency.

C. School Project Coordination

1. As of 12/8/08, the CIE will be required to reflect coordination with schools:
  - a. The CIE should include school projects consistent with the school district's work plan.
  - b. A public schools LOS standard will be established.
  - c. They must also identify fair share revenue or donated projects for schools.

[163.3180(13)(d)1]

IV. Local Capital Improvements Planning

A. Changes to CIE imply coordination between annual budgeting, Capital Improvements Program/Plan, and annual CIE update.

1. Ideally, CIE should inform annual budgeting and any ongoing capital improvements program.
2. Coordination between CIE, budget and CIP is area where local governments have prerogative to develop systems, methods, and approaches that work in local context.
3. (See Annual Schedule insert and accompanying materials.)

B. Finding Efficiencies in the Annual CIE Update Process

1. (See joint five (5) year schedule of improvements and financial feasibility table.)
2. Existing documents serve as excellent information sources to fulfill data and analysis requirements related to CIE
  - a. Capital Improvements Program
  - b. Budget Summary Sheets
  - c. Annual Budget
3. (See Budget Summary Sheet and discussion in reference to 9J-5 requirements )

C. Benefits of Capital Improvements Planning

1. Organization for systematic review and evaluation of all facility and public service provision options.
2. Allows platform for open, public discussion of capital expenditures relating to public facilities and services
3. Properly executed CIE, CIP and budgeting coordination encourage fiscally responsible growth.
4. Capital Improvements Planning can serve valid economic development purpose and businesses have expectations related to public services defined.

V. Information Sources

A. Senate Bill 360 (2005)

B. The Administrative Code

1. Rule Chapter 9J-5

a. 9J-5.005 *General Requirements*

b. 9J-5.016 *Capital Improvements Element*

C. House Bill 7203 (2007)

D. Future: DCA "best practices manual" for Capital Improvements should provide step by step guidance.

**CAPITAL IMPROVEMENTS ELEMENT  
FREQUENTLY ASKED QUESTIONS  
May 31, 2007**

**Note: The following FAQs do not reflect statutory revisions which may occur due to the 2007 legislative session since none of the bills that were adopted have become law at this time.**

**A. GENERAL**

1. If my question about the Capital Improvements Element is not answered in this list of frequently asked questions, who can I talk with?

If your question relates to a detail of a specific community's comprehensive plan, please call the planner assigned to that community from the Department of Community Affairs. Staff from each of the regional review teams and their phone numbers are identified on the Department's website. On the other hand, if your question about the Capital Improvements Element relates more to "big picture" issues, please call either of the Department of Community Affairs staff members listed below.

Bill Pable  
(850) 922-1781  
[bill.pable@dca.state.fl.us](mailto:bill.pable@dca.state.fl.us)

Walker Banning  
(850) 922-1785  
[walker.banning@dca.state.fl.us](mailto:walker.banning@dca.state.fl.us)

2. What should be the focus of the Capital Improvements Element?

The Capital Improvements Element focuses on capital infrastructure planning for the time-period covered by the comprehensive plan and based upon the public facility needs identified in the other elements of the Comprehensive Plan. See Rule 9J-5.016(1)(a), Florida Administrative Code. The Capital Improvements Element must provide a five-year schedule of capital improvements, which must include specific capital projects necessary to achieve and maintain level-of-service standards identified in the other elements of the Comprehensive Plan, reduce existing deficiencies, provide for necessary replacements, and meet future demand during the time period covered by the schedule. The financial feasibility test applies to the time-period addressed by the schedule of capital improvements. See Rule 9J-5.016(4)(a)1, Florida Administrative Code. Local governments must also include long-range strategies in their Capital Improvement Elements to explain how they intend to address projected deficiencies over the planning timeframe.

The Capital Improvements Element is important to local governments for several reasons. It sets policy to coordinate the provision of infrastructure with the land use plans of the community over the timeframe of the Comprehensive Plan. It provides a five-year schedule of capital improvements that are aimed at achieving and maintaining each community's adopted levels of service, and it identifies sufficient revenues to fund the identified capital improvements.

3. What kinds of technical assistance are available?

The Department of Community Affairs is conducting a variety of technical assistance programs that include the initiatives listed below.

- a. The *Guide to the Annual Update of the Capital Improvements Element* was released in August 2006. It provides a detailed discussion of many of the key features of a Capital Improvements Element. The Department made this document available on its website as a resource to guide local governments.
- b. The *Capital Improvements Element Best Practices Manual* will be released in the near future.
- c. During the summer of 2007, the Tampa Bay Regional Planning Council will work with the other Regional Planning Councils to provide training on Capital Improvements Element requirements.
- d. Regularly updated frequently asked questions will be posted on the Department's website at [www.dca.state.fl.us/fdcp/DCP/](http://www.dca.state.fl.us/fdcp/DCP/).

