

CHAPTER 163

INTERGOVERNMENTAL PROGRAMS

PART I MISCELLANEOUS PROGRAMS (ss. 163.01-163.08)

PART II GROWTH POLICY; COUNTY AND MUNICIPAL PLANNING; LAND DEVELOPMENT
REGULATION (ss. 163.2511-163.3253)

PART III COMMUNITY REDEVELOPMENT (ss. 163.330-163.463)

PART IV NEIGHBORHOOD IMPROVEMENT DISTRICTS (ss. 163.501-163.526)

PART V REGIONAL TRANSPORTATION AUTHORITIES (ss. 163.565-163.572)

PART VI COLLABORATIVE CLIENT INFORMATION SYSTEMS (ss. 163.61-163.65)

PART I

MISCELLANEOUS PROGRAMS

- 163.01 Florida Interlocal Cooperation Act of 1969.
- 163.02 Councils of local public officials.
- 163.04 Energy devices based on renewable resources.
- 163.05 Small County Technical Assistance Program.
- 163.055 Local Government Financial Technical Assistance Program.
- 163.06 Miami River Commission.
- 163.061 Miami River Commission; unanimous vote required for certain acts.
- 163.065 Miami River Improvement Act.
- 163.08 Supplemental authority for improvements to real property.

163.01 Florida Interlocal Cooperation Act of 1969.—

(1) This section shall be known and may be cited as the "Florida Interlocal Cooperation Act of 1969."

(2) It is the purpose of this section to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

(3) As used in this section:

(a) "Interlocal agreement" means an agreement entered into pursuant to this section.

(b) "Public agency" means a political subdivision, agency, or officer of this state or of any state of the United States, including, but not limited to, state government, county, city, school district, single and multipurpose special district, single and multipurpose public authority, metropolitan or consolidated government, a separate legal entity or administrative entity created under subsection (7), an independently elected county officer, any agency of the United States

Government, a federally recognized Native American tribe, and any similar entity of any other state of the United States.

(c) "State" means a state of the United States.

(d) "Electric project" means:

1. Any plant, works, system, facilities, and real property and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, which is located within or without the state and which is used or useful in the generation, production, transmission, purchase, sale, exchange, or interchange of electric capacity and energy, including facilities and property for the acquisition, extraction, conversion, transportation, storage, reprocessing, or disposal of fuel and other materials of any kind for any such purposes.

2. Any interest in, or right to, the use, services, output, or capacity of any such plant, works, system, or facilities.

3. Any study to determine the feasibility or costs of any of the foregoing, including, but not limited to, engineering, legal, financial, and other services necessary or appropriate to determine the legality and financial and engineering feasibility of any project referred to in subparagraph 1. or subparagraph 2.

(e) "Person" means:

1. Any natural person;

2. The United States; any state; any municipality, political subdivision, or municipal corporation created by or pursuant to the laws of the United States or any state; or any board, corporation, or other entity or body declared by or pursuant to the laws of the United States or any state to be a department, agency, or instrumentality thereof;

3. Any corporation, not-for-profit corporation, firm, partnership, cooperative association, electric cooperative, or business trust of any nature whatsoever which is organized and existing under the laws of the United States or any state; or

4. Any foreign country; any political subdivision or governmental unit of a foreign country; or any corporation, not-for-profit corporation, firm, partnership, cooperative association, electric cooperative, or business trust of any nature whatsoever which is organized and

existing under the laws of a foreign country or of a political subdivision or governmental unit thereof.

(f) "Electric utility" has the same meaning as in s. 361.11(2). The term also includes those municipalities, authorities, commissions, special districts, or other public bodies that own, maintain, or operate an electrical generation, transmission, or distribution system within the state on June 25, 2008.

(g) "Foreign public utility" means any person whose principal location or principal place of business is not located within this state; who owns, maintains, or operates facilities for the generation, transmission, or distribution of electrical energy; and who supplies electricity to retail or wholesale customers, or both, on a continuous, reliable, and dependable basis. "Foreign public utility" also means any affiliate or subsidiary of such person, the business of which is limited to the generation or transmission, or both, of electrical energy and activities reasonably incidental thereto.

(h) "Local government liability pool" means a reciprocal insurer as defined in s. 629.021 or any self-insurance program created pursuant to s. 768.28(16), formed and controlled by counties or municipalities of this state to provide liability insurance coverage for counties, municipalities, or other public agencies of this state, which pool may contract with other parties for the purpose of providing claims administration, processing, accounting, and other administrative facilities.

(4) A public agency of this state may exercise jointly with any other public agency of the state, of any other state, or of the United States Government any power, privilege, or authority which such agencies share in common and which each might exercise separately.

(5) A joint exercise of power pursuant to this section shall be made by contract in the form of an interlocal agreement, which may provide for:

(a) The purpose of such interlocal agreement or the power to be exercised and the method by which the purpose will be accomplished or the manner in which the power will be exercised.

(b) The duration of the interlocal agreement and the method by which it may be rescinded or terminated by any participating public agency prior to the stated date of termination.

(c) The precise organization, composition, and nature of any separate legal or administrative entity created thereby with the powers designated thereto, if such entity may be legally created.

(d) The manner in which the parties to an interlocal agreement will provide from their treasuries the financial support for the purpose set forth in the interlocal agreement; payments of public funds that may be made to defray the cost of such purpose; advances of public funds that may be made for the purposes set forth in the interlocal agreements and repayment thereof; and the personnel, equipment, or property of one or more of the parties to the agreement that may be used in lieu of other contributions or advances.

(e) The manner in which funds may be paid to and disbursed by any separate legal or administrative entity created pursuant to the interlocal agreement.

(f) A method or formula for equitably providing for and allocating and financing the capital and operating

costs, including payments to reserve funds authorized by law and payments of principal and interest on obligations. The method or formula shall be established by the participating parties to the interlocal agreement on a ratio of full valuation of real property, on the basis of the amount of services rendered or to be rendered or benefits received or conferred or to be received or conferred, or on any other equitable basis, including the levying of taxes or assessments to pay such costs on the entire area serviced by the parties to the interlocal agreement, subject to such limitations as may be contained in the constitution and statutes of this state.

(g) The manner of employing, engaging, compensating, transferring, or discharging necessary personnel, subject to the provisions of applicable civil service and merit systems.

(h) The fixing and collecting of charges, rates, rents, or fees, where appropriate, and the making and promulgation of necessary rules and regulations and their enforcement by or with the assistance of the participating parties to the interlocal agreement.

(i) The manner in which purchases shall be made and contracts entered into.

(j) The acquisition, ownership, custody, operation, maintenance, lease, or sale of real or personal property.

(k) The disposition, diversion, or distribution of any property acquired through the execution of such interlocal agreement.

(l) The manner in which, after the completion of the purpose of the interlocal agreement, any surplus money shall be returned in proportion to the contributions made by the participating parties.

(m) The acceptance of gifts, grants, assistance funds, or bequests.

(n) The making of claims for federal or state aid payable to the individual or several participants on account of the execution of the interlocal agreement.

(o) The manner of responding for any liabilities that might be incurred through performance of the interlocal agreement and insuring against any such liability.

(p) The adjudication of disputes or disagreements, the effects of failure of participating parties to pay their shares of the costs and expenses, and the rights of the other participants in such cases.

(q) The manner in which strict accountability of all funds shall be provided for and the manner in which reports, including an annual independent audit, of all receipts and disbursements shall be prepared and presented to each participating party to the interlocal agreement.

(r) Any other necessary and proper matters agreed upon by the participating public agencies.

(6) An interlocal agreement may provide for one or more parties to the agreement to administer or execute the agreement. One or more parties to the agreement may agree to provide all or a part of the services set forth in the agreement in the manner provided in the agreement. The parties may provide for the mutual exchange of services without payment of any contribution other than such services. The parties may provide for the use or maintenance of facilities or equipment of another party on a cost-reimbursement basis.

(7)(a) An interlocal agreement may provide for a separate legal or administrative entity to administer or execute the agreement, which may be a commission, board, or council constituted pursuant to the agreement.

(b) A separate legal or administrative entity created by an interlocal agreement shall possess the common power specified in the agreement and may exercise it in the manner or according to the method provided in the agreement. The entity may, in addition to its other powers, be authorized in its own name to make and enter into contracts; to employ agencies or employees; to acquire, construct, manage, maintain, or operate buildings, works, or improvements; to acquire, hold, or dispose of property; and to incur debts, liabilities, or obligations which do not constitute the debts, liabilities, or obligations of any of the parties to the agreement.

(c) No separate legal or administrative entity created by an interlocal agreement shall possess the power or authority to levy any type of tax within the boundaries of any governmental unit participating in the interlocal agreement, to issue any type of bond in its own name, or in any way to obligate financially a governmental unit participating in the interlocal agreement. However, any separate legal entity, the membership of which consists only of electric utilities as defined in s. 361.11(2) and which is created for the purpose of exercising the powers granted by part II of chapter 361, the Joint Power Act, may, for the purpose of financing or refinancing the costs of an electric project, exercise all powers in connection with the authorization, issuance, and sale of bonds as are conferred by parts I, II, and III of chapter 159 or part II of chapter 166, or both. Any such entity may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. All of the privileges, benefits, powers, and terms of parts I, II, and III of chapter 159 and part II of chapter 166, notwithstanding any limitations provided above, shall be fully applicable to such entity. In addition, the governing body of such legal entity may also authorize bonds to be issued and sold from time to time and delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity shall select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates on such bonds shall be within the limits prescribed by the governing body of such legal entity in its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Bonds issued pursuant to this section may be validated as provided in chapter 75 and paragraph (15)(f). However, the complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published only in Leon County, and the complaint and order of the circuit court shall be served only on the

State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in which a public agency participating in the electric project lies. Notice of such proceedings shall be published in the manner and at the time required by s. 75.06 in Leon County and in each county in which any portion of any public agency participating in the electric project lies.

(d) Notwithstanding the provisions of paragraph (c), any separate legal entity created pursuant to this section and controlled by the municipalities or counties of this state or by one or more municipality and one or more county of this state, the membership of which consists or is to consist of municipalities only, counties only, or one or more municipality and one or more county, may, for the purpose of financing or refinancing any capital projects, exercise all powers in connection with the authorization, issuance, and sale of bonds. Notwithstanding any limitations provided in this section, all of the privileges, benefits, powers, and terms of part I of chapter 125, part II of chapter 166, and part I of chapter 159 shall be fully applicable to such entity. Bonds issued by such entity shall be deemed issued on behalf of the counties or municipalities which enter into loan agreements with such entity as provided in this paragraph. Any loan agreement executed pursuant to a program of such entity shall be governed by the provisions of part I of chapter 159 or, in the case of counties, part I of chapter 125, or in the case of municipalities and charter counties, part II of chapter 166. Proceeds of bonds issued by such entity may be loaned to counties or municipalities of this state or a combination of municipalities and counties, whether or not such counties or municipalities are also members of the entity issuing the bonds. The issuance of bonds by such entity to fund a loan program to make loans to municipalities or counties or a combination of municipalities and counties with one another for capital projects to be identified subsequent to the issuance of the bonds to fund such loan programs is deemed to be a paramount public purpose. Any entity so created may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. A local government self-insurance fund established under this section may financially guarantee bonds or bond anticipation notes issued or loans made under this subsection. Bonds

issued pursuant to this paragraph may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published only in Leon County, and the complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county where the public agencies which were initially a party to the agreement are located. Notice of such proceedings shall be published in the manner and the time required by s. 75.06 in Leon County and in each county where the public agencies which were initially a party to the agreement are located. Obligations of any county or municipality pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.

(e)1. Notwithstanding the provisions of paragraph (c), any separate legal entity, created pursuant to the provisions of this section and controlled by counties or municipalities of this state, the membership of which consists or is to consist only of public agencies of this state, may, for the purpose of financing the provision or acquisition of liability or property coverage contracts for or from one or more local government liability or property pools to provide liability or property coverage for counties, municipalities, or other public agencies of this state, exercise all powers in connection with the authorization, issuance, and sale of bonds. All of the privileges, benefits, powers, and terms of s. 125.01 relating to counties and s. 166.021 relating to municipalities shall be fully applicable to such entity and such entity shall be considered a unit of local government for all of the privileges, benefits, powers, and terms of part I of chapter 159. Bonds issued by such entity shall be deemed issued on behalf of counties, municipalities, or public agencies which enter into loan agreements with such entity as provided in this paragraph. Proceeds of bonds issued by such entity may be loaned to counties, municipalities, or other public agencies of this state, whether or not such counties, municipalities, or other public agencies are also members of the entity issuing the bonds, and such counties, municipalities, or other public agencies may in turn deposit such loan proceeds with a separate local government liability or property pool for purposes of providing or acquiring liability or property coverage contracts.

2. Counties or municipalities of this state are authorized pursuant to this section, in addition to the authority provided by s. 125.01, part II of chapter 166, and other applicable law, to issue bonds for the purpose of acquiring liability coverage contracts from a local government liability pool. Any individual county or municipality may, by entering into interlocal agreements with other counties, municipalities, or public agencies of this state, issue bonds on behalf of itself and other counties, municipalities, or other public agencies, for purposes of acquiring a liability coverage contract or contracts from a local government liability pool. Counties, municipalities, or other public agencies are also authorized to enter into loan agreements with any entity created pursuant to subparagraph 1., or with any county or municipality issuing bonds pursuant to this

subparagraph, for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. No county, municipality, or other public agency shall at any time have more than one loan agreement outstanding for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. Obligations of any county, municipality, or other public agency of this state pursuant to a loan agreement as described above may be validated as provided in chapter 75. Prior to the issuance of any bonds pursuant to subparagraph 1. or this subparagraph for the purpose of acquiring liability coverage contracts from a local government liability pool, the reciprocal insurer or the manager of any self-insurance program shall demonstrate to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that excess liability coverage for counties, municipalities, or other public agencies is reasonably unobtainable in the amounts provided by such pool or that the liability coverage obtained through acquiring contracts from a local government liability pool, after taking into account costs of issuance of bonds and any other administrative fees, is less expensive to counties, municipalities, or special districts than similar commercial coverage then reasonably available.

3. Any entity created pursuant to this section or any county or municipality may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity or the governing body of such county or municipality may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Any series of bonds issued pursuant to this paragraph for liability coverage shall mature no later than 7 years following the date of issuance. A series of bonds issued pursuant to this paragraph for property coverage shall mature no later than 30 years following the date of issuance.

4. Bonds issued pursuant to subparagraph 1. may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published in Leon County and in each county which is an owner of the entity issuing the bonds, or in which a member of the entity is located, and the complaint and order of the circuit court shall be served only on the State Attorney of

the Second Judicial Circuit and on the state attorney of each circuit in each county or municipality which is an owner of the entity issuing the bonds or in which a member of the entity is located.

5. Bonds issued pursuant to subparagraph 2. may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed in the circuit court of the county or municipality which will issue the bonds. The notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in the county or municipality which will issue the bonds.

6. The participation by any county, municipality, or other public agency of this state in a local government liability pool shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered regarding such a local government liability pool be required to contain any provision for waiver.

(f) Notwithstanding anything to the contrary, any separate legal entity, created pursuant to the provisions of this section, wholly owned by the municipalities or counties of this state, the membership of which consists or is to consist only of municipalities or counties of this state, may exercise the right and power of eminent domain, including the procedural powers under chapters 73 and 74, if such right and power is granted to such entity by the interlocal agreement creating the entity.

(g)1. Notwithstanding any other provisions of this section, any separate legal entity created under this section, the membership of which is limited to municipalities and counties of the state, and which may include a special district in addition to a municipality or county or both, may acquire, own, construct, improve, operate, and manage public facilities, or finance facilities on behalf of any person, relating to a governmental function or purpose, including, but not limited to, wastewater facilities, water or alternative water supply facilities, and water reuse facilities, which may serve populations within or outside of the members of the entity. Notwithstanding s. 367.171(7), any separate legal entity created under this paragraph is not subject to Public Service Commission jurisdiction. The separate legal entity may not provide utility services within the service area of an existing utility system unless it has received the consent of the utility.

2. For purposes of this paragraph, the term:

a. "Host government" means the governing body of the county, if the largest number of equivalent residential connections currently served by a system of the utility is located in the unincorporated area, or the governing body of a municipality, if the largest number of equivalent residential connections currently served by a system of the utility is located within that municipality's boundaries.

b. "Separate legal entity" means any entity created by interlocal agreement the membership of which is limited to two or more special districts, municipalities, or counties of the state, but which entity is legally separate and apart from any of its member governments.

c. "System" means a water or wastewater facility or group of such facilities owned by one entity or affiliate entities.

d. "Utility" means a water or wastewater utility and includes every person, separate legal entity, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation.

3. A separate legal entity that seeks to acquire any utility shall notify the host government in writing by certified mail about the contemplated acquisition not less than 30 days before any proposed transfer of ownership, use, or possession of any utility assets by such separate legal entity. The potential acquisition notice shall be provided to the legislative head of the governing body of the host government and to its chief administrative officer and shall provide the name and address of a contact person for the separate legal entity and information identified in s. 367.071(4)(a) concerning the contemplated acquisition.

4.a. Within 30 days following receipt of the notice, the host government may adopt a resolution to become a member of the separate legal entity, adopt a resolution to approve the utility acquisition, or adopt a resolution to prohibit the utility acquisition by the separate legal entity if the host government determines that the proposed acquisition is not in the public interest. A resolution adopted by the host government which prohibits the acquisition may include conditions that would make the proposal acceptable to the host government.

b. If a host government adopts a membership resolution, the separate legal entity shall accept the host government as a member on the same basis as its existing members before any transfer of ownership, use, or possession of the utility or the utility facilities. If a host government adopts a resolution to approve the utility acquisition, the separate legal entity may complete the acquisition. If a host government adopts a prohibition resolution, the separate legal entity may not acquire the utility within that host government's territory without the specific consent of the host government by future resolution. If a host government does not adopt a prohibition resolution or an approval resolution, the separate legal entity may proceed to acquire the utility after the 30-day notice period without further notice.

5. After the acquisition or construction of any utility systems by a separate legal entity created under this paragraph, revenues or any other income may not be transferred or paid to a member of a separate legal entity, or to any other special district, county, or municipality, from user fees or other charges or revenues generated from customers that are not physically located within the jurisdictional or service delivery boundaries of the member, special district, county, or municipality receiving the transfer or payment. Any transfer or payment to a member, special district, or other local government must be solely from user fees or other charges or revenues generated from customers that are physically located within the jurisdictional or service delivery boundaries of the member, special district, or local government receiving the transfer of payment.

6. This section is an alternative provision otherwise provided by law as authorized in s. 4, Art. VIII of the State Constitution for any transfer of power as a result of an acquisition of a utility by a separate legal entity from a municipality, county, or special district.

7. The entity may finance or refinance the acquisition, construction, expansion, and improvement of such facilities relating to a governmental function or purpose through the issuance of its bonds, notes, or other obligations under this section or as otherwise authorized by law. The entity has all the powers provided by the interlocal agreement under which it is created or which are necessary to finance, own, operate, or manage the public facility, including, without limitation, the power to establish rates, charges, and fees for products or services provided by it, the power to levy special assessments, the power to sell or finance all or a portion of such facility, and the power to contract with a public or private entity to manage and operate such facilities or to provide or receive facilities, services, or products. Except as may be limited by the interlocal agreement under which the entity is created, all of the privileges, benefits, powers, and terms of s. 125.01, relating to counties, and s. 166.021, relating to municipalities, are fully applicable to the entity. However, neither the entity nor any of its members on behalf of the entity may exercise the power of eminent domain over the facilities or property of any existing water or wastewater plant utility system, nor may the entity acquire title to any water or wastewater plant utility facilities, other facilities, or property which was acquired by the use of eminent domain after the effective date of this act. Bonds, notes, and other obligations issued by the entity are issued on behalf of the public agencies that are members of the entity.

8. Any entity created under this section may also issue bond anticipation notes in connection with the authorization, issuance, and sale of bonds. The bonds may be issued as serial bonds or as term bonds or both. Any entity may issue capital appreciation bonds or variable rate bonds. Any bonds, notes, or other obligations must be authorized by resolution of the governing body of the entity and bear the date or dates; mature at the time or times, not exceeding 40 years from their respective dates; bear interest at the rate or rates; be payable at the time or times; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium or payment and at the place; and be subject to the terms of redemption, including redemption prior to maturity, as the resolution may provide. If any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes, or other obligations ceases to be an officer before the delivery of the bonds, notes, or other obligations, the signature or facsimile is valid and sufficient for all purposes as if he or she had remained in office until the delivery. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the entity shall determine. Pending preparation of the definitive bonds, the entity may issue interim certificates, which shall be exchanged for the definitive bonds. The bonds may be secured by a form of credit

enhancement, if any, as the entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the legal entity may delegate, to an officer, official, or agent of the legal entity as the governing body of the legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate of interest, which may be fixed or may vary at the time and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of the legal entity. However, the amount and maturity of the bonds, notes, or other obligations and the interest rate of the bonds, notes, or other obligations must be within the limits prescribed by the governing body of the legal entity and its resolution delegating to an officer, official, or agent the power to authorize the issuance and sale of the bonds, notes, or other obligations.

9. Bonds, notes, or other obligations issued under this paragraph may be validated as provided in chapter 75. The complaint in any action to validate the bonds, notes, or other obligations must be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 must be published in Leon County and in each county that is a member of the entity issuing the bonds, notes, or other obligations, or in which a member of the entity is located, and the complaint and order of the circuit court must be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county that is a member of the entity issuing the bonds, notes, or other obligations or in which a member of the entity is located. Section 75.04(2) does not apply to a complaint for validation brought by the legal entity.

10. The accomplishment of the authorized purposes of a legal entity created under this paragraph is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the legal entity will perform essential governmental functions in accomplishing its purposes, the legal entity is not required to pay any taxes or assessments of any kind whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, notes, and other obligations of an entity, their transfer, and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind by the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this subparagraph is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

(h)1. Notwithstanding the provisions of paragraph (c), any separate legal entity consisting of an alliance, as defined in s. 395.106(2)(a), created pursuant to this paragraph and controlled by and whose members consist of eligible entities comprised of special districts created pursuant to a special act and having the authority to own or operate one or more hospitals licensed in this state or hospitals licensed in this state that are owned, operated, or funded by a county or

municipality, for the purpose of providing property insurance coverage as defined in s. 395.106(2)(b), for such eligible entities, may exercise all powers under this subsection in connection with borrowing funds for such purposes, including, without limitation, the authorization, issuance, and sale of bonds, notes, or other obligations of indebtedness. Borrowed funds, including, but not limited to, bonds issued by such alliance shall be deemed issued on behalf of such eligible entities that enter into loan agreements with such separate legal entity as provided in this paragraph.

2. Any such separate legal entity shall have all the powers that are provided by the interlocal agreement under which the entity is created or that are necessary to finance, operate, or manage the alliance's property insurance coverage program. Proceeds of bonds, notes, or other obligations issued by such an entity may be loaned to any one or more eligible entities. Such eligible entities are authorized to enter into loan agreements with any separate legal entity created pursuant to this paragraph for the purpose of obtaining moneys with which to finance property insurance coverage or claims. Obligations of any eligible entity pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.

3. Any bonds, notes, or other obligations to be issued or incurred by a separate legal entity created pursuant to this paragraph shall be authorized by resolution of the governing body of such entity and bear the date or dates; mature at the time or times, not exceeding 30 years from their respective dates; bear interest at the rate or rates, which may be fixed or vary at such time or times and in accordance with a specified formula or method of determination; be payable at the time or times; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium of payment and at the place; and be subject to redemption, including redemption prior to maturity, as the resolution may provide. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the separate legal entity shall determine. The bonds may be secured by such credit enhancement, if any, as the governing body of the separate legal entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the separate legal entity may delegate, to such officer or official of such entity as the governing body may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer or official so designated by the governing body of such separate legal entity. However, the amounts and maturities of such bonds, the interest rate or rates, and the purchase price of such bonds shall be within the limits prescribed by the governing body of such separate legal entity in its resolution delegating to such officer or official the power to authorize the issuance and sale of such bonds.

4. Bonds issued pursuant to this paragraph may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published in Leon County and in each county in which an eligible entity that is a member of an alliance is located. The complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county in which an eligible entity receiving bond proceeds is located.

5. The accomplishment of the authorized purposes of a separate legal entity created under this paragraph is deemed in all respects for the benefit, increase of the commerce and prosperity, and improvement of the health and living conditions of the people of this state. Inasmuch as the separate legal entity performs essential public functions in accomplishing its purposes, the separate legal entity is not required to pay any taxes or assessments of any kind upon any property acquired or used by the entity for such purposes or upon any revenues at any time received by the entity. The bonds, notes, and other obligations of such separate legal entity, the transfer of and income from such bonds, notes, and other obligations, including any profits made on the sale of such bonds, notes, and other obligations, are at all times free from taxation of any kind of the state or by any political subdivision or other agency or instrumentality of the state. The exemption granted in this paragraph does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

6. The participation by any eligible entity in an alliance or a separate legal entity created pursuant to this paragraph may not be deemed a waiver of immunity to the extent of liability or any other coverage, and a contract entered regarding such alliance is not required to contain any provision for waiver.

(8) If the purpose set forth in an interlocal agreement is the acquisition, construction, or operation of a revenue-producing facility, the agreement may provide for the repayment or return to the parties of all or any part of the contributions, payments, or advances made by the parties pursuant to subsection (5) and for payment to the parties of any sum derived from the revenues of such facility. Payments, repayments, or returns shall be made at any time and in the manner specified in the agreement and may be made at any time on or prior to the rescission or termination of the agreement or completion of the purposes of the agreement.

(9)(a) All of the privileges and immunities from liability; exemptions from laws, ordinances, and rules; and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agency or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extraterritorially under the provisions of any such interlocal agreement.

(b) An interlocal agreement does not relieve a public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance thereof by one or more of the parties to the agreement or any legal or administrative entity created by the agreement, in which case the performance may be offered in satisfaction of the obligation or responsibility.

(c) All of the privileges and immunities from liability and exemptions from laws, ordinances, and rules which apply to the municipalities and counties of this state apply to the same degree and extent to any separate legal entity, created pursuant to the provisions of this section, wholly owned by the municipalities or counties of this state, the membership of which consists or is to consist only of municipalities or counties of this state, unless the interlocal agreement creating such entity provides to the contrary. All of the privileges and immunities from liability; exemptions from laws, ordinances, and rules; and pension and relief, disability, and worker's compensation, and other benefits which apply to the activity of officers, agents, employees, or employees of agents of counties and municipalities of this state which are parties to an interlocal agreement creating a separate legal entity pursuant to the provisions of this section shall apply to the same degree and extent to the officers, agents, or employees of such entity unless the interlocal agreement creating such entity provides to the contrary.

(10)(a) A public agency entering into an interlocal agreement may appropriate funds and sell, give, or otherwise supply any party designated to operate the joint or cooperative undertaking such personnel, services, facilities, property, franchises, or funds thereof as may be within its legal power to furnish.

(b) A public agency entering into an interlocal agreement may receive grants-in-aid or other assistance funds from the United States Government or this state for use in carrying out the purposes of the interlocal agreement.

(11) Prior to its effectiveness, an interlocal agreement and subsequent amendments thereto shall be filed with the clerk of the circuit court of each county where a party to the agreement is located. However, if the parties to the agreement are located in multiple counties and the agreement under subsection (7) provides for a separate legal entity or administrative entity to administer the agreement, the interlocal agreement and any amendments thereto may be filed with the clerk of the circuit court in the county where the legal or administrative entity maintains its principal place of business.

(12) Any public agency entering into an agreement pursuant to this section may appropriate funds and may sell, lease, give, or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish.

(13) The powers and authority granted by this section shall be in addition and supplemental to those granted by any other general, local, or special law. Nothing

contained herein shall be deemed to interfere with the application of any other law.

(14) This section is intended to authorize the entry into contracts for the performance of service functions of public agencies, but shall not be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.

(15) Notwithstanding any other provision of this section or of any other law except s. 361.14, any public agency of this state which is an electric utility, or any separate legal entity created pursuant to the provisions of this section, the membership of which consists only of electric utilities, and which exercises or proposes to exercise the powers granted by part II of chapter 361, the Joint Power Act, may exercise any or all of the following powers:

(a) Any such public agency or legal entity, or both, may plan, finance, acquire, construct, reconstruct, own, lease, operate, maintain, repair, improve, extend, or otherwise participate jointly in one or more electric projects, which are proposed, existing, or under construction and which are located or to be located within or without this state, with any one or more of the following:

1. Any such legal entity;
2. One or more electric utilities;
3. One or more foreign public utilities; or
4. Any other person,

if the right to full possession and to all of the use, services, output, and capacity of any such electric project during the original estimated useful life thereof is vested, subject to creditors' rights, in any one or more of such legal entities, electric utilities, or foreign public utilities, or in any combination thereof. Any such public agency or legal entity, or both, may act as agent or designate one or more persons, whether or not participating in an electric project, to act as its agent in connection with the planning, design, engineering, licensing, acquisition, construction, completion, management, control, operation, maintenance, repair, renewal, addition, replacement, improvement, modification, insuring, decommissioning, cleanup, retirement, or disposal, or all of the foregoing, of such electric project or electric projects.

(b)1. In any case in which any such public agency or legal entity, or both, participate in an electric project with any one or more of the following:

- a. Any such legal entity;
- b. One or more electric utilities;
- c. One or more foreign public utilities; or
- d. Any other person,

and if the right to full possession and to all of the use, services, output, and capacity of any such electric project during the original estimated useful life thereof is vested, subject to creditors' rights, in any one or more of such legal entities, electric utilities, or foreign public utilities, or in any combination thereof, such public agency or legal entity, or both, may enter into an agreement or agreements with respect to such electric project with the other person or persons participating therein, and such legal entity may enter into an agreement or agreements with one or more public

agencies who are parties to the interlocal agreement creating such legal entity. Any such agreement may be for such period, including, but not limited to, an unspecified period, and may contain such other terms, conditions, and provisions, consistent with the provisions of this section, as the parties thereto shall determine. In connection with entry into and performance pursuant to any such agreement, with the selection of any person or persons with which any such public agency or legal entity, or both, may enter into any such agreement, and with the selection of any electric project to which such agreement may relate, no such public agency or legal entity shall be required to comply with any general, local, or special statute, including, but not limited to, the provisions of s. 287.055, or with any charter provision of any public agency, which would otherwise require public bidding, competitive negotiation, or both.

2. Any such agreement may include, but need not be limited to, any or all of the following:

a. Provisions defining what constitutes a default thereunder and providing for the rights and remedies of the parties thereto upon the occurrence of such a default, including, without limitation, the right to discontinue the delivery of products or services to a defaulting party and requirements that the remaining parties not in default who are entitled to receive products or services from the same electric project may be required to pay for and use or otherwise dispose of, on a proportionate or other basis, all or some portion of the products and services which were to be purchased by the defaulting party.

b. Provisions granting one or more of the parties the option to purchase the interest or interests of one or more other parties in the electric project upon such occurrences, and at such times and pursuant to such terms and conditions, as the parties may agree, notwithstanding the limitations on options in the provisions of any law to the contrary.

c. Provisions setting forth restraints on alienation of the interests of the parties in the electric project.

d. Provisions for the planning, design, engineering, licensing, acquisition, construction, completion, management, control, operation, maintenance, repair, renewal, addition, replacement, improvement, modification, insuring, decommissioning, cleanup, retirement, or disposal, or all of the foregoing of such electric project by any one or more of the parties to such agreement, which party or parties may be designated in or pursuant to such agreement as agent or agents on behalf of itself and one or more of the other parties thereto or by such other means as may be determined by the parties thereto.

e. Provisions for a method or methods of determining and allocating among or between the parties the costs of planning, design, engineering, licensing, acquisition, construction, completion, management, control, operation, maintenance, repair, renewal, addition, replacement, improvement, modification, insuring, decommissioning, cleanup, retirement, or disposal, or all of the foregoing with respect to such electric project.

f. Provisions that any such public agency or legal entity, or both, will not rescind, terminate, or amend any

contract or agreement relating to such electric project without the consent of one or more persons with which such public agency or legal entity, or both, have entered into an agreement pursuant to this section or without the consent of one or more persons with whom any such public agency or legal entity, or both, have made a covenant or who are third-party beneficiaries of any such covenant.

g. Provisions whereby any such public agency or legal entity, or both, are obligated to pay for the products and services of such electric project and the support of such electric project, including, without limitation, those activities set forth in sub-subparagraph d., without setoff or counterclaim and irrespective of whether such products or services are furnished, made available, or delivered to such public agency or legal entity, or both, or whether any electric project contemplated by such contract or agreement is completed, operable, or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the products and services of such electric project and notwithstanding the quality, or failure, of performance of any one or more of the activities set forth in sub-subparagraph d. with respect to such electric project.

h. Provisions that in the event of the failure or refusal of any such public agency or legal entity, or both, to perform punctually any specified covenant or obligation contained in or undertaken pursuant to any such agreement, any one or more parties to such agreement or any one or more persons who have been designated in such agreement as third-party beneficiaries of such covenant or obligation may enforce the performance of such public agency or legal entity by an action at law or in equity, including, but not limited to, specific performance or mandamus.

i. Provisions obligating any such public agency or legal entity, or both, to indemnify, including, without limitation, indemnification against the imposition or collection of local, state, or federal taxes and interest or penalties related thereto, or payments made in lieu thereof, to hold harmless, or to waive claims or rights for recovery, including claims or rights for recovery based on sole negligence, gross negligence, any other type of negligence, or any other act or omission, intentional or otherwise, against one or more of the other parties to such agreement. Such provisions may define the class or classes of persons for whose acts, intentional or otherwise, a party shall not be responsible; and all of such provisions may be upon such terms and conditions as the parties thereto shall determine.

j. Provisions obligating any such public agency or legal entity, or both, not to dissolve until all principal and interest payments for all bonds and other evidences of indebtedness issued by such public agency or legal entity, or both, have been paid or otherwise provided for and until all contractual obligations and duties of such public agency or legal entity have been fully performed or discharged, or both.

k. Provisions obligating any such public agency or legal entity, or both, to establish, levy, and collect rents, rates, and other charges for the products and services provided by such legal entity or provided by the electric or other integrated utility system of such public agency,

which rents, rates, and other charges shall be at least sufficient to meet the operation and maintenance expenses of such electric or integrated utility system; to comply with all covenants pertaining thereto contained in, and all other provisions of, any resolution, trust indenture, or other security agreement relating to any bonds or other evidences of indebtedness issued or to be issued by any such public agency or legal entity; to generate funds sufficient to fulfill the terms of all other contracts and agreements made by such public agency or legal entity, or both; and to pay all other amounts payable from or constituting a lien or charge on the revenues derived from the products and services of such legal entity or constituting a lien or charge on the revenues of the electric or other integrated utility system of such public agency.

l. Provisions obligating such legal entity to enforce the covenants and obligations of each such public agency with which such legal entity has entered into a contract or agreement with respect to such electric project.

m. Provisions obligating such legal entity not to permit any such public agency to withdraw from such legal entity until all contractual obligations and duties of such legal entity and of each such public agency with which it has entered into a contract or agreement with respect to such electric project have been fully performed, discharged, or both.

n. Provisions obligating each such public agency which has entered into a contract or agreement with such legal entity with respect to an electric project not to withdraw from, or cause or participate in the dissolution of, such legal entity until all duties and obligations of such legal entity and of each such public agency arising from all contracts and agreements entered into by such public agency or legal entity, or both, have been fully performed, discharged, or both.

o. Provisions obligating each such public agency which has entered into a contract or agreement with such legal entity or which has entered into a contract or agreement with any other person or persons with respect to such electric project to maintain its electric or other integrated utility system in good repair and operating condition until all duties and obligations of each such public agency and of each such legal entity arising out of all contracts and agreements with respect to such electric project entered into by each such public agency or legal entity, or both, have been fully performed, discharged, or both.