**B. AMENDMENTS TO THE CAPITAL IMPROVEMENTS ELEMENT**

4. When do I have to submit my annual Capital Improvements Element update?

Local governments should continue to submit the required annual Capital Improvements Element updates, and should begin to implement the new requirements immediately, but they must be implemented no later than December 1, 2007. Section 163.3177(3)(b)1, Florida Statutes, notes that "Amendments to implement this section must be adopted and transmitted no later than December 1, 2007." For example, a local government may decide to amend its Capital Improvements Element shortly after the new budget becomes effective in October. All subsequent updates should happen at the same time each year, but no later than 12 calendar months from the transmittal of the last update to the Capital Improvements Element. By law, this annual cycle must begin no later than December 1, 2007.

5. What will be the review criteria for Capital Improvement Elements pursuant to Chapter 163, Florida Statutes?

The Department's *Guide to the Annual Update of the Capital Improvements Element* provides a comprehensive overview of many issues pertinent to the Department's review of the Capital Improvements Element. Broadly speaking, the Department will evaluate the updated Capital Improvements Element and determine if it addresses the requirements of the law pertaining to completeness of the schedule, the adequacy of the supporting data and analysis, and whether or not the schedule is financially feasible. The definition of financial feasibility in Section 163.3164(32), Florida Statutes, provides the framework for the review criteria. It notes that sufficient revenues must comply with one of the following criteria:

- a. Currently available; or
- b. Will be available from committed funding sources for the first 3 years; or

- c. Will be available from committed or planned funding sources for years 4 and 5 of a five-year capital improvement schedule for financing capital improvements.

One reasonable approach a local government could employ to comply with this requirement is to provide projections of committed funding sources used to finance capital improvements. The revenue projections could be based on historical trends or other professionally accepted methodologies that demonstrate that adequate revenue is available to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the five-year schedule of capital improvements.

As described in more detail below, the Capital Improvements Element must also engage in planning for long-term infrastructure goals to meet the requirements to coordinate land use and infrastructure and to attain and maintain level-of-service standards. Capital improvements that are needed beyond the first five-years of the schedule of improvements in the Capital Improvements Element should be generally addressed through a long-range improvements strategy and included in the corresponding element from the comprehensive plan.

6. Will the Department's review of the Capital Improvements Element change?

Much of the new Capital Improvements Element related text adopted in 2005 was found previously in applicable Rules of the Florida Administrative Code. Due to the prior Florida Administrative Code requirements, there will not be many fundamentally new Capital Improvements Element requirements that were not previously found in the Florida Administrative Code. It's important to keep in mind that the Department of Community Affairs will be receiving annual Capital Improvement Element updates from over 470 local governments. It is not the Department's intention to delve into the details of local budgets or to seek unnecessary backup documentation. The Department is looking for a demonstration that the local government is meeting the statutory requirement to plan for and fund necessary infrastructure. There are a few basic things the Department will expect to see in its review of the five-year schedule of capital improvements in the Capital Improvements Element. First, revenues must be greater than or equal to expenditures. Second, projects must be moving through the five-years of the schedule of capital improvements and not linger at the out years. Third, the projection of revenues and the evaluation of which projects attain and maintain level-of-service must be based on a reasonable approach with realistic assumptions. Of course, the Capital Improvements Element must be consistent with the requirements established in Chapter 163, Florida Statutes, and in Rule 9J-5.016, Florida Administrative Code.

7. What is the "expedited" process for updating the Capital Improvements Element?

Section 163.3177(3)(b)2, Florida Statutes, notes that "Capital improvements element amendments adopted after the effective date of this act shall require only a single public hearing before the governing board which shall be an adoption hearing..." Furthermore, Section 163.3177(3)(b)1, Florida Statutes, distinguishes between

specified corrections and modifications, which can be done by ordinance, versus updates to the schedule of construction, which must be done by amendment to the local comprehensive plan.

8. Section 163.3177(3)(b)2, F.S., states that Capital Improvement Element amendments require only a single adoption public hearing. In addition, Section 163.3187(1)(f), F.S., states that amendments that change the schedule in the Capital Improvements Element, and any amendments directly related to the schedule may be made once in a calendar year on a date different from the two times per year requirement when necessary to coincide with the adoption of the local government's budget and capital improvements program. Would the exceptions provided by these provisions also apply to amendments to other elements?

The fiscal year for local governments extends from October 1 through September 30. It is unlikely that the deadlines associated with the adoption of the local government's annual budget will mirror either of the two standard comprehensive plan amendment cycles. In order for the statutory requirements to be achieved related to infrastructure planning in the Capital Improvement Element, it is imperative that local governments are able to adopt their annual Capital Improvements Element update shortly after the adoption of their annual budget. Accordingly, Section 163.3177(3)(b)2, F.S., and Section 163.3187(1)(f), F.S., are designed to facilitate both the statutory goals and local scheduling realities. They must therefore be read together. If the annual update to the CIE requires updates to other elements of the comprehensive plan, then in that event, the other elements may also be amended pursuant to the provisions of both Section 163.3177(3)(b)2, F.S., and Section 163.3187(1)(f), F.S. It is critical to emphasize that amendments to other elements of the comprehensive plan may **only** take advantage of the cited statutes if the annual update to the Capital Improvements Element is the amendment that causes the local government to have a need to amend a related element to maintain consistency with the Capital Improvements Element. Two examples will illustrate this point.

If a local government identifies a need to widen a road to achieve and maintain its levels of service and if that decision is made as part of its annual update to its Capital Improvements Element, the local government could also amend its Transportation Element to reflect the addition of the new lanes, thereby maintaining consistency between the two elements. Both amendments could take advantage of Section 163.3177(3)(b)2, F.S., and Section 163.3187(1)(f), F.S. On the other hand, if a property owner seeks a Future Land Use Map amendment which necessitates an amendment to the Capital Improvements Element, the CIE amendment should be processed with the Future Land Use Map amendment as part of the regular amendment cycle. In the former example, it was eligible to take advantage of the referenced statutes because it was directly related to the annual update to the CIE. In the later example, it was not eligible to take advantage of the referenced statutes because the principal amendment was the Future Land Use Map amendment for an individual development proposal.

### **C. PRIVATELY FUNDED PROJECTS**

9. Section 163.3177(3)(a)5 requires "a schedule of capital improvements which includes publicly funded projects, and which may include privately funded projects for which the local government has no fiscal responsibility, necessary to ensure that adopted level-of-service standards are achieved and maintained." Is the requirement to include privately funded projects mandatory or voluntary, or is it mandatory only if the privately funded projects are needed to achieve and maintain adopted LOS standards?

To the extent that privately funded improvements are being relied on to meet level-of-service standards and meet the test of concurrency, they must be reflected in the capital improvements schedule. However, onsite water and sewer facilities like package plants which will be built, owned and operated by the developer, onsite drainage facilities serving only the development itself, onsite roads intended solely for future residents and not part of the transportation network shown on the future transportation map, do not need to be shown in the capital improvements schedule.

10. Please clarify how most local governments deal with the requirement in Section 163.3177(3)(a)5 regarding privately funded projects in the case of private water and sewer suppliers? If the requirement is mandatory, what should a local government do if the private water and sewer supplier refuses to provide a schedule of capital improvements, or refuses to provide any data and analysis demonstrating compliance with the local government's adopted level-of-service standards?

This question is partially addressed in the answer to question 9 above. However, if a private utility company will provide the water and sewer services for a development, the company should provide information satisfactory to the local government that the capacity and ability of the company is sufficient to meet adopted levels of service standards. A local government may also turn to the Public Service Commission as a source of information. It is not necessary for the local government to adopt the capital improvement plan of the private utility provider.

### **D. FINANCIAL FEASIBILITY IN THE FIVE-YEAR CAPITAL IMPROVEMENTS SCHEDULE**

11. Does the test of financial feasibility apply to the overall five-year schedule in the Capital Improvements Element or does it apply to each individual year?

The definition of financial feasibility provides that revenues must be adequate "...to ensure that adopted level-of-service standards are achieved and maintained *within* the period covered by the five-year schedule of capital improvements." [Italics added.] "Within" indicates that the level-of-service is achieved at some point during the five-year period. Therefore, at a minimum, financial feasibility of the Capital Improvement Element's five-year schedule of capital improvements must be demonstrated within, but no later than the conclusion of the five-year period. The analysis which documents available and projected capacity needs to occur annually during the regular update of the five-year schedule of capital improvements.

12. If a local government opts for a long-term concurrency management system, does the test of financial feasibility apply to the overall 10 or 1 five-year schedule, or does it apply to both the first five-years and the long-term schedule?

At a minimum, financial feasibility must be demonstrated no later than the conclusion of the long-term schedule. However, it should be demonstrated that progress is being made over the course of the long-term planning period toward achieving the level-of-service standard, and at a minimum it must be achieved no later than the end of the long-term schedule. Financial feasibility still applies to the first five-years in as much as funding for the first three must be committed and funding for years four and five must be planned. The long-term concurrency management system pushes out the date by which a local government must "achieve and maintain" the adopted level-of-service standard.

13. What tools are available to a local government as it works to achieve financial feasibility? Are the options limited to only increasing revenues or reducing expenditures?

Increasing revenues or reducing expenditures are definitely **not** the only options available to cities and counties to achieve the financial feasibility test. Local governments have a variety of tools that they can utilize to respond to a proposed amendment to their Future Land Use Map in their Comprehensive Plan. Any amendment to the Comprehensive Plan must maintain the financial feasibility of the Plan. If a proposed Future Land Use Map amendment would result in a new demand for capital infrastructure facilities, a local government has several options if it would otherwise want to approve the change:

- Seek additional revenue sources to pay for needed infrastructure; or
- Reprioritize existing projects, while maintaining level-of-service commitments; or
- Adopt a long-term concurrency management system; or
- Add policies to the Comprehensive Plan that explain how the local government intends to solve the long-term need created by the proposed amendment beyond the five-year schedule; or
- Enter into an enforceable development agreement with the developer for capital improvements that will be funded by the developer; or
- Revise the adopted level-of-service standard.

14. Why does the requirement that level-of-service standards be achieved and maintained not apply if the proportionate-share and proportionate fair-share processes in Section 163.3180(12) and (16), Florida Statutes, are used?