3. All actions taken by an agent designated in accordance with the provisions of any such agreement may, if so provided in the agreement, be made binding upon such public agency or legal entity, or both, without further action or approval by such public agency or legal entity, or both. Any agent or agents designated in any such agreement shall be governed by the laws and rules applicable to such agent as a separate entity and not by any laws or rules which may be applicable to any of the other participating parties and not otherwise applicable to the agent.

(c) Any such legal entity may acquire services, output, capacity, energy, or any combination thereof only from:

1. An electric project in which it has an ownership interest; or
2. Any other source:
 - a. To the extent of replacing the services, output, capacity, energy, or combination thereof of its share of an electric project when the output or capacity of such electric project is reduced or unavailable; or
 - b. At any time and in any amount for resale to any of its members as necessary to meet their retail load requirements.

However, under sub-subparagraph 2.b., such legal entity may not purchase wholesale power for resale to any of its members from any electric utility as a result of any legal proceeding commenced by the legal entity or any of its members after January 1, 1982, before any state or federal court or administrative body, to the extent that such purchase or proceeding would involuntarily expand the responsibility of the electric utility to provide such wholesale power.

(d) Any such legal entity may sell services, output, capacity, energy, or any combination thereof only to:

1. Its members to meet their retail load requirements;
2. Other electric utilities or foreign public utilities which have ownership interests in, or contractual arrangements which impose on such electric utilities or foreign public utilities obligations which are the economic equivalents of ownership interests in, the electric project from which such services, output, capacity, energy, or combination thereof is to be acquired;
3. Any other electric utility or foreign public utility to dispose of services, output, capacity, energy, or any combination thereof that is surplus to the requirements of such legal entity:

a. If such surplus results from default by one or more of the members of such legal entity under a contract or contracts for the purchase of such services, output, capacity, energy, or combination thereof; and

b. If the revenues from such contract or contracts are pledged as security for payment of bonds or other evidences of indebtedness issued by such legal entity or if such revenues are required by such legal entity to meet its obligations under any contract or agreement entered into by such legal entity pursuant to paragraph (b);

4. Any other electric utility or foreign public utility for a period not to exceed 5 years from the later to occur of the date of commercial operation of, or the date of acquisition by such legal entity of any ownership interest in or right to acquire services, output, capacity, energy, or any combination thereof from, the electric project from which such services, output, capacity, energy, or combination thereof is to be acquired, if:

a. One or more members of such legal entity have contracted to purchase such services, output, capacity, energy, or combination thereof from such legal entity commencing upon the expiration of such period; and

b. Such services, output, capacity, energy, or combination thereof, if acquired commencing at an earlier time, could have been reasonably predicted to create a surplus or surpluses in the electric system or

systems of such member or members during such period, when added to services, output, capacity, energy, or any combination thereof available to such member or members during such period from facilities owned by such member or members or pursuant to one or more then-existing firm contractual obligations which are not terminable prior to the end of such period without payment of a penalty, or both; or

5. Any combination of the above.

Nothing contained in this paragraph shall prevent such legal entity from selling the output of its ownership interest in any such electric project to any electric utility or foreign public utility as emergency, scheduled maintenance, or economy interchange service.

(e) All obligations and covenants of any such public agency or legal entity, or both, contained in any contract or agreement, which contract or agreement and obligations and covenants are authorized, permitted, or contemplated by this section, shall be the legal, valid, and binding obligations and covenants of the public agency or legal entity undertaking such obligations or making such covenants; and each such obligation or covenant shall be enforceable in accordance with its terms.

(f) When contract payments by any such public agency contracting with any such legal entity or revenues of any such public agency contracting with any other person or persons with respect to an electric project are to be pledged as security for the payment of bonds or other evidences of indebtedness sought to be validated, the complaint for validation may make parties defendant to such action, in addition to the state and the taxpayers, property owners, and citizens of the county in which the complaint for validation is filed, including nonresidents owning property or subject to taxation therein:

1. Every public agency the contract payments of which are to be so pledged.

2. Any other person contracting with such public agency or legal entity, or both, in any manner relating to such electric project, and particularly with relation to any ownership or operation of any electric project; the supplying of electrical energy to such public agency or legal entity, or both; or the taking or purchase of electrical energy from the electric project.

3. The taxpayers, property owners, and citizens of each county or municipality in which each such public agency is located, including nonresidents owning property or subject to taxation therein, and the holders of any outstanding debt obligations of any such public agency or legal entity.

All such parties who are made defendants and over whom the court acquires jurisdiction in such validation proceedings shall be required to show cause, if any exists, why such contract or agreement and the terms and conditions thereof should not be inquired into by the court, the validity of the terms thereof determined, and the matters and conditions which are imposed on the parties to such contract or agreement and all such undertakings thereof adjudicated to be valid and binding on the parties thereto. Notice of such proceedings shall

be included in the notice of validation hearing required to be issued and published pursuant to the provisions of paragraph (7)(c); and a copy of the complaint in such proceedings, together with a copy of such notice, shall be served on each party defendant referred to in subparagraphs 1. and 2. who is made a defendant and over whom the court acquires jurisdiction in such validation proceedings. Any person resident of this state or any person not a resident of, or located within, this state, whether or not authorized to transact business in this state, who contracts with any such public agency or legal entity, or both, in any manner relating to such electric project, may intervene in the validation proceedings at or before the time set for the validation hearing and assert any ground or objection to the validity and binding effect of such contract or agreement on his or her own behalf and on behalf of any such public agency and of all citizens, residents, and property owners of the state. No appeal may be taken by any person who was not a party of record in such proceedings at the time the judgment appealed from was rendered. An adjudication as to the validity of any such contract or agreement from which no appeal has been taken within the time permitted by law from the date of entry of the judgment of validation or, if an appeal is filed, which is confirmed on appeal shall be forever conclusive and binding upon such legal entity and all such parties who are made defendants and over whom the court acquires jurisdiction in such validation proceedings.

(g) Each such public agency or legal entity, or both, which contracts with any other person or persons with respect to the ownership or operation of any electric project, and each such public agency which contracts with any legal entity for the support of, or supply of, power from an electric project, is authorized to pledge to such other person or persons or such legal entity, or both, for the benefit of such electric project all or any portion of the revenues derived or to be derived:

1. In the case of any such public agency, from the ownership and operation of its electric or other integrated utility system; and

2. In the case of a legal entity, from the provision of products and services by it;

and to pledge to such other person or persons or such legal entity, or both, for the benefit of such electric project any securities, contract rights, and other property. Each such legal entity is also authorized to pledge to, or for the benefit of, the holders of any bonds, notes, or other evidences of indebtedness issued by such legal entity, as security for the payment thereof, any revenues, securities, contract rights, or other property. Any such pledge shall specify the priority and ranking of such pledge in respect of other pledges, if any, of the same revenues, securities, contract rights, or other property by such public agency or legal entity. Any pledge of revenues, securities, contract rights, or other property made by any such public agency or legal entity, or both, pursuant to this section shall be valid and binding from the date the pledge is made. The revenues, securities, contract rights, or other property so pledged and then held or thereafter received by such public agency or legal entity, or any fiduciary, or such

other person or persons shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act; and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, in contract, or otherwise against the public agency or legal entity making such pledge, without regard to whether such parties have notice thereof. The resolution, trust indenture, security agreement, or other instrument by which a pledge is created need not be filed or recorded in any manner.

(h) Any such legal entity is authorized and empowered to sue and be sued in its own name. In the event that any such public agency or legal entity enters into a contract or an agreement with respect to an electric project located in another state, or owns an interest in an electric project located in another state, an action against such public agency or legal entity may be brought in the federal or state courts located in such state.

(i) The provisions of this subsection shall be liberally construed to effect the purposes hereof. The powers conferred by the provisions of this subsection shall be in addition and supplementary to the powers conferred by the other provisions of this section, by any other general, local, or special law, or by any charter of any public agency. When the exercise of any power conferred on any public agency or any legal entity by the provisions of this subsection would conflict with any limitation or requirement upon such public agency or such legal entity contained in the other provisions of this section, in any other general, local, or special law, except s. 361.14, or in the charter of such public agency, such limitation or requirement shall be superseded by the provisions of this subsection for the purposes of the exercise of such power pursuant to the provisions of this subsection.

(j) While any bonds or other evidences of indebtedness issued by any such public agency or any such legal entity pursuant to the authority granted by paragraph (7)(c) or other applicable law remain outstanding, or while any such public agency or any such legal entity has any undischarged duties or obligations under any contract or agreement, including, but not limited to, obligations to any operator or joint owner of any electric project, the powers, duties, or existence of such public agency or such legal entity or of its officers, employees, or agents shall not be diminished, impaired, or affected in any manner which will affect materially and adversely the interests and rights of the owners of such bonds or other evidences of indebtedness or the persons to whom such duties or obligations are owed under such contract or agreement. The provisions of this subsection shall be for the benefit of the state, each such public agency, each such legal entity, every owner of the bonds of each such legal entity or public agency, and every other person to whom such public agency or such legal entity owes a duty or is obligated by contract or agreement; and, upon and after the earlier of the execution and delivery by any public agency or legal entity, pursuant to this section, of any contract or agreement to any person with respect to an electric project, or the issuance of such bonds or other evidences of indebtedness, the provisions of this

subsection shall constitute an irrevocable contract by the state with the owners of the bonds or other evidences of indebtedness issued by such public agency or legal entity and with the other person or persons to whom any such public agency or legal entity owes a duty or is obligated by any such contract or agreement.

(k) The limitations on waiver in the provisions of s. 768.28 or any other law to the contrary notwithstanding, the Legislature, in accordance with s. 13, Art. X of the State Constitution, hereby declares that any such legal entity or any public agency of this state that participates in any electric project waives its sovereign immunity to:

1. All other persons participating therein; and

2. Any person in any manner contracting with a legal entity of which any such public agency is a member, with relation to:

a. Ownership, operation, or any other activity set forth in sub-subparagraph (b)2.d. with relation to any electric project; or

b. The supplying or purchasing of services, output, capacity, energy, or any combination thereof.

(l) Notwithstanding the definition of "electric project" contained in paragraph (3)(d), or any other provision of this subsection or of part II of chapter 361 limiting the parties which may participate jointly in electric projects, any public agency of this state which is an electric utility, or any separate legal entity created pursuant to the provisions of this section, the membership of which consists only of electric utilities, and which exercises or proposes to exercise the powers granted by part II of chapter 361, may exercise any or all of the powers provided in this subsection jointly with any other person with respect to the acquisition, extraction, conversion, use, transportation, storage, reprocessing, disposal, or any combination thereof of any primary fuel or source thereof, as well as any other materials resulting therefrom, only when such primary fuel or source thereof is to be used for the generation of electrical energy in one or more electric projects by such legal entity, any member thereof, or any combination thereof; and, in connection therewith, any such public agency or legal entity shall be deemed to have all the additional powers, privileges, and rights provided in this subsection.

(m) In the event that any public agency or any such legal entity, or both, should receive, in connection with its joint ownership or right to the services, output, capacity, or energy of an electric project, as defined in paragraph (3)(d), any material which is designated by the person supplying such material as proprietary confidential business information or which a court of competent jurisdiction has designated as confidential or secret shall be kept confidential and shall be exempt from the provisions of s. 119.07(1). As used in this paragraph, "proprietary confidential business information" includes, but is not limited to, trade secrets; internal auditing controls and reports of internal auditors; security measures, systems, or procedures; information concerning bids or other contractual data, the disclosure of which would impair the efforts of the utility to contract for services on favorable terms; employee personnel information unrelated to compensation, duties,

qualifications, or responsibilities; and formulas, patterns, devices, combinations of devices, contract costs, or other information the disclosure of which would injure the affected entity in the marketplace.

(16)(a) All of the additional powers and authority granted by chapter 82-53, Laws of Florida, to a public agency as defined in paragraph (3)(b), a legal entity created pursuant to the provisions of this section, or both, respecting agreements for participation in electric projects shall apply to any agreement in existence as of March 25, 1982, as well as to any such agreement entered into thereafter; but no additional limitation provided in chapter 82-53 upon any power or authority of any such public agency or legal entity, or both, respecting agreements for participation in electric projects shall apply to any such agreement entered into prior to March 25, 1982.

(b) Chapter 82-53, Laws of Florida, shall be deemed to be enacted for the purpose of further implementing the provisions of s. 10(d), Art. VII of the State Constitution, as amended.

(17) In any agreement entered into pursuant to this section, any public agency or separate legal entity created by interlocal agreement may, in its discretion, grant, sell, donate, dedicate, lease or otherwise convey, title, easements or use rights in real property, including tax-reverted real property, title to which is in such public agency or separate legal entity, to any other public agency or separate legal entity created by interlocal agreement. Any public agency or separate legal entity created by interlocal agreement is authorized to grant such interests in real property or use rights without consideration when in its discretion it is determined to be in the public interest. Real property and interests in real property granted or conveyed to such public agency or separate legal entity shall be for the public purposes contemplated in the interlocal agreement and may be made subject to the condition that in the event that said real property or interest in real property is not so used, or if used and subsequently its use for such purpose is abandoned, the interest granted shall cease as to such public agency or separate legal entity and shall automatically revert to the granting public agency or separate legal entity.

(18) Any separate legal entity created under subsection (7) which has member public agencies located in at least five counties, of which at least three are not contiguous, may conduct public meetings and workshops by means of communications media technology. The notice for any such public meeting or workshop shall state that the meeting or workshop will be conducted through the use of communications media technology; specify how persons interested in attending may do so; and provide a location where communications media technology facilities are available. The participation by an officer, board member, or other representative of a member public agency in a meeting or workshop conducted through communications media technology constitutes that individual's presence at such meeting or workshop. As used in this subsection, the term "communications media technology" means conference telephone, video conference, or other communications technology by which all persons attending

a public meeting or workshop may audibly communicate.

History.—ss. 1, 2, ch. 69-42; ss. 11, 18, 35, ch. 69-106; s. 1, ch. 79-24; ss. 1, 2, ch. 79-31; s. 61, ch. 79-40; s. 68, ch. 81-259; ss. 1, 7, 8, ch. 82-53; s. 45, ch. 83-217; s. 21, ch. 85-55; s. 1, ch. 87-9; s. 6, ch. 87-237; s. 46, ch. 88-130; ss. 33, 34, ch. 90-360; s. 83, ch. 91-45; s. 11, ch. 93-51; s. 896, ch. 95-147; s. 45, ch. 96-406; s. 19, ch. 97-236; s. 61, ch. 99-2; s. 23, ch. 99-251; s. 1, ch. 2001-201; s. 72, ch. 2002-295; s. 156, ch. 2003-261; s. 10, ch. 2004-5; s. 1, ch. 2004-336; s. 6, ch. 2006-218; s. 1, ch. 2006-220; s. 1, ch. 2007-1; s. 1, ch. 2007-90; s. 1, ch. 2008-43; s. 1, ch. 2012-164.

163.02 Councils of local public officials.—

(1) The governing bodies of any two or more counties, municipalities, special districts, or other governmental subdivisions of this state, or any of them, herein referred to as member local governments, may, by resolution, enter into an agreement with each other for the establishment of a council of local public officials. Any council established under the authority of this section shall be a corporation not for profit.

(2) Representation on the council shall be in the manner provided in the agreement establishing the council. The representative from each member local government shall be the elected chief executive of said local government or, if such government does not have an elected chief executive, a member of its governing body chosen by such body to be its representative. Any member may withdraw from the council upon 60 days' notice subsequent to formal action by its governing body.

(3) The local government council shall have the power to:

(a) Study such area governmental problems as it deems appropriate, including but not limited to matters affecting health, safety, welfare, education, economic conditions, and area development;

(b) Promote cooperative arrangements and coordinate action among its members; and

(c) Make recommendations for review and action to the members and other public agencies that perform local functions and services within the area.

(4) The council shall adopt bylaws designating the officers of the council and providing for the conduct of its business. The council may employ a staff, consult and retain experts, and purchase or lease or otherwise provide for such supplies, materials, equipment and facilities as it deems desirable and necessary.

(5)(a) The governing bodies of the member governments may appropriate funds to meet the necessary expenses of the council. Services of personnel, use of equipment and office space, and other necessary services may be accepted from members as part of their financial support.

(b) The council may accept funds, grants, gifts, and services from the state, from any other governmental unit, whether participating in the council or not, from the Government of the United States, and from private and civic sources.

(c) The council shall make an annual public report of its activities to each of the member local governments, and shall have its accounts audited annually.

History.—ss. 1, 2, 3, 4, 5, ch. 69-69.

163.04 Energy devices based on renewable resources.—

(1) Notwithstanding any provision of this chapter or other provision of general or special law, the adoption of an ordinance by a governing body, as those terms are defined in this chapter, which prohibits or has the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources is expressly prohibited.

(2) A deed restriction, covenant, declaration, or similar binding agreement may not prohibit or have the effect of prohibiting solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restriction, covenant, declaration, or binding agreement. A property owner may not be denied permission to install solar collectors or other energy devices by any entity granted the power or right in any deed restriction, covenant, declaration, or similar binding agreement to approve, forbid, control, or direct alteration of property with respect to residential dwellings and within the boundaries of a condominium unit. Such entity may determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45° east or west of due south if such determination does not impair the effective operation of the solar collectors.

(3) In any litigation arising under the provisions of this section, the prevailing party shall be entitled to costs and reasonable attorney's fees.

(4) The legislative intent in enacting these provisions is to protect the public health, safety, and welfare by encouraging the development and use of renewable resources in order to conserve and protect the value of land, buildings, and resources by preventing the adoption of measures which will have the ultimate effect, however unintended, of driving the costs of owning and operating commercial or residential property beyond the capacity of private owners to maintain. This section shall not apply to patio railings in condominiums, cooperatives, or apartments.

History.—s. 8, ch. 80-163; s. 1, ch. 92-89; s. 14, ch. 93-249; s. 1, ch. 2008-191; s. 3, ch. 2008-227.

163.05 Small County Technical Assistance Program.—

(1) Among small counties, the Legislature finds that:

(a) The percentage of the population of small counties residing in the unincorporated areas is relatively high based on the United States Decennial Census of 2000.

(b) Projected revenue and expenditure trends of the small counties indicate that a serious fiscal condition has developed that could require a number of small counties to declare financial emergencies.

(c) Fiscal shortfalls persist even though 12 of the small counties levied the maximum ad valorem millage authorized in their jurisdictions in 2001 and an additional 15 small counties levied between 8 and 10 mills.

(d) State and federal mandates will continue to place additional funding demands on small counties.

(2) Recognizing the findings in subsection (1), the Legislature declares that:

(a) The financial difficulties confronting small counties require an investment that will facilitate efforts to

improve the productivity and efficiency of small counties' structures and operating procedures.

(b) Current and additional revenue enhancements authorized by the Legislature should be managed and administered using appropriate management practices and expertise.

(3) The purpose of this section is to provide technical assistance to small counties to enable them to implement workable solutions to financial and administrative problems. As used in this section, "small county" means a county that has a population of 75,000 or less.

(4) The Commissioner of Agriculture shall enter into contracts with program providers who shall:

(a) Be a foundation that meets the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code with a governing board which includes in its membership county commissioners and professional staff of the county.

(b) Have substantial and documented experience working closely with county governments in providing both educational and technical assistance.

(c) Use existing resources, services, and information that are available from state or local agencies, universities, or the private sector.

(d) Seek and accept funding from any public or private source.

(e) Assist small counties in developing alternative revenue sources.

(f) Provide assistance to small counties in areas such as financial management, accounting, investing, purchasing, planning and budgeting, debt issuance, public management, management systems, computers and information technology, economic and community development, and public safety management.

(g) Provide for an annual independent financial audit of the program.

(h) In each county served, conduct a needs assessment upon which the assistance provided for that county will be designed.

(5)(a) The Commissioner of Agriculture shall issue a request for proposals to provide assistance to small counties. The request for proposals shall be required no more frequently than every third year beginning with fiscal year 2004-2005. All contracts in existence on the effective date of this act between the Comptroller and any other party with respect to the Small County Technical Assistance Program may be accepted by the Commissioner of Agriculture as the party in interest and said contracts shall remain in full force and effect according to their terms.

(b) The Commissioner of Agriculture shall review each contract proposal submitted.

(c) The Commissioner of Agriculture shall consider the following factors in reviewing contract proposals:

1. The demonstrated capacity of the provider to conduct needs assessments and implement the program as proposed.

2. The number of small counties to be served under the proposal.

3. The cost of the program as specified in a proposed budget.

4. The short-term and long-term benefits of the assistance to small counties.

5. The form and extent to which existing resources, services, and information that are available from state and local agencies, universities, and the private sector will be used by the provider under the contract.

(6) A decision of the Commissioner of Agriculture to award a contract under this section is final and shall be in writing.

(7) The Commissioner of Agriculture shall provide fiscal oversight to ensure that funds expended for the program are used in accordance with the contracts entered into pursuant to subsection (4) and shall conduct a performance review of the program as may be necessary to ensure that the goals and objectives of the program are being met.

History.—s. 5, ch. 92-309; s. 5, ch. 96-311; s. 3, ch. 98-258; s. 22, ch. 2002-404; s. 12, ch. 2004-305.

163.055 Local Government Financial Technical Assistance Program.—

(1) Among municipalities and special districts, the Legislature finds that:

(a) State and federal mandates will continue to place additional funding demands on all municipalities and special districts.

(b) State government lacks the specific technical expertise or resources to effectively perform ongoing educational support and financial emergency detection or assistance.

(2) Recognizing the findings in subsection (1), the Legislature declares that:

(a) The fiscal challenges confronting various municipalities and special districts require an investment that will facilitate efforts to improve the productivity and efficiency of their financial structures and operating procedures.

(b) Current and additional revenue enhancements authorized by the Legislature should be managed and administered using appropriate management practices and expertise.

(3) The purpose of this section is to provide technical assistance to municipalities and special districts to enable them to implement workable solutions to financially related problems.

(4) The Chief Financial Officer shall enter into contracts with program providers who shall:

(a) Be a public agency or private, nonprofit corporation, association, or entity.

(b) Use existing resources, services, and information that are available from state or local agencies, universities, or the private sector.

(c) Seek and accept funding from any public or private source.

(d) Assist municipalities and independent special districts in developing alternative revenue sources.

(e) Provide for an annual independent financial audit of the program, if the program receives funding.

(f) Provide assistance to municipalities and special districts in the areas of financial management, accounting, investing, budgeting, and debt issuance.

(g) Develop a needs assessment to determine where assistance should be targeted, and to establish a priority system to deliver assistance to those

jurisdictions most in need through the most economical means available.

(h) Provide financial emergency assistance upon direction from the Executive Office of the Governor pursuant to s. 218.503.

(5)(a) The Chief Financial Officer shall issue a request for proposals to provide assistance to municipalities and special districts.

(b) The Chief Financial Officer shall review each contract proposal submitted.

(c) The Chief Financial Officer shall consider the following factors in reviewing contract proposals:

1. The demonstrated capacity of the provider to conduct needs assessments and implement the program as proposed.

2. The number of municipalities and special districts to be served under the proposal.

3. The cost of the program as specified in a proposed budget.

4. The short-term and long-term benefits of the assistance to municipalities and special districts.

5. The form and extent to which existing resources, services, and information that are available from state and local agencies, universities, and the private sector will be used by the provider under the contract.

(6) A decision of the Chief Financial Officer to award a contract under this section is final and shall be in writing.

(7) The Chief Financial Officer may enter into contracts and agreements with other state and local agencies and with any person, association, corporation, or entity other than the program providers, for the purpose of administering this section.

(8) The Chief Financial Officer shall provide fiscal oversight to ensure that funds expended for the program are used in accordance with the contracts entered into pursuant to subsection (4).

History.—s. 22, ch. 99-251; s. 1, ch. 2000-340; s. 157, ch. 2003-261; s. 20, ch. 2011-34.

163.06 Miami River Commission.—

(1)(a) The Miami River Commission is hereby established as the official coordinating clearinghouse for all public policy and projects related to the Miami River to unite all governmental agencies, businesses, and residents in the area to speak with one voice on river issues; to develop coordinated plans, priorities, programs, projects, and budgets that might substantially improve the river area; and to act as the principal advocate and watchdog to ensure that river projects are funded and implemented in a proper and timely manner.

(b) The commission may seek and receive funding to further its coordinating functions regarding river improvement projects of the commission. Nothing in this act affects or supersedes the regulatory authority of any governmental agency or any local government, and any responsibilities of any governmental entity relating to the Miami River shall remain with such respective governmental entity. However, the commission may accept any specifically defined coordinating authority or functions delegated to the commission by any governmental entity, through a memorandum of understanding or other legal instrument. The commission shall use powers of persuasion to achieve its objectives through

the process of building a consensus work plan and through widespread publication of regular progress reports.

(2) The Miami River Commission shall consist of:

(a) A policy committee comprised of the Governor, the chair of the Miami-Dade County delegation, the chair of the governing board of the South Florida Water Management District, the Miami-Dade County State Attorney, the Mayor of Miami, the Mayor of Miami-Dade County, a commissioner of the City of Miami Commission, a commissioner of the Miami-Dade County Commission, the chair of the Miami River Marine Group, the chair of the Marine Council, the Executive Director of the Downtown Development Authority, and the chair of the Greater Miami Chamber of Commerce; two neighborhood representatives, selected from the Spring Garden Neighborhood Association, the Grove Park Neighborhood Association, and the Miami River Neighborhood Enhancement Corporation, one neighborhood representative to be appointed by the city commission and one neighborhood representative to be appointed by the county commission, each selected from a list of three names submitted by each such organization; one representative from an environmental or civic association, appointed by the Governor; and three members-at-large, who shall be persons who have a demonstrated history of involvement on the Miami River through business, residence, or volunteer activity, one appointed by the Governor, one appointed by the city commission, and one appointed by the county commission. All members shall be voting members. The committee shall also include a member of the United States Congressional delegation and the Captain of the Port of Miami as a representative of the United States Coast Guard, as nonvoting, ex officio members. The policy committee may meet monthly, but shall meet at least quarterly.

(b) A managing director who has the responsibility to implement plans and programs.

(c) A working group consisting of all governmental agencies that have jurisdiction in the Miami River area, as well as representatives from business and civic associations.

(3) The policy committee shall have the following powers and duties:

(a) Consolidate existing plans, programs, and proposals into a coordinated strategic plan for improvement of the Miami River and surrounding areas, addressing environmental, economic, social, recreational, and aesthetic issues. The committee shall monitor the progress on each element of such plan and shall revise the plan regularly.

(b) Prepare an integrated financial plan using the different jurisdictional agencies available for projected financial resources. The committee shall monitor the progress on each element of such plan and revise the plan regularly.

(c) Provide technical assistance and political support as needed to help implement each element of the strategic and financial plans.

(d) Accept any specifically defined coordinating authority or function delegated to the committee by

any level of government through a memorandum of understanding or other legal instrument.

(e) Publicize a semiannual report describing accomplishments of the commission and each member agency, as well as the status of each pending task. The committee shall distribute the report to the city and county commissions and mayors, the Governor, chair of the Miami-Dade County delegation, stakeholders, and the local media.

(f) Seek grants from public and private sources and receive grant funds to provide for the enhancement of its coordinating functions and activities and administer contracts that achieve these goals.

(g) Provide a forum for exchange of information and facilitate the resolution of conflicts.

(h) Act as a clearinghouse for public information and conduct public education programs.

(i) Establish the Miami River working group, appoint members to the group, and organize subcommittees, delegate tasks, and seek counsel from members of the working group as necessary to carry out the powers and duties listed in this subsection.

(j) Elect officers and adopt rules of procedure as necessary to carry out the powers and duties listed above and solicit appointing authorities to name replacements for policy committee members who do not participate on a regular basis.

(k) Hire the managing director, who shall be authorized to represent the commission and to implement all policies, plans, and programs of the commission. The committee shall employ any additional staff necessary to assist the managing director.

History.—ss. 5, 7, ch. 98-402; s. 1, ch. 2003-123; s. 26, ch. 2008-4; s. 2, ch. 2011-139; s. 14, ch. 2012-5.

163.061 Miami River Commission; unanimous vote required for certain acts.—

(1) No item, motion, directive, or policy position that would impact or in any way diminish levels of currently permitted commercial activity on the Miami River or riverfront properties shall be adopted by the Miami River Commission unless passed by a unanimous vote of the appointed members of the commission then in office.

(2) No item, motion, directive, or policy position suggesting, proposing, or otherwise promoting additional taxes, fees, charges, or any other financial obligation on owners of riverfront property or shipping companies or operators shall be adopted by the Miami River Commission unless passed by a unanimous vote of all appointed members of the commission then in office.

History.—ss. 6, 7, ch. 98-402; s. 1, ch. 2003-123.

163.065 Miami River Improvement Act.—

(1) **SHORT TITLE.**—This section may be cited as the “Miami River Improvement Act.”

(2) **FINDINGS; PURPOSE.**—

(a) The Miami River Commission was created by chapter 98-402, Laws of Florida, to be the official coordinating clearinghouse for all public policy and projects related to the Miami River.

(b) The United States Congress has provided funding for an initial federal share of 80 percent for the environmental and navigational improvements to

the Miami River. The governments of the City of Miami and Miami-Dade County are coordinating with the Legislature and the Florida Department of Environmental Protection to determine how the 20-percent local share will be provided.

(c) Successful revitalizing and sustaining the urban redevelopment of the areas adjacent to the Miami River is dependent on addressing, through an integrated and coordinated intergovernmental plan, a range of varied components essential to a healthy urban environment, including cultural, recreational, economic, and transportation components.

(d) The purpose of this section is to ensure a coordinated federal, state, regional, and local effort to improve the Miami River and adjacent areas.

(3) **AGENCY ASSISTANCE.**—All state and regional agencies shall provide all available assistance to the Miami River Commission in the conduct of its activities.

(4) **PLAN.**—The Miami River Commission, working with the City of Miami and Miami-Dade County, shall consider the merits of the following:

(a) Development and adoption of an urban infill and redevelopment plan, under ss. 163.2511-163.2520, which participating state and regional agencies shall review for the purposes of determining consistency with applicable law.

(b) Development of a greenway/riverwalk and blueway, where appropriate, as authorized in s. 260.011, to provide an attractive and safe connector system of bicycle, pedestrian, and transit routes and water taxis to link jobs, waterfront amenities, and people, and contribute to the comprehensive revitalization of the Miami River.

History.—s. 26, ch. 2000-170; s. 23, ch. 2001-60; s. 185, ch. 2010-102; s. 2, ch. 2012-90.

163.08 Supplemental authority for improvements to real property.—

(1)(a) In chapter 2008-227, Laws of Florida, the Legislature amended the energy goal of the state comprehensive plan to provide, in part, that the state shall reduce its energy requirements through enhanced conservation and efficiency measures in all end-use sectors and reduce atmospheric carbon dioxide by promoting an increased use of renewable energy resources. That act also declared it the public policy of the state to play a leading role in developing and instituting energy management programs that promote energy conservation, energy security, and the reduction of greenhouse gases. In addition to establishing policies to promote the use of renewable energy, the Legislature provided for a schedule of increases in energy performance of buildings subject to the Florida Energy Efficiency Code for Building Construction. In chapter 2008-191, Laws of Florida, the Legislature adopted new energy conservation and greenhouse gas reduction comprehensive planning requirements for local governments. In the 2008 general election, the voters of this state approved a constitutional amendment authorizing the Legislature, by general law, to prohibit consideration of any change or improvement made for the purpose of improving a property's resistance to wind damage or the installation of a renewable energy source device in the

determination of the assessed value of residential real property.

(b) The Legislature finds that all energy-consuming-improved properties that are not using energy conservation strategies contribute to the burden affecting all improved property resulting from fossil fuel energy production. Improved property that has been retrofitted with energy-related qualifying improvements receives the special benefit of alleviating the property's burden from energy consumption. All improved properties not protected from wind damage by wind resistance qualifying improvements contribute to the burden affecting all improved property resulting from potential wind damage. Improved property that has been retrofitted with wind resistance qualifying improvements receives the special benefit of reducing the property's burden from potential wind damage. Further, the installation and operation of qualifying improvements not only benefit the affected properties for which the improvements are made, but also assist in fulfilling the goals of the state's energy and hurricane mitigation policies. In order to make qualifying improvements more affordable and assist property owners who wish to undertake such improvements, the Legislature finds that there is a compelling state interest in enabling property owners to voluntarily finance such improvements with local government assistance.

(c) The Legislature determines that the actions authorized under this section, including, but not limited to, the financing of qualifying improvements through the execution of financing agreements and the related imposition of voluntary assessments are reasonable and necessary to serve and achieve a compelling state interest and are necessary for the prosperity and welfare of the state and its property owners and inhabitants.

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

(a) "Local government" means a county, a municipality, a dependent special district as defined in s. 189.012, or a separate legal entity created pursuant to s. 163.01(7).

(b) "Qualifying improvement" includes any:

1. Energy conservation and efficiency improvement, which is a measure to reduce consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; building modifications to increase the use of daylight; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; and installation of efficient lighting equipment.

2. Renewable energy improvement, which is the installation of any system in which the electrical, mechanical, or thermal energy is produced from a method that uses one or more of the following fuels or energy sources: hydrogen, solar energy, geothermal energy, bioenergy, and wind energy.

3. Wind resistance improvement, which includes, but is not limited to:

- a. Improving the strength of the roof deck attachment;
- b. Creating a secondary water barrier to prevent water intrusion;
- c. Installing wind-resistant shingles;
- d. Installing gable-end bracing;
- e. Reinforcing roof-to-wall connections;
- f. Installing storm shutters; or
- g. Installing opening protections.