The reference to proportionate-share and proportionate fair-share applies only to transportation concurrency. As detailed in Section 163.3180(16)(b)1, Florida Statutes, "A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified

for funding in the five-year schedule of capital improvements in the capital improvements element of the local plan, or the long-term concurrency management system, or if such contributions or payments to such facilities or segments are reflected in the five-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element." The definition of financial feasibility acknowledges that when this option is exercised, the level-of-service standard for the facility in question will not be met until the scheduled improvement is completed. It should be noted that a different proportionate share provision of the legislation applies to schools and can be found in Section 163.3180(13)(e), Florida Statutes.

15. What does "committed" versus "planned" revenue mean?

Committed funding means funding based on expected revenues from an existing revenue source, versus planned revenue, which relies on a source that is not currently available to the local government. The definition of "financial feasibility" in Section 163.3164(32), Florida Statutes, distinguishes between "currently available," "committed," and "planned" funding sources. First, Rule 9J-5.003(29), Florida Administrative Code, notes that a currently available revenue source is "...an existing source and amount of revenue presently available to the local government. It does not include a local government's intent to increase the future level or amount of a revenue source which is contingent on ratification by public referendum." Second, the text of the financial feasibility definition notes that a committed funding source is one which is available as part of a five-year capital improvement schedule for financing capital improvements and could include "...ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions." Finally, Section 163.3177(3)(a)5, Florida Statutes, states that a planned revenue source is one which requires "...referenda or other actions to secure the revenue source."

16. What will happen if a local government fails to meet the December 1, 2007 deadline for meeting the financial feasibility and Capital Improvement Element requirements?

Per Section 163.3177(3)(b)1, Florida Statutes, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments pursuant to Section 163.3187(1)(a), Florida Statutes, until it has adopted the annual update and it has been transmitted to the Department of Community Affairs. Section 163.3177(3)(c), Florida Statutes, also notes that failure to comply with these requirements will lead to referral to the Governor and Cabinet which may impose sanctions.

17. Do all the projects listed in a 10 or 1 five-year long-term concurrency management system have to be financially feasible or does the financial feasibility criteria only apply to the first five-year list of projects?

As noted in Section 163.3177(3)(d), Florida Statutes, "If a local government adopts a long-term concurrency management system pursuant to s. 163.3180(9), it must also adopt a long-term capital improvements schedule covering up to a 10-year or 1 five-

year period, and must update the long-term schedule annually. The long-term schedule of capital improvements must be financially feasible."

18. What is the difference between the financial feasibility test and the concurrency test, and when do they each apply to new development?

The development process typically evolves from a rather general land use approval on the Future Land Use Map (e.g., residential, commercial, or institutional at a specified maximum density and/or intensity), to a more focused density or intensity (e.g., RD-4 versus Residential), to a very specific application for a development permit (e.g., 100 single family units). The State's growth management laws create a financial feasibility test and a concurrency test. The financial feasibility test applies to the five-year schedule of capital improvements in the Capital Improvements Element. The concurrency test applies to applications for development permits. The requirements at each stage in the development process are discussed below.

- a. Future Land Use Map Amendment – The financial feasibility test applies to a proposed Future Land Use Map amendment, to the extent that it impacts the five-year schedule of capital improvements in the Capital Improvements Element. It must be demonstrated that, if the amendment is adopted, that the five-year schedule remains financially feasible. This would include a demonstration that the needed infrastructure will be provided consistent with the concurrency requirements of Chapter 163 at the time development is anticipated to occur.
  - b. Rezoning – The financial feasibility test does not apply to a local government rezoning. However, some local governments apply transportation concurrency at this stage.
  - c. Building Permit – The concurrency test, on the other hand, applies when the specific application for a development permit is requested. If the concurrency test fails, proportionate fair-share may be available to address the failure in concurrency. Proper planning should minimize concurrency problems for future development to the greatest extent possible.
19. What must a proposed Comprehensive Plan amendment do to demonstrate that its capital infrastructure needs will be met for impacts that will occur within the five-year schedule of the Capital Improvements Element?

Section 163.3177(3)(a)5, Florida Statutes, provides guidance regarding impacts from new development proposals occurring within the five-year schedule. It states that "...For capital improvements that will be funded by the developer, financial feasibility shall be demonstrated by being guaranteed in an enforceable development agreement or interlocal agreement pursuant to paragraph (10)(h), or other enforceable agreement. These development agreements and interlocal agreements shall be reflected in the schedule of capital improvements if the capital improvement is necessary to serve development within the five-year schedule."

The enforceable agreement must be executed prior to approving an amendment to a local government's Future Land Use Element. It is a means by which internal consistency is assured between the Capital Improvements Element and the Future Land Use Element. It is also a means by which local governments demonstrate that level-of-service standards will continue to be attained and maintained. Note that the requirement for an enforceable development agreement does not require right-of-way dedications or developer funding contributions to occur at the comprehensive plan amendment stage.

The requirement for an enforceable development agreement leads to another issue. The size and scope of needed infrastructure determines its cost. However, the precise build out density and/or intensity of a particular project may not be known at the comprehensive plan amendment stage. Given that reality, the cost component of the financial feasibility test should be based upon the maximum development potential of a particular project.