(3) A local government may levy non-ad valorem assessments to fund qualifying improvements.

(4) Subject to local government ordinance or resolution, a property owner may apply to the local government for funding to finance a qualifying improvement and enter into a financing agreement with the local government. Costs incurred by the local government for such purpose may be collected as a non-ad valorem assessment. A non-ad valorem assessment shall be collected pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a), shall not be subject to discount for early payment. However, the notice and adoption requirements of s. 197.3632(4) do not apply if this section is used and complied with, and the intent resolution, publication of notice, and mailed notices to the property appraiser, tax collector, and Department of Revenue required by s. 197.3632(3)(a) may be provided on or before August 15 in conjunction with any non-ad valorem assessment authorized by this section, if the property appraiser, tax collector, and local government agree.

(5) Pursuant to this section or as otherwise provided by law or pursuant to a local government's home rule power, a local government may enter into a partnership with one or more local governments for the purpose of providing and financing qualifying improvements.

(6) A qualifying improvement program may be administered by a for-profit entity or a not-for-profit organization on behalf of and at the discretion of the local government.

(7) A local government may incur debt for the purpose of providing such improvements, payable from revenues received from the improved property, or any other available revenue source authorized by law.

(8) A local government may enter into a financing agreement only with the record owner of the affected property. Any financing agreement entered into pursuant to this section or a summary memorandum of such agreement shall be recorded in the public records of the county within which the property is located by the sponsoring unit of local government within 5 days after execution of the agreement. The recorded agreement shall provide constructive notice that the assessment to be levied on the property constitutes a lien of equal dignity to county taxes and assessments from the date of recordation.

(9) Before entering into a financing agreement, the local government shall reasonably determine that all property taxes and any other assessments levied on the same bill as property taxes are paid and have not been delinquent for the preceding 3 years or the property owner's period of ownership, whichever is less; that there are no involuntary liens, including, but not limited

to, construction liens on the property; that no notices of default or other evidence of property-based debt delinquency have been recorded during the preceding 3 years or the property owner's period of ownership, whichever is less; and that the property owner is current on all mortgage debt on the property.

(10) A qualifying improvement shall be affixed to a building or facility that is part of the property and shall constitute an improvement to the building or facility or a fixture attached to the building or facility. An agreement between a local government and a qualifying property owner may not cover wind-resistance improvements in buildings or facilities under new construction or construction for which a certificate of occupancy or similar evidence of substantial completion of new construction or improvement has not been issued.

(11) Any work requiring a license under any applicable law to make a qualifying improvement shall be performed by a contractor properly certified or registered pursuant to part I or part II of chapter 489.

(12)(a) Without the consent of the holders or loan servicers of any mortgage encumbering or otherwise secured by the property, the total amount of any non-ad valorem assessment for a property under this section may not exceed 20 percent of the just value of the property as determined by the county property appraiser.

(b) Notwithstanding paragraph (a), a non-ad valorem assessment for a qualifying improvement defined in subparagraph (2)(b)1. or subparagraph (2)(b)2. that is supported by an energy audit is not subject to the limits in this subsection if the audit demonstrates that the annual energy savings from the qualified improvement equals or exceeds the annual repayment amount of the non-ad valorem assessment.

(13) At least 30 days before entering into a financing agreement, the property owner shall provide to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the property a notice of the owner's intent to enter into a financing agreement together with the maximum principal amount to be financed and the maximum annual assessment necessary to repay that amount. A verified copy or other proof of such notice shall be provided to the local government. A provision in any agreement between a mortgagee or other lienholder and a property owner, or otherwise now or hereafter binding upon a property owner, which allows for acceleration of payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement as provided for in this section is not enforceable. This subsection does not limit the authority of the holder or loan servicer to increase the required monthly escrow by an amount necessary to annually pay the qualifying improvement assessment.

(14) At or before the time a purchaser executes a contract for the sale and purchase of any property for which a non-ad valorem assessment has been levied under this section and has an unpaid balance due, the seller shall give the prospective purchaser a written disclosure statement in the following form, which shall be set forth in the contract or in a separate writing:

QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE ENERGY, OR WIND RESISTANCE.—The property being purchased is located within the jurisdiction of a local government that has placed an assessment on the property pursuant to s. 163.08, Florida Statutes. The assessment is for a qualifying improvement to the property relating to energy efficiency, renewable energy, or wind resistance, and is not based on the value of property. You are encouraged to contact the county property appraiser's office to learn more about this and other assessments that may be provided by law.

(15) A provision in any agreement between a local government and a public or private power or energy provider or other utility provider is not enforceable to limit or prohibit any local government from exercising its authority under this section.

(16) This section is additional and supplemental to county and municipal home rule authority and not in derogation of such authority or a limitation upon such authority.

History.—s. 1, ch. 2010-139; s. 1, ch. 2012-117; s. 64, ch. 2014-22.

PART II

GROWTH POLICY; COUNTY AND MUNICIPAL PLANNING; LAND DEVELOPMENT REGULATION

163.2511	Urban infill and redevelopment.	163.3182	Transportation deficiencies.
163.2514	Growth Policy Act; definitions.	163.3184	Process for adoption of comprehensive plan or plan amendment.
163.2517	Designation of urban infill and redevelopment area.	163.3187	Process for adoption of small-scale comprehensive plan amendment.
163.2520	Economic incentives.	163.3191	Evaluation and appraisal of comprehensive plan.
163.3161	Short title; intent and purpose.	163.3194	Legal status of comprehensive plan.
163.3162	Agricultural Lands and Practices.	163.3197	Legal status of prior comprehensive plan.
163.3163	Applications for development permits; disclosure and acknowledgment of contiguous sustainable agricultural land.	163.3201	Relationship of comprehensive plan to exercise of land development regulatory authority.
163.3164	Community Planning Act; definitions.	163.3202	Land development regulations.
163.3167	Scope of act.	163.3204	Cooperation by state and regional agencies.
163.3168	Planning innovations and technical assistance.	163.3206	Fuel terminals.
163.3171	Areas of authority under this act.	163.3208	Substation approval process.
163.3174	Local planning agency.	163.3209	Electric transmission and distribution line right-of-way maintenance.
163.3175	Legislative findings on compatibility of development with military installations; exchange of information between local governments and military installations.	163.3211	Conflict with other statutes.
163.3177	Required and optional elements of comprehensive plan; studies and surveys.	163.3213	Administrative review of land development regulations.
163.31771	Accessory dwelling units.	163.3215	Standing to enforce local comprehensive plans through development orders.
163.31777	Public schools interlocal agreement.	163.3217	Municipal overlay for municipal incorporation.
163.3178	Coastal management.	163.3220	Short title; legislative intent.
163.3179	Family homestead.	163.3221	Florida Local Government Development Agreement Act; definitions.
163.3180	Concurrency.	163.3223	Applicability.
163.31801	Impact fees; short title; intent; definitions; ordinances levying impact fees.	163.3225	Public hearings.
163.31802	Prohibited standards for security devices.	163.3227	Requirements of a development agreement.
163.3181	Public participation in the comprehensive planning process; intent; alternative dispute resolution.	163.3229	Duration of a development agreement and relationship to local comprehensive plan.
		163.3231	Consistency with the comprehensive plan and land development regulations.
		163.3233	Local laws and policies governing a development agreement.
		163.3235	Periodic review of a development agreement.
		163.3237	Amendment or cancellation of a development agreement.
		163.3239	Recording and effectiveness of a development agreement.
		163.3241	Modification or revocation of a development agreement to comply with subsequently enacted state and federal law.
		163.3243	Enforcement.
		163.3245	Sector plans.
		163.3246	Local government comprehensive planning certification program.
		163.32466	Readoption by ordinance of plan amendments adopted pursuant to former s. 163.32465, subject to local referendum.
		163.3248	Rural land stewardship areas.
		163.325	Short title.
		163.3251	Definitions.
		163.3252	Local manufacturing development program; master development approval for manufacturers.

163.3253 Coordinated manufacturing development approval process.

163.2511 Urban infill and redevelopment.—

(1) Sections 163.2511-163.2520 may be cited as the “Growth Policy Act.”

(2) It is declared that:

(a) Fiscally strong urban centers are beneficial to regional and state economies and resources, are a method for reduction of future urban sprawl, and should be promoted by state, regional, and local governments.

(b) The health and vibrancy of the urban cores benefit their respective regions and the state; conversely, the deterioration of those urban cores negatively impacts the surrounding area and the state.

(c) In recognition of the interwoven destiny between the urban center, the suburbs, the region, and the state, the respective governments need to establish a framework and work in partnership with communities and the private sector to revitalize urban centers.

(d) State urban policies should guide the state, regional agencies, local governments, and the private sector in preserving and redeveloping existing urban cores and promoting the adequate provision of infrastructure, human services, safe neighborhoods, educational facilities, and economic development to sustain these cores into the future.

(e) Successfully revitalizing and sustaining the urban cores is dependent on addressing, through an integrated and coordinated community effort, a range of varied components essential to a healthy urban environment, including cultural, educational, recreational, economic, transportation, and social service components.

(f) Infill development and redevelopment are recognized to be important components and useful mechanisms for promoting and sustaining urban cores. State and regional entities and local governments should provide incentives to promote urban infill and redevelopment. Existing programs and incentives should be integrated to the extent possible to promote urban infill and redevelopment and to achieve the goals of the state urban policy.

History.—s. 1, ch. 99-378; s. 186, ch. 2010-102; s. 3, ch. 2012-90.

163.2514 Growth Policy Act; definitions.—As used in ss. 163.2511-163.2520, the term:

(1) “Local government” means any county or municipality.

(2) “Urban infill and redevelopment area” means an area or areas designated by a local government where:

(a) Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided in an adopted 5-year schedule of capital improvements;

(b) The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress as defined by s. 290.0058;

(c) The area exhibits a proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete which is higher than the average for the local government;

(d) More than 50 percent of the area is within ¼ mile of a transit stop, or a sufficient number of transit stops will be made available concurrent with the designation; and

(e) The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or Federal Government as an urban redevelopment, revitalization, or infill area under empowerment zone, enterprise community, or brownfield showcase community programs or similar programs.

History.—s. 1, ch. 99-378; s. 187, ch. 2010-102; s. 4, ch. 2012-90.

163.2517 Designation of urban infill and redevelopment area.—

(1) A local government may designate a geographic area or areas within its jurisdiction as an urban infill and redevelopment area for the purpose of targeting economic development, job creation, housing, transportation, crime prevention, neighborhood revitalization and preservation, and land use incentives to encourage urban infill and redevelopment within the urban core.

(2)(a) As part of the preparation and implementation of an urban infill and redevelopment plan, a collaborative and holistic community participation process must be implemented to include each neighborhood within the area targeted for designation as an urban infill and redevelopment area. The objective of the community participation process is to encourage communities within the proposed urban infill and redevelopment area to participate in the design and implementation of the plan, including a “visioning” of the urban core, before redevelopment.

(b)1. A neighborhood participation process must be developed to provide for the ongoing involvement of stakeholder groups including, but not limited to, community-based organizations, neighborhood associations, financial institutions, faith organizations, housing authorities, financial institutions, existing businesses, businesses interested in operating in the community, schools, and neighborhood residents, in preparing and implementing the urban infill and redevelopment plan.

2. The neighborhood participation process must include a governance structure whereby the local government shares decisionmaking authority for developing and implementing the urban infill and redevelopment plan with communitywide representatives. For example, the local government and community representatives could organize a corporation under s. 501(c)(3) of the Internal Revenue Code to implement specific redevelopment projects.

(3) A local government seeking to designate a geographic area within its jurisdiction as an urban infill and redevelopment area shall prepare a plan that describes the infill and redevelopment objectives of the local government within the proposed area. In lieu of preparing a new plan, the local government may demonstrate that an existing plan or combination of plans associated with a community redevelopment area, Florida Main Street program, Front Porch Florida Community, sustainable community, enterprise zone, or neighborhood improvement district includes the factors listed in paragraphs (a)-(n), including a collaborative

and holistic community participation process, or amend such existing plans to include these factors. The plan shall demonstrate the local government and community's commitment to comprehensively address the urban problems within the urban infill and redevelopment area and identify activities and programs to accomplish locally identified goals such as code enforcement; improved educational opportunities; reduction in crime; neighborhood revitalization and preservation; provision of infrastructure needs, including mass transit and multimodal linkages; and mixed-use planning to promote multifunctional redevelopment to improve both the residential and commercial quality of life in the area. The plan shall also:

(a) Contain a map depicting the geographic area or areas to be included within the designation.

(b) Confirm that the infill and redevelopment area is within an area designated for urban uses in the local government's comprehensive plan.

(c) Identify and map existing enterprise zones, community redevelopment areas, community development corporations, brownfield areas, downtown redevelopment districts, safe neighborhood improvement districts, historic preservation districts, and empowerment zones or enterprise communities located within the area proposed for designation as an urban infill and redevelopment area and provide a framework for coordinating infill and redevelopment programs within the urban core.

(d) Identify a memorandum of understanding between the district school board and the local government jurisdiction regarding public school facilities located within the urban infill and redevelopment area to identify how the school board will provide priority to enhancing public school facilities and programs in the designated area, including the reuse of existing buildings for schools within the area.

(e) Identify each neighborhood within the proposed area and state community preservation and revitalization goals and projects identified through a collaborative and holistic community participation process and how such projects will be implemented.

(f) Identify how the local government and community-based organizations intend to implement affordable housing programs, including, but not limited to, economic and community development programs administered by federal and state agencies, within the urban infill and redevelopment area.

(g) Identify strategies for reducing crime.

(h) If applicable, provide guidelines for the adoption of land development regulations specific to the urban infill and redevelopment area which include, for example, setbacks and parking requirements appropriate to urban development.

(i) Identify and map any existing transportation concurrency exception areas and any relevant public transportation corridors designated by a metropolitan planning organization in its long-range transportation plans or by the local government in its comprehensive plan for which the local government seeks designation as a transportation concurrency exception area. For those areas, describe how public transportation,

pedestrian ways, and bikeways will be implemented as an alternative to increased automobile use.

(j) Identify and adopt a package of financial and local government incentives which the local government will offer for new development, expansion of existing development, and redevelopment within the urban infill and redevelopment area. Examples of such incentives include:

1. Waiver of license and permit fees.

2. Exemption of sales made in the urban infill and redevelopment area from local option sales surtaxes imposed pursuant to s. 212.055.

3. Waiver of delinquent local taxes or fees to promote the return of property to productive use.

4. Expedited permitting.

5. Lower transportation impact fees for development which encourages more use of public transit, pedestrian, and bicycle modes of transportation.

6. Prioritization of infrastructure spending within the urban infill and redevelopment area.

7. Local government absorption of developers' concurrency costs.

In order to be authorized to recognize the exemption from local option sales surtaxes pursuant to subparagraph 2., the owner, lessee, or lessor of the new development, expanding existing development, or redevelopment within the urban infill and redevelopment area must file an application under oath with the governing body having jurisdiction over the urban infill and redevelopment area where the business is located. The application must include the name and address of the business claiming the exclusion from collecting local option surtaxes; an address and assessment roll parcel number of the urban infill and redevelopment area for which the exemption is being sought; a description of the improvements made to accomplish the new development, expanding development, or redevelopment of the real property; a copy of the building permit application or the building permit issued for the development of the real property; a new application for a certificate of registration with the Department of Revenue with the address of the new development, expanding development, or redevelopment; and the location of the property. The local government must review and approve the application and submit the completed application and documentation along with a copy of the ordinance adopted pursuant to subsection (5) to the Department of Revenue in order for the business to become eligible to make sales exempt from local option sales surtaxes in the urban infill and redevelopment area.

(k) Identify how activities and incentives within the urban infill and redevelopment area will be coordinated and what administrative mechanism the local government will use for the coordination.

(l) Identify how partnerships with the financial and business community will be developed.

(m) Identify the governance structure that the local government will use to involve community representatives in the implementation of the plan.

(n) Identify performance measures to evaluate the success of the local government in implementing the urban infill and redevelopment plan.

(4) In order for a local government to designate an urban infill and redevelopment area, it must amend its comprehensive land use plan under s. 163.3187 to delineate the boundaries of the urban infill and redevelopment area within the future land use element of its comprehensive plan pursuant to its adopted urban infill and redevelopment plan. The state land planning agency shall review the boundary delineation of the urban infill and redevelopment area in the future land use element under s. 163.3184. However, an urban infill and redevelopment plan adopted by a local government is not subject to review for compliance as defined by s. 163.3184(1)(b), and the local government is not required to adopt the plan as a comprehensive plan amendment.

(5) After the preparation of an urban infill and redevelopment plan or designation of an existing plan, the local government shall adopt the plan by ordinance. Notice for the public hearing on the ordinance must be in the form established in s. 166.041(3)(c)2. for municipalities, and s. 125.66(4)(b)2. for counties.

(6)(a) In order to continue to be eligible for the economic and regulatory incentives granted with respect to an urban infill and redevelopment area, the local government must demonstrate during the evaluation, assessment, and review of its comprehensive plan required pursuant to s. 163.3191, that within designated urban infill and redevelopment areas, the amount of combined annual residential, commercial, and institutional development has increased by at least 10 percent.

(b) If the local government fails to implement the urban infill and redevelopment plan in accordance with the deadlines set forth in the plan, the state land planning agency may seek to rescind the economic and regulatory incentives granted to the urban infill and redevelopment area, subject to the provisions of chapter 120. The action to rescind may be initiated 90 days after issuing a written letter of warning to the local government.

History.—s. 1, ch. 99-378; s. 18, ch. 2000-317; s. 24, ch. 2001-60; s. 3, ch. 2011-139; s. 5, ch. 2012-96.

163.2520 Economic incentives.—

(1) A local government with an adopted urban infill and redevelopment plan or plan employed in lieu thereof may issue revenue bonds under s. 163.385 and employ tax increment financing under s. 163.387 for the purpose of financing the implementation of the plan, except that in a charter county such incentives shall be employed consistent with the provisions of s. 163.410.

(2) A local government with an adopted urban infill and redevelopment plan or plan employed in lieu thereof may exercise the powers granted under s. 163.514 for community redevelopment neighborhood improvement districts, including the authority to levy special assessments.

(3) Prior to June 1 each year, areas designated by a local government as urban infill and redevelopment areas shall be given a priority in the allocation of private

activity bonds from the state pool pursuant to s. 159.807.

History.—s. 1, ch. 99-378; s. 25, ch. 2001-60.

163.3161 Short title; intent and purpose.—

(1) This part shall be known and may be cited as the “Community Planning Act.”

(2) It is the purpose of this act to utilize and strengthen the existing role, processes, and powers of local governments in the establishment and implementation of comprehensive planning programs to guide and manage future development consistent with the proper role of local government.

(3) It is the intent of this act to focus the state role in managing growth under this act to protecting the functions of important state resources and facilities.

(4) It is the intent of this act that local governments have the ability to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

(5) It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

(6) It is the intent of this act that adopted comprehensive plans shall have the legal status set out in this act and that no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.

(7) It is the intent of this act that the activities of units of local government in the preparation and adoption of comprehensive plans, or elements or portions thereof, shall be conducted in conformity with this act.

(8) The provisions of this act in their interpretation and application are declared to be the minimum requirements necessary to accomplish the stated intent, purposes, and objectives of this act; to protect human, environmental, social, and economic resources; and to maintain, through orderly growth and development, the character and stability of present and future land use and development in this state.

(9) It is the intent of the Legislature that the repeal of ss. 163.160 through 163.315 by s. 19 of chapter 85-55, Laws of Florida, and amendments to this part by this chapter law, not be interpreted to limit or restrict the powers of municipal or county officials, but be

interpreted as a recognition of their broad statutory and constitutional powers to plan for and regulate the use of land. It is, further, the intent of the Legislature to reconfirm that ss. 163.3161-163.3248 have provided and do provide the necessary statutory direction and basis for municipal and county officials to carry out their comprehensive planning and land development regulation powers, duties, and responsibilities.

(10) It is the intent of the Legislature that all governmental entities in this state recognize and respect judicially acknowledged or constitutionally protected private property rights. It is the intent of the Legislature that all rules, ordinances, regulations, comprehensive plans and amendments thereto, and programs adopted under the authority of this act must be developed, promulgated, implemented, and applied with sensitivity for private property rights and not be unduly restrictive, and property owners must be free from actions by others which would harm their property or which would constitute an inordinate burden on property rights as those terms are defined in s. 70.001(3)(e) and (f). Full and just compensation or other appropriate relief must be provided to any property owner for a governmental action that is determined to be an invalid exercise of the police power which constitutes a taking, as provided by law. Any such relief must ultimately be determined in a judicial action.

(11) It is the intent of this part that the traditional economic base of this state, agriculture, tourism, and military presence, be recognized and protected. Further, it is the intent of this part to encourage economic diversification, workforce development, and community planning.

(12) It is the intent of this part that new statutory requirements created by the Legislature will not require a local government whose plan has been found to be in compliance with this part to adopt amendments implementing the new statutory requirements until the evaluation and appraisal period provided in s. 163.3191, unless otherwise specified in law. However, any new amendments must comply with the requirements of this part.

History.—ss. 1, 2, ch. 75-257; ss. 1, 20, ch. 85-55; s. 1, ch. 93-206; s. 4, ch. 2011-139.

163.3162 Agricultural Lands and Practices.—

(1) LEGISLATIVE FINDINGS AND PURPOSE.—

The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state, contributes to the increase of tourism, and furthers the economic self-sufficiency of the people of the state; and that the encouragement, development, and improvement of agriculture will result in a general benefit to the health, safety, and welfare of the people of the state. It is the purpose of this act to protect reasonable agricultural activities conducted on farm lands from duplicative regulation.

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

(a) “Farm” has the same meaning as provided in s. 823.14.

(b) “Farm operation” has the same meaning as provided in s. 823.14.

(c) “Farm product” means any plant, as defined in s. 581.011, or animal useful to humans and includes, but is not limited to, any product derived therefrom.

(d) “Governmental entity” has the same meaning as provided in s. 164.1031. The term does not include a water management district, a water control district established under chapter 298, or a special district created by special act for water management purposes.

(3) DUPLICATION OF REGULATION.—Except as otherwise provided in this section and s. 487.051(2), and notwithstanding any other law, including any provision of chapter 125 or this chapter:

(a) A governmental entity may not exercise any of its powers to adopt or enforce any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if such activity is regulated through implemented best management practices, interim measures, or regulations adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program; or if such activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

(b) A governmental entity may not charge a fee on a specific agricultural activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if such agricultural activity is regulated through implemented best management practices, interim measures, or regulations adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program; or if such agricultural activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

(c) A governmental entity may not charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if the farm operation has a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit or implements best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program.

(d) For each governmental entity that, before March 1, 2009, adopted a stormwater utility ordinance or resolution, adopted an ordinance or resolution establishing a municipal services benefit unit, or adopted a resolution stating the governmental entity’s intent to use the uniform method of collection pursuant to s.

197.3632 for such stormwater ordinances, the governmental entity may continue to charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural pursuant to s. 193.461, if the ordinance or resolution provides credits against the assessment or fee on a bona fide farm operation for the water quality or flood control benefit of:

1. The implementation of best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program;

2. The stormwater quality and quantity measures required as part of a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit; or

3. The implementation of best management practices or alternative measures which the landowner demonstrates to the governmental entity to be of equivalent or greater stormwater benefit than those provided by implementation of best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program, or stormwater quality and quantity measures required as part of a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit.

(e) When an activity of a farm operation takes place within a wellfield protection area as defined in any wellfield protection ordinance adopted by a county, and the implemented best management practice, regulation, or interim measure does not specifically address wellfield protection, a county may regulate that activity pursuant to such ordinance. This subsection does not limit the powers and duties provided for in s. 373.4592 or limit the powers and duties of any county to address an emergency as provided for in chapter 252.

(f) This subsection may not be construed to permit an existing farm operation to change to a more excessive farm operation with regard to traffic, noise, odor, dust, or fumes where the existing farm operation is adjacent to an established homestead or business on March 15, 1982.

(g) This subsection does not limit the powers of a predominantly urbanized county with a population greater than 1,500,000 and more than 25 municipalities, not operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by s. 6(e), Art. VIII of the Constitution of 1968, which has a delegated pollution control program under s. 403.182 and includes drainage basins that are part of the Everglades Stormwater Program, to enact ordinances, regulations, or other measures to comply with the provisions of s. 373.4592, or which are necessary to carrying out a county's duties pursuant to the terms and conditions of any environmental program delegated to the county by agreement with a state agency.

(h) For purposes of this subsection, a county ordinance that regulates the transportation or land

application of domestic wastewater residuals or other forms of sewage sludge shall not be deemed to be duplication of regulation.

(i) This subsection does not limit a county's powers to:

1. Enforce wetlands, springs protection, or stormwater ordinances, regulations, or rules adopted before July 1, 2003.

2. Enforce wetlands, springs protection, or stormwater ordinances, regulations, or rules pertaining to the Wekiva River Protection Area.

3. Enforce ordinances, regulations, or rules as directed by law or implemented consistent with the requirements of a program operated under a delegation agreement from a state agency or water management district.

As used in this paragraph, the term "wetlands" has the same meaning as defined in s. 373.019.

(j) The provisions of this subsection that limit a governmental entity's authority to adopt or enforce any ordinance, regulation, rule, or policy, or to charge any assessment or fee for stormwater management, apply only to a bona fide farm operation as described in this subsection.

(k) This subsection does not apply to a municipal services benefit unit established before March 1, 2009, pursuant to s. 125.01(1)(q), predominately for flood control or water supply benefits.

(4) AMENDMENT TO LOCAL GOVERNMENT COMPREHENSIVE PLAN.—The owner of a parcel of land defined as an agricultural enclave under s. 163.3164 may apply for an amendment to the local government comprehensive plan pursuant to s. 163.3184. Such amendment is presumed not to be urban sprawl as defined in s. 163.3164 if it includes land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. This presumption may be rebutted by clear and convincing evidence. Each application for a comprehensive plan amendment under this subsection for a parcel larger than 640 acres must include appropriate new urbanism concepts such as clustering, mixed-use development, the creation of rural village and city centers, and the transfer of development rights in order to discourage urban sprawl while protecting landowner rights.

(a) The local government and the owner of a parcel of land that is the subject of an application for an amendment shall have 180 days following the date that the local government receives a complete application to negotiate in good faith to reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. Within 30 days after the local government's receipt of such an application, the local government and owner must agree in writing to a schedule for information submittal, public hearings, negotiations, and final action on the amendment, which schedule may thereafter be altered only with the written consent of the local government and the owner. Compliance with the schedule in the written

agreement constitutes good faith negotiations for purposes of paragraph (c).

(b) Upon conclusion of good faith negotiations under paragraph (a), regardless of whether the local government and owner reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel, the amendment must be transmitted to the state land planning agency for review pursuant to s. 163.3184. If the local government fails to transmit the amendment within 180 days after receipt of a complete application, the amendment must be immediately transferred to the state land planning agency for such review. A plan amendment transmitted to the state land planning agency submitted under this subsection is presumed not to be urban sprawl as defined in s. 163.3164. This presumption may be rebutted by clear and convincing evidence.

(c) If the owner fails to negotiate in good faith, a plan amendment submitted under this subsection is not entitled to the rebuttable presumption under this subsection in the negotiation and amendment process.

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

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

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

History.—s. 1, ch. 2003-162; s. 2, ch. 2006-255; ss. 1, 9, ch. 2011-7; s. 5, ch. 2011-139; HJR 7103, 2011 Regular Session; s. 1, ch. 2012-83; s. 1, ch. 2013-239.

163.3163 Applications for development permits; disclosure and acknowledgment of contiguous sustainable agricultural land.—

(1) This section may be cited as the “Agricultural Land Acknowledgment Act.”

(2) The Legislature finds that nonagricultural land which neighbors agricultural land may adversely affect agricultural production and farm operations on the agricultural land and may lead to the agricultural land's conversion to urban, suburban, or other nonagricultural uses. The Legislature intends to reduce the occurrence of conflicts between agricultural and nonagricultural land uses and encourage sustainable agricultural land use. The purpose of this section is to ensure that generally accepted agricultural practices will not be subject to interference by residential use of land contiguous to sustainable agricultural land.

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

(a) “Contiguous” means touching, bordering, or adjoining along a boundary. For purposes of this section, properties that would be contiguous if not separated by a roadway, railroad, or other public easement are considered contiguous.

(b) “Farm operation” has the same meaning as defined in s. 823.14.

(c) “Sustainable agricultural land” means land classified as agricultural land pursuant to s. 193.461 which is used for a farm operation that uses current technology, based on science or research and demonstrated measurable increases in productivity, to meet future

food, feed, fiber, and energy needs, while considering the environmental impacts and the social and economic benefits to the rural communities.

(4)(a) Before a political subdivision issues a local land use permit, building permit, or certificate of occupancy for nonagricultural land contiguous to sustainable agricultural land, the political subdivision shall require that, as a condition of issuing the permit or certificate, the applicant for the permit or certificate sign and submit to the political subdivision, in a format that is recordable in the official records of the county in which the political subdivision is located, a written acknowledgment of contiguous sustainable agricultural land in the following form:

ACKNOWLEDGMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

I, (name of applicant), understand that my property located at (address of nonagricultural land), as further described in the attached legal description, is contiguous to sustainable agricultural land located at (address of agricultural land), as further described in the attached legal description.

I acknowledge and understand that the farm operation on the contiguous sustainable agricultural land identified herein will be conducted according to generally accepted agricultural practices as provided in the Florida Right to Farm Act, s. 823.14, Florida Statutes.

Signature: (signature of applicant)

Date: (date)

(b) An acknowledgment submitted to a political subdivision under paragraph (a) shall be recorded in the official records of the county in which the political subdivision is located.

(c) The Department of Agriculture and Consumer Services, in cooperation with the Department of Revenue, may adopt rules to administer this section.

History.—ss. 2, 9, ch. 2011-7; HJR 7103, 2011 Regular Session; s. 14, ch. 2012-83.

163.3164 Community Planning Act; definitions.

As used in this act:

(1) “Adaptation action area” or “adaptation area” means a designation in the coastal management element of a local government's comprehensive plan which identifies one or more areas that experience coastal flooding due to extreme high tides and storm surge, and that are vulnerable to the related impacts of rising sea levels for the purpose of prioritizing funding for infrastructure needs and adaptation planning.

(2) “Administration Commission” means the Governor and the Cabinet, and for purposes of this chapter the commission shall act on a simple majority vote, except that for purposes of imposing the sanctions provided in s. 163.3184(8), affirmative action shall require the approval of the Governor and at least three other members of the commission.

(3) “Affordable housing” has the same meaning as in s. 420.0004(3).

(4) "Agricultural enclave" means an unincorporated, undeveloped parcel that:

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

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

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

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

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

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

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

(5) "Antiquated subdivision" means a subdivision that was recorded or approved more than 20 years ago and that has substantially failed to be built and the continued buildout of the subdivision in accordance with the subdivision's zoning and land use purposes would cause an imbalance of land uses and would be detrimental to the local and regional economies and environment, hinder current planning practices, and lead to inefficient and fiscally irresponsible development patterns as determined by the respective jurisdiction in which the subdivision is located.

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

(7) "Capital improvement" means physical assets constructed or purchased to provide, improve, or replace a public facility and which are typically large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multiyear financing. For the purposes of this part, physical assets that have been identified as existing or projected needs in the individual comprehensive plan elements shall be considered capital improvements.

(8) "Coastal area" means the 35 coastal counties and all coastal municipalities within their boundaries.

(9) "Compatibility" means a condition in which land uses or conditions can coexist in relative proximity to

each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

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

(11) "Deepwater ports" means the ports identified in s. 403.021(9).

(12) "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre.

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

(14) "Development" has the same meaning as in s. 380.04.

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

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

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

(18) "Floodprone areas" means areas inundated during a 100-year flood event or areas identified by the National Flood Insurance Program as an A Zone on flood insurance rate maps or flood hazard boundary maps.

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

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

(21) "Governmental agency" means:

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

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

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

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

(22) "Intensity" means an objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services.

(23) "Internal trip capture" means trips generated by a mixed-use project that travel from one onsite land use to another onsite land use without using the external road network.

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

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

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

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

(28) "Level of service" means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

(29) "Local government" means any county or municipality.

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

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

(32) "New town" means an urban activity center and community designated on the future land use map of sufficient size, population, and land use composition to support a variety of economic and social activities consistent with an urban area designation. New towns shall include basic economic activities; all major land use categories, with the possible exception of agricultural and industrial; and a centrally provided full range of public facilities and services that demonstrate internal trip capture. A new town shall be based on a master development plan.

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

(34) "Parcel of land" means any quantity of land capable of being described with such definiteness that

its locations and boundaries may be established, which is designated by its owner or developer as land to be used, or developed as, a unit or which has been used or developed as a unit.

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

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

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

(38) "Public facilities" means major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities.

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

(40) "Regional planning agency" means the council created pursuant to chapter 186.

(41) "Seasonal population" means part-time inhabitants who use, or may be expected to use, public facilities or services, but are not residents and includes tourists, migrant farmworkers, and other short-term and long-term visitors.

(42) "Sector plan" means the process authorized by s. 163.3245 in which one or more local governments engage in long-term planning for a large area and address regional issues through adoption of detailed specific area plans within the planning area as a means of fostering innovative planning and development strategies, furthering the purposes of this part and part I of chapter 380, reducing overlapping data and analysis requirements, protecting regionally significant resources and facilities, and addressing extrajurisdictional impacts. The term includes an optional sector plan that was adopted before June 2, 2011.

(43) "State land planning agency" means the Department of Economic Opportunity.

(44) "Structure" has the same meaning as in s. 380.031(19).

(45) "Suitability" means the degree to which the existing characteristics and limitations of land and water are compatible with a proposed use or development.

(46) "Transit-oriented development" means a project or projects, in areas identified in a local government comprehensive plan, that is or will be served by existing or planned transit service. These designated areas shall be compact, moderate to high density developments, of mixed-use character, interconnected with other land uses, bicycle and pedestrian friendly, and designed to

support frequent transit service operating through, collectively or separately, rail, fixed guideway, streetcar, or bus systems on dedicated facilities or available roadway connections.

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

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

(49) "Urban redevelopment" means demolition and reconstruction or substantial renovation of existing buildings or infrastructure within urban infill areas, existing urban service areas, or community redevelopment areas created pursuant to part III.

(50) "Urban service area" means areas identified in the comprehensive plan where public facilities and services, including, but not limited to, central water and sewer capacity and roads, are already in place or are identified in the capital improvements element. The term includes any areas identified in the comprehensive plan as urban service areas, regardless of local government limitation.

(51) "Urban sprawl" means a development pattern characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses.

History.—s. 3, ch. 75-257; s. 49, ch. 79-190; s. 10, ch. 81-167; s. 10, ch. 83-55; s. 2, ch. 85-55; s. 3, ch. 92-129; s. 2, ch. 93-206; s. 2, ch. 95-257; s. 22, ch. 95-280; s. 7, ch. 95-310; s. 2, ch. 98-176; s. 2, ch. 99-378; s. 1, ch. 2005-290; s. 3, ch. 2006-255; s. 1, ch. 2007-204; s. 2, ch. 2009-96; s. 2, ch. 2011-14; ss. 6, 80, ch. 2011-139; s. 59, ch. 2011-142.

163.3167 Scope of act.—

(1) The several incorporated municipalities and counties shall have power and responsibility:

(a) To plan for their future development and growth.

(b) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.

(c) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof.

(d) To establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of this act.

The powers and authority set out in this act may be employed by municipalities and counties individually or jointly by mutual agreement in accord with this act and in such combinations as their common interests may dictate and require.

(2) Each local government shall maintain a comprehensive plan of the type and in the manner set out in this part or prepare amendments to its existing comprehensive plan to conform it to the requirements of this part and in the manner set out in this part.

(3) A municipality established after the effective date of this act shall, within 1 year after incorporation, establish a local planning agency, pursuant to s. 163.3174, and prepare and adopt a comprehensive plan of the type and in the manner set out in this act within 3 years after the date of such incorporation. A county comprehensive plan shall be deemed controlling until the municipality adopts a comprehensive plan in accord with this act.

(4) Any comprehensive plan, or element or portion thereof, adopted pursuant to this act, which but for its adoption after the deadlines established pursuant to previous versions of this act would have been valid, shall be valid.

(5) Nothing in this act shall limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to chapter 380 or who has been issued a final local development order and development has commenced and is continuing in good faith.

(6) The Reedy Creek Improvement District shall exercise the authority of this part as it applies to municipalities, consistent with the legislative act under which it was established, for the total area under its jurisdiction.

(7) Nothing in this part shall supersede any provision of ss. 341.8201-341.842.

(8)(a) An initiative or referendum process in regard to any development order is prohibited.

(b) An initiative or referendum process in regard to any local comprehensive plan amendment or map amendment is prohibited unless it is expressly authorized by specific language in a local government charter that was lawful and in effect on June 1, 2011. A general local government charter provision for an initiative or referendum process is not sufficient.

(c) It is the intent of the Legislature that initiative and referendum be prohibited in regard to any development order. It is the intent of the Legislature that initiative and referendum be prohibited in regard to any local comprehensive plan amendment or map amendment, except as specifically and narrowly allowed by paragraph (b). Therefore, the prohibition on initiative and referendum stated in paragraphs (a) and (b) is remedial in nature and applies retroactively to any initiative or referendum process commenced after June 1, 2011, and any such initiative or referendum process commenced or completed thereafter is deemed null and void and of no legal force and effect.

(9) Each local government shall address in its comprehensive plan, as enumerated in this chapter, the water supply sources necessary to meet and achieve the existing and projected water use demand for the established planning period, considering the applicable plan developed pursuant to s. 373.709.

(10)(a) If a local government grants a development order pursuant to its adopted land development regulations and the order is not the subject of a pending appeal

and the timeframe for filing an appeal has expired, the development order may not be invalidated by a subsequent judicial determination that such land development regulations, or any portion thereof that is relevant to the development order, are invalid because of a deficiency in the approval standards.

(b) This subsection does not preclude or affect the timely institution of any other remedy available at law or equity, including a common law writ of certiorari proceeding pursuant to Rule 9.190, Florida Rules of Appellate Procedure, or an original proceeding pursuant to s. 163.3215, as applicable.

History.—s. 4, ch. 75-257; s. 1, ch. 77-174; s. 3, ch. 85-55; s. 6, ch. 86-191; s. 1, ch. 87-338; s. 1, ch. 92-129; s. 5, ch. 93-206; s. 1, ch. 95-322; s. 23, ch. 96-410; s. 158, ch. 2003-261; s. 11, ch. 2004-5; s. 1, ch. 2004-37; s. 3, ch. 2004-372; s. 1, ch. 2004-381; s. 42, ch. 2010-102; s. 3, ch. 2010-205; s. 7, ch. 2011-139; s. 1, ch. 2012-99; s. 1, ch. 2013-115; s. 3, ch. 2013-213; s. 1, ch. 2014-178.

163.3168 Planning innovations and technical assistance.—

(1) The Legislature recognizes the need for innovative planning and development strategies to promote a diverse economy and vibrant rural and urban communities, while protecting environmentally sensitive areas. The Legislature further recognizes the substantial advantages of innovative approaches to development directed to meet the needs of urban, rural, and suburban areas.

(2) Local governments are encouraged to apply innovative planning tools, including, but not limited to, visioning, sector planning, and rural land stewardship area designations to address future new development areas, urban service area designations, urban growth boundaries, and mixed-use, high-density development in urban areas.

(3) The state land planning agency shall help communities find creative solutions to fostering vibrant, healthy communities, while protecting the functions of important state resources and facilities. The state land planning agency and all other appropriate state and regional agencies may use various means to provide direct and indirect technical assistance within available resources. If plan amendments may adversely impact important state resources or facilities, upon request by the local government, the state land planning agency shall coordinate multiagency assistance, if needed, in developing an amendment to minimize impacts on such resources or facilities.

(4) The state land planning agency shall provide, on its website, guidance on the submittal and adoption of comprehensive plans, plan amendments, and land development regulations. Such guidance shall not be adopted as a rule and is exempt from s. 120.54(1)(a).

History.—s. 8, ch. 2011-139.

163.3171 Areas of authority under this act.—

(1) A municipality shall exercise authority under this act for the total area under its jurisdiction. Unincorporated areas adjacent to incorporated municipalities may be included in the area of municipal jurisdiction for the purposes of this act if the governing bodies of the municipality and the county in which the area is located agree on the boundaries of such additional areas, on procedures for joint action in the preparation and adoption of the comprehensive plan, on procedures

for the administration of land development regulations or the land development code applicable thereto, and on the manner of representation on any joint body or instrument that may be created under the joint agreement. Such joint agreement shall be formally stated and approved in appropriate official action by the governing bodies involved.

(2) A county shall exercise authority under this act for the total unincorporated area under its jurisdiction or in such unincorporated areas as are not included in any joint agreement with municipalities established under the provisions of subsection (1). In the case of chartered counties, the county may exercise such authority over municipalities or districts within its boundaries as is provided for in its charter.

(3) Combinations of municipalities within a county, or counties, or an incorporated municipality or municipalities and a county or counties, or an incorporated municipality or municipalities and portions of a county or counties may jointly exercise the powers granted under the provisions of this act upon formal adoption of an official agreement by the governing bodies involved pursuant to law. No such official agreement shall be adopted by the governing bodies involved until a public hearing on the subject with public notice has been held by each governing body involved. The general administration of any joint agreement shall be governed by the provisions of s. 163.01 except that when there is conflict with this act the provisions of this act shall govern.

(4) Local governments may enter into agreements with each other and with a landowner, developer, or governmental agency as may be necessary or desirable to effectuate the provisions and purposes of ss. 163.3177(6)(h), 163.3245, and 163.3248. It is the Legislature's intent that joint agreements entered into under the authority of this section be liberally, broadly, and flexibly construed to facilitate intergovernmental cooperation between cities and counties and to encourage planning in advance of jurisdictional changes. Joint agreements, executed before or after June 2, 2011, include, but are not limited to, agreements that contemplate municipal adoption of plans or plan amendments for lands in advance of annexation of such lands into the municipality, and may permit municipalities and counties to exercise nonexclusive extrajurisdictional authority within incorporated and unincorporated areas. The state land planning agency may not interpret, invalidate, or declare inoperative such joint agreements, and the validity of joint agreements may not be a basis for finding plans or plan amendments not in compliance pursuant to chapter law.

History.—s. 5, ch. 75-257; s. 4, ch. 85-55; s. 8, ch. 95-310; s. 1, ch. 96-416; s. 3, ch. 98-176; ss. 9, 80, ch. 2011-139.

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school

district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the governing body of the local government from granting voting status to the school board member. The governing body may designate itself as the local planning agency pursuant to this subsection with the addition of a nonvoting school board representative. All local planning agencies shall provide opportunities for involvement by applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

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

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

(2) Nothing in this act shall prevent the governing body of a local government that participates in creating a local planning agency serving two or more jurisdictions from continuing or creating its own local planning agency. Any such governing body which continues or creates its own local planning agency may designate which local planning agency functions, powers, and duties will be performed by each such local planning agency.

(3) The governing body or bodies shall appropriate funds for salaries, fees, and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be charged by the agency. To accomplish the purposes and activities authorized by this act, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the governing body regarding the adoption or amendment of such plan. During the preparation of the plan or plan amendment and prior to any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed plan or plan amendment. The governing body in cooperation with the local planning agency may designate any agency, committee, department, or person to prepare the comprehensive plan or plan amendment, but final recommendation of the adoption of such plan or plan amendment to the governing body shall be the responsibility of the local planning agency.

(b) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required, including the periodic evaluation and appraisal of the comprehensive plan required by s. 163.3191.

(c) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

(d) Perform any other functions, duties, and responsibilities assigned to it by the governing body or by general or special law.

(5) All meetings of the local planning agency shall be public meetings, and agency records shall be public records.

History.—s. 6, ch. 75-257; s. 1, ch. 77-223; s. 5, ch. 85-55; s. 2, ch. 92-129; s. 9, ch. 95-310; s. 9, ch. 95-341; s. 1, ch. 2002-296; s. 10, ch. 2011-139; s. 2, ch. 2012-99.

163.3175 Legislative findings on compatibility of development with military installations; exchange of information between local governments and military installations.—

(1) The Legislature finds that incompatible development of land close to military installations can adversely affect the ability of such an installation to carry out its mission. The Legislature further finds that such development also threatens the public safety because of the possibility of accidents occurring within the areas surrounding a military installation. In addition, the economic vitality of a community is affected when military operations and missions must relocate because of incompatible urban encroachment. Therefore, the Legislature finds it desirable for the local governments in the state to cooperate with military installations to encourage compatible land use, help prevent incompatible encroachment, and facilitate the continued presence of major military installations in this state.

(2) Certain major military installations, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others. Consequently, this section and the provisions in s. 163.3177(6)(a), relating to compatibility of land development with military installations, apply to specific affected local governments in proximity to and in association with specific military installations, as follows:

(a) Avon Park Air Force Range, associated with Highlands, Okeechobee, Osceola, and Polk Counties and Avon Park, Sebring, and Frostproof.

(b) Camp Blanding, associated with Clay, Bradford, and Putnam Counties.

(c) Eglin Air Force Base and Hurlburt Field, associated with Gulf, Okaloosa, Santa Rosa, and Walton Counties and Cinco Bayou, Crestview, Destin, DeFuniak Springs, Fort Walton Beach, Freeport, Laurel Hill, Mary Esther, Niceville, Shalimar, and Valparaiso.

(d) Homestead Air Reserve Base, associated with Miami-Dade County and Homestead.

(e) Jacksonville Training Range Complex, associated with Lake, Marion, Putnam, and Volusia Counties.

(f) MacDill Air Force Base, associated with Tampa.

(g) Naval Air Station Jacksonville, Marine Corps Support Facility-Blount Island, and outlying landing field Whitehouse, associated with Jacksonville.

(h) Naval Air Station Key West, associated with Monroe County and Key West.

(i) Naval Support Activity Panama City, associated with Bay County, Panama City, and Panama City Beach.

(j) Naval Air Station Pensacola, associated with Escambia County.

(k) Naval Air Station Whiting Field and its outlying landing fields, associated with Santa Rosa and Escambia Counties.

(l) Naval Station Mayport, associated with Atlantic Beach and Jacksonville.

(m) Patrick Air Force Base and Cape Canaveral Air Force Station, associated with Brevard County and Satellite Beach.

(n) Tyndall Air Force Base, associated with Bay County and Mexico Beach and Parker.

(3) The Florida Defense Support Task Force may recommend to the Legislature changes to the military installations and local governments specified in subsection (2) based on a military base's potential for impacts from encroachment, and incompatible land uses and development.

(4) Each affected local government must transmit to the commanding officer of the relevant associated installation or installations information relating to proposed changes to comprehensive plans, plan amendments, and proposed changes to land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation. At the request of the commanding officer, affected local governments must also transmit to the commanding officer copies of applications for development orders requesting a variance or waiver from height or lighting restrictions or

noise attenuation reduction requirements within areas defined in the local government's comprehensive plan as being in a zone of influence of the military installation. Each affected local government shall provide the military installation an opportunity to review and comment on the proposed changes.

(5) The commanding officer or his or her designee may provide advisory comments to the affected local government on the impact such proposed changes may have on the mission of the military installation. Such advisory comments shall be based on appropriate data and analyses provided with the comments and may include:

(a) If the installation has an airfield, whether such proposed changes will be incompatible with the safety and noise standards contained in the Air Installation Compatible Use Zone (AICUZ) adopted by the military installation for that airfield;

(b) Whether such changes are incompatible with the Installation Environmental Noise Management Program (IENMP) of the United States Army;

(c) Whether such changes are incompatible with the findings of a Joint Land Use Study (JLUS) for the area if one has been completed; and

(d) Whether the military installation's mission will be adversely affected by the proposed actions of the county or affected local government.

The commanding officer's comments, underlying studies, and reports shall be considered by the local government in the same manner as the comments received from other reviewing agencies pursuant to s. 163.3184.

(6) The affected local government shall take into consideration any comments and accompanying data and analyses provided by the commanding officer or his or her designee pursuant to subsection (4) as they relate to the strategic mission of the base, public safety, and the economic vitality associated with the base's operations, while also respecting private property rights and not being unduly restrictive on those rights. The affected local government shall forward a copy of any comments regarding comprehensive plan amendments to the state land planning agency.

(7) To facilitate the exchange of information provided for in this section, a representative of a military installation acting on behalf of all military installations within that jurisdiction shall be included as an ex officio, nonvoting member of the county's or affected local government's land planning or zoning board.

(8) The commanding officer is encouraged to provide information about any community planning assistance grants that may be available to a county or affected local government through programs such as those of the federal Office of Economic Adjustment as an incentive for communities to participate in a joint planning process that would facilitate the compatibility of community planning and the activities and mission of the military installation.

(9) If a local government, as required under s. 163.3177(6)(a), does not adopt criteria and address compatibility of lands adjacent to or closely proximate to existing military installations in its future land use plan

element by June 30, 2012, the local government, the military installation, the state land planning agency, and other parties as identified by the regional planning council, including, but not limited to, private landowner representatives, shall enter into mediation conducted pursuant to s. 186.509. If the local government comprehensive plan does not contain criteria addressing compatibility by December 31, 2013, the agency may notify the Administration Commission. The Administration Commission may impose sanctions pursuant to s. 163.3184(8). Any local government that amended its comprehensive plan to address military installation compatibility requirements after 2004 and was found to be in compliance is deemed to be in compliance with this subsection until the local government conducts its evaluation and appraisal review pursuant to s. 163.3191 and determines that amendments are necessary to meet updated general law requirements.

History.—s. 1, ch. 2004-230; s. 1, ch. 2010-182; s. 11, ch. 2011-139; s. 1, ch. 2012-98; s. 3, ch. 2012-99; s. 2, ch. 2012-159.

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

(1) The comprehensive plan shall provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These principles and strategies shall guide future decisions in a consistent manner and shall contain programs and activities to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local government's programs, activities, and land development regulations will be initiated, modified, or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and land development regulations will be carried out. The plan shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations.

(a) The comprehensive plan shall consist of elements as described in this section, and may include optional elements.

(b) A local government may include, as part of its adopted plan, documents adopted by reference but not incorporated verbatim into the plan. The adoption by reference must identify the title and author of the document and indicate clearly what provisions and edition of the document is being adopted.

(c) The format of these principles and guidelines is at the discretion of the local government, but typically is expressed in goals, objectives, policies, and strategies.

(d) The comprehensive plan shall identify procedures for monitoring, evaluating, and appraising implementation of the plan.

(e) When a federal, state, or regional agency has implemented a regulatory program, a local government is not required to duplicate or exceed that regulatory program in its local comprehensive plan.

(f) All mandatory and optional elements of the comprehensive plan and plan amendments shall be based upon relevant and appropriate data and an analysis by the local government that may include, but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the comprehensive plan or plan amendment. To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

1. Surveys, studies, and data utilized in the preparation of the comprehensive plan may not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys, data, and supporting documents for proposed plans and plan amendments shall be made available for public inspection, and copies of such plans shall be made available to the public upon payment of reasonable charges for reproduction. Support data or summaries are not subject to the compliance review process, but the comprehensive plan must be clearly based on appropriate data. Support data or summaries may be used to aid in the determination of compliance and consistency.

2. Data must be taken from professionally accepted sources. The application of a methodology utilized in data collection or whether a particular methodology is professionally accepted may be evaluated. However, the evaluation may not include whether one accepted methodology is better than another. Original data collection by local governments is not required. However, local governments may use original data so long as methodologies are professionally accepted.

3. The comprehensive plan shall be based upon permanent and seasonal population estimates and projections, which shall either be those published by the Office of Economic and Demographic Research or generated by the local government based upon a professionally acceptable methodology. The plan must be based on at least the minimum amount of land required to accommodate the medium projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period unless otherwise limited under s. 380.05, including related rules of the Administration Commission. Absent physical limitations on population growth, population projections for each municipality, and the unincorporated area within a county must, at a minimum, be reflective of each area's proportional share of the total county population and the total county population growth.

(2) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent. Where data is relevant

to several elements, consistent data shall be used, including population estimates and projections unless alternative data can be justified for a plan amendment through new supporting data and analysis. Each map depicting future conditions must reflect the principles, guidelines, and standards within all elements, and each such map must be contained within the comprehensive plan.

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

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

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

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

4. A schedule of capital improvements which includes any publicly funded projects of federal, state, or local government, and which may include privately funded projects for which the local government has no fiscal responsibility. Projects necessary to ensure that any adopted level-of-service standards are achieved and maintained for the 5-year period must be identified as either funded or unfunded and given a level of priority for funding.

5. The schedule must include transportation improvements included in the applicable metropolitan planning organization's transportation improvement program adopted pursuant to s. 339.175(8) to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. The schedule must be coordinated with the applicable metropolitan planning organization's long-range transportation plan adopted pursuant to s. 339.175(7).

(b) The capital improvements element must be reviewed by the local government on an annual basis. Modifications to update the 5-year capital improvement schedule may be accomplished by ordinance and may not be deemed to be amendments to the local comprehensive plan.

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; with the appropriate water management district's regional water supply plans approved pursuant to s. 373.709; and with adopted rules pertaining to designated areas of critical state concern shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the

comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, as the case may require and as such adopted plans or plans in preparation may exist.

(b) When all or a portion of the land in a local government jurisdiction is or becomes part of a designated area of critical state concern, the local government shall clearly identify those portions of the local comprehensive plan that shall be applicable to the critical area and shall indicate the relationship of the proposed development of the area to the rules for the area of critical state concern.

(5)(a) Each local government comprehensive plan must include at least two planning periods, one covering at least the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period. Additional planning periods for specific components, elements, land use amendments, or projects shall be permissible and accepted as part of the planning process.

(b) The comprehensive plan and its elements shall contain guidelines or policies for the implementation of the plan and its elements.

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

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land. The approximate acreage and the general range of density or intensity of use shall be provided for the gross land area included in each existing land use category. The element shall establish the long-term end toward which land use programs and activities are ultimately directed.

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

2. The future land use plan and plan amendments shall be based upon surveys, studies, and data regarding the area, as applicable, including:

a. The amount of land required to accommodate anticipated growth.

b. The projected permanent and seasonal population of the area.

c. The character of undeveloped land.

d. The availability of water supplies, public facilities, and services.

e. The need for redevelopment, including the renewal of blighted areas and the elimination of non-conforming uses which are inconsistent with the character of the community.

f. The compatibility of uses on lands adjacent to or closely proximate to military installations.

g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.

h. The discouragement of urban sprawl.

i. The need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.

j. The need to modify land uses and development patterns within antiquated subdivisions.

3. The future land use plan element shall include criteria to be used to:

a. Achieve the compatibility of lands adjacent or closely proximate to military installations, considering factors identified in s. 163.3175(5).

b. Achieve the compatibility of lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.

c. Encourage preservation of recreational and commercial working waterfronts for water-dependent uses in coastal communities.

d. Encourage the location of schools proximate to urban residential areas to the extent possible.

e. Coordinate future land uses with the topography and soil conditions, and the availability of facilities and services.

f. Ensure the protection of natural and historic resources.

g. Provide for the compatibility of adjacent land uses.

h. Provide guidelines for the implementation of mixed-use development including the types of uses allowed, the percentage distribution among the mix of uses, or other standards, and the density and intensity of each use.

4. The amount of land designated for future planned uses shall provide a balance of uses that foster vibrant, viable communities and economic development opportunities and address outdated development patterns, such as antiquated subdivisions. The amount of land designated for future land uses should allow the operation of real estate markets to provide adequate choices for permanent and seasonal residents and business and may not be limited solely by the projected population. The element shall accommodate at least the minimum amount of land required to accommodate the medium projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period unless otherwise limited under s. 380.05, including related rules of the Administration Commission.

5. The future land use plan of a county may designate areas for possible future municipal incorporation.

6. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection.

7. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet

the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use.

8. Future land use map amendments shall be based upon the following analyses:

a. An analysis of the availability of facilities and services.

b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.

c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.

9. The future land use element and any amendment to the future land use element shall discourage the proliferation of urban sprawl.

a. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:

(I) Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.

(II) Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.

(III) Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.

(IV) Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.

(V) Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.

(VI) Fails to maximize use of existing public facilities and services.

(VII) Fails to maximize use of future public facilities and services.

(VIII) Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.

(IX) Fails to provide a clear separation between rural and urban uses.

(X) Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.

(XI) Fails to encourage a functional mix of uses.

(XII) Results in poor accessibility among linked or related land uses.

(XIII) Results in the loss of significant amounts of functional open space.

b. The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:

(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

(IV) Promotes conservation of water and energy.

(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

(VI) Preserves open space and natural lands and provides for public open space and recreation needs.

(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.

(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.

10. The future land use element shall include a future land use map or map series.

a. The proposed distribution, extent, and location of the following uses shall be shown on the future land use map or map series:

(I) Residential.

(II) Commercial.

(III) Industrial.

(IV) Agricultural.

(V) Recreational.

(VI) Conservation.

(VII) Educational.

(VIII) Public.

b. The following areas shall also be shown on the future land use map or map series, if applicable:

(I) Historic district boundaries and designated historically significant properties.

(II) Transportation concurrency management area boundaries or transportation concurrency exception area boundaries.

(III) Multimodal transportation district boundaries.

(IV) Mixed-use categories.

c. The following natural resources or conditions shall be shown on the future land use map or map series, if applicable:

(I) Existing and planned public potable waterwells, cones of influence, and wellhead protection areas.

(II) Beaches and shores, including estuarine systems.

(III) Rivers, bays, lakes, floodplains, and harbors.

(IV) Wetlands.

(V) Minerals and soils.

(VI) Coastal high hazard areas.

11. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of lands adjacent or closely proximate to existing military installations, or lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02, in their future land use plan element shall transmit the update or amendment to the state land planning agency by June 30, 2012.

(b) A transportation element addressing mobility issues in relationship to the size and character of the local government. The purpose of the transportation element shall be to plan for a multimodal transportation system that places emphasis on public transportation systems, where feasible. The element shall provide for a safe, convenient multimodal transportation system, coordinated with the future land use map or map series and designed to support all elements of the comprehensive plan. A local government that has all or part of its jurisdiction included within the metropolitan planning area of a metropolitan planning organization (M.P.O.) pursuant to s. 339.175 shall prepare and adopt a transportation element consistent with this subsection. Local governments that are not located within the metropolitan planning area of an M.P.O. shall address traffic circulation, mass transit, and ports, and aviation and related facilities consistent with this subsection, except that local governments with a population of 50,000 or less shall only be required to address transportation circulation. The element shall be coordinated with the plans and programs of any applicable metropolitan planning organization, transportation authority, Florida Transportation Plan, and Department of Transportation adopted work program.

1. Each local government's transportation element shall address traffic circulation, including the types, locations, and extent of existing and proposed major thoroughfares and transportation routes, including bicycle and pedestrian ways. Transportation corridors, as defined in s. 334.03, may be designated in the transportation element pursuant to s. 337.273. If the transportation corridors are designated, the local government may adopt a transportation corridor management ordinance. The element shall include a map or map series showing the general location of the existing and proposed transportation system features and shall be coordinated with the future land use map or map series. The element shall reflect the data, analysis, and associated principles and strategies relating to:

a. The existing transportation system levels of service and system needs and the availability of transportation facilities and services.

b. The growth trends and travel patterns and interactions between land use and transportation.

c. Existing and projected intermodal deficiencies and needs.

d. The projected transportation system levels of service and system needs based upon the future land use map and the projected integrated transportation system.

e. How the local government will correct existing facility deficiencies, meet the identified needs of the projected transportation system, and advance the purpose of this paragraph and the other elements of the comprehensive plan.

2. Local governments within a metropolitan planning area designated as an M.P.O. pursuant to s. 339.175 shall also address:

a. All alternative modes of travel, such as public transportation, pedestrian, and bicycle travel.

b. Aviation, rail, seaport facilities, access to those facilities, and intermodal terminals.

c. The capability to evacuate the coastal population before an impending natural disaster.

d. Airports, projected airport and aviation development, and land use compatibility around airports, which includes areas defined in ss. 333.01 and 333.02.

e. An identification of land use densities, building intensities, and transportation management programs to promote public transportation systems in designated public transportation corridors so as to encourage population densities sufficient to support such systems.

3. Municipalities having populations greater than 50,000, and counties having populations greater than 75,000, shall include mass-transit provisions showing proposed methods for the moving of people, rights-of-way, terminals, and related facilities and shall address:

a. The provision of efficient public transit services based upon existing and proposed major trip generators and attractors, safe and convenient public transit terminals, land uses, and accommodation of the special needs of the transportation disadvantaged.

b. Plans for port, aviation, and related facilities coordinated with the general circulation and transportation element.

c. Plans for the circulation of recreational traffic, including bicycle facilities, exercise trails, riding facilities, and such other matters as may be related to the improvement and safety of movement of all types of recreational traffic.

4. At the option of a local government, an airport master plan, and any subsequent amendments to the airport master plan, prepared by a licensed publicly owned and operated airport under s. 333.06 may be incorporated into the local government comprehensive plan by the local government having jurisdiction under this act for the area in which the airport or projected airport development is located by the adoption of a comprehensive plan amendment. In the amendment to the local comprehensive plan that integrates the airport master plan, the comprehensive plan amendment shall address land use compatibility consistent with chapter 333 regarding airport zoning; the provision of regional transportation facilities for the efficient use and operation of the transportation system and airport;

consistency with the local government transportation circulation element and applicable M.P.O. long-range transportation plans; the execution of any necessary interlocal agreements for the purposes of the provision of public facilities and services to maintain the adopted level-of-service standards for facilities subject to concurrency; and may address airport-related or aviation-related development. Development or expansion of an airport consistent with the adopted airport master plan that has been incorporated into the local comprehensive plan in compliance with this part, and airport-related or aviation-related development that has been addressed in the comprehensive plan amendment that incorporates the airport master plan, do not constitute a development of regional impact. Notwithstanding any other general law, an airport that has received a development-of-regional-impact development order pursuant to s. 380.06, but which is no longer required to undergo development-of-regional-impact review pursuant to this subsection, may rescind its development-of-regional-impact order upon written notification to the applicable local government. Upon receipt by the local government, the development-of-regional-impact development order shall be deemed rescinded.

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge.

1. Each local government shall address in the data and analyses required by this section those facilities that provide service within the local government's jurisdiction. Local governments that provide facilities to serve areas within other local government jurisdictions shall also address those facilities in the data and analyses required by this section, using data from the comprehensive plan for those areas for the purpose of projecting facility needs as required in this subsection. For shared facilities, each local government shall indicate the proportional capacity of the systems allocated to serve its jurisdiction.

2. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs, including correcting existing facility deficiencies. The element shall address coordinating the extension of, or increase in the capacity of, facilities to meet future needs while maximizing the use of existing facilities and discouraging urban sprawl; conserving potable water resources; and protecting the functions of natural groundwater recharge areas and natural drainage features.

3. Within 18 months after the governing board approves an updated regional water supply plan, the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.709(2)(a) or proposed by the local government under s. 373.709(8)(b). If a local government is located within two water management districts,

the local government shall adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan. The element must identify such alternative water supply projects and traditional water supply projects and conservation and reuse necessary to meet the water needs identified in s. 373.709(2)(a) within the local government's jurisdiction and include a work plan, covering at least a 10-year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which are identified in the element as necessary to serve existing and new development. The work plan shall be updated, at a minimum, every 5 years within 18 months after the governing board of a water management district approves an updated regional water supply plan. Local governments, public and private utilities, regional water supply authorities, special districts, and water management districts are encouraged to cooperatively plan for the development of multijurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of groundwater and surface water supplies.

(d) A conservation element for the conservation, use, and protection of natural resources in the area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other natural and environmental resources, including factors that affect energy conservation.

1. The following natural resources, where present within the local government's boundaries, shall be identified and analyzed and existing recreational or conservation uses, known pollution problems, including hazardous wastes, and the potential for conservation, recreation, use, or protection shall also be identified:

a. Rivers, bays, lakes, wetlands including estuarine marshes, groundwaters, and springs, including information on quality of the resource available.

b. Floodplains.

c. Known sources of commercially valuable minerals.

d. Areas known to have experienced soil erosion problems.

e. Areas that are the location of recreationally and commercially important fish or shellfish, wildlife, marine habitats, and vegetative communities, including forests, indicating known dominant species present and species listed by federal, state, or local government agencies as endangered, threatened, or species of special concern.

2. The element must contain principles, guidelines, and standards for conservation that provide long-term goals and which:

a. Protects air quality.

b. Conserves, appropriately uses, and protects the quality and quantity of current and projected water sources and waters that flow into estuarine waters or oceanic waters and protect from activities and land uses known to affect adversely the quality and quantity of identified water sources, including natural groundwater

recharge areas, wellhead protection areas, and surface waters used as a source of public water supply.

c. Provides for the emergency conservation of water sources in accordance with the plans of the regional water management district.

d. Conserves, appropriately uses, and protects minerals, soils, and native vegetative communities, including forests, from destruction by development activities.

e. Conserves, appropriately uses, and protects fisheries, wildlife, wildlife habitat, and marine habitat and restricts activities known to adversely affect the survival of endangered and threatened wildlife.

f. Protects existing natural reservations identified in the recreation and open space element.

g. Maintains cooperation with adjacent local governments to conserve, appropriately use, or protect unique vegetative communities located within more than one local jurisdiction.

h. Designates environmentally sensitive lands for protection based on locally determined criteria which further the goals and objectives of the conservation element.

i. Manages hazardous waste to protect natural resources.

j. Protects and conserves wetlands and the natural functions of wetlands.

k. Directs future land uses that are incompatible with the protection and conservation of wetlands and wetland functions away from wetlands. The type, intensity or density, extent, distribution, and location of allowable land uses and the types, values, functions, sizes, conditions, and locations of wetlands are land use factors that shall be considered when directing incompatible land uses away from wetlands. Land uses shall be distributed in a manner that minimizes the effect and impact on wetlands. The protection and conservation of wetlands by the direction of incompatible land uses away from wetlands shall occur in combination with other principles, guidelines, standards, and strategies in the comprehensive plan. Where incompatible land uses are allowed to occur, mitigation shall be considered as one means to compensate for loss of wetlands functions.

3. Current and projected needs and sources for at least a 10-year period based on the demands for industrial, agricultural, and potable water use and the quality and quantity of water available to meet these demands shall be analyzed. The analysis shall consider the existing levels of water conservation, use, and protection and applicable policies of the regional water management district and further must consider the appropriate regional water supply plan approved pursuant to s. 373.709, or, in the absence of an approved regional water supply plan, the district water management plan approved pursuant to s. 373.036(2). This information shall be submitted to the appropriate agencies.

(e) A recreation and open space element indicating a comprehensive system of public and private sites for recreation, including, but not limited to, natural reservations, parks and playgrounds, parkways, beaches and

public access to beaches, open spaces, waterways, and other recreational facilities.

(f)1. A housing element consisting of principles, guidelines, standards, and strategies to be followed in:

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

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including affordable workforce housing as defined in s. 380.0651(3)(h), housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities. The element may include provisions that specifically address affordable housing for persons 60 years of age or older. Real property that is conveyed to a local government for affordable housing under this subparagraph shall be disposed of by the local government pursuant to s. 125.379 or s. 166.0451.

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

f. The formulation of housing implementation programs.

g. The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.

2. The principles, guidelines, standards, and strategies of the housing element must be based on data and analysis prepared on housing needs, which shall include the number and distribution of dwelling units by type, tenure, age, rent, value, monthly cost of owner-occupied units, and rent or cost to income ratio, and shall show the number of dwelling units that are substandard. The data and analysis shall also include the methodology used to estimate the condition of housing, a projection of the anticipated number of households by size, income range, and age of residents derived from the population projections, and the minimum housing need of the current and anticipated future residents of the jurisdiction.

3. The housing element must express principles, guidelines, standards, and strategies that reflect, as needed, the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, adequate sites, and distribution of housing for a range of incomes and types, including mobile and manufactured homes. The element must provide for specific programs and actions to partner with private and nonprofit sectors to address housing needs in the jurisdiction, streamline the permitting process, and minimize costs and delays for affordable housing, establish standards to address the quality of housing, stabilization of neighborhoods, and identification and improvement of historically significant housing.

4. State and federal housing plans prepared on behalf of the local government must be consistent with

the goals, objectives, and policies of the housing element. Local governments are encouraged to use job training, job creation, and economic solutions to address a portion of their affordable housing concerns.

(g) For those units of local government identified in s. 380.24, a coastal management element, appropriately related to the particular requirements of paragraphs (d) and (e) and meeting the requirements of s. 163.3178(2) and (3). The coastal management element shall set forth the principles, guidelines, standards, and strategies that shall guide the local government's decisions and program implementation with respect to the following objectives:

1. Maintain, restore, and enhance the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

2. Preserve the continued existence of viable populations of all species of wildlife and marine life.

3. Protect the orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.

4. Avoid irreversible and irretrievable loss of coastal zone resources.

5. Use ecological planning principles and assumptions in the determination of the suitability of permitted development.

6. Limit public expenditures that subsidize development in coastal high-hazard areas.

7. Protect human life against the effects of natural disasters.

8. Direct the orderly development, maintenance, and use of ports identified in s. 403.021(9) to facilitate deepwater commercial navigation and other related activities.