If the project which is the subject of the enforceable development agreement is anticipated to have long-term impacts beyond the initial five-year schedule, those impacts may be phased such that the enforceable development agreement only addresses the impacts which will occur in the first five-years.

20. Given that financial feasibility is only evaluated over a five-year time period (except in the case of a long-term concurrency management system), what does the Department expect to see in the Capital Improvement Element for a local government that accepted proportionate fair-share to be able to utilize the last sentence of section 163.3184(16)(b)1, Florida Statutes? Do you have examples from any of the pilot communities as to how they handled proportionate fair-share in their Capital Improvement Element? How are most local governments estimating future proportionate share payments as a revenue source?

The Department is examining proportionate fair-share and recognizes that careful deliberation is needed. Further details will be forthcoming in the future regarding this matter as operational experience is gained.

#### **E. INFRASTRUCTURE PLANNING BEYOND THE FIVE-YEAR SCHEDULE OF CAPITAL IMPROVEMENTS**

21. What must a proposed Comprehensive Plan amendment do to demonstrate that its capital infrastructure needs will be met for impacts that will occur beyond the five-year schedule of the Capital Improvements Element?

Demand for capital planning beyond the Capital Improvement Element's five-year schedule may be created from either new growth through proposed amendments to a local government's Future Land Use Map or from land use entitlements on the existing map that are already approved. Each type of demand is summarized below.

- a. Proposed Amendments to Future Land Use Map – Local governments will occasionally receive applications for future land use map amendments for proposed developments which, due to their size or intensity, are planned to be built out over an extended period. For example, a local government may intend to approve a large map amendment for a planned development that will be developed in phases over twelve years. This development will have infrastructure impacts over this entire build-out, some of which will occur outside the five-years covered by the adopted schedule. In such an instance, the local government will need to explain in the Capital Improvements Element how the infrastructure impacts for all twelve years will be addressed, including the seven years that are beyond the schedule.
- b. Existing Entitlements on Future Land Use Map – Additionally, a local government may come to the conclusion that long-term infrastructure deficiencies will occur based on development under the currently-adopted future land use map without any further amendments. Just as when a particular map amendment is projected to cause long-term deficiencies, the local government will have to address these projected deficiencies in the Capital Improvements Element.

Planning for these long-term needs differs from the adoption of the five-year Schedule in several ways. Perhaps most importantly, the definition of "financial feasibility" in Section 163.3164(32), Florida Statutes, applies only to the schedule and not to long-term planning in the Capital Improvements Element. The long-term planning strategies in the Capital Improvements Element must contain programs and activities for the elimination of existing capacity deficits (Rule 9J-5.016(3)(c)1b, Florida Administrative Code), but need not be accompanied by a demonstration that funding for projected needs is currently available or is available from planned funding sources, as is necessary for the schedule. Rather, these strategies should be embodied in policies that, as with others in the comprehensive plan, spell out "the way in which programs and activities are conducted to achieve an identified goal." Rule 9J-5.003(90), Florida Administrative Code.

As their goal is to correct projected deficiencies, the policies should set forth the programs the local government intends to pursue to address these needs. For instance, the local government may plan for mass and multi-modal transit as part of its strategy to address transportation facility deficiencies. A local government may also plan for new funding sources to expand capital facilities, or may pursue conservation measures to lessen the demand on facilities such as water and sewer.

Capital improvements that are needed beyond the next five-years should also be reflected in the corresponding element from the comprehensive plan. The capital improvements element must demonstrate the local government's ability to provide or require provision of the needed improvements identified in the other elements of the plan beyond the next five-years through the long-term planning strategies described above. The future infrastructure maps should also be amended to reflect all capital improvements for both the short and long-range.

The policies and strategies that address capital planning beyond the five-year schedule should demonstrate long-term progress in addressing and correcting existing deficiencies over time, such as through the prioritization of projects, seeking

alternative funding sources, re-evaluation of the level-of-service standards, and similar measures. If a new Future Land Use Map amendment is adopted and results in additional improvements being needed in the long-term to provide adequate public facilities to support development under the amendment, these specific projects should be included as part of the long-range strategy.

22. Are local governments required to use fiscal modeling software to measure progress in achieving their long-term infrastructure planning goals?

No. It is completely up to local governments to decide whether to use fiscal modeling software.

23. What is the difference between financial feasibility as it applies to the five-year schedule of improvements in the Capital Improvements Element, versus long-term infrastructure planning that addresses the planning period defined by the local Comprehensive Plan?

Financial feasibility applies only to the first five-years and is demonstrated in the five-year schedule of the Capital Improvements Element by showing that revenues by year at least equal expenditures by year. This test of financial feasibility must occur annually with the update of each local government's Capital Improvements Element.

In contrast, long-term infrastructure planning must also be demonstrated in the Comprehensive Plan. Can the local government pay for the roads, water supply, sewer systems, parks, stormwater systems, and schools that will be required by the land uses that it designates on its Future Land Use Map? The Comprehensive Plan must address existing deficiencies and prevent new ones from occurring over the life of the plan.

A fiscally responsible Comprehensive Plan requires several components that should fit together like the pieces of a puzzle. Each component is described below.