9. Preserve historic and archaeological resources, which include the sensitive adaptive use of these resources.

10. At the option of the local government, develop an adaptation action area designation for those low-lying coastal zones that are experiencing coastal flooding due to extreme high tides and storm surge and are vulnerable to the impacts of rising sea level. Local governments that adopt an adaptation action area may consider policies within the coastal management element to improve resilience to coastal flooding resulting from high-tide events, storm surge, flash floods, storm-water runoff, and related impacts of sea-level rise. Criteria for the adaptation action area may include, but need not be limited to, areas for which the land elevations are below, at, or near mean higher high water, which have a hydrologic connection to coastal waters, or which are designated as evacuation zones for storm surge.

(h)1. An intergovernmental coordination element showing relationships and stating principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards, regional water supply authorities, and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region, with the state comprehensive plan and with the applicable regional water

supply plan approved pursuant to s. 373.709, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan must demonstrate consideration of the particular effects of the local plan, when adopted, upon the development of adjacent municipalities, the county, adjacent counties, or the region, or upon the state comprehensive plan, as the case may require.

a. The intergovernmental coordination element must provide procedures for identifying and implementing joint planning areas, especially for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

b. The intergovernmental coordination element shall provide for a dispute resolution process, as established pursuant to s. 186.509, for bringing intergovernmental disputes to closure in a timely manner.

c. The intergovernmental coordination element shall provide for interlocal agreements as established pursuant to s. 333.03(1)(b).

2. The intergovernmental coordination element shall also state principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element must describe joint processes for collaborative planning and decision-making on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with county-wide significance, including locally unwanted land uses whose nature and identity are established in an agreement.

3. Within 1 year after adopting their intergovernmental coordination elements, each county, all the municipalities within that county, the district school board, and any unit of local government service providers in that county shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements. The agreement must:

a. Ensure that the local government addresses through coordination mechanisms the impacts of development proposed in the local comprehensive plan upon development in adjacent municipalities, the county, adjacent counties, the region, and the state. The area of concern for municipalities shall include adjacent municipalities, the county, and counties adjacent to the municipality. The area of concern for counties shall include all municipalities within the county, adjacent counties, and adjacent municipalities.

b. Ensure coordination in establishing level of service standards for public facilities with any state, regional, or local entity having operational and maintenance responsibility for such facilities.

(7)¹(a) The Legislature finds that:

1. There are a number of rural agricultural industrial centers in the state that process, produce, or aid in the production or distribution of a variety of agriculturally based products, including, but not limited to, fruits, vegetables, timber, and other crops, and juices, paper,

and building materials. Rural agricultural industrial centers have a significant amount of existing associated infrastructure that is used for processing, producing, or distributing agricultural products.

2. Such rural agricultural industrial centers are often located within or near communities in which the economy is largely dependent upon agriculture and agriculturally based products. The centers significantly enhance the economy of such communities. However, these agriculturally based communities are often socio-economically challenged and designated as rural areas of opportunity. If such rural agricultural industrial centers are lost and not replaced with other job-creating enterprises, the agriculturally based communities will lose a substantial amount of their economies.

3. The state has a compelling interest in preserving the viability of agriculture and protecting rural agricultural communities and the state from the economic upheaval that would result from short-term or long-term adverse changes in the agricultural economy. To protect these communities and promote viable agriculture for the long term, it is essential to encourage and permit diversification of existing rural agricultural industrial centers by providing for jobs that are not solely dependent upon, but are compatible with and complement, existing agricultural industrial operations and to encourage the creation and expansion of industries that use agricultural products in innovative ways. However, the expansion and diversification of these existing centers must be accomplished in a manner that does not promote urban sprawl into surrounding agricultural and rural areas.

¹(b) As used in this subsection, the term "rural agricultural industrial center" means a developed parcel of land in an unincorporated area on which there exists an operating agricultural industrial facility or facilities that employ at least 200 full-time employees in the aggregate and process and prepare for transport a farm product, as defined in s. 163.3162, or any biomass material that could be used, directly or indirectly, for the production of fuel, renewable energy, bioenergy, or alternative fuel as defined by law. The center may also include land contiguous to the facility site which is not used for the cultivation of crops, but on which other existing activities essential to the operation of such facility or facilities are located or conducted. The parcel of land must be located within, or within 10 miles of, a rural area of opportunity.

(c)1. A landowner whose land is located within a rural agricultural industrial center may apply for an amendment to the local government comprehensive plan for the purpose of designating and expanding the existing agricultural industrial uses of facilities located within the center or expanding the existing center to include industrial uses or facilities that are not dependent upon but are compatible with agriculture and the existing uses and facilities. A local government comprehensive plan amendment under this paragraph must:

a. Not increase the physical area of the existing rural agricultural industrial center by more than 50 percent or 320 acres, whichever is greater.

b. Propose a project that would, upon completion, create at least 50 new full-time jobs.

c. Demonstrate that sufficient infrastructure capacity exists or will be provided to support the expanded center at the level-of-service standards adopted in the local government comprehensive plan.

d. Contain goals, objectives, and policies that will ensure that any adverse environmental impacts of the expanded center will be adequately addressed and mitigation implemented or demonstrate that the local government comprehensive plan contains such provisions.

2. Within 6 months after receiving an application as provided in this paragraph, the local government shall transmit the application to the state land planning agency for review pursuant to this chapter together with any needed amendments to the applicable sections of its comprehensive plan to include goals, objectives, and policies that provide for the expansion of rural agricultural industrial centers and discourage urban sprawl in the surrounding areas. Such goals, objectives, and policies must promote and be consistent with the findings in this subsection. An amendment that meets the requirements of this subsection is presumed not to be urban sprawl as defined in s. 163.3164 and shall be considered within 90 days after any review required by the state land planning agency if required by s. 163.3184. This presumption may be rebutted by a preponderance of the evidence.

(d) This subsection does not apply to an optional sector plan adopted pursuant to s. 163.3245, a rural land stewardship area designated pursuant to s. 163.3248, or any comprehensive plan amendment that includes an inland port terminal or affiliated port development.

¹(e) This subsection does not confer the status of rural area of opportunity, or any of the rights or benefits derived from such status, on any land area not otherwise designated as such pursuant to s. 288.0656(7).

History.—s. 7, ch. 75-257; s. 1, ch. 77-174; s. 1, ch. 80-154; s. 6, ch. 83-308; s. 1, ch. 85-42; s. 6, ch. 85-55; s. 1, ch. 85-309; s. 7, ch. 86-191; s. 5, ch. 92-129; s. 6, ch. 93-206; s. 898, ch. 95-147; s. 3, ch. 95-257; s. 4, ch. 95-322; s. 10, ch. 95-341; s. 10, ch. 96-320; s. 24, ch. 96-410; s. 2, ch. 96-416; s. 2, ch. 98-146; s. 4, ch. 98-176; s. 4, ch. 98-258; s. 90, ch. 99-251; s. 3, ch. 99-378; s. 40, ch. 2001-201; s. 64, ch. 2001-279; s. 24, ch. 2002-1; s. 58, ch. 2002-20; s. 70, ch. 2002-295; s. 2, ch. 2002-296; s. 904, ch. 2002-387; s. 61, ch. 2003-286; s. 2, ch. 2004-230; s. 4, ch. 2004-372; s. 2, ch. 2004-381; s. 2, ch. 2005-36; s. 1, ch. 2005-157; s. 2, ch. 2005-290; s. 10, ch. 2005-291; s. 2, ch. 2006-220; s. 57, ch. 2007-196; s. 1, ch. 2007-198; s. 2, ch. 2007-204; s. 2, ch. 2008-191; s. 10, ch. 2009-21; s. 3, ch. 2009-85; s. 3, ch. 2009-96; s. 1, ch. 2009-154; s. 43, ch. 2010-102; s. 2, ch. 2010-182; s. 4, ch. 2010-205; s. 3, ch. 2011-14; s. 12, ch. 2011-139; s. 3, ch. 2011-189; s. 4, ch. 2012-99; s. 24, ch. 2014-218.

¹**Note.**—Section 56, ch. 2014-218, provides that:

“(1) The executive director of the Department of Economic Opportunity is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

“(2) Notwithstanding any other provision of law, the emergency rules adopted pursuant to subsection (1) remain in effect for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

“(3) This section shall expire October 1, 2015.”

163.31771 Accessory dwelling units.—

(1) The Legislature finds that the median price of homes in this state has increased steadily over the last decade and at a greater rate of increase than the median income in many urban areas. The Legislature finds that the cost of rental housing has also increased

steadily and the cost often exceeds an amount that is affordable to extremely-low-income, very-low-income, low-income, or moderate-income persons and has resulted in a critical shortage of affordable rentals in many urban areas in the state. This shortage of affordable rentals constitutes a threat to the health, safety, and welfare of the residents of the state. Therefore, the Legislature finds that it serves an important public purpose to encourage the permitting of accessory dwelling units in single-family residential areas in order to increase the availability of affordable rentals for extremely-low-income, very-low-income, low-income, or moderate-income persons.

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

(a) “Accessory dwelling unit” means an ancillary or secondary living unit, that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.

(b) “Affordable rental” means that monthly rent and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for extremely-low-income, very-low-income, low-income, or moderate-income persons.

(c) “Local government” means a county or municipality.

(d) “Low-income persons” has the same meaning as in s. 420.0004(11).

(e) “Moderate-income persons” has the same meaning as in s. 420.0004(12).

(f) “Very-low-income persons” has the same meaning as in s. 420.0004(17).

(g) “Extremely-low-income persons” has the same meaning as in s. 420.0004(9).

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

(4) If the local government adopts an ordinance under this section, an application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.

(5) Each accessory dwelling unit allowed by an ordinance adopted under this section shall apply toward satisfying the affordable housing component of the housing element in the local government’s comprehensive plan under s. 163.3177(6)(f).

History.—s. 2, ch. 2004-372; s. 2, ch. 2006-69; s. 16, ch. 2010-5; s. 13, ch. 2011-189.

163.31777 Public schools interlocal agreement.

(1) The county and municipalities located within the geographic area of a school district shall enter into an interlocal agreement with the district school board which jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated. Local governments and the district school board in each school district are encouraged to adopt a single interlocal agreement to which all join as parties.

(2) At a minimum, the interlocal agreement must address the following issues:

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

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

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

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

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

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

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

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

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

(3) A municipality is exempt from the requirements of subsections (1) and (2) if the municipality meets all of the following criteria for having no significant impact on school attendance:

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

(b) The municipality has not annexed new land during the preceding 5 years in land use categories

that permit residential uses that will affect school attendance rates.

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

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

(4) At the time of the evaluation and appraisal of its comprehensive plan pursuant to s. 163.3191, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under subsection (3). If the municipality continues to meet the criteria for exemption under subsection (3), the municipality shall continue to be exempt from the interlocal agreement requirement. Each municipality exempt under subsection (3) must comply with this section within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

History.—s. 5, ch. 2002-296; s. 15, ch. 2003-1; s. 4, ch. 2005-290; s. 11, ch. 2010-70; s. 13, ch. 2011-139; s. 5, ch. 2012-99.

163.3178 Coastal management.—

(1) The Legislature recognizes there is significant interest in the resources of the coastal zone of the state. Further, the Legislature recognizes that, in the event of a natural disaster, the state may provide financial assistance to local governments for the reconstruction of roads, sewer systems, and other public facilities. Therefore, it is the intent of the Legislature that local government comprehensive plans restrict development activities where such activities would damage or destroy coastal resources, and that such plans protect human life and limit public expenditures in areas that are subject to destruction by natural disaster.

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

(a) A land use and inventory map of existing coastal uses, wildlife habitat, wetland and other vegetative communities, undeveloped areas, areas subject to coastal flooding, public access routes to beach and shore resources, historic preservation areas, and other areas of special concern to local government.

(b) An analysis of the environmental, socioeconomic, and fiscal impact of development and redevelopment proposed in the future land use plan, with required infrastructure to support this development or redevelopment, on the natural and historical resources of the coast and the plans and principles to be used to control development and redevelopment to eliminate or mitigate the adverse impacts on coastal wetlands; living marine resources; barrier islands, including beach and dune systems; unique wildlife habitat; historical and archaeological sites; and other fragile coastal resources.

(c) An analysis of the effects of existing drainage systems and the impact of point source and nonpoint source pollution on estuarine water quality and the plans and principles, including existing state and regional regulatory programs, which shall be used to maintain or

upgrade water quality while maintaining sufficient quantities of water flow.

(d) A component which outlines principles for hazard mitigation and protection of human life against the effects of natural disaster, including population evacuation, which take into consideration the capability to safely evacuate the density of coastal population proposed in the future land use plan element in the event of an impending natural disaster. The Division of Emergency Management shall manage the update of the regional hurricane evacuation studies, ensure such studies are done in a consistent manner, and ensure that the methodology used for modeling storm surge is that used by the National Hurricane Center.

(e) A component which outlines principles for protecting existing beach and dune systems from human-induced erosion and for restoring altered beach and dune systems.

(f) A redevelopment component which outlines the principles which shall be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise.

(g) A shoreline use component that identifies public access to beach and shoreline areas and addresses the need for water-dependent and water-related facilities, including marinas, along shoreline areas. Such component must include the strategies that will be used to preserve recreational and commercial working waterfronts as defined in s. 342.07.

(h) Designation of coastal high-hazard areas and the criteria for mitigation for a comprehensive plan amendment in a coastal high-hazard area as defined in subsection (8). The coastal high-hazard area is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. Application of mitigation and the application of development and redevelopment policies, pursuant to s. 380.27(2), and any rules adopted thereunder, shall be at the discretion of local government.

(i) A component which outlines principles for providing that financial assurances are made that required public facilities will be in place to meet the demand imposed by the completed development or redevelopment. Such public facilities will be scheduled for phased completion to coincide with demands generated by the development or redevelopment.

(j) An identification of regulatory and management techniques that the local government plans to adopt or has adopted in order to mitigate the threat to human life and to control proposed development and redevelopment in order to protect the coastal environment and give consideration to cumulative impacts.

(k) A component which includes the comprehensive master plan prepared by each deepwater port listed in s. 311.09(1), which addresses existing port facilities and any proposed expansions, and which adequately addresses the applicable requirements of paragraphs (a)-(k) for areas within the port and proposed expansion areas. Such component shall be submitted to the appropriate local government at least 6 months prior to the due date of the local plan and shall be integrated with, and shall meet all criteria specified in, the coastal

management element. "The appropriate local government" means the municipality having the responsibility for the area in which the deepwater port lies, except that where no municipality has responsibility, where a municipality and a county each have responsibility, or where two or more municipalities each have responsibility for the area in which the deepwater port lies, "the appropriate local government" means the county which has responsibility for the area in which the deepwater port lies. Failure by a deepwater port which is not part of a local government to submit its component to the appropriate local government shall not result in a local government being subject to sanctions pursuant to ss. 163.3167 and 163.3184. However, a deepwater port which is not part of a local government shall be subject to sanctions pursuant to s. 163.3184.

(3) Expansions to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9); port transportation facilities and projects listed in s. 311.07(3)(b); intermodal transportation facilities identified pursuant to s. 311.09(3); and facilities determined by the state land planning agency and applicable general-purpose local government to be port-related industrial or commercial projects located within 3 miles of or in a port master plan area which rely upon the use of port and intermodal transportation facilities may not be designated as developments of regional impact if such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with this section.

(4) Improvements and maintenance of federal and state highways that have been approved as part of a plan approved pursuant to s. 380.045 or s. 380.05 shall be exempt from the provisions of s. 380.27(2).

(5) The appropriate dispute resolution process provided under s. 186.509 must be used to reconcile inconsistencies between port master plans and local comprehensive plans. In recognition of the state's commitment to deepwater ports, the state comprehensive plan must include goals, objectives, and policies that establish a statewide strategy for enhancement of existing deepwater ports, ensuring that priority is given to water-dependent land uses. As an incentive for promoting plan consistency, port facilities as defined in s. 315.02(6) on lands owned or controlled by a deepwater port as defined in s. 311.09(1), as of the effective date of this act shall not be subject to development-of-regional-impact review provided the port either successfully completes an alternative comprehensive development agreement with a local government pursuant to ss. 163.3220-163.3243 or successfully enters into a development agreement with the state land planning agency and applicable local government pursuant to s. 380.032 or, where the port is a department of a local government, successfully enters into a development agreement with the state land planning agency pursuant to s. 380.032. Port facilities as defined in s. 315.02(6) on lands not owned or controlled by a deepwater port as defined in s. 311.09(1) as of the effective date of this act shall not be subject to development-of-regional-impact review provided the port successfully enters into a

development agreement with the state land planning agency and applicable local government pursuant to s. 380.032 or, where the port is a department of a local government, successfully enters into a development agreement with the state land planning agency pursuant to s. 380.032.

(6) Each port listed in s. 311.09(1) and each local government in the coastal area which has spoil disposal responsibilities shall provide for or identify disposal sites for dredged materials in the future land use and port elements of the local comprehensive plan as needed to assure proper long-term management of material dredged from navigation channels, sufficient long-range disposal capacity, environmental sensitivity and compatibility, and reasonable cost and transportation. The disposal site selection criteria shall be developed in consultation with navigation and inlet districts and other appropriate state and federal agencies and the public. For areas owned or controlled by ports listed in s. 311.09(1) and proposed port expansion areas, compliance with the provisions of this subsection shall be achieved through comprehensive master plans prepared by each port and integrated with the appropriate local plan pursuant to paragraph (2)(k).

(7) Each county shall establish a county-based process for identifying and prioritizing coastal properties so they may be acquired as part of the state's land acquisition programs. This process must include the establishment of criteria for prioritizing coastal acquisitions which, in addition to recognizing pristine coastal properties and coastal properties of significant or important environmental sensitivity, recognize hazard mitigation, beach access, beach management, urban recreation, and other policies necessary for effective coastal management.

(8)(a) A proposed comprehensive plan amendment shall be found in compliance with state coastal high-hazard provisions if:

1. The adopted level of service for out-of-county hurricane evacuation is maintained for a category 5 storm event as measured on the Saffir-Simpson scale; or

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

3. Appropriate mitigation is provided that will satisfy subparagraph 1. or subparagraph 2. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. A local government and a developer shall enter into a binding agreement to memorialize the mitigation plan.

(b) For those local governments that have not established a level of service for out-of-county hurricane evacuation by July 1, 2008, by following the process in paragraph (a), the level of service shall be no greater

than 16 hours for a category 5 storm event as measured on the Saffir-Simpson scale.

(c) This subsection shall become effective immediately and shall apply to all local governments. No later than July 1, 2008, local governments shall amend their future land use map and coastal management element to include the new definition of coastal high-hazard area and to depict the coastal high-hazard area on the future land use map.

History.—s. 7, ch. 85-55; s. 8, ch. 86-191; s. 24, ch. 87-224; s. 7, ch. 93-206; s. 899, ch. 95-147; s. 11, ch. 96-320; s. 65, ch. 99-251; s. 2, ch. 2005-157; s. 2, ch. 2006-68; s. 4, ch. 2009-85; s. 44, ch. 2010-102; s. 14, ch. 2011-139; ss. 7, 80, ch. 2012-96; s. 6, ch. 2012-99.

163.3179 Family homestead.—A local government may include in its comprehensive plan a provision allowing the use of a parcel of property solely as a homestead by an individual who is the grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child, or grandchild of the person who conveyed the parcel to said individual, notwithstanding the density or intensity of use assigned to the parcel in the plan. Such a provision shall apply only once to any individual.

History.—s. 6, ch. 92-129.

163.3180 Concurrency.—

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

(a) If concurrency is applied to other public facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service, to guide its application. In order for a local government to rescind any optional concurrency provisions, a comprehensive plan amendment is required. An amendment rescinding optional concurrency issues shall be processed under the expedited state review process in s. 163.3184(3), but the amendment is not subject to state review and is not required to be transmitted to the reviewing agencies for comments, except that the local government shall transmit the amendment to any local government or government agency that has filed a request with the governing body and, for municipal amendments, the amendment shall be transmitted to the county in which the municipality is located. For informational purposes only, a copy of the adopted amendment shall be provided to the state land planning agency. A copy of the adopted amendment shall also be provided to the Department of Transportation if the amendment rescinds transportation concurrency and to the Department of Education if the amendment rescinds school concurrency.

(b) The local government comprehensive plan must demonstrate, for required or optional concurrency requirements, that the levels of service adopted can be reasonably met. Infrastructure needed to ensure that

adopted level-of-service standards are achieved and maintained for the 5-year period of the capital improvement schedule must be identified pursuant to the requirements of s. 163.3177(3). The comprehensive plan must include principles, guidelines, standards, and strategies for the establishment of a concurrency management system.

(2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Health to serve new development.

(3) Governmental entities that are not responsible for providing, financing, operating, or regulating public facilities needed to serve development may not establish binding level-of-service standards on governmental entities that do bear those responsibilities.

(4) The concurrency requirement as implemented in local comprehensive plans applies to state and other public facilities and development to the same extent that it applies to all other facilities and development, as provided by law.

(5)(a) If concurrency is applied to transportation facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service to guide its application.

(b) Local governments shall use professionally accepted studies to evaluate the appropriate levels of service. Local governments should consider the number of facilities that will be necessary to meet level-of-service demands when determining the appropriate levels of service. The schedule of facilities that are necessary to meet the adopted level of service shall be reflected in the capital improvement element.

(c) Local governments shall use professionally accepted techniques for measuring levels of service when evaluating potential impacts of a proposed development.

(d) The premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level of service standard. A comprehensive plan that imposes transportation concurrency shall contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with the requirements of s. 163.3177(3). The capital improvements element shall identify facilities necessary to meet adopted levels of service during a 5-year period.

(e) If a local government applies transportation concurrency in its jurisdiction, it is encouraged to

develop policy guidelines and techniques to address potential negative impacts on future development:

1. In urban infill and redevelopment, and urban service areas.

2. With special part-time demands on the transportation system.

3. With de minimis impacts.

4. On community desired types of development, such as redevelopment, or job creation projects.

(f) Local governments are encouraged to develop tools and techniques to complement the application of transportation concurrency such as:

1. Adoption of long-term strategies to facilitate development patterns that support multimodal solutions, including urban design, and appropriate land use mixes, including intensity and density.

2. Adoption of an areawide level of service not dependent on any single road segment function.

3. Exempting or discounting impacts of locally desired development, such as development in urban areas, redevelopment, job creation, and mixed use on the transportation system.

4. Assigning secondary priority to vehicle mobility and primary priority to ensuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit.

5. Establishing multimodal level of service standards that rely primarily on nonvehicular modes of transportation where existing or planned community design will provide adequate level of mobility.

6. Reducing impact fees or local access fees to promote development within urban areas, multimodal transportation districts, and a balance of mixed-use development in certain areas or districts, or for affordable or workforce housing.

(g) Local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring impacts on transportation facilities.

(h)1. Local governments that continue to implement a transportation concurrency system, whether in the form adopted into the comprehensive plan before the effective date of the Community Planning Act, chapter 2011-139, Laws of Florida, or as subsequently modified, must:

- a. Consult with the Department of Transportation when proposed plan amendments affect facilities on the strategic intermodal system.

- b. Exempt public transit facilities from concurrency. For the purposes of this sub-subparagraph, public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangars for the assembly, manufacture, maintenance, or storage of aircraft. As used in this sub-subparagraph, the terms "terminals" and "transit facilities" do not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

- c. Allow an applicant for a development-of-regional-impact development order, development

agreement, rezoning, or other land use development permit to satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06, when applicable, if:

(I) The applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required improvements in a manner consistent with this subsection.

(II) The proportionate-share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility. A local government may accept contributions from multiple applicants for a planned improvement if it maintains contributions in a separate account designated for that purpose.

d. Provide the basis upon which the landowners will be assessed a proportionate share of the cost addressing the transportation impacts resulting from a proposed development.

2. An applicant shall not be held responsible for the additional cost of reducing or eliminating deficiencies. When an applicant contributes or constructs its proportionate share pursuant to this paragraph, a local government may not require payment or construction of transportation facilities whose costs would be greater than a development's proportionate share of the improvements necessary to mitigate the development's impacts.

a. The proportionate-share contribution shall be calculated based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

b. In using the proportionate-share formula provided in this subparagraph, the applicant, in its traffic analysis, shall identify those roads or facilities that have a transportation deficiency in accordance with the transportation deficiency as defined in subparagraph 4. The proportionate-share formula provided in this subparagraph shall be applied only to those facilities that are determined to be significantly impacted by the project traffic under review. If any road is determined to be transportation deficient without the project traffic under review, the costs of correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary transportation improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation. The improvement necessary to correct the transportation deficiency is the funding responsibility of the entity that has maintenance responsibility for the facility. The development's proportionate share shall be calculated only for the needed transportation improvements that are greater than the identified deficiency.

c. When the provisions of subparagraph 1. and this subparagraph have been satisfied for a particular stage

or phase of development, all transportation impacts from that stage or phase for which mitigation was required and provided shall be deemed fully mitigated in any transportation analysis for a subsequent stage or phase of development. Trips from a previous stage or phase that did not result in impacts for which mitigation was required or provided may be cumulatively analyzed with trips from a subsequent stage or phase to determine whether an impact requires mitigation for the subsequent stage or phase.

d. In projecting the number of trips to be generated by the development under review, any trips assigned to a toll-financed facility shall be eliminated from the analysis.

e. The applicant shall receive a credit on a dollar-for-dollar basis for impact fees, mobility fees, and other transportation concurrency mitigation requirements paid or payable in the future for the project. The credit shall be reduced up to 20 percent by the percentage share that the project's traffic represents of the added capacity of the selected improvement, or by the amount specified by local ordinance, whichever yields the greater credit.

3. This subsection does not require a local government to approve a development that, for reasons other than transportation impacts, is not qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

4. As used in this subsection, the term "transportation deficiency" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

(i) If a local government elects to repeal transportation concurrency, it is encouraged to adopt an alternative mobility funding system that uses one or more of the tools and techniques identified in paragraph (f). Any alternative mobility funding system adopted may not be used to deny, time, or phase an application for site plan approval, plat approval, final subdivision approval, building permits, or the functional equivalent of such approvals provided that the developer agrees to pay for the development's identified transportation impacts via the funding mechanism implemented by the local government. The revenue from the funding mechanism used in the alternative system must be used to implement the needs of the local government's plan which serves as the basis for the fee imposed. A mobility fee-based funding system must comply with the dual rational nexus test applicable to impact fees. An alternative system that is not mobility fee-based shall not be applied in a manner that imposes upon new development any responsibility for funding an existing transportation deficiency as defined in paragraph (h).

(6)(a) Local governments that apply concurrency to public education facilities shall include principles,

guidelines, standards, and strategies, including adopted levels of service, in their comprehensive plans and interlocal agreements. The choice of one or more municipalities to not adopt school concurrency and enter into the interlocal agreement does not preclude implementation of school concurrency within other jurisdictions of the school district if the county and one or more municipalities have adopted school concurrency into their comprehensive plan and interlocal agreement that represents at least 80 percent of the total countywide population. All local government provisions included in comprehensive plans regarding school concurrency within a county must be consistent with each other and the requirements of this part.

(b) Local governments and school boards imposing school concurrency shall exercise authority in conjunction with each other to establish jointly adequate level-of-service standards necessary to implement the adopted local government comprehensive plan, based on data and analysis.

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

(d) Local governments and school boards may utilize tiered level-of-service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

(e) A school district that includes relocatable facilities in its inventory of student stations shall include the capacity of such relocatable facilities as provided in s. 1013.35(2)(b)2.f., provided the relocatable facilities were purchased after 1998 and the relocatable facilities meet the standards for long-term use pursuant to s. 1013.20.

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

2. If a local government elects to apply school concurrency on a less than districtwide basis, by using school attendance zones or concurrency service areas:

a. Local governments and school boards shall have the burden to demonstrate that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified and included as supporting data and analysis for the comprehensive plan.

b. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level-of-service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, then the local government may not deny an application for site plan or final subdivision approval or the functional equivalent for a development or phase of a development on the basis of school concurrency, and if issued, development impacts shall be subtracted from the contiguous service area's capacity totals. Students from the development may not be required to go to the adjacent service area unless the school board rezones the area in which the development occurs.

(g) The premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level-of-service standard. A comprehensive plan that imposes school concurrency shall contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with the requirements of s. 163.3177(3). The capital improvements element shall identify facilities necessary to meet adopted levels of service during a 5-year period consistent with the school board's educational facilities plan.

(h)1. In order to limit the liability of local governments, a local government may allow a landowner to proceed with development of a specific parcel of land notwithstanding a failure of the development to satisfy school concurrency, if all the following factors are shown to exist:

a. The proposed development would be consistent with the future land use designation for the specific property and with pertinent portions of the adopted local plan, as determined by the local government.

b. The local government's capital improvements element and the school board's educational facilities plan provide for school facilities adequate to serve the proposed development, and the local government or school board has not implemented that element or the project includes a plan that demonstrates that the capital facilities needed as a result of the project can be reasonably provided.

c. The local government and school board have provided a means by which the landowner will be assessed a proportionate share of the cost of providing the school facilities necessary to serve the proposed development.

2. If a local government applies school concurrency, it may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency is satisfied if

the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in sub-subparagraph a. Options for proportionate-share mitigation of impacts on public school facilities must be established in the comprehensive plan and the interlocal agreement pursuant to s. 163.31777.

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

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

c. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in the 5-year school board educational facilities plan that satisfies the demands created by the development in accordance with a binding developer's agreement.

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

(i) When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement that satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and 163.31777 and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders.

The interlocal agreement shall meet the following requirements:

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

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

3. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors.

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

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

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

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

5. A process and uniform methodology for determining proportionate-share mitigation pursuant to paragraph (h).

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

History.—s. 8, ch. 93-206; s. 12, ch. 95-341; s. 3, ch. 96-416; s. 1, ch. 97-253; s. 5, ch. 98-176; s. 4, ch. 99-378; s. 2, ch. 2002-13; s. 6, ch. 2002-296; s. 5, ch. 2005-290; s. 11, ch. 2005-291; s. 18, ch. 2006-1; s. 3, ch. 2006-220; s. 3, ch. 2006-252; s. 11, ch. 2007-196; s. 2, ch. 2007-198; s. 3, ch. 2007-204; s. 5, ch. 2009-85; s. 4, ch. 2009-96; s. 17, ch. 2010-5; s. 1, ch. 2010-33; s. 4, ch. 2011-14; s. 15, ch. 2011-139; s. 7, ch. 2012-99; s. 1, ch. 2013-78.

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

(1) This section may be cited as the "Florida Impact Fee Act."

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.

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

(a) Require that the calculation of the impact fee be based on the most recent and localized data.

(b) Provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity shall account for the revenues and expenditures of such impact fee in a separate accounting fund.

(c) Limit administrative charges for the collection of impact fees to actual costs.

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

(4) Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section.

(5) In any action challenging an impact fee, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee meets the requirements of state legal precedent or this section. The court may not use a deferential standard.

History.—s. 9, ch. 2006-218; s. 1, ch. 2009-49; s. 5, ch. 2009-96; s. 5, ch. 2011-14; s. 1, ch. 2011-149.

163.31802 Prohibited standards for security devices.—A county, municipality, or other entity of local government may not adopt or maintain in effect an ordinance or rule that establishes standards for security cameras that require a lawful business to expend funds to enhance the services or functions provided by local government unless specifically provided by general law. Nothing in this section shall be construed to limit the ability of a county, municipality, airport, seaport, or other local governmental entity to adopt standards for security cameras in publicly operated facilities, including standards for private businesses operating within such public facilities pursuant to a lease or other contractual arrangement.

History.—s. 6, ch. 2009-96; s. 1, ch. 2011-8.

163.3181 Public participation in the comprehensive planning process; intent; alternative dispute resolution.—

(1) It is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible. Towards this end, local planning agencies and local governmental units are directed to adopt procedures designed to provide effective public participation in the comprehensive planning process and to provide real property owners with notice of all official actions which will regulate the use of their property. The provisions and procedures

required in this act are set out as the minimum requirements towards this end.

(2) During consideration of the proposed plan or amendments thereto by the local planning agency or by the local governing body, the procedures shall provide for broad dissemination of the proposals and alternatives, opportunity for written comments, public hearings as provided herein, provisions for open discussion, communications programs, information services, and consideration of and response to public comments.

(3) A local government considering undertaking a publicly financed capital improvement project may elect to use the procedures set forth in this subsection for the purpose of allowing public participation in the decision and resolution of disputes. For purposes of this subsection, a publicly financed capital improvement project is a physical structure or structures, the funding for construction, operation, and maintenance of which is financed entirely from public funds.

(a) Prior to the date of a public hearing on the decision on whether to proceed with the proposed project, the local government shall publish public notice of its intent to decide the issue according to the notice procedures described by s. 125.66(4)(b)2. for a county or s. 166.041(3)(c)2.b. for a municipality.

(b) If the local government chooses to use this process, an affected person may not institute or intervene in an administrative hearing objecting to the project as not consistent with the local comprehensive plan unless, and then only to the extent to which, the affected person raised, through written or oral comments, the same issues between the date of publication of the public notice and the conclusion of the public hearing. However, this limitation shall not apply to issues arising either from significant changes to the location, type, or use of the project, or to significant new information about the project site which becomes known after the public hearing as a result of subsequent site study and analysis, if required.

(c) If an affected person requests an administrative hearing pursuant to ss. 120.569 and 120.57, that person shall file the petition no later than 30 days after the public hearing or no later than 30 days after the change or new information is made available to the public, whichever is later. Affected local governments, the state land planning agency, or other affected persons may intervene. Following the initiation of an administrative hearing, the administrative law judge shall, by order issued within 15 days after receipt of the petition, establish a schedule for the proceedings, including discovery, which provides for a final hearing within 60 days of the issuance of the order. Proposed recommended orders must be submitted to the administrative law judge, if at all, within 10 days of the filing of the hearing transcript. Recommended orders shall be submitted to the state land planning agency within 30 days of the last day for the filing of the proposed recommended order. The state land planning agency shall issue its final order within 45 days of receipt of the recommended order.

(d) The doctrine of res judicata shall apply to all matters raised and disposed of in the final order issued pursuant to this subsection.

(4) If a local government denies an owner's request for an amendment to the comprehensive plan which is applicable to the property of the owner, the local government must afford an opportunity to the owner for informal mediation or other alternative dispute resolution. The costs of the mediation or other alternative dispute resolution shall be borne equally by the local government and the owner. If the owner requests mediation, the time for bringing a judicial action is tolled until the completion of the mediation or 120 days, whichever is earlier.