- a. *Coordination in the Local Comprehensive Plan.* Local governments must plan sufficient infrastructure to support the land uses in their Future Land Use Element, as identified through the infrastructure elements of their Comprehensive Plan.
- b. *Financial Feasibility.* State law requires that the five-year schedule of capital improvements be "financially feasible". Financial feasibility means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a five-year capital improvement schedule for financing capital improvements.
- c. *What about Deficiencies?* If the annual update to the Capital Improvements Element demonstrates that existing infrastructure deficiencies cannot be fully addressed in the five-year schedule, the local government must adopt either a long-term concurrency management system or planning strategies in the Capital

Improvements Element to address these deficiencies. The key is that the local government must show it is making reasonable progress towards eliminating the deficiencies.

24. When considering a large project that will have impacts beyond the five-year schedule in the Capital Improvements Element, what is the Department of Community Affairs interested in?

Let's assume that your local government intends to approve a large, planned development that will have infrastructure needs that become necessary over a 12-year period as the project is built out. Since the land uses associated with that development will be approved on the Future Land Use Map, the local government needs to explain how the infrastructure for all 12 years will be addressed. This could be achieved by an extended schedule of capital improvements in the Capital Improvements Element, or through policies that explain how they intend to address years 6 through 12. Phasing of development may be used to ensure coordination of development with infrastructure.

25. How should a local government address a Strategic Intermodal System roadway for which there are no planned improvements in the next 5, 10 or 1 five-year period that will achieve the adopted LOS, and which likely will not qualify for a concurrency exception or alternative concurrency tool?

Local governments are required to base the Future Land Use Map on the availability of public facilities, including roads, and therefore must demonstrate that the adopted levels of service will be attained and maintained for all concurrency related facilities. If due to financial constraints a local government is unable to fund specific infrastructure improvements to achieve the level-of-service, it must still examine the other options.

26. Is there some minimum requirement for funding from a future planned toll facility to be considered "planned" revenue in a long-term concurrency system? In other words, must the Florida Turnpike Enterprise have the road in their 10-Year Finance Plan or 20-Year Cost Feasible Plan for the toll revenue to be considered "planned"? Or is adoption of the facility into the MPO Long-range Plan or Comprehensive Plan Transportation Element sufficient?

A toll revenue that met any of the descriptions referenced above would likely be considered "planned" if it is intended to be utilized after the first 3 years of the schedule. Note the distinction between committed versus planned revenues. Committed funding means funding based on expected revenues from an existing revenue source, versus planned revenue, which require future actions to secure the revenue source.

## **F. EXISTING DEFICIENCIES**

### 27. Who is responsible for ensuring that existing infrastructure deficiencies are addressed?

The responsibility for developing a plan to address existing and projected deficiencies rests with local governments and must be addressed in each jurisdiction's Capital Improvements Element. There are a variety of strategies and tools available to local governments to address existing deficiencies.

Local governments must include such strategies and tools in their Comprehensive Plans that explain how it will address the deficiencies and achieve and maintain adopted level-of-service standards. New development is only responsible for the infrastructure required to serve the demand generated by that new development, as established by local government impact fee ordinances, concurrency management systems, and the like. It is the local government's responsibility to address projected infrastructure needs as a result of any change to the plan. A temporary loss of capacity when needed infrastructure is not available is the "back-stop" of concurrency and generally indicates a failure in the local planning process. Therefore, the goal is to avoid such a situation through effective planning.

### 28. What must be done to adequately address deficiencies?

The Capital Improvements Element must include a five-year schedule with capital improvements that are designed to achieve and maintain each community's adopted level-of-service standards. This schedule should reflect the local government's efforts to address existing deficiencies. If the annual update to the Capital Improvements Element demonstrates that existing infrastructure deficiencies cannot be fully addressed in the five-year schedule, the local government must adopt either a long-term concurrency management system, a 10 or 1 five-year schedule of improvements, policies in the Comprehensive Plan, or similar strategies that explain how the local government intends to solve the long-term need over the planning timeframe. The key is that the local government must show it is making progress and will ultimately eliminate existing deficiencies.

### 29. When must existing infrastructure deficiencies be addressed?

The creation of a plan to address infrastructure deficiencies is the responsibility of local governments and must be addressed by local governments on an ongoing basis through the annual update of their Capital Improvements Element. The strategy to address existing deficiencies should be ongoing and encompass the long-range planning time frame of the Comprehensive Plan.

### 30. Is the five-year schedule in the Capital Improvements Element required to include all projects necessary to serve the needs of both new development and existing deficiencies?

The Capital Improvements Element must include a five-year schedule containing any capital improvements, which are aimed at achieving and maintaining each community's adopted levels of service. This schedule should reflect the local government's best effort to address all existing deficiencies. The comprehensive plan must make progress towards addressing remaining deficiencies and showing over time that the situation is improving. Possible methods to demonstrate progress over the longer time-frame might include a 10 or 1 five-year schedule of improvements, or policies in the Comprehensive Plan that explain how the local government intends to solve the long-term need.

DESCRIPTION	GENERAL FUND	CITY PARK	CITY ROAD IMPROVEMENT FUND	CAPITAL PROJECTS FUND	CDBG FUND	TRUST FUNDS	WATER & SEWER	PENSION	TOTAL BEFORE COMPONENT UNIT	TRUST FUND	TOTAL
CASH BALANCES BROUGHT FORWARD											
ESTIMATED REVENUES:											
TAXES:											
AD-VALOREM MILLAGE PER \$1000 -											
AD-VALOREM Delinquent Taxes											
SALES AND USE TAXES											
FRANCHISE FEES											
UTILITY SERVICE TAXES											
COMMUNICATIONS SERVICE TAX											
LICENSES AND PERMITS											
GRANTS											
STATE SHARED REVENUES											
CHARGES FOR SERVICES											
FINES AND FORFEITURES											
INTEREST EARNINGS											
RENTS & ROYALTIES											
SPECIAL ASSESSMENTS/IMPACT FEES											
CONTRIBUTIONS/DONATIONS											
SALE OF FIXED ASSETS											
PENSION CONTRIBUTIONS											
MISCELLANEOUS REVENUES											
DEBT PROCEEDS											
OPERATING TRANSFERS - IN											
TOTAL REVENUES AND OTHER FINANCING SOURCES											
TOTAL ESTIMATED REVENUES AND BALANCES											
EXPENDITURES/EXPENSES:											
GENERAL GOVERNMENTAL SER											
PUBLIC SAFETY											
PHYSICAL ENVIRONMENT											
TRANSPORTATION											
ECONOMIC ENVIRONMENT											
CULTURE & RECREATION											
DEBT SERVICES											
OPERATING TRANSFERS - OUT											
TOTAL EXPENDITURES/EXPENSES											
RESERVES											
TOTAL APPROPRIATED EXPENDITURES AND RESERVES											

Table-1. 5-Year Schedule of Capital Improvements and Fiscal Feasibility Assessment

Funding Source	Notes	Budget Year				
		2007	2008	2009	2010	2011
A. Interest						
B. Transfer from General Fund						
C. Debt Proceeds		100,000	100,000	100,000	100,000	100,000
D. Grants						
E. Contributions		2,000				12,000
F. Fees		10,000	10,000	10,000	10,000	10,000
G. Carry Forward/Reserves			97,000			80,000
<b>Capital Projects (Items by Category and Type):</b>		<b>112,000</b>	<b>412,000</b>	<b>115,000</b>	<b>115,000</b>	<b>305,000</b>
1. Wireless Infrastructure		15,000	10,000			
2. Sidewalk Improvements			25,000	25,000	35,000	25,000
3. Sanitary Sewer Extension (Trunk Line--8th Ave.)			270,000			160,000
4. Intersection Improvement (Main St. and Forth Ave.)						160,000
5. Main Street Streetscaping			107,000	90,000		60,000
<b>(TOTAL)</b>		<b>112,000</b>	<b>412,000</b>	<b>115,000</b>	<b>115,000</b>	<b>305,000</b>
<b>(TOTAL)</b>		<b>15,000</b>	<b>412,000</b>	<b>115,000</b>	<b>35,000</b>	<b>245,000</b>
<b>EXPENDITURE</b>		<b>15,000</b>	<b>412,000</b>	<b>115,000</b>	<b>35,000</b>	<b>245,000</b>
<b>BALANCE</b>		<b>97,000</b>	<b>0</b>	<b>0</b>	<b>80,000</b>	<b>60,000</b>
						<b>0</b>

## SAMPLE CAPITAL PROJECT REQUEST FORM

PROJECT NAME	
PROJECT ACCOUNT NUMBER	
DATE PREPARED	
CONTACT PERSON	
REQUESTING DEPARTMENT	
COMPREHENSIVE PLAN REFERENCE	
<b>PROJECT DESCRIPTION:</b>	

LOS-Facility? (Y/N)	EXPLAIN HOW THIS PROJECT ADDRESSES AN EXISTING OR FUTURE LEVEL OF SERVICE DEFICIENCY OR IMPLEMENTS GOALS OF THE COMPREHENSIVE PLAN:

ESTIMATED PROJECT COST	FY 07/08 AMOUNT	FY 08/09 AMOUNT	FY 09/10 AMOUNT	FY 10/11 AMOUNT	FY 11/12 AMOUNT	YEARS 6-10
LAND ACQUISITION						
PROFESSIONAL SERVICES						
a) PRE-DESIGN						
b) DESIGN						
c) ENGINEERING						
d) OTHER						
TOTAL PROF.SERVICES						
CONSTRUCTION						
CONSTRUCTION MGMT.						
OTHER						
MAINTENANCE						
<b>TOTAL</b>	-	-	-	-	-	-