History.—s. 8, ch. 75-257; s. 3, ch. 76-155; s. 1, ch. 77-174; s. 3, ch. 77-331; s. 9, ch. 93-206; s. 12, ch. 93-286; s. 4, ch. 95-181; s. 10, ch. 95-310; s. 25, ch. 96-410.

163.3182 Transportation deficiencies.—

(1) **DEFINITIONS.**—For purposes of this section, the term:

(a) “Transportation deficiency area” means the geographic area within the unincorporated portion of a county or within the municipal boundary of a municipality designated in a local government comprehensive plan for which a transportation development authority is created pursuant to this section. A transportation deficiency area created within the corporate boundary of a municipality shall be made pursuant to an interlocal agreement between a county, a municipality or municipalities, and any affected taxing authority or authorities.

(b) “Authority” or “transportation development authority” means the governing body of a county or municipality within which an authority is created.

(c) “Governing body” means the council, commission, or other legislative body charged with governing the county or municipality within which an authority is created pursuant to this section.

(d) “Transportation deficiency” means an identified need where the existing and projected extent of traffic volume exceeds the level of service standard adopted in a local government comprehensive plan for a transportation facility.

(e) “Transportation sufficiency plan” means the plan adopted as part of a local government comprehensive plan by the governing body of a county or municipality acting as a transportation development authority.

(f) “Transportation project” means any designated transportation project identified for construction within the jurisdiction of a transportation development authority.

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

(h) “Increment revenue” means the amount calculated pursuant to subsection (5).

(i) “Taxing authority” means a public body that levies or is authorized to levy an ad valorem tax on real property located within a transportation deficiency area, except a school district.

(2) CREATION OF TRANSPORTATION DEVELOPMENT AUTHORITIES.—

(a) A county or municipality may create a transportation development authority if it has an identified transportation deficiency.

(b) Acting as the transportation development authority within the authority's jurisdictional boundary, the governing body of a county or municipality shall adopt and implement a plan to eliminate all identified

transportation deficiencies within the authority's jurisdiction using funds provided pursuant to subsection (5) and as otherwise provided pursuant to this section.

(c) The Legislature finds and declares that there exist in many counties and municipalities areas that have significant transportation deficiencies and inadequate transportation facilities; that many insufficiencies and inadequacies severely limit or prohibit the satisfaction of transportation level of service standards; that the transportation insufficiencies and inadequacies affect the health, safety, and welfare of the residents of these counties and municipalities; that the transportation insufficiencies and inadequacies adversely affect economic development and growth of the tax base for the areas in which these insufficiencies and inadequacies exist; and that the elimination of transportation deficiencies and inadequacies and the satisfaction of transportation concurrency standards are paramount public purposes for the state and its counties and municipalities.

(3) **POWERS OF A TRANSPORTATION DEVELOPMENT AUTHORITY.**—Each transportation development authority created pursuant to this section has the powers necessary or convenient to carry out the purposes of this section, including the following powers in addition to others granted in this section:

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

(b) To undertake and carry out transportation projects for transportation facilities designed to relieve transportation deficiencies within the authority's jurisdiction. Transportation projects may include transportation facilities that provide for alternative modes of travel including sidewalks, bikeways, and mass transit which are related to a deficient transportation facility.

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

(d) To borrow money, including, but not limited to, issuing debt obligations such as, but not limited to, bonds, notes, certificates, and similar debt instruments; to apply for and accept advances, loans, grants, contributions, and any other forms of financial assistance from the Federal Government or the state, county, or any other public body or from any sources, public or private, for the purposes of this part; to give such security as may be required; to enter into and carry out contracts or agreements; and to include in any contracts for financial assistance with the Federal Government for or with respect to a transportation project and related activities such conditions imposed under federal laws as the transportation development authority considers reasonable and appropriate and which are not inconsistent with the purposes of this section.

(e) To make or have made all surveys and plans necessary to the carrying out of the purposes of this

section; to contract with any persons, public or private, in making and carrying out such plans; and to adopt, approve, modify, or amend such transportation sufficiency plans.

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

(4) **TRANSPORTATION SUFFICIENCY PLANS.** Each transportation development authority shall adopt a transportation sufficiency plan as a part of the local government comprehensive plan within 6 months after the creation of the authority. The plan must:

(a) Identify all transportation facilities that have been designated as deficient and require the expenditure of moneys to upgrade, modify, or mitigate the deficiency.

(b) Include a priority listing of all transportation facilities that have been designated as deficient and do not satisfy requirements pursuant to s. 163.3180, and the applicable local government comprehensive plan.

(c) Establish a schedule for financing and construction of transportation projects that will eliminate transportation deficiencies within the jurisdiction of the authority within 10 years after the transportation sufficiency plan adoption. The schedule shall be adopted as part of the local government comprehensive plan.

Notwithstanding such schedule requirements, as long as the schedule provides for the elimination of all transportation deficiencies within 10 years after the adoption of the transportation sufficiency plan, the final maturity date of any debt incurred to finance or refinance the related projects may be no later than 40 years after the date the debt is incurred and the authority may continue operations and administer the trust fund established as provided in subsection (5) for as long as the debt remains outstanding.

(5) **ESTABLISHMENT OF LOCAL TRUST FUND.** The transportation development authority shall establish a local transportation trust fund upon creation of the authority. Each local trust fund shall be administered by the transportation development authority within which transportation deficiencies have been identified. Each local trust fund must continue to be funded under this section for as long as the projects set forth in the related transportation sufficiency plan remain to be completed or until any debt incurred to finance or refinance the related projects is no longer outstanding, whichever occurs later. Beginning in the first fiscal year after the creation of the authority, each local trust fund shall be funded by the proceeds of an ad valorem tax increment collected within each transportation deficiency area to be determined annually and shall be a minimum of 25 percent of the difference between the amounts set forth in paragraphs (a) and (b), except that if all of the affected taxing authorities agree under an interlocal agreement, a particular local trust fund may be funded by the proceeds of an ad valorem tax increment greater than

25 percent of the difference between the amounts set forth in paragraphs (a) and (b):

(a) The amount of ad valorem tax levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the jurisdiction of the transportation development authority and within the transportation deficiency area; and

(b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property within the transportation deficiency area as shown on the most recent assessment roll used in connection with the taxation of such property of each taxing authority prior to the effective date of the ordinance funding the trust fund.

(6) **EXEMPTIONS.—**

(a) The following public bodies or taxing authorities are exempt from this section:

1. A special district that levies ad valorem taxes on taxable real property in more than one county.

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

3. A library district.

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

5. A metropolitan transportation authority.

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

7. A community redevelopment agency.

(b) A transportation development authority may also exempt from this section a special district that levies ad valorem taxes within the transportation deficiency area pursuant to s. 163.387(2)(d).

(7) **TRANSPORTATION CONCURRENCY SATISFACTION.—**Upon adoption of a transportation sufficiency plan as a part of the local government comprehensive plan, and the plan going into effect, the area subject to the plan shall be deemed to have achieved and maintained transportation level-of-service standards. Proportionate fair-share mitigation shall be limited to ensure that a development inside a transportation deficiency area is not responsible for the additional costs of eliminating deficiencies.

(8) **DISSOLUTION.—**Upon completion of all transportation projects identified in the transportation sufficiency plan and repayment or defeasance of all debt issued to finance or refinance such projects, a transportation development authority shall be dissolved, and its assets and liabilities transferred to the county or municipality within which the authority is located. All remaining assets of the authority must be used for implementation of transportation projects within the jurisdiction of the authority. The local government comprehensive plan shall be amended to remove the transportation concurrency backlog plan.

History.—s. 12, ch. 2007-196; s. 10, ch. 2007-204; s. 27, ch. 2008-4; s. 6, ch. 2009-85; s. 16, ch. 2011-139.

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

(1) **DEFINITIONS.**—As used in this section, the term:

(a) “Affected person” includes the affected local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of the review; owners of real property abutting real property that is the subject of a proposed change to a future land use map; and adjoining local governments that can demonstrate that the plan or plan amendment will produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written comments, recommendations, or objections to the local government during the period of time beginning with the transmittal hearing for the plan or plan amendment and ending with the adoption of the plan or plan amendment.

(b) “In compliance” means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

(c) “Reviewing agencies” means:

1. The state land planning agency;
2. The appropriate regional planning council;
3. The appropriate water management district;
4. The Department of Environmental Protection;
5. The Department of State;
6. The Department of Transportation;
7. In the case of plan amendments relating to public schools, the Department of Education;
8. In the case of plans or plan amendments that affect a military installation listed in s. 163.3175, the commanding officer of the affected military installation;
9. In the case of county plans and plan amendments, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services; and
10. In the case of municipal plans and plan amendments, the county in which the municipality is located.

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

(a) Plan amendments adopted by local governments shall follow the expedited state review process in subsection (3), except as set forth in paragraphs (b) and (c).

(b) Plan amendments that qualify as small-scale development amendments may follow the small-scale review process in s. 163.3187.

(c) Plan amendments that are in an area of critical state concern designated pursuant to s. 380.05; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan pursuant to s. 163.3245; update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191; propose a development pursuant to s. 380.06(24)(x);

or are new plans for newly incorporated municipalities adopted pursuant to s. 163.3167 shall follow the state coordinated review process in subsection (4).

(3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS.—

(a) The process for amending a comprehensive plan described in this subsection shall apply to all amendments except as provided in paragraphs (2)(b) and (c) and shall be applicable statewide.

(b)1. The local government, after the initial public hearing held pursuant to subsection (11), shall transmit within 10 working days the amendment or amendments and appropriate supporting data and analyses to the reviewing agencies. The local governing body shall also transmit a copy of the amendments and supporting data and analyses to any other local government or governmental agency that has filed a written request with the governing body.

2. The reviewing agencies and any other local government or governmental agency specified in subparagraph 1. may provide comments regarding the amendment or amendments to the local government. State agencies shall only comment on important state resources and facilities that will be adversely impacted by the amendment if adopted. Comments provided by state agencies shall state with specificity how the plan amendment will adversely impact an important state resource or facility and shall identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts. Such comments, if not resolved, may result in a challenge by the state land planning agency to the plan amendment. Agencies and local governments must transmit their comments to the affected local government such that they are received by the local government not later than 30 days after the date on which the agency or government received the amendment or amendments. Reviewing agencies shall also send a copy of their comments to the state land planning agency.

3. Comments to the local government from a regional planning council, county, or municipality shall be limited as follows:

a. The regional planning council review and comments shall be limited to adverse effects on regional resources or facilities identified in the strategic regional policy plan and extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region. A regional planning council may not review and comment on a proposed comprehensive plan amendment prepared by such council unless the plan amendment has been changed by the local government subsequent to the preparation of the plan amendment by the regional planning council.

b. County comments shall be in the context of the relationship and effect of the proposed plan amendments on the county plan.

c. Municipal comments shall be in the context of the relationship and effect of the proposed plan amendments on the municipal plan.

d. Military installation comments shall be provided in accordance with s. 163.3175.

4. Comments to the local government from state agencies shall be limited to the following subjects as they relate to important state resources and facilities that will be adversely impacted by the amendment if adopted:

a. The Department of Environmental Protection shall limit its comments to the subjects of air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, and conservation easements; solid waste; water and wastewater treatment; and the Everglades ecosystem restoration.

b. The Department of State shall limit its comments to the subjects of historic and archaeological resources.

c. The Department of Transportation shall limit its comments to issues within the agency's jurisdiction as it relates to transportation resources and facilities of state importance.

d. The Fish and Wildlife Conservation Commission shall limit its comments to subjects relating to fish and wildlife habitat and listed species and their habitat.

e. The Department of Agriculture and Consumer Services shall limit its comments to the subjects of agriculture, forestry, and aquaculture issues.

f. The Department of Education shall limit its comments to the subject of public school facilities.

g. The appropriate water management district shall limit its comments to flood protection and floodplain management, wetlands and other surface waters, and regional water supply.

h. The state land planning agency shall limit its comments to important state resources and facilities outside the jurisdiction of other commenting state agencies and may include comments on countervailing planning policies and objectives served by the plan amendment that should be balanced against potential adverse impacts to important state resources and facilities.

(c)1. The local government shall hold its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, the amendments shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

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

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of an amendment package. For purposes of completeness, an amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a

text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.

4. An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

(4) STATE COORDINATED REVIEW PROCESS.

(a) *Coordination.*—The state land planning agency shall only use the state coordinated review process described in this subsection for review of comprehensive plans and plan amendments described in paragraph (2)(c). Each comprehensive plan or plan amendment proposed to be adopted pursuant to this subsection shall be transmitted, adopted, and reviewed in the manner prescribed in this subsection. The state land planning agency shall have responsibility for plan review, coordination, and the preparation and transmission of comments, pursuant to this subsection, to the local governing body responsible for the comprehensive plan or plan amendment.

(b) *Local government transmittal of proposed plan or amendment.*—Each local governing body proposing a plan or plan amendment specified in paragraph (2)(c) shall transmit the complete proposed comprehensive plan or plan amendment to the reviewing agencies within 10 working days after the first public hearing pursuant to subsection (11). The transmitted document shall clearly indicate on the cover sheet that this plan amendment is subject to the state coordinated review process of this subsection. The local governing body shall also transmit a copy of the complete proposed comprehensive plan or plan amendment to any other unit of local government or government agency in the state that has filed a written request with the governing body for the plan or plan amendment.

(c) *Reviewing agency comments.*—The agencies specified in paragraph (b) may provide comments regarding the plan or plan amendments in accordance with subparagraphs (3)(b)2.-4. However, comments on plans or plan amendments required to be reviewed under the state coordinated review process shall be sent to the state land planning agency within 30 days after receipt by the state land planning agency of the complete proposed plan or plan amendment from the local government. If the state land planning agency comments on a plan or plan amendment adopted under the state coordinated review process, it shall provide comments according to paragraph (d). Any other unit of local government or government agency specified in paragraph (b) may provide comments to the state land planning agency in accordance with subparagraphs (3)(b)2.-4. within 30 days after receipt by the state land planning agency of the complete proposed plan or plan

amendment. Written comments submitted by the public shall be sent directly to the local government.

(d) State land planning agency review.—

1. If the state land planning agency elects to review a plan or plan amendment specified in paragraph (2)(c), the agency shall issue a report giving its objections, recommendations, and comments regarding the proposed plan or plan amendment within 60 days after receipt of the proposed plan or plan amendment. Notwithstanding the limitation on comments in subparagraph (3)(b)4.g., the state land planning agency may make objections, recommendations, and comments in its report regarding whether the plan or plan amendment is in compliance and whether the plan or plan amendment will adversely impact important state resources and facilities. Any objection regarding an important state resource or facility that will be adversely impacted by the adopted plan or plan amendment shall also state with specificity how the plan or plan amendment will adversely impact the important state resource or facility and shall identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts. When a federal, state, or regional agency has implemented a permitting program, a local government is not required to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations. This subparagraph does not prohibit the state land planning agency in conducting its review of local plans or plan amendments from making objections, recommendations, and comments regarding densities and intensities consistent with this part. In preparing its comments, the state land planning agency shall only base its considerations on written, and not oral, comments.

2. The state land planning agency review shall identify all written communications with the agency regarding the proposed plan amendment. The written identification must include a list of all documents received or generated by the agency, which list must be of sufficient specificity to enable the documents to be identified and copies requested, if desired, and the name of the person to be contacted to request copies of any identified document.

(e) Local government review of comments; adoption of plan or amendments and transmittal.—

1. The local government shall review the report submitted to it by the state land planning agency, if any, and written comments submitted to it by any other person, agency, or government. The local government, upon receipt of the report from the state land planning agency, shall hold its second public hearing, which shall be a hearing to determine whether to adopt the comprehensive plan or one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails to hold the second hearing within 180 days after receipt of the state land planning agency's report, the amendments shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

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

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of a plan or plan amendment package. For purposes of completeness, a plan or plan amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.

4. After the state land planning agency makes a determination of completeness regarding the adopted plan or plan amendment, the state land planning agency shall have 45 days to determine if the plan or plan amendment is in compliance with this act. Unless the plan or plan amendment is substantially changed from the one commented on, the state land planning agency's compliance determination shall be limited to objections raised in the objections, recommendations, and comments report. During the period provided for in this subparagraph, the state land planning agency shall issue, through a senior administrator or the secretary, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. The state land planning agency shall post a copy of the notice of intent on the agency's Internet website. Publication by the state land planning agency of the notice of intent on the state land planning agency's Internet site shall be prima facie evidence of compliance with the publication requirements of this subparagraph.

5. A plan or plan amendment adopted under the state coordinated review process shall go into effect pursuant to the state land planning agency's notice of intent. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(a) Any affected person as defined in paragraph (1)(a) may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge whether the plan or plan amendments are in compliance as defined in paragraph (1)(b). This petition must be filed with the division within 30 days after the local government adopts the amendment. The state land planning agency may not intervene in a proceeding initiated by an affected person.

(b) The state land planning agency may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge whether the plan or plan amendment is in compliance as defined in paragraph (1)(b). The state land planning agency's petition must clearly state the reasons for the challenge. Under the expedited state review process, this petition must be filed with the division within 30 days after the state land planning agency notifies the local government that the plan amendment package is complete according to subparagraph (3)(c)3. Under the state coordinated review process, this petition must be filed with the division within 45 days after the state land planning agency notifies the local government that the plan amendment package is complete according to subparagraph (4)(e)3.

1. The state land planning agency's challenge to plan amendments adopted under the expedited state review process shall be limited to the comments provided by the reviewing agencies pursuant to subparagraphs (3)(b)2.-4., upon a determination by the state land planning agency that an important state resource or facility will be adversely impacted by the adopted plan amendment. The state land planning agency's petition shall state with specificity how the plan amendment will adversely impact the important state resource or facility. The state land planning agency may challenge a plan amendment that has substantially changed from the version on which the agencies provided comments but only upon a determination by the state land planning agency that an important state resource or facility will be adversely impacted.

2. If the state land planning agency issues a notice of intent to find the comprehensive plan or plan amendment not in compliance with this act, the notice of intent shall be forwarded to the Division of Administrative Hearings of the Department of Management Services, which shall conduct a proceeding under ss. 120.569 and 120.57 in the county of and convenient to the affected local jurisdiction. The parties to the proceeding shall be the state land planning agency, the affected local government, and any affected person who intervenes. No new issue may be alleged as a reason to find a plan or plan amendment not in compliance in an administrative pleading filed more than 21 days after publication of notice unless the party seeking that issue establishes good cause for not alleging the issue within that time period. Good cause does not include excusable neglect.

(c) An administrative law judge shall hold a hearing in the affected local jurisdiction on whether the plan or plan amendment is in compliance.

1. In challenges filed by an affected person, the comprehensive plan or plan amendment shall be determined to be in compliance if the local government's determination of compliance is fairly debatable.

2.a. In challenges filed by the state land planning agency, the local government's determination that the comprehensive plan or plan amendment is in compliance is presumed to be correct, and the local

government's determination shall be sustained unless it is shown by a preponderance of the evidence that the comprehensive plan or plan amendment is not in compliance.

b. In challenges filed by the state land planning agency, the local government's determination that elements of its plan are related to and consistent with each other shall be sustained if the determination is fairly debatable.

3. In challenges filed by the state land planning agency that require a determination by the agency that an important state resource or facility will be adversely impacted by the adopted plan or plan amendment, the local government may contest the agency's determination of an important state resource or facility. The state land planning agency shall prove its determination by clear and convincing evidence.

(d) If the administrative law judge recommends that the amendment be found not in compliance, the judge shall submit the recommended order to the Administration Commission for final agency action. The Administration Commission shall make every effort to enter a final order expeditiously, but at a minimum within the time period provided by s. 120.569.

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

1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall make every effort to refer the recommended order and its determination expeditiously to the Administration Commission for final agency action, but at a minimum within the time period provided by s. 120.569.

2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall make every effort to enter its final order expeditiously, but at a minimum within the time period provided by s. 120.569.

(f) Parties to a proceeding under this subsection may enter into compliance agreements using the process in subsection (6).

(6) COMPLIANCE AGREEMENT.—

(a) At any time after the filing of a challenge, the state land planning agency and the local government may voluntarily enter into a compliance agreement to resolve one or more of the issues raised in the proceedings. Affected persons who have initiated a formal proceeding or have intervened in a formal proceeding may also enter into a compliance agreement with the local government. All parties granted intervenor status shall be provided reasonable notice of the commencement of a compliance agreement negotiation process and a reasonable opportunity to participate in such negotiation process. Negotiation meetings with local governments or intervenors shall be open to the public. The state land planning agency shall provide each party granted intervenor status with a copy of the compliance agreement within 10 days after the agreement is executed. The compliance agreement shall list each portion of the plan or plan amendment that has been challenged, and shall specify remedial actions that

the local government has agreed to complete within a specified time in order to resolve the challenge, including adoption of all necessary plan amendments. The compliance agreement may also establish monitoring requirements and incentives to ensure that the conditions of the compliance agreement are met.

(b) Upon the filing of a compliance agreement executed by the parties to a challenge and the local government with the Division of Administrative Hearings, any administrative proceeding under ss. 120.569 and 120.57 regarding the plan or plan amendment covered by the compliance agreement shall be stayed.

(c) Before its execution of a compliance agreement, the local government must approve the compliance agreement at a public hearing advertised at least 10 days before the public hearing in a newspaper of general circulation in the area in accordance with the advertisement requirements of chapter 125 or chapter 166, as applicable.

(d) The local government shall hold a single public hearing for adopting remedial amendments.

(e) For challenges to amendments adopted under the expedited review process, if the local government adopts a comprehensive plan amendment pursuant to a compliance agreement, an affected person or the state land planning agency may file a revised challenge with the Division of Administrative Hearings within 15 days after the adoption of the remedial amendment.

(f) For challenges to amendments adopted under the state coordinated process, the state land planning agency shall issue a cumulative notice of intent addressing both the remedial amendment and the plan or plan amendment that was the subject of the agreement within 20 days after receiving a complete plan or plan amendment adopted pursuant to a compliance agreement.

1. If the local government adopts a comprehensive plan or plan amendment pursuant to a compliance agreement and a notice of intent to find the plan amendment in compliance is issued, the state land planning agency shall forward the notice of intent to the Division of Administrative Hearings and the administrative law judge shall realign the parties in the pending proceeding under ss. 120.569 and 120.57, which shall thereafter be governed by the process contained in paragraph (5)(a) and subparagraph (5)(c)1., including provisions relating to challenges by an affected person, burden of proof, and issues of a recommended order and a final order. Parties to the original proceeding at the time of realignment may continue as parties without being required to file additional pleadings to initiate a proceeding, but may timely amend their pleadings to raise any challenge to the amendment that is the subject of the cumulative notice of intent, and must otherwise conform to the rules of procedure of the Division of Administrative Hearings. Any affected person not a party to the realigned proceeding may challenge the plan amendment that is the subject of the cumulative notice of intent by filing a petition with the agency as provided in subsection (5). The agency shall forward the petition filed by the affected person not a party to the realigned proceeding to the Division of Administrative Hearings for consolidation with the realigned

proceeding. If the cumulative notice of intent is not challenged, the state land planning agency shall request that the Division of Administrative Hearings relinquish jurisdiction to the state land planning agency for issuance of a final order.

2. If the local government adopts a comprehensive plan amendment pursuant to a compliance agreement and a notice of intent is issued that finds the plan amendment not in compliance, the state land planning agency shall forward the notice of intent to the Division of Administrative Hearings, which shall consolidate the proceeding with the pending proceeding and immediately set a date for a hearing in the pending proceeding under ss. 120.569 and 120.57. Affected persons who are not a party to the underlying proceeding under ss. 120.569 and 120.57 may challenge the plan amendment adopted pursuant to the compliance agreement by filing a petition pursuant to paragraph (5)(a).

(g) This subsection does not prohibit a local government from amending portions of its comprehensive plan other than those that are the subject of a challenge. However, such amendments to the plan may not be inconsistent with the compliance agreement.

(h) This subsection does not require settlement by any party against its will or preclude the use of other informal dispute resolution methods in the course of or in addition to the method described in this subsection.

(7) MEDIATION AND EXPEDITIOUS RESOLUTION.—

(a) At any time after the matter has been forwarded to the Division of Administrative Hearings, the local government proposing the amendment may demand formal mediation or the local government proposing the amendment or an affected person who is a party to the proceeding may demand informal mediation or expeditious resolution of the amendment proceedings by serving written notice on the state land planning agency if a party to the proceeding, all other parties to the proceeding, and the administrative law judge.

(b) Upon receipt of a notice pursuant to paragraph (a), the administrative law judge shall set the matter for final hearing no more than 30 days after receipt of the notice. Once a final hearing has been set, no continuance in the hearing, and no additional time for post-hearing submittals, may be granted without the written agreement of the parties absent a finding by the administrative law judge of extraordinary circumstances. Extraordinary circumstances do not include matters relating to workload or need for additional time for preparation, negotiation, or mediation.

(c) Absent a showing of extraordinary circumstances, the administrative law judge shall issue a recommended order, in a case proceeding under subsection (5), within 30 days after filing of the transcript, unless the parties agree in writing to a longer time.

(d) Absent a showing of extraordinary circumstances, the Administration Commission shall issue a final order, in a case proceeding under subsection (5), within 45 days after the issuance of the recommended order, unless the parties agree in writing to a longer time.

(8) ADMINISTRATION COMMISSION.—

(a) If the Administration Commission, upon a hearing pursuant to subsection (5), finds that the comprehensive plan or plan amendment is not in compliance with this act, the commission shall specify remedial actions that would bring the comprehensive plan or plan amendment into compliance.

(b) The commission may specify the sanctions provided in subparagraphs 1. and 2. to which the local government will be subject if it elects to make the amendment effective notwithstanding the determination of noncompliance.

1. The commission may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of those local governmental entities which have comprehensive plans or plan elements that are determined not to be in compliance. The commission order may also specify that the local government is not eligible for grants administered under the following programs:

a. The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.048.

b. The Florida Recreation Development Assistance Program, as authorized by chapter 375.

c. Revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and chapter 212, to the extent not pledged to pay back bonds.

2. If the local government is one which is required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g), the commission order may also specify that the local government is not eligible for funding pursuant to s. 161.091. The commission order may also specify that the fact that the coastal management element has been determined to be not in compliance shall be a consideration when the department considers permits under s. 161.053 and when the Board of Trustees of the Internal Improvement Trust Fund considers whether to sell, convey any interest in, or lease any sovereignty lands or submerged lands until the element is brought into compliance.

3. The sanctions provided by subparagraphs 1. and 2. do not apply to a local government regarding any plan amendment, except for plan amendments that amend plans that have not been finally determined to be in compliance with this part, and except as provided in this paragraph.

(9) **GOOD FAITH FILING.**—The signature of an attorney or party constitutes a certificate that he or she has read the pleading, motion, or other paper and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay, or for economic advantage, competitive reasons, or frivolous purposes or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the administrative law judge, upon motion or his or her own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred

because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(10) **EXCLUSIVE PROCEEDINGS.**—The proceedings under this section shall be the sole proceeding or action for a determination of whether a local government's plan, element, or amendment is in compliance with this act.

(11) **PUBLIC HEARINGS.**—

(a) The procedure for transmittal of a complete proposed comprehensive plan or plan amendment pursuant to subparagraph (3)(b)1. and paragraph (4)(b) and for adoption of a comprehensive plan or plan amendment pursuant to subparagraphs (3)(c)1. and (4)(e)1. shall be by affirmative vote of not less than a majority of the members of the governing body present at the hearing. The adoption of a comprehensive plan or plan amendment shall be by ordinance. For the purposes of transmitting or adopting a comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are superseded by this subsection, except as provided in this part.

(b) The local governing body shall hold at least two advertised public hearings on the proposed comprehensive plan or plan amendment as follows:

1. The first public hearing shall be held at the transmittal stage. It shall be held on a weekday at least 7 days after the day that the first advertisement is published pursuant to the requirements of chapter 125 or chapter 166.

2. The second public hearing shall be held at the adoption stage. It shall be held on a weekday at least 5 days after the day that the second advertisement is published pursuant to the requirements of chapter 125 or chapter 166.

(c) Nothing in this part is intended to prohibit or limit the authority of local governments to require a person requesting an amendment to pay some or all of the cost of the public notice.

(12) **CONCURRENT ZONING.**—At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this section. Zoning changes approved by the local government are contingent upon the comprehensive plan or plan amendment transmitted becoming effective.

(13) **AREAS OF CRITICAL STATE CONCERN.**—No proposed local government comprehensive plan or plan amendment that is applicable to a designated area of critical state concern shall be effective until a final order is issued finding the plan or amendment to be in compliance as defined in paragraph (1)(b).

History.—s. 9, ch. 75-257; s. 1, ch. 77-174; s. 4, ch. 77-331; s. 7, ch. 83-308; s. 8, ch. 84-254; s. 8, ch. 85-55; s. 9, ch. 86-191; s. 7, ch. 92-129; s. 77, ch. 92-279; s. 55, ch. 92-326; s. 10, ch. 93-206; s. 34, ch. 94-356; s. 1445, ch. 95-147; s. 5, ch. 95-181; s. 11, ch. 95-310; s. 2, ch. 95-322; s. 26, ch. 96-410; s. 16, ch. 97-99; s. 2, ch. 97-253; s. 3, ch. 98-146; s. 12, ch. 98-176; s. 15, ch. 2000-158; s. 34, ch. 2001-254; s. 7, ch. 2002-296; s. 2, ch. 2004-384; s. 6, ch. 2005-290; s. 19, ch. 2006-1; s. 3, ch. 2007-198; s. 7, ch. 2009-96; s. 6, ch. 2011-14; s. 17, ch. 2011-139; s. 15, ch. 2012-5; s. 1, ch. 2012-75; s. 8, ch. 2012-99.

163.3187 Process for adoption of small-scale comprehensive plan amendment.—

(1) A small scale development amendment may be adopted under the following conditions:

(a) The proposed amendment involves a use of 10 acres or fewer and:

(b) The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government does not exceed a maximum of 120 acres in a calendar year.

(c) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible under this section.

(d) The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1).

(2) Small scale development amendments adopted pursuant to this section require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(11).

¹(3) If the small scale development amendment involves a site within a rural area of opportunity as defined under s. 288.0656(2)(d) for the duration of such designation, the 10-acre limit listed in subsection (1) shall be increased by 100 percent to 20 acres. The local government approving the small scale plan amendment shall certify to the state land planning agency that the plan amendment furthers the economic objectives set forth in the executive order issued under s. 288.0656(7), and the property subject to the plan amendment shall undergo public review to ensure that all concurrency requirements and federal, state, and local environmental permit requirements are met.

(4) Comprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177. Corrections, updates, or modifications of current costs which were set out as part of the comprehensive plan shall not, for the purposes of this act, be deemed to be amendments.

(5)(a) Any affected person may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57 to request a hearing to challenge the compliance of a small scale development amendment with this act within 30 days following the local government's adoption of the amendment and shall serve a copy of the petition on the local government. An administrative law judge shall hold a hearing in the affected jurisdiction not less than 30 days nor more than 60 days following the filing of a petition and the assignment of an administrative law judge. The parties to a hearing held pursuant to this subsection shall be the petitioner, the local government, and any intervenor. In the proceeding, the plan amendment shall be determined to be in compliance if the local government's determination that the small scale development amendment is in compliance is fairly debatable. The state land

planning agency may not intervene in any proceeding initiated pursuant to this section.

(b)1. If the administrative law judge recommends that the small scale development amendment be found not in compliance, the administrative law judge shall submit the recommended order to the Administration Commission for final agency action. If the administrative law judge recommends that the small scale development amendment be found in compliance, the administrative law judge shall submit the recommended order to the state land planning agency.

2. If the state land planning agency determines that the plan amendment is not in compliance, the agency shall submit, within 30 days following its receipt, the recommended order to the Administration Commission for final agency action. If the state land planning agency determines that the plan amendment is in compliance, the agency shall enter a final order within 30 days following its receipt of the recommended order.

(c) Small scale development amendments may not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments may not become effective until the state land planning agency or the Administration Commission, respectively, issues a final order determining that the adopted small scale development amendment is in compliance.

(d) In all challenges under this subsection, when a determination of compliance as defined in s. 163.3184(1)(b) is made, consideration shall be given to the plan amendment as a whole and whether the plan amendment furthers the intent of this part.

History.—s. 10, ch. 75-257; s. 1, ch. 77-174; s. 5, ch. 77-331; s. 9, ch. 85-55; s. 10, ch. 86-191; s. 8, ch. 92-129; s. 11, ch. 93-206; s. 4, ch. 94-273; s. 1446, ch. 95-147; s. 12, ch. 95-310; s. 3, ch. 95-322; s. 5, ch. 95-396; s. 1, ch. 96-205; s. 27, ch. 96-410; s. 4, ch. 96-416; s. 3, ch. 97-253; s. 14, ch. 98-75; s. 13, ch. 98-176; s. 66, ch. 99-251; s. 5, ch. 99-378; s. 26, ch. 2000-151; s. 16, ch. 2000-158; s. 1, ch. 2000-284; s. 8, ch. 2002-296; s. 3, ch. 2004-230; s. 5, ch. 2004-372; s. 7, ch. 2005-290; s. 20, ch. 2006-1; s. 3, ch. 2006-69; s. 4, ch. 2007-198; s. 8, ch. 2009-96; s. 7, ch. 2011-14; s. 18, ch. 2011-139; s. 25, ch. 2014-17; s. 25, ch. 2014-218.

Note.—Section 56, ch. 2014-218, provides that:

"(1) The executive director of the Department of Economic Opportunity is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) Notwithstanding any other provision of law, the emergency rules adopted pursuant to subsection (1) remain in effect for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

"(3) This section shall expire October 1, 2015."

163.3191 Evaluation and appraisal of comprehensive plan.—

(1) At least once every 7 years, each local government shall evaluate its comprehensive plan to determine if plan amendments are necessary to reflect changes in state requirements in this part since the last update of the comprehensive plan, and notify the state land planning agency as to its determination.

(2) If the local government determines amendments to its comprehensive plan are necessary to reflect changes in state requirements, the local government shall prepare and transmit within 1 year such plan amendment or amendments for review pursuant to s. 163.3184.

(3) Local governments are encouraged to comprehensively evaluate and, as necessary, update comprehensive plans to reflect changes in local conditions.

Plan amendments transmitted pursuant to this section shall be reviewed pursuant to s. 163.3184(4).

(4) If a local government fails to submit its letter prescribed by subsection (1) or update its plan pursuant to subsection (2), it may not amend its comprehensive plan until such time as it complies with this section.

(5) The state land planning agency may not adopt rules to implement this section, other than procedural rules or a schedule indicating when local governments must comply with the requirements of this section.

History.—s. 11, ch. 75-257; s. 10, ch. 85-55; s. 11, ch. 86-191; s. 10, ch. 92-129; s. 13, ch. 93-206; s. 6, ch. 95-322; s. 29, ch. 96-410; s. 5, ch. 96-416; s. 4, ch. 98-146; ss. 6, 14, ch. 98-176; s. 5, ch. 98-258; s. 17, ch. 2000-158; s. 9, ch. 2002-296; s. 905, ch. 2002-387; s. 4, ch. 2004-230; s. 8, ch. 2005-290; s. 12, ch. 2005-291; s. 13, ch. 2007-196; s. 5, ch. 2007-198; s. 4, ch. 2007-204; s. 5, ch. 2010-205; s. 20, ch. 2011-139; s. 8, ch. 2012-96; s. 9, ch. 2012-99.

163.3194 Legal status of comprehensive plan.

(1)(a) After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

(b) All land development regulations enacted or amended shall be consistent with the adopted comprehensive plan, or element or portion thereof, and any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent. If a local government allows an existing land development regulation which is inconsistent with the most recently adopted comprehensive plan, or element or portion thereof, to remain in effect, the local government shall adopt a schedule for bringing the land development regulation into conformity with the provisions of the most recently adopted comprehensive plan, or element or portion thereof. During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the land development regulations are inconsistent, the provisions of the most recently adopted comprehensive plan, or element or portion thereof, shall govern any action taken in regard to an application for a development order.

(2) After a comprehensive plan for the area, or element or portion thereof, is adopted by the governing body, no land development regulation, land development code, or amendment thereto shall be adopted by the governing body until such regulation, code, or amendment has been referred either to the local planning agency or to a separate land development regulation commission created pursuant to local ordinance, or to both, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan, or element or portion thereof. Said recommendation shall be made within a reasonable time, but no later than within 2 months after the time of reference. If a recommendation is not made within the time provided, then the governing body may act on the adoption.

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other

aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(b) A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(4)(a) A court, in reviewing local governmental action or development regulations under this act, may consider, among other things, the reasonableness of the comprehensive plan, or element or elements thereof, relating to the issue justiciably raised or the appropriateness and completeness of the comprehensive plan, or element or elements thereof, in relation to the governmental action or development regulation under consideration. The court may consider the relationship of the comprehensive plan, or element or elements thereof, to the governmental action taken or the development regulation involved in litigation, but private property shall not be taken without due process of law and the payment of just compensation.

(b) It is the intent of this act that the comprehensive plan set general guidelines and principles concerning its purposes and contents and that this act shall be construed broadly to accomplish its stated purposes and objectives.

(5) The tax-exempt status of lands classified as agricultural under s. 193.461 shall not be affected by any comprehensive plan adopted under this act as long as the land meets the criteria set forth in s. 193.461.

(6) If a proposed solid waste management facility is permitted by the Department of Environmental Protection to receive materials from the construction or demolition of a road or other transportation facility, a local government may not deny an application for a development approval for a requested land use that would accommodate such a facility, provided the local government previously approved a land use classification change to a local comprehensive plan or approved a rezoning to a category allowing such land use on the parcel, and the requested land use was disclosed during the previous comprehensive plan or rezoning hearing as being an express purpose of the land use changes.

History.—s. 12, ch. 75-257; s. 1, ch. 77-174; s. 2, ch. 77-223; s. 12, ch. 80-358; s. 69, ch. 81-259; s. 11, ch. 85-55; s. 33, ch. 2002-296.

163.3197 Legal status of prior comprehensive plan.

Where, prior to the adoption of a revised plan pursuant to s. 163.3167(2), a local government had adopted a comprehensive plan, or element or portion thereof, such adopted plan, or element or portion thereof, shall have such force and effect as it had at the date of adoption until a new comprehensive plan, or element or portion thereof, is adopted by or for such local government pursuant to the provisions of this act. The prior adopted plan, or element or portion thereof, may be the basis for meeting the requirement of

comprehensive plan adoption set out in this act, provided all requirements of this act are met.

History.—s. 13, ch. 75-257; s. 12, ch. 85-55.

163.3201 Relationship of comprehensive plan to exercise of land development regulatory authority.

It is the intent of this act that adopted comprehensive plans or elements thereof shall be implemented, in part, by the adoption and enforcement of appropriate local regulations on the development of lands and waters within an area. It is the intent of this act that the adoption and enforcement by a governing body of regulations for the development of land or the adoption and enforcement by a governing body of a land development code for an area shall be based on, be related to, and be a means of implementation for an adopted comprehensive plan as required by this act.

History.—s. 14, ch. 75-257; s. 13, ch. 85-55.

163.3202 Land development regulations.—

(1) Within 1 year after submission of its comprehensive plan or revised comprehensive plan for review pursuant to s. 163.3191, each county and each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.

(2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:

- (a) Regulate the subdivision of land.
- (b) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.
- (c) Provide for protection of potable water wellfields.
- (d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.
- (e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.
- (f) Regulate signage.
- (g) Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. A local government may not issue a development order or permit that results in a reduction in the level of services for the affected public facilities below the level of services provided in the local government's comprehensive plan.

(h) Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.

(i) Maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure, as determined by a local governing authority, and are not located within a coastal high-hazard area under s. 163.3178.

(3) This section shall be construed to encourage the use of innovative land development regulations which include provisions such as transfer of development rights, incentive and inclusionary zoning, planned-unit development, impact fees, and performance zoning. These and all other such regulations shall be combined and compiled into a single land development code for the jurisdiction. A general zoning code shall not be required if a local government's adopted land development regulations meet the requirements of this section.

(4) The state land planning agency may require a local government to submit one or more land development regulations if it has reasonable grounds to believe that a local government has totally failed to adopt any one or more of the land development regulations required by this section. Once the state land planning agency determines after review and consultation with local government whether the local government has adopted regulations required by this section, the state land planning agency shall notify the local government in writing within 30 calendar days after receipt of the regulations from the local government. If the state land planning agency determines that the local government has failed to adopt regulations required by this section, it may institute an action in circuit court to require adoption of these regulations. This action shall not review compliance of adopted regulations with this section or consistency with locally adopted plans.

(5) The state land planning agency shall adopt rules for review and schedules for adoption of land development regulations.

History.—s. 14, ch. 85-55; s. 12, ch. 86-191; s. 14, ch. 93-206; s. 7, ch. 95-322; s. 6, ch. 96-416; s. 5, ch. 98-146; s. 20, ch. 2009-96; s. 188, ch. 2010-102; s. 6, ch. 2011-4; s. 6, ch. 2011-15; s. 1, ch. 2014-218.

Note.—Section 56, ch. 2014-218, provides that:

"(1) The executive director of the Department of Economic Opportunity is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) Notwithstanding any other provision of law, the emergency rules adopted pursuant to subsection (1) remain in effect for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

"(3) This section shall expire October 1, 2015."

163.3204 Cooperation by state and regional agencies.—

The state land planning agency and any ad hoc working groups appointed by the department and all state and regional agencies involved in the administration and implementation of the Community Planning Act shall cooperate and work with units of local government in the preparation and adoption of comprehensive plans, or elements or portions thereof, and of local land development regulations.

History.—s. 15, ch. 75-257; s. 3, ch. 79-65; s. 11, ch. 83-216; s. 16, ch. 85-55; s. 9, ch. 2012-96.

163.3206 Fuel terminals.—

(1) It is the intent of the Legislature to maintain, encourage, and ensure adequate and reliable fuel terminal infrastructure in this state. Fuel terminals are a critical component of fuel storage and distribution. The ability to receive, store, and distribute fuel is essential to the state's economy and to the health, safety, welfare, and quality of life of residents and visitors. It is essential that fuel terminal infrastructure be constructed and maintained in various locations in order to ensure the

efficient and reliable transportation and delivery of an adequate quantity of fuel throughout the state.

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

(a) "Fuel" means any of the following:

1. Alternative fuel as defined in s. 525.01.
2. Aviation fuel as defined in s. 206.9815.
3. Diesel fuel as defined in s. 206.86.
4. Gas as defined in s. 206.9925.
5. Motor fuel as defined in s. 206.01.
6. Natural gas fuel as defined in s. 206.9951.
7. Oil as defined in s. 206.9925.
8. Petroleum fuel as defined in s. 525.01.
9. Petroleum product as defined in s. 206.9925.

(b) "Fuel terminal" means a storage and distribution facility for fuel, supplied by pipeline or marine vessel, which has the capacity to receive and store a bulk transfer of fuel, is equipped with a loading rack through which fuel is physically transferred into tanker trucks or rail cars, and is registered with the Internal Revenue Service as a terminal.

(3) After July 1, 2014, a local government may not amend its comprehensive plan, land use map, zoning districts, or land development regulations in a manner that would conflict with a fuel terminal's classification as a permitted and allowable use, including, but not limited to, an amendment that causes a fuel terminal to be a nonconforming use, structure, or development.

(4) In the event of damage to or destruction of a fuel terminal as a result of a natural disaster or other catastrophe, a local government shall allow the timely repair of the fuel terminal to the capacity of the fuel terminal as it existed before the natural disaster or catastrophe.

(5) This section does not limit the authority of a local government to adopt, implement, modify, and enforce applicable federal and state requirements for fuel terminals, including safety and building standards, and local safety and building standards. However, the exercise of local authority may not conflict with federal or state safety and security requirements for fuel terminals.

History.—s. 1, ch. 2014-93.

163.3208 Substation approval process.—

(1) It is the intent of the Legislature to maintain, encourage, and ensure adequate and reliable electric infrastructure in the state. It is essential that electric infrastructure be constructed and maintained in various locations in order to ensure the efficient and reliable delivery of electric service. Electric infrastructure should be constructed, to the maximum extent practicable, to achieve compatibility with adjacent and surrounding land uses, and the criteria included in this section are intended to balance the need for electricity with land use compatibility.

(2) The term "distribution electric substation" means an electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

(3) Electric substations are a critical component of electric transmission and distribution. Local

governments may adopt and enforce reasonable land development regulations for new distribution electric substations addressing only setback, landscaping, buffering, screening, lighting, and other aesthetic compatibility-based standards. Vegetated buffers or screening beneath aerial access points to the substation equipment shall not be required to have a mature height in excess of 14 feet.

(4) New distribution electric substations shall be a permitted use in all land use categories in the applicable local government comprehensive plan and zoning districts within a utility's service territory except those designated as preservation, conservation, or historic preservation on the future land use map or duly adopted ordinance. If a local government has not adopted reasonable standards for substation siting in accordance with subsection (3), the following standards shall apply to new distribution electric substations:

(a) In nonresidential areas, the substation must comply with the setback and landscaped buffer area criteria applicable to other similar uses in that district, if any.

(b) Unless the local government approves a lesser setback or landscape requirement, in residential areas, a setback of up to 100 feet between the substation property boundary and permanent equipment structures shall be maintained as follows:

1. For setbacks between 100 feet and 50 feet, an open green space shall be formed by installing native landscaping, including trees and shrub material, consistent with the relevant local government's land development regulations. Substation equipment shall be protected by a security fence consistent with the relevant local government's land development regulations.

2. For setbacks of less than 50 feet, a buffer wall 8 feet high or a fence 8 feet high with native landscaping consistent with the relevant local government's regulations shall be installed around the substation.

(5) If the application for a proposed distribution electric substation demonstrates that the substation design is consistent with the local government's applicable setback, landscaping, buffering, screening, and other aesthetic compatibility-based standards, the application for development approval for the substation shall be approved.

(6)(a) This paragraph may apply to the proposed placement or construction of a new distribution electric substation within a residential area. Prior to submitting an application for the location of a new distribution electric substation in residential areas, the utility shall consult with the local government regarding the selection of a site. The utility shall provide information regarding the utility's preferred site and as many as three alternative available sites, including sites within nonresidential areas, that are technically and electrically reasonable for the load to be served, if the local government deems that the siting of a new distribution electric substation warrants this additional review and consideration. The final determination on the site application as to the preferred and alternative sites shall be made solely by the local government within 90 days of presentation of all the necessary and required

information on the preferred site and on the alternative sites. In the event the utility and the local government are unable to reach agreement on an appropriate location, the substation site selection shall be submitted to mediation conducted pursuant to ss. 44.401-44.406, unless otherwise agreed to in writing by the parties, and the mediation shall be concluded within 30 days unless extended by written agreement of the parties. The 90-day time period for the local government to render a final decision on the site application is tolled from the date a notice of intent to mediate the site selection issue is served on the utility or local government, until the mediation is concluded, terminated, or an impasse is declared. The local government and utility may agree to waive or extend this 90-day time period. Upon rendition of a final decision of the local government, a person may pursue available legal remedies in accordance with law, and the matter shall be considered on an expedited basis.

(b) A local government's land development and construction regulations for new distribution electric substations and the local government's review of an application for the placement or construction of a new distribution electric substation shall only address land development, zoning, or aesthetic compatibility-based issues. In such local government regulations or review, a local government may not require information or evaluate a utility's business decisions about its service, customer demand for its service, or quality of its service to or from a particular area or site, unless the utility voluntarily offers this information to the local government.

(7) Substation siting standards adopted after the effective date of this act shall not apply to new distribution electric substation applications that were submitted prior to the notice of the local government's adoption hearing.

(8)(a) If a local government has adopted standards for the siting of new distribution electric substations within any of the local government's land use categories or zoning districts, the local government shall grant or deny a properly completed application for a permit to locate a new distribution electric substation within the land use category or zoning district within 90 days after the date the properly completed application is declared complete in accordance with the applicable local government application procedures. If the local government fails to approve or deny a properly completed application for a new distribution electric substation within the timeframes set forth, the application shall be deemed automatically approved, and the applicant may proceed with construction consistent with its application without interference or penalty. Issuance of such local permit does not relieve the applicant from complying with applicable federal or state laws or regulations and other applicable local land development or building regulations, if any.

(b) The local government shall notify the permit applicant within 30 days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted. Further completeness determinations shall be provided within 15 days after the

receipt of additional information. However, such determination shall not be deemed an approval of the application.

(c) To be effective, a waiver of the timeframes set forth in this subsection must be voluntarily agreed to by the utility applicant and the local government. A local government may request, but not require, a waiver of the timeframes by the applicant, except that, with respect to a specific application, a one-time waiver may be required in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the local government.

(d) The local government may establish reasonable timeframes within which the required information to cure the application deficiency is to be provided, or the application will be considered withdrawn or closed.

History.—s. 1, ch. 2006-268.

163.3209 Electric transmission and distribution line right-of-way maintenance.—

After a right-of-way for any electric transmission or distribution line has been established and constructed, no local government shall require or apply any permits or other approvals or code provisions for or related to vegetation maintenance and tree pruning or trimming within the established right-of-way. The term "vegetation maintenance and tree pruning or trimming" means the mowing of vegetation within the right-of-way, removal of trees or brush within the right-of-way, and selective removal of tree branches that extend within the right-of-way. The provisions of this section do not include the removal of trees outside the right-of-way, which may be allowed in compliance with applicable local ordinances. Prior to conducting scheduled routine vegetation maintenance and tree pruning or trimming activities within an established right-of-way, the utility shall provide the official designated by the local government with a minimum of 5 business days' advance notice. Such advance notice is not required for vegetation maintenance and tree pruning or trimming required to restore electric service or to avoid an imminent vegetation-caused outage or when performed at the request of the property owner adjacent to the right-of-way, provided that the owner has approval of the local government, if needed. Upon the request of the local government, the electric utility shall meet with the local government to discuss and submit the utility's vegetation maintenance plan, including the utility's trimming specifications and maintenance practices. Vegetation maintenance and tree pruning or trimming conducted by utilities shall conform to ANSI A300 (Part I)—2001 pruning standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements. Vegetation maintenance and tree pruning or trimming conducted by utilities must be supervised by qualified electric utility personnel or licensed contractors trained to conduct vegetation maintenance and tree trimming or pruning consistent with this section or by Certified Arborists certified by the Certification Program of the International Society of Arboriculture. A local government shall not adopt an ordinance or land development regulation that requires the planting of a tree or other vegetation that will achieve a height greater

than 14 feet in an established electric utility right-of-way or intrude from the side closer than the clearance distance specified in Table 2 of ANSI Z133.1-2000 for lines affected by the North American Electric Reliability Council Standard, FAC 003.1 requirement R1.2. This section does not supersede or nullify the terms of specific franchise agreements between an electric utility and a local government and shall not be construed to limit a local government's franchising authority. This section does not supersede local government ordinances or regulations governing planting, pruning, trimming, or removal of specimen trees or historical trees, as defined in a local government's ordinances or regulations, or trees within designated canopied protection areas. This section shall not apply if a local government develops, with input from the utility, and the local government adopts, a written plan specifically for vegetation maintenance, tree pruning, tree removal, and tree trimming by the utility within the local government's established rights-of-way and the plan is not inconsistent with the minimum requirements of the National Electrical Safety Code as adopted by the Public Service Commission; provided, however, such a plan shall not require the planting of a tree or other vegetation that will achieve a height greater than 14 feet in an established electric right-of-way. Vegetation maintenance costs shall be considered recoverable costs.

History.—s. 2, ch. 2006-268.

163.3211 Conflict with other statutes.—Where this act may be in conflict with any other provision or provisions of law relating to local governments having authority to regulate the development of land, the provisions of this act shall govern unless the provisions of this act are met or exceeded by such other provision or provisions of law relating to local government, including land development regulations adopted pursuant to chapter 125 or chapter 166. Nothing in this act is intended to withdraw or diminish any legal powers or responsibilities of state agencies or change any requirement of existing law that local regulations comply with state standards or rules.

History.—s. 17, ch. 75-257; s. 17, ch. 85-55; s. 25, ch. 87-224.

163.3213 Administrative review of land development regulations.—

(1) It is the intent of the Legislature that substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.

(2) As used in this section:

(a) "Substantially affected person" means a substantially affected person as provided pursuant to chapter 120.

(b) "Land development regulation" means an ordinance enacted by a local governing body for the regulation of any aspect of development, including a subdivision, building construction, landscaping, tree protection, or sign regulation or any other regulation concerning the development of land. This term shall include a general zoning code, but shall not include a

zoning map, an action which results in zoning or rezoning of land, or any building construction standard adopted pursuant to and in compliance with the provisions of chapter 553.

(3) After the deadline specified in s. 163.3202 for each local government to adopt land development regulations, a substantially affected person, within 12 months after final adoption of the land development regulation, may challenge a land development regulation on the basis that it is inconsistent with the local comprehensive plan. As a condition precedent to the institution of a proceeding pursuant to subsection (4), such affected person shall file a petition with the local government whose land development regulation is the subject of the petition outlining the facts on which the petition is based and the reasons that the substantially affected person considers the land development regulation to be inconsistent with the local comprehensive plan. The local government receiving the petition shall have 30 days after the receipt of the petition to respond. Thereafter, the substantially affected person may petition the state land planning agency not later than 30 days after the local government has responded or at the expiration of the 30-day period which the local government has to respond. The local government and the petitioning, substantially affected person may by agreement extend the 30-day time period within which the local government has to respond. The petition to the state land planning agency shall contain the facts and reasons outlined in the prior petition to the local government.

(4) The state land planning agency shall notify the local government of its receipt of a petition and shall give the local government and the petitioning, substantially affected person an opportunity to present written or oral testimony on the issue and shall conduct any investigations of the matter that it deems necessary. These proceedings shall be informal and shall not include any hearings pursuant to s. 120.57(1). Not later than 60 days nor earlier than 30 days after receiving the petition, the state land planning agency shall issue its written decision on the issue of whether the land development regulation is consistent with the local comprehensive plan, giving the grounds for its decision. The state land planning agency shall send a copy of its decision to the local government and the petitioning, substantially affected person.

(5)(a) If the state land planning agency determines that the regulation is consistent with the local comprehensive plan, the substantially affected person who filed the original petition with the local government may, within 21 days, request a hearing from the Division of Administrative Hearings, and an administrative law judge shall hold a hearing in the affected jurisdiction no earlier than 30 days after the state land planning agency renders its decision pursuant to subsection (4). The parties to a hearing held pursuant to this paragraph shall be the petitioning, substantially affected person, any intervenor, the state land planning agency, and the local government. The adoption of a land development regulation by a local government is legislative in nature and shall not be found to be inconsistent with the local plan if it is fairly debatable that it is consistent with the

plan. The hearing shall be held pursuant to ss. 120.569 and 120.57(1), except that the order of the administrative law judge shall be a final order and shall be appealable pursuant to s. 120.68.

(b) If the state land planning agency determines that the regulation is inconsistent with the local comprehensive plan, the state land planning agency shall, within 21 days, request a hearing from the Division of Administrative Hearings, and an administrative law judge shall hold a hearing in the affected jurisdiction not earlier than 30 days after the state land planning agency renders its decision pursuant to subsection (4). The parties to a hearing held pursuant to this paragraph shall be the petitioning, substantially affected person, the local government, any intervenor, and the state land planning agency. The adoption of a land development regulation by a local government is legislative in nature and shall not be found to be inconsistent with the local plan if it is fairly debatable that it is consistent with the plan. The hearing shall be held pursuant to ss. 120.569 and 120.57(1), except that the order of the administrative law judge shall be the final order and shall be appealable pursuant to s. 120.68.

(6) If the administrative law judge in his or her order finds the land development regulation to be inconsistent with the local comprehensive plan, the order will be submitted to the Administration Commission. An appeal pursuant to s. 120.68 may not be taken until the Administration Commission acts pursuant to this subsection. The Administration Commission shall hold a hearing no earlier than 30 days or later than 60 days after the administrative law judge renders his or her final order. The sole issue before the Administration Commission shall be the extent to which any of the sanctions described in s. 163.3184(8)(a) or (b)1. or 2. shall be applicable to the local government whose land development regulation has been found to be inconsistent with its comprehensive plan. If a land development regulation is not challenged within 12 months, it shall be deemed to be consistent with the adopted local plan.

(7) An administrative proceeding under this section shall be the sole proceeding available to challenge the consistency of a land development regulation with a comprehensive plan adopted under this part.

(8) The signature of an attorney or party constitutes a certificate that he or she has read the petition, motion, or other paper and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons, or frivolous purposes or needless increase in the cost of litigation. If a petition, motion, or other paper is signed in violation of these requirements, the administrative law judge, upon motion or his or her own initiative, shall impose upon the person who signed it or upon a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the petition, motion, or other paper, including a reasonable attorney's fee.

(9) Initiation of administrative review of determination of inconsistency of a land development regulation

pursuant to this section shall not affect the validity of the regulation or a development order issued pursuant to the regulation.

History.—s. 15, ch. 85-55; s. 26, ch. 87-224; s. 900, ch. 95-147; s. 23, ch. 95-280; s. 30, ch. 96-410; s. 16, ch. 2012-5.

163.3215 Standing to enforce local comprehensive plans through development orders.—

(1) Subsections (3) and (4) provide the exclusive methods for an aggrieved or adversely affected party to appeal and challenge the consistency of a development order with a comprehensive plan adopted under this part. The local government that issues the development order is to be named as a respondent in all proceedings under this section. Subsection (3) shall not apply to development orders for which a local government has established a process consistent with the requirements of subsection (4). A local government may decide which types of development orders will proceed under subsection (4). Subsection (3) shall apply to all other development orders that are not subject to subsection (4).

(2) As used in this section, the term “aggrieved or adversely affected party” means any person or local government that will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large but must exceed in degree the general interest in community good shared by all persons. The term includes the owner, developer, or applicant for a development order.

(3) Any aggrieved or adversely affected party may maintain a de novo action for declaratory, injunctive, or other relief against any local government to challenge any decision of such local government granting or denying an application for, or to prevent such local government from taking any action on, a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property which is not consistent with the comprehensive plan adopted under this part. The de novo action must be filed no later than 30 days following rendition of a development order or other written decision, or when all local administrative appeals, if any, are exhausted, whichever occurs later.

(4) If a local government elects to adopt or has adopted an ordinance establishing, at a minimum, the requirements listed in this subsection, the sole method by which an aggrieved and adversely affected party may challenge any decision of local government granting or denying an application for a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property, on the basis that it is not consistent with the comprehensive plan adopted under this part, is by an appeal filed by a petition for writ of certiorari filed in circuit court no later than 30 days following rendition of a development order or other written decision of the local government, or when all local administrative appeals, if

any, are exhausted, whichever occurs later. An action for injunctive or other relief may be joined with the petition for certiorari. Principles of judicial or administrative res judicata and collateral estoppel apply to these proceedings. Minimum components of the local process are as follows:

(a) The local process must make provision for notice of an application for a development order that materially alters the use or density or intensity of use on a particular piece of property, including notice by publication or mailed notice consistent with the provisions of ss. 125.66(4)(b)2. and 3. and 166.041(3)(c)2.b. and c., and must require prominent posting at the job site. The notice must be given within 10 days after the filing of an application for a development order; however, notice under this subsection is not required for an application for a building permit or any other official action of local government which does not materially alter the use or density or intensity of use on a particular piece of property. The notice must clearly delineate that an aggrieved or adversely affected person has the right to request a quasi-judicial hearing before the local government for which the application is made, must explain the conditions precedent to the appeal of any development order ultimately rendered upon the application, and must specify the location where written procedures can be obtained that describe the process, including how to initiate the quasi-judicial process, the timeframes for initiating the process, and the location of the hearing. The process may include an opportunity for an alternative dispute resolution.

(b) The local process must provide a clear point of entry consisting of a written preliminary decision, at a time and in a manner to be established in the local ordinance, with the time to request a quasi-judicial hearing running from the issuance of the written preliminary decision; the local government, however, is not bound by the preliminary decision. A party may request a hearing to challenge or support a preliminary decision.

(c) The local process must provide an opportunity for participation in the process by an aggrieved or adversely affected party, allowing a reasonable time for the party to prepare and present a case for the quasi-judicial hearing.

(d) The local process must provide, at a minimum, an opportunity for the disclosure of witnesses and exhibits prior to hearing and an opportunity for the depositions of witnesses to be taken.

(e) The local process may not require that a party be represented by an attorney in order to participate in a hearing.

(f) The local process must provide for a quasi-judicial hearing before an impartial special master who is an attorney who has at least 5 years' experience and who shall, at the conclusion of the hearing, recommend written findings of fact and conclusions of law. The special master shall have the power to swear witnesses and take their testimony under oath, to issue subpoenas and other orders regarding the conduct of the proceedings, and to compel entry upon the land. The standard of review applied by the special master in determining whether a proposed development order is consistent

with the comprehensive plan shall be strict scrutiny in accordance with Florida law.

(g) At the quasi-judicial hearing, all parties must have the opportunity to respond, to present evidence and argument on all issues involved which are related to the development order, and to conduct cross-examination and submit rebuttal evidence. Public testimony must be allowed.

(h) The local process must provide for a duly noticed public hearing before the local government at which public testimony is allowed. At the quasi-judicial hearing, the local government is bound by the special master's findings of fact unless the findings of fact are not supported by competent substantial evidence. The governing body may modify the conclusions of law if it finds that the special master's application or interpretation of law is erroneous. The governing body may make reasonable legal interpretations of its comprehensive plan and land development regulations without regard to whether the special master's interpretation is labeled as a finding of fact or a conclusion of law. The local government's final decision must be reduced to writing, including the findings of fact and conclusions of law, and is not considered rendered or final until officially date-stamped by the city or county clerk.

(i) An ex parte communication relating to the merits of the matter under review may not be made to the special master. An ex parte communication relating to the merits of the matter under review may not be made to the governing body after a time to be established by the local ordinance, which time must be no later than receipt of the special master's recommended order by the governing body.

(j) At the option of the local government, the process may require actions to challenge the consistency of a development order with land development regulations to be brought in the same proceeding.

(5) Venue in any cases brought under this section shall lie in the county or counties where the actions or inactions giving rise to the cause of action are alleged to have occurred.

(6) The signature of an attorney or party constitutes a certificate that he or she has read the pleading, motion, or other paper and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons or frivolous purposes or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the court, upon motion or its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(7) In any proceeding under subsection (3) or subsection (4), no settlement shall be entered into by the local government unless the terms of the settlement have been the subject of a public hearing after notice as required by this part.

(8) In any proceeding under subsection (3) or subsection (4), the Department of Legal Affairs may intervene to represent the interests of the state.

(9) Neither subsection (3) nor subsection (4) relieves the local government of its obligations to hold public hearings as required by law.

History.—s. 18, ch. 85-55; s. 901, ch. 95-147; s. 10, ch. 2002-296.

163.3217 Municipal overlay for municipal incorporation.—

(1) **PURPOSE.**—In order to assist in the planning for future municipal incorporation of a specific geographic area, a county may adopt a municipal overlay as an amendment to its comprehensive plan. A municipal overlay will allow a county, in cooperation with the public, to address the future possible municipal incorporation of a specific geographic area and the impact of municipal incorporation on the provision of public services to serve the area.

(2) PREPARATION, ADOPTION, AND AMENDMENT OF THE MUNICIPAL OVERLAY.—

(a)1. This section applies only in those jurisdictions in which the county has authorized, by resolution or local ordinance, the development of a municipal overlay pursuant to the provisions of this section. A county governing body, or a citizens' organization that represents property owners in the area affected, may sponsor the preparation of the municipal overlay.

2. It shall be the responsibility of the county to prepare the municipal overlay for an area under its jurisdiction; however, if the sponsor of the municipal overlay is other than the county, the county may by written agreement authorize the sponsor to prepare some or all of a proposed municipal overlay.

(b) A municipal overlay shall be adopted as an amendment to the local government comprehensive plan as prescribed by s. 163.3184.

(3) CONTENTS OF A MUNICIPAL OVERLAY.—A municipal overlay must contain:

(a) Boundary options for the creation of the new municipality.

(b) A feasibility study as outlined in chapter 165.

(c) A map of existing and proposed land uses in the area by type and density.

(d) Population projections for the area.

(e) Data and analysis relating to the provision of public facilities for the area.

(4) **FUNDING OF THE MUNICIPAL OVERLAY.**—The development of the municipal overlay shall be funded by the county unless there is written agreement between the county and another entity to fund it.

History.—s. 7, ch. 96-416; s. 21, ch. 2011-139.

163.3220 Short title; legislative intent.—

(1) Sections 163.3220-163.3243 may be cited as the "Florida Local Government Development Agreement Act."

(2) The Legislature finds and declares that:

(a) The lack of certainty in the approval of development can result in a waste of economic and land resources, discourage sound capital improvement planning and financing, escalate the cost of housing and

development, and discourage commitment to comprehensive planning.

(b) Assurance to a developer that upon receipt of his or her development permit or brownfield designation he or she may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, and reduces the economic costs of development.

(3) In conformity with, in furtherance of, and to implement the Community Planning Act and the Florida State Comprehensive Planning Act of 1972, it is the intent of the Legislature to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development.

(4) This intent is effected by authorizing local governments to enter into development agreements with developers, subject to the procedures and requirements of ss. 163.3220-163.3243.

(5) Sections 163.3220-163.3243 shall be regarded as supplemental and additional to the powers conferred upon local governments by other laws and shall not be regarded as in derogation of any powers now existing.

History.—s. 19, ch. 86-191; s. 902, ch. 95-147; s. 8, ch. 99-378; s. 22, ch. 2011-139.

163.3221 Florida Local Government Development Agreement Act; definitions.—As used in ss. 163.3220-163.3243:

(1) "Brownfield designation" means a resolution adopted by a local government pursuant to the Brownfields Redevelopment Act, ss. 376.77-376.85.

(2) "Comprehensive plan" means a plan adopted pursuant to the Community Planning Act.

(3) "Developer" means any person, including a governmental agency, undertaking any development.

(4) "Development" means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.

(a) The following activities or uses shall be taken for the purposes of this act to involve "development":

1. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.

2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.

3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction" as defined in s. 161.021.

4. Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.

5. Demolition of a structure.

6. Clearing of land as an adjunct of construction.

7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(b) The following operations or uses shall not be taken for the purpose of this act to involve "development":

1. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.

2. Work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.

3. Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

4. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

5. The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

6. A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class.

7. A change in the ownership or form of ownership of any parcel or structure.

8. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

(c) "Development," as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this subsection.

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

(6) "Governing body" means the board of county commissioners of a county, the commission or council of an incorporated municipality, or any other chief governing body of a unit of local government, however designated.

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

(8) "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.

(9) "Laws" means all ordinances, resolutions, regulations, comprehensive plans, land development regulations, and rules adopted by a local government affecting the development of land.

(10) "Local government" means any county or municipality or any special district or local governmental entity established pursuant to law which exercises regulatory authority over, and grants development permits for, land development.

(11) "Local planning agency" means the agency designated to prepare a comprehensive plan or plan amendment pursuant to the Community Planning Act.

(12) "Person" means any individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, state agency, or any legal entity.

(13) "Public facilities" means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

(14) "State land planning agency" means the Department of Economic Opportunity.

History.—s. 20, ch. 86-191; s. 4, ch. 92-129; s. 9, ch. 99-378; s. 23, ch. 2011-139; s. 10, ch. 2012-96.

163.3223 Applicability.—Any local government may, by ordinance, establish procedures and requirements, as provided in ss. 163.3220-163.3243, to consider and enter into a development agreement with any person having a legal or equitable interest in real property located within its jurisdiction.

History.—s. 21, ch. 86-191.

163.3225 Public hearings.—

(1) Before entering into, amending, or revoking a development agreement, a local government shall conduct at least two public hearings. At the option of the governing body, one of the public hearings may be held by the local planning agency.

(2)(a) Notice of intent to consider a development agreement shall be advertised approximately 7 days before each public hearing in a newspaper of general circulation and readership in the county where the local government is located. Notice of intent to consider a development agreement shall also be mailed to all affected property owners before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.

(b) The notice shall specify the location of the land subject to the development agreement, the development uses proposed on the property, the proposed population densities, and the proposed building intensities and height and shall specify a place where a copy of the proposed agreement can be obtained.

History.—s. 22, ch. 86-191.

163.3227 Requirements of a development agreement.—

(1) A development agreement shall include the following:

(a) A legal description of the land subject to the agreement, and the names of its legal and equitable owners;

(b) The duration of the agreement;

(c) The development uses permitted on the land, including population densities, and building intensities and height;

(d) A description of public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development;

(e) A description of any reservation or dedication of land for public purposes;

(f) A description of all local development permits approved or needed to be approved for the development of the land;

(g) A finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;

(h) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens; and

(i) A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.

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

History.—s. 23, ch. 86-191; s. 31, ch. 91-45.

163.3229 Duration of a development agreement and relationship to local comprehensive plan.—The duration of a development agreement may not exceed 30 years, unless it is extended by mutual consent of the governing body and the developer, subject to a public hearing in accordance with s. 163.3225. No development agreement shall be effective or be implemented by a local government unless the local government's comprehensive plan and plan amendments implementing or related to the agreement are in compliance with s. 163.3184.

History.—s. 24, ch. 86-191; s. 32, ch. 91-45; s. 11, ch. 92-129; s. 5, ch. 2007-204; s. 24, ch. 2011-139.