**COMMENTS:**

**Capital Improvements Element Balance Sheet**

Community Name: Fiscal Year: Infrastructure Category: <i>(e.g. roads, drainage, potable water, etc.):</i> ROADS	2006/2007		2007/2008		2008/2009		2009/2010		2010/2011	
	Committed Funds	Planned Funds								
<b>REVENUE</b>										
General/Special/Debt Funds	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$50.00	\$50.00	\$50.00	\$50.00
New Debt Borrowings/Bonds	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00
Impact Fees and Developer \$	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$0.00	\$0.00	\$0.00	\$0.00
All Other Revenue	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00	\$0.00	\$0.00	\$0.00	\$300.00
Grants	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
New Revenue Requiring Voter Approval	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$150.00	\$0.00	\$150.00
<b>Planned + Committed (Years 4 &amp; 5 Only)</b>							\$500.00	\$500.00	\$500.00	\$500.00
<b>Revenues Total</b>	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
<b>EXPENDITURES</b>										
Project Name: Main Street widening	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00
Project Name: Subdivision traffic calming	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
Project Name: Bridge replacement	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
<b>Expenditures Total</b>	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
<b>BALANCE</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Capital Improvements Element Bond Revenue Summary

Community Name:

Fiscal Year:

Type of Bond	Planned or Committed?	Date Issued	Project Name	Description	Bond Revenue by Year				
					2007/2008	2008/2009	2009/2010	2010/2011	2011/2012
General Obligation	Committed	April 28, 2006	Central Park Acquisition	Bond issued to fund acquisition of 20 acres of new County parkland. This acquisition will maintain LOS standard 'C'.	\$2,000,000	\$0	\$0	\$0	\$0
Proposed General Obligation	Planned	Estimated issue September 1, 2009	Main Street widening	Bond to be issued to widen Main Street from 2 lanes to 4 lanes between 1st St. and 2nd St. This project will maintain LOS standard 'D'.	\$0	\$0	\$0	\$7,000,000	\$0
Proposed General Obligation	Planned	Estimated issue October 1, 2009	Sewage Plant expansion	Bond to be issued to increase sewage treatment capacity	\$0	\$0	\$0	\$3,000,000	\$0
<b>TOTAL BOND REVENUE</b>					<b>\$2,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$10,000,000</b>	<b>\$0</b>





**Capital Improvements Element Best Practices Checklist**

**Community Name:**

**Fiscal Year:**

<b>Instructions:</b> Place a checkmark in the box next to each item to verify that the following steps were taken in the CIE update process	<b>Date Completed</b>	√
The CIE update process has been coordinated with the annual Budget and Capital Improvements Program update process		<input type="checkbox"/>
A CIE Update Training Manual was distributed to departments that request new capital facility projects		<input type="checkbox"/>
Staff from Planning, Budgeting, Public Works and other key staff participated in an internal CIE coordination workshop		<input type="checkbox"/>
The local government held coordination workshops with external agencies (FDOT, WMD, MPO, etc) regarding capital projects in its jurisdiction		<input type="checkbox"/>
A growth and development report was created to monitor annual growth, capacity, and adopted LOS standards		<input type="checkbox"/>
Capital Improvement Project Request Sheets were prepared and distributed to departments. Detailed cost estimates are provided		<input type="checkbox"/>
A Weighted Ranking System was used to prioritize projects in the 5-Year Schedule of Capital Improvements		<input type="checkbox"/>
Strategies to develop unfunded projects with low priorities in the 5-Year Schedule of Capital Improvements have been identified		<input type="checkbox"/>
FDOT and Local MPO 5-Year Schedule of Capital Improvements adopted by reference		<input type="checkbox"/>
Local School District 5-Year District Facilities Work Plan adopted by reference		<input type="checkbox"/>
The local comprehensive plan and concurrency management system are consistent with the implementation of proportionate fair-share, as codified in the locally adopted ordinance		<input type="checkbox"/>
An internal coordination procedure to record the approval of de minimis impacts has been utilized (if de minimis impacts are allowed)		<input type="checkbox"/>
Long-term planning strategies and policies to address long-term infrastructure needs outside of the 5-Year Schedule of Capital Improvements have been adopted		<input type="checkbox"/>
A Balance Sheet approach was used to demonstrate financial feasibility (Committed Funds in Yrs.1-3, Planned Funds in Yrs. 4-5 only)		<input type="checkbox"/>
Bond Revenue Summary Chart included (if applicable)		<input type="checkbox"/>
Private Funding of Public Facilities Summary Chart included (if applicable)		<input type="checkbox"/>
The CIE was adopted as an Amendment to the Comprehensive Plan		<input type="checkbox"/>

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Distribute Capital Project Request Forms												
Departments submit CIP project request forms to Planning and Budgeting												
Coordination workshop for Planning, Budgeting, Public Works, etc.												
External coordination with agencies (FDOT, MPO, school district, WMD, etc).												
Planning and Budgeting Staff review existing CIE to prioritize projects for new CIP and budget												
Prioritize projects in 5-Year Schedule of Capital Improvements												
Review and Update Existing CIE												
Adopt FDOT and MPO Transportation Capital Improvements by reference												
Budget Hearing for Local Planning Agency												
First Reading of proposed Budget at Local Government public hearing												
Adjustments to Budget by Staff												
Adopt local School District 5-Year District Facilities Work Plan by reference												
Final Budget is adopted at Local Government public hearing												
Adjustments made to CIE to account for Budget/CIP modifications												
Updated CIE is adopted at a single public hearing												
Adopted CIE is submitted to DCA no later than December 1												