163.3231 Consistency with the comprehensive plan and land development regulations.—A development agreement and authorized development shall be consistent with the local government's comprehensive plan and land development regulations.

History.—s. 25, ch. 86-191.

163.3233 Local laws and policies governing a development agreement.—

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

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

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

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

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

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

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

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

History.—s. 26, ch. 86-191.

163.3235 Periodic review of a development agreement.—A local government shall review land subject to a development agreement at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. If the local government finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the local government.

History.—s. 27, ch. 86-191; s. 12, ch. 92-129; s. 25, ch. 2011-139.

163.3237 Amendment or cancellation of a development agreement.—A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

History.—s. 28, ch. 86-191.

163.3239 Recording and effectiveness of a development agreement.—Within 14 days after a local government enters into a development agreement, the local government shall record the agreement with the clerk of the circuit court in the county where the local government is located. A development agreement is not effective until it is properly recorded in the public records of the county. The burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

History.—s. 29, ch. 86-191; s. 13, ch. 92-129; s. 26, ch. 2011-139.

163.3241 Modification or revocation of a development agreement to comply with subsequently enacted state and federal law.—If state or federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties' compliance with the terms of a development agreement, such agreement shall be modified or

revoked as is necessary to comply with the relevant state or federal laws.

History.—s. 30, ch. 86-191.

163.3243 Enforcement.—Any party or aggrieved or adversely affected person as defined in s. 163.3215(2) may file an action for injunctive relief in the circuit court where the local government is located to enforce the terms of a development agreement or to challenge compliance of the agreement with ss. 163.3220-163.3243.

History.—s. 31, ch. 86-191; s. 27, ch. 2011-139.

163.3245 Sector plans.—

(1) In recognition of the benefits of long-range planning for specific areas, local governments or combinations of local governments may adopt into their comprehensive plans a sector plan in accordance with this section. This section is intended to promote and encourage long-term planning for conservation, development, and agriculture on a landscape scale; to further support innovative and flexible planning and development strategies, and the purposes of this part and part I of chapter 380; to facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors; and to avoid duplication of effort in terms of the level of data and analysis required for a development of regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Sector plans are intended for substantial geographic areas that include at least 15,000 acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.

(2) Upon the request of a local government having jurisdiction, the applicable regional planning council shall conduct a scoping meeting with affected local governments and those agencies identified in s. 163.3184(1)(c) before preparation of the sector plan. The purpose of this meeting is to assist the state land planning agency and the local government in the identification of the relevant planning issues to be addressed and the data and resources available to assist in the preparation of the sector plan. If a scoping meeting is conducted, the regional planning council shall make written recommendations to the state land planning agency and affected local governments on the issues requested by the local government. The scoping meeting shall be noticed and open to the public. If the entire planning area proposed for the sector plan is within the jurisdiction of two or more local governments, some or all of them may enter into a joint planning agreement pursuant to s. 163.3171 with respect to the geographic area to be subject to the sector plan, the planning issues that will be emphasized, procedures for intergovernmental coordination to address extrajurisdictional impacts, supporting application materials

including data and analysis, procedures for public participation, or other issues.

(3) Sector planning encompasses two levels: adoption pursuant to s. 163.3184 of a long-term master plan for the entire planning area as part of the comprehensive plan, and adoption by local development order of two or more detailed specific area plans that implement the long-term master plan and within which s. 380.06 is waived.

(a) In addition to the other requirements of this chapter, a long-term master plan pursuant to this section must include maps, illustrations, and text supported by data and analysis to address the following:

1. A framework map that, at a minimum, generally depicts areas of urban, agricultural, rural, and conservation land use; identifies allowed uses in various parts of the planning area; specifies maximum and minimum densities and intensities of use; and provides the general framework for the development pattern in developed areas with graphic illustrations based on a hierarchy of places and functional place-making components.

2. A general identification of the water supplies needed and available sources of water, including water resource development and water supply development projects, and water conservation measures needed to meet the projected demand of the future land uses in the long-term master plan.

3. A general identification of the transportation facilities to serve the future land uses in the long-term master plan, including guidelines to be used to establish each modal component intended to optimize mobility.

4. A general identification of other regionally significant public facilities necessary to support the future land uses, which may include central utilities provided onsite within the planning area, and policies setting forth the procedures to be used to mitigate the impacts of future land uses on public facilities.

5. A general identification of regionally significant natural resources within the planning area based on the best available data and policies setting forth the procedures for protection or conservation of specific resources consistent with the overall conservation and development strategy for the planning area.

6. General principles and guidelines addressing the urban form and the interrelationships of future land uses; the protection and, as appropriate, restoration and management of lands identified for permanent preservation through recordation of conservation easements consistent with s. 704.06, which shall be phased or staged in coordination with detailed specific area plans to reflect phased or staged development within the planning area; achieving a more clean, healthy environment; limiting urban sprawl; providing a range of housing types; protecting wildlife and natural areas; advancing the efficient use of land and other resources; creating quality communities of a design that promotes travel by multiple transportation modes; and enhancing the prospects for the creation of jobs.

7. Identification of general procedures and policies to facilitate intergovernmental coordination to address extrajurisdictional impacts from the future land uses.

A long-term master plan adopted pursuant to this section may be based upon a planning period longer than the generally applicable planning period of the local comprehensive plan, shall specify the projected population within the planning area during the chosen planning period, and may include a phasing or staging schedule that allocates a portion of the local government's future growth to the planning area through the planning period. A long-term master plan adopted pursuant to this section is not required to demonstrate need based upon projected population growth or on any other basis.

(b) In addition to the other requirements of this chapter, the detailed specific area plans shall be consistent with the long-term master plan and must include conditions and commitments that provide for:

1. Development or conservation of an area of at least 1,000 acres consistent with the long-term master plan. The local government may approve detailed specific area plans of less than 1,000 acres based on local circumstances if it is determined that the detailed specific area plan furthers the purposes of this part and part I of chapter 380.

2. Detailed identification and analysis of the maximum and minimum densities and intensities of use and the distribution, extent, and location of future land uses.

3. Detailed identification of water resource development and water supply development projects and related infrastructure and water conservation measures to address water needs of development in the detailed specific area plan.

4. Detailed identification of the transportation facilities to serve the future land uses in the detailed specific area plan.

5. Detailed identification of other regionally significant public facilities, including public facilities outside the jurisdiction of the host local government, impacts of future land uses on those facilities, and required improvements consistent with the long-term master plan.

6. Public facilities necessary to serve development in the detailed specific area plan, including developer contributions in a 5-year capital improvement schedule of the affected local government.

7. Detailed analysis and identification of specific measures to ensure the protection and, as appropriate, restoration and management of lands within the boundary of the detailed specific area plan identified for permanent preservation through recordation of conservation easements consistent with s. 704.06, which easements shall be effective before or concurrent with the effective date of the detailed specific area plan and other important resources both within and outside the host jurisdiction.

8. Detailed principles and guidelines addressing the urban form and the interrelationships of future land uses; achieving a more clean, healthy environment; limiting urban sprawl; providing a range of housing types; protecting wildlife and natural areas; advancing the efficient use of land and other resources; creating quality communities of a design that promotes travel by multiple transportation modes; and enhancing the prospects for the creation of jobs.

9. Identification of specific procedures to facilitate intergovernmental coordination to address extrajurisdictional impacts from the detailed specific area plan.

A detailed specific area plan adopted by local development order pursuant to this section may be based upon a planning period longer than the generally applicable planning period of the local comprehensive plan and shall specify the projected population within the specific planning area during the chosen planning period. A detailed specific area plan adopted pursuant to this section is not required to demonstrate need based upon projected population growth or on any other basis. All lands identified in the long-term master plan for permanent preservation shall be subject to a recorded conservation easement consistent with s. 704.06 before or concurrent with the effective date of the final detailed specific area plan to be approved within the planning area.

(c) In its review of a long-term master plan, the state land planning agency shall consult with the Department of Agriculture and Consumer Services, the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, and the applicable water management district regarding the design of areas for protection and conservation of regionally significant natural resources and for the protection and, as appropriate, restoration and management of lands identified for permanent preservation.

(d) In its review of a long-term master plan, the state land planning agency shall consult with the Department of Transportation, the applicable metropolitan planning organization, and any urban transit agency regarding the location, capacity, design, and phasing or staging of major transportation facilities in the planning area.

(e) Whenever a local government issues a development order approving a detailed specific area plan, a copy of such order shall be rendered to the state land planning agency and the owner or developer of the property affected by such order, as prescribed by rules of the state land planning agency for a development order for a development of regional impact. Within 45 days after the order is rendered, the owner, the developer, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the detailed specific area plan is not consistent with the comprehensive plan or with the long-term master plan adopted pursuant to this section. The appellant shall furnish a copy of the petition to the opposing party, as the case may be, and to the local government that issued the order. The filing of the petition stays the effectiveness of the order until after completion of the appeal process. However, if a development order approving a detailed specific area plan has been challenged by an aggrieved or adversely affected party in a judicial proceeding pursuant to s. 163.3215, and a party to such proceeding serves notice to the state land planning agency, the state land planning agency shall dismiss its appeal to the commission and shall have the right to intervene in the pending judicial proceeding pursuant to s. 163.3215. Proceedings for administrative review of an order approving a detailed

specific area plan shall be conducted consistent with s. 380.07(6). The commission shall issue a decision granting or denying permission to develop pursuant to the long-term master plan and the standards of this part and may attach conditions or restrictions to its decisions.

(f) This subsection does not prevent preparation and approval of the sector plan and detailed specific area plan concurrently or in the same submission.

(4) Upon the long-term master plan becoming legally effective:

(a) Any long-range transportation plan developed by a metropolitan planning organization pursuant to s. 339.175(7) must be consistent, to the maximum extent feasible, with the long-term master plan, including, but not limited to, the projected population and the approved uses and densities and intensities of use and their distribution within the planning area. The transportation facilities identified in adopted plans pursuant to subparagraphs (3)(a)3. and (b)4. must be developed in coordination with the adopted M.P.O. long-range transportation plan.

(b) The water needs, sources and water resource development, and water supply development projects identified in adopted plans pursuant to subparagraphs (3)(a)2. and (b)3. shall be incorporated into the applicable district and regional water supply plans adopted in accordance with ss. 373.036 and 373.709. Accordingly, and notwithstanding the permit durations stated in s. 373.236, an applicant may request and the applicable district may issue consumptive use permits for durations commensurate with the long-term master plan or detailed specific area plan, considering the ability of the master plan area to contribute to regional water supply availability and the need to maximize reasonable-beneficial use of the water resource. The permitting criteria in s. 373.223 shall be applied based upon the projected population and the approved densities and intensities of use and their distribution in the long-term master plan; however, the allocation of the water may be phased over the permit duration to correspond to actual projected needs. This paragraph does not supersede the public interest test set forth in s. 373.223.

(5) When a detailed specific area plan has become effective for a portion of the planning area governed by a long-term master plan adopted pursuant to this section, s. 380.06 does not apply to development within the geographic area of the detailed specific area plan. However, any development-of-regional-impact development order that is vested from the detailed specific area plan may be enforced pursuant to s. 380.11.

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

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

(c) In instituting an administrative or judicial proceeding involving a sector plan or detailed specific area plan, including a proceeding pursuant to paragraph (b), the complaining party shall comply with the requirements of s. 163.3215(4), (5), (6), and (7), except as provided by paragraph (3)(e).

(d) The detailed specific area plan shall establish a buildout date until which the approved development is not subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that implementation of the plan is not continuing in good faith based on standards established by plan policy, that substantial changes in the conditions underlying the approval of the detailed specific area plan have occurred, that the detailed specific area plan was based on substantially inaccurate information provided by the applicant, or that the change is clearly established to be essential to the public health, safety, or welfare.

(6) Concurrent with or subsequent to review and adoption of a long-term master plan pursuant to paragraph (3)(a), an applicant may apply for master development approval pursuant to s. 380.06(21) for the entire planning area in order to establish a buildout date until which the approved uses and densities and intensities of use of the master plan are not subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that implementation of the master plan is not continuing in good faith based on standards established by plan policy, that substantial changes in the conditions underlying the approval of the master plan have occurred, that the master plan was based on substantially inaccurate information provided by the applicant, or that change is clearly established to be essential to the public health, safety, or welfare. Review of the application for master development approval shall be at a level of detail appropriate for the long-term and conceptual nature of the long-term master plan and, to the maximum extent possible, may only consider information provided in the application for a long-term master plan. Notwithstanding s. 380.06, an increment of development in such an approved master development plan must be approved by a detailed specific area plan pursuant to paragraph (3)(b) and is exempt from review pursuant to s. 380.06.

(7) A developer within an area subject to a long-term master plan that meets the requirements of paragraph (3)(a) and subsection (6) or a detailed specific area plan that meets the requirements of paragraph (3)(b) may enter into a development agreement with a local government pursuant to ss. 163.3220-163.3243. The duration of such a development agreement may be through the planning period of the long-term master plan or the detailed specific area plan, as the case may be, notwithstanding the limit on the duration of a development agreement pursuant to s. 163.3229.

(8) Any owner of property within the planning area of a proposed long-term master plan may withdraw his or her consent to the master plan at any time prior to local government adoption, and the local government shall exclude such parcels from the adopted master plan. Thereafter, the long-term master plan, any detailed specific area plan, and the exemption from

development-of-regional-impact review under this section do not apply to the subject parcels. After adoption of a long-term master plan, an owner may withdraw his or her property from the master plan only with the approval of the local government by plan amendment adopted and reviewed pursuant to s. 163.3184.

(9) The adoption of a long-term master plan or a detailed specific area plan pursuant to this section does not limit the right to continue existing agricultural or silvicultural uses or other natural resource-based operations or to establish similar new uses that are consistent with the plans approved pursuant to this section.

(10) The state land planning agency may enter into an agreement with a local government that, on or before July 1, 2011, adopted a large-area comprehensive plan amendment consisting of at least 15,000 acres that meets the requirements for a long-term master plan in paragraph (3)(a), after notice and public hearing by the local government, and thereafter, notwithstanding s. 380.06, this part, or any planning agreement or plan policy, the large-area plan shall be implemented through detailed specific area plans that meet the requirements of paragraph (3)(b) and shall otherwise be subject to this section.

(11) Notwithstanding this section, a detailed specific area plan to implement a conceptual long-term buildout overlay, adopted by a local government and found in compliance before July 1, 2011, shall be governed by this section.

(12) Notwithstanding s. 380.06, this part, or any planning agreement or plan policy, a landowner or developer who has received approval of a master development-of-regional-impact development order pursuant to s. 380.06(21) may apply to implement this order by filing one or more applications to approve a detailed specific area plan pursuant to paragraph (3)(b).

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

History.—s. 15, ch. 98-176; s. 21, ch. 2011-34; s. 28, ch. 2011-139; s. 17, ch. 2012-5; s. 10, ch. 2012-99.

163.3246 Local government comprehensive planning certification program.—

(1) There is created the Local Government Comprehensive Planning Certification Program to be administered by the state land planning agency. The purpose of the program is to create a certification process for local governments who identify a geographic area for certification within which they commit to directing growth and who, because of a demonstrated record of effectively adopting, implementing, and enforcing its comprehensive plan, the level of technical planning experience exhibited by the local government, and a commitment to implement exemplary planning practices, require less state and regional oversight of the comprehensive plan amendment process. The purpose of the certification area is to designate areas that are contiguous, compact, and appropriate for urban growth and development within a 10-year planning timeframe. Municipalities and counties are encouraged to jointly establish the certification area, and subsequently enter into joint certification agreement with the state land planning agency.

(2) In order to be eligible for certification under the program, the local government must:

(a) Demonstrate a record of effectively adopting, implementing, and enforcing its comprehensive plan;

(b) Demonstrate technical, financial, and administrative expertise to implement the provisions of this part without state oversight;

(c) Obtain comments from the state and regional review agencies regarding the appropriateness of the proposed certification;

(d) Hold at least one public hearing soliciting public input concerning the local government's proposal for certification; and

(e) Demonstrate that it has adopted programs in its local comprehensive plan and land development regulations which:

1. Promote infill development and redevelopment, including prioritized and timely permitting processes in which applications for local development permits within the certification area are acted upon expeditiously for proposed development that is consistent with the local comprehensive plan.

2. Promote the development of housing for low-income and very-low-income households or specialized housing to assist elderly and disabled persons to remain at home or in independent living arrangements.

3. Achieve effective intergovernmental coordination and address the extrajurisdictional effects of development within the certified area.

4. Promote economic diversity and growth while encouraging the retention of rural character, where rural areas exist, and the protection and restoration of the environment.

5. Provide and maintain public urban and rural open space and recreational opportunities.

6. Manage transportation and land uses to support public transit and promote opportunities for pedestrian and nonmotorized transportation.

7. Use design principles to foster individual community identity, create a sense of place, and promote pedestrian-oriented safe neighborhoods and town centers.

8. Redevelop blighted areas.

9. Adopt a local mitigation strategy and have programs to improve disaster preparedness and the ability to protect lives and property, especially in coastal high-hazard areas.

10. Encourage clustered, mixed-use development that incorporates greenspace and residential development within walking distance of commercial development.

11. Encourage urban infill at appropriate densities and intensities and separate urban and rural uses and discourage urban sprawl while preserving public open space and planning for buffer-type land uses and rural development consistent with their respective character along and outside the certification area.

12. Assure protection of key natural areas and agricultural lands that are identified using state and local inventories of natural areas. Key natural areas include, but are not limited to:

a. Wildlife corridors.

b. Lands with high native biological diversity, important areas for threatened and endangered species, species of special concern, migratory bird habitat, and intact natural communities.

c. Significant surface waters and springs, aquatic preserves, wetlands, and outstanding Florida waters.

d. Water resources suitable for preservation of natural systems and for water resource development.

e. Representative and rare native Florida natural systems.

13. Ensure the cost-efficient provision of public infrastructure and services.

(3) Portions of local governments located within areas of critical state concern cannot be included in a certification area.

(4) A local government or group of local governments seeking certification of all or part of a jurisdiction or jurisdictions must submit an application to the state land planning agency which demonstrates that the area sought to be certified meets the criteria of subsections (2) and (5). The application shall include copies of the applicable local government comprehensive plan, land development regulations, interlocal agreements, and other relevant information supporting the eligibility criteria for designation. Upon receipt of a complete application, the state land planning agency must provide the local government with an initial response to the application within 90 days after receipt of the application.

(5) If the local government meets the eligibility criteria of subsection (2), the state land planning agency shall certify all or part of a local government by written agreement, which shall be considered final agency action subject to challenge under s. 120.569. The agreement must include the following components:

(a) The basis for certification.

(b) The boundary of the certification area, which encompasses areas that are contiguous, compact, appropriate for urban growth and development, and in which public infrastructure is existing or planned within a 10-year planning timeframe. The certification area is required to include sufficient land to accommodate projected population growth, housing demand, including choice in housing types and affordability, job growth and employment, appropriate densities and intensities of use to be achieved in new development and redevelopment, existing or planned infrastructure, including transportation and central water and sewer facilities. The certification area must be adopted as part of the local government's comprehensive plan.

(c) A demonstration that the capital improvements plan governing the certified area is updated annually.

(d) A visioning plan or a schedule for the development of a visioning plan.

(e) A description of baseline conditions related to the evaluation criteria in paragraph (g) in the certified area.

(f) A work program setting forth specific planning strategies and projects that will be undertaken to achieve improvement in the baseline conditions as measured by the criteria identified in paragraph (g).

(g) Criteria to evaluate the effectiveness of the certification process in achieving the community-development goals for the certification area including:

1. Measuring the compactness of growth, expressed as the ratio between population growth and land consumed;

2. Increasing residential density and intensities of use;

3. Measuring and reducing vehicle miles traveled and increasing the interconnectedness of the street system, pedestrian access, and mass transit;

4. Measuring the balance between the location of jobs and housing;

5. Improving the housing mix within the certification area, including the provision of mixed-use neighborhoods, affordable housing, and the creation of an affordable housing program if such a program is not already in place;

6. Promoting mixed-use developments as an alternative to single-purpose centers;

7. Promoting clustered development having dedicated open space;

8. Linking commercial, educational, and recreational uses directly to residential growth;

9. Reducing per capita water and energy consumption;

10. Prioritizing environmental features to be protected and adopting measures or programs to protect identified features;

11. Reducing hurricane shelter deficits and evacuation times and implementing the adopted mitigation strategies; and

12. Improving coordination between the local government and school board.

(h) A commitment to change any land development regulations that restrict compact development and adopt alternative design codes that encourage desirable densities and intensities of use and patterns of compact development identified in the agreement.

(i) A plan for increasing public participation in comprehensive planning and land use decisionmaking which includes outreach to neighborhood and civic associations through community planning initiatives.

(j) A demonstration that the intergovernmental coordination element of the local government's comprehensive plan includes joint processes for coordination between the school board and local government pursuant to s. 163.3177(6)(h)2. and other requirements of law.

(k) A method of addressing the extrajurisdictional effects of development within the certified area which is integrated by amendment into the intergovernmental coordination element of the local government comprehensive plan.

(l) A requirement for the annual reporting to the state land planning agency of plan amendments adopted during the year, and the progress of the local government in meeting the terms and conditions of the certification agreement. Prior to the deadline for the annual report, the local government must hold a public hearing soliciting public input on the progress of the local government in satisfying the terms of the certification agreement.

(m) An expiration date that is no later than 10 years after execution of the agreement.

(6) The state land planning agency may enter up to eight new certification agreements each fiscal year. The state land planning agency shall adopt procedural rules governing the application and review of local government requests for certification. Such procedural rules may establish a phased schedule for review of local government requests for certification.

(7) The state land planning agency shall revoke the local government's certification if it determines that the local government is not substantially complying with the terms of the agreement.

(8) An affected person, as defined by s. 163.3184(1)(a), may petition for administrative hearing alleging that a local government is not substantially complying with the terms of the agreement, using the procedures and timeframes for notice and conditions precedent described in s. 163.3213. Such a petition must be filed within 30 days after the annual public hearing required by paragraph (5)(l).

(9)(a) Upon certification all comprehensive plan amendments associated with the area certified must be adopted and reviewed in the manner described in s. 163.3184(5)-(11), such that state and regional agency review is eliminated. Plan amendments that qualify as small scale development amendments may follow the small scale review process in s. 163.3187. The state land planning agency may not issue any objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by s. 163.3184(1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3184(5) to challenge the compliance of an adopted plan amendment.

(b) Plan amendments that change the boundaries of the certification area; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan pursuant to s. 163.3245; update a comprehensive plan based on an evaluation and appraisal review; impact lands outside the certification boundary; implement new statutory requirements that require specific comprehensive plan amendments; or increase hurricane evacuation times or the need for shelter capacity on lands within the coastal high-hazard area shall be reviewed pursuant to s. 163.3184.

¹(10) Notwithstanding subsections (2), (4), (5), (6), and (7), any municipality designated as a rural area of opportunity pursuant to s. 288.0656 which is located within a county eligible to levy the Small County Surtax under s. 212.055(3) shall be considered certified during the effectiveness of the designation of rural area of opportunity. The state land planning agency shall provide a written notice of certification to the local government of the certified area, which shall be considered final agency action subject to challenge under s. 120.569. The notice of certification shall include the following components:

(a) The boundary of the certification area.

(b) A requirement that the local government submit an annual or biennial monitoring report to the state land planning agency according to the schedule provided in

the written notice. The monitoring report shall, at a minimum, include the number of amendments to the comprehensive plan adopted by the local government, the number of plan amendments challenged by an affected person, and the disposition of those challenges.

(11) If the local government of an area described in subsection (10) does not request that the state land planning agency review the developments of regional impact that are proposed within the certified area, an application for approval of a development order within the certified area shall be exempt from review under s. 380.06, subject to the following:

(a) Concurrent with filing an application for development approval with the local government, a developer proposing a project that would have been subject to review pursuant to s. 380.06 shall notify in writing the regional planning council with jurisdiction.

(b) The regional planning council shall coordinate with the developer and the local government to ensure that all concurrency requirements as well as federal, state, and local environmental permit requirements are met.

(12) A local government's certification shall be reviewed by the local government and the state land planning agency as part of the evaluation and appraisal process pursuant to s. 163.3191. Within 1 year after the deadline for the local government to update its comprehensive plan based on the evaluation and appraisal, the state land planning agency shall renew or revoke the certification. The local government's failure to timely adopt necessary amendments to update its comprehensive plan based on an evaluation and appraisal, which are found to be in compliance by the state land planning agency, shall be cause for revoking the certification agreement. The state land planning agency's decision to renew or revoke shall be considered agency action subject to challenge under s. 120.569.

(13) The state land planning agency shall, by July 1 of each odd-numbered year, submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report listing certified local governments, evaluating the effectiveness of the certification, and including any recommendations for legislative actions.

History.—s. 11, ch. 2002-296; s. 15, ch. 2005-157; s. 29, ch. 2011-139; s. 11, ch. 2012-96; s. 19, ch. 2013-15; s. 26, ch. 2014-17; s. 26, ch. 2014-218.

Note.—Section 56, ch. 2014-218, provides that:

"(1) The executive director of the Department of Economic Opportunity is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) Notwithstanding any other provision of law, the emergency rules adopted pursuant to subsection (1) remain in effect for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

"(3) This section shall expire October 1, 2015."

163.32466 Readoption by ordinance of plan amendments adopted pursuant to former s. 163.32465, subject to local referendum.—A comprehensive plan amendment adopted pursuant to s. 163.32465 subject to voter referendum by local charter, and found in compliance before June 2, 2011, may be readopted by ordinance, shall become effective upon approval by the local government, and is not subject to

review or challenge pursuant to the provisions of s. 163.32465 or s. 163.3184.

History.—ss. 76, 80, ch. 2011-139.

163.3248 Rural land stewardship areas.—

(1) Rural land stewardship areas are designed to establish a long-term incentive-based strategy to balance and guide the allocation of land so as to accommodate future land uses in a manner that protects the natural environment, stimulate economic growth and diversification, and encourage the retention of land for agriculture and other traditional rural land uses.

(2) Upon written request by one or more landowners of the subject lands to designate lands as a rural land stewardship area, or pursuant to a private-sector-initiated comprehensive plan amendment filed by, or with the consent of the owners of the subject lands, local governments may adopt a future land use overlay to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land stewardship area within which planning and economic incentives are applied to encourage the implementation of innovative and flexible planning and development strategies and creative land use planning techniques to support a diverse economic and employment base. The future land use overlay may not require a demonstration of need based on population projections or any other factors.

(3) Rural land stewardship areas may be used to further the following broad principles of rural sustainability: restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion and diversification of economic activity and employment opportunities within the rural areas; maintenance of the viability of the state's agricultural economy; and protection of private property rights in rural areas of the state. Rural land stewardship areas may be multicounty in order to encourage coordinated regional stewardship planning.

(4) A local government or one or more property owners may request assistance and participation in the development of a plan for the rural land stewardship area from the state land planning agency, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the appropriate water management district, the Department of Transportation, the regional planning council, private land owners, and stakeholders.

(5) A rural land stewardship area shall be not less than 10,000 acres, shall be located outside of municipalities and established urban service areas, and shall be designated by plan amendment by each local government with jurisdiction over the rural land stewardship area. The plan amendment or amendments designating a rural land stewardship area are subject to review pursuant to s. 163.3184 and shall provide for the following:

(a) Criteria for the designation of receiving areas which shall, at a minimum, provide for the following:

adequacy of suitable land to accommodate development so as to avoid conflict with significant environmentally sensitive areas, resources, and habitats; compatibility between and transition from higher density uses to lower intensity rural uses; and the establishment of receiving area service boundaries that provide for a transition from receiving areas and other land uses within the rural land stewardship area through limitations on the extension of services.

(b) Innovative planning and development strategies to be applied within rural land stewardship areas pursuant to this section.

(c) A process for the implementation of innovative planning and development strategies within the rural land stewardship area, including those described in this subsection, which provide for a functional mix of land uses through the adoption by the local government of zoning and land development regulations applicable to the rural land stewardship area.

(d) A mix of densities and intensities that would not be characterized as urban sprawl through the use of innovative strategies and creative land use techniques.

(6) A receiving area may be designated only pursuant to procedures established in the local government's land development regulations. If receiving area designation requires the approval of the board of county commissioners, such approval shall be by resolution with a simple majority vote. Before the commencement of development within a stewardship receiving area, a listed species survey must be performed for the area proposed for development. If listed species occur on the receiving area development site, the applicant must coordinate with each appropriate local, state, or federal agency to determine if adequate provisions have been made to protect those species in accordance with applicable regulations. In determining the adequacy of provisions for the protection of listed species and their habitats, the rural land stewardship area shall be considered as a whole, and the potential impacts and protective measures taken within areas to be developed as receiving areas shall be considered in conjunction with and compensated by lands set aside and protective measures taken within the designated sending areas.

(7) Upon the adoption of a plan amendment creating a rural land stewardship area, the local government shall, by ordinance, establish a rural land stewardship overlay zoning district, which shall provide the methodology for the creation, conveyance, and use of transferable rural land use credits, hereinafter referred to as stewardship credits, the assignment and application of which do not constitute a right to develop land or increase the density of land, except as provided by this section. The total amount of stewardship credits within the rural land stewardship area must enable the realization of the long-term vision and goals for the rural land stewardship area, which may take into consideration the anticipated effect of the proposed receiving areas. The estimated amount of receiving area shall be projected based on available data, and the development potential represented by the stewardship credits created within the rural land stewardship area must correlate to that amount.

(8) Stewardship credits are subject to the following limitations:

(a) Stewardship credits may exist only within a rural land stewardship area.

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

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

(d) Neither the creation of the rural land stewardship area by plan amendment nor the adoption of the rural land stewardship zoning overlay district by the local government may displace the underlying permitted uses or the density or intensity of land uses assigned to a parcel of land within the rural land stewardship area that existed before adoption of the plan amendment or zoning overlay district; however, once stewardship credits have been transferred from a designated sending area for use within a designated receiving area, the underlying density assigned to the designated sending area ceases to exist.

(e) The underlying permitted uses, density, or intensity on each parcel of land located within a rural land stewardship area may not be increased or decreased by the local government, except as a result of the conveyance or stewardship credits, as long as the parcel remains within the rural land stewardship area.

(f) Stewardship credits shall cease to exist on a parcel of land where the underlying density assigned to the parcel of land is used.

(g) An increase in the density or intensity of use on a parcel of land located within a designated receiving area may occur only through the assignment or use of stewardship credits and does not require a plan amendment. A change in the type of agricultural use on property within a rural land stewardship area is not considered a change in use or intensity of use and does not require any transfer of stewardship credits.

(h) A change in the density or intensity of land use on parcels located within receiving areas shall be specified in a development order that reflects the total number of stewardship credits assigned to the parcel of land and the infrastructure and support services necessary to provide for a functional mix of land uses corresponding to the plan of development.

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

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

(k) Stewardship credits may be transferred from a sending area only after a stewardship easement is placed on the sending area land with assigned stewardship credits. A stewardship easement is a covenant or restrictive easement running with the land which specifies the allowable uses and development restrictions for the portion of a sending area from which stewardship credits have been transferred. The stewardship easement must be jointly held by the county and the Department of Environmental Protection, the Department of Agriculture and Consumer Services, a water management district, or a recognized statewide land trust.

(9) Owners of land within rural land stewardship sending areas should be provided other incentives, in addition to the use or conveyance of stewardship credits, to enter into rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state agencies, water management districts, the Fish and Wildlife Conservation Commission, and local governments to achieve mutually agreed upon objectives. Such incentives may include, but are not limited to, the following:

(a) Opportunity to accumulate transferable wetland and species habitat mitigation credits for use or sale.

(b) Extended permit agreements.

(c) Opportunities for recreational leases and ecotourism.

(d) Compensation for the achievement of specified land management activities of public benefit, including, but not limited to, facility siting and corridors, recreational leases, water conservation and storage, water reuse, wastewater recycling, water supply and water resource development, nutrient reduction, environmental restoration and mitigation, public recreation, listed species protection and recovery, and wildlife corridor management and enhancement.

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

(10) This section constitutes an overlay of land use options that provide economic and regulatory incentives for landowners outside of established and planned urban service areas to conserve and manage vast areas of land for the benefit of the state's citizens and natural environment while maintaining and enhancing the asset value of their landholdings. It is the intent of the Legislature that this section be implemented pursuant to law, and rulemaking is not authorized.

(11) It is the intent of the Legislature that the rural land stewardship area located in Collier County, which was established pursuant to the requirements of a final order by the Governor and Cabinet, duly adopted as a growth management plan amendment by Collier County, and found in compliance with this chapter, be recognized as a statutory rural land stewardship area and be afforded the incentives in this section.

History.—s. 32, ch. 2011-139; s. 18, ch. 2012-5.

163.325 Short title.—This section and sections 163.3251-163.3253 may be cited as the “Manufacturing Competitiveness Act.”

History.—s. 1, ch. 2013-224.

163.3251 Definitions.—As used in this section and ss. 163.3252 and 163.3253, the term:

(1) “Department” means the Department of Economic Opportunity.

(2) “Local government development approval” means a local land development permit, order, or other approval issued by a local government, or a modification of such permit, order, or approval, which is required for a manufacturer to physically locate or expand and includes, but is not limited to, the review and approval of a master development plan required under s. 163.3252(2)(c).

(3) “Local manufacturing development program” means a program enacted by a local government for approval of master development plans under s. 163.3252.

(4) “Manufacturer” means a business that is classified in Sectors 31-33 of the National American Industry Classification System (NAICS) and is located, or intends to locate, within the geographic boundaries of an area designated by a local government as provided under s. 163.3252.

(5) “Participating agency” means:

(a) The Department of Environmental Protection.
(b) The Department of Transportation.
(c) The Fish and Wildlife Conservation Commission, when acting pursuant to statutory authority granted by the Legislature.

(d) Water management districts.

(6) “State development approval” means a state or regional permit or other approval issued by a participating agency, or a modification of such permit or approval, which must be obtained before the development or expansion of a manufacturer’s site, and includes, but is not limited to, those specified in s. 163.3253(1).

History.—s. 2, ch. 2013-224.

163.3252 Local manufacturing development program; master development approval for manufacturers.—A local government may adopt an ordinance establishing a local manufacturing development program through which the local government may grant master development approval for the development or expansion of sites that are, or are proposed to be, operated by manufacturers at specified locations within the local government’s geographic boundaries.

(1)(a) A local government that elects to establish a local manufacturing development program shall submit a copy of the ordinance establishing the program to the department within 20 days after the ordinance is enacted.

(b) A local government ordinance adopted before the effective date of this act establishes a local manufacturing development program if it satisfies the minimum criteria established in subsection (3) and if the local government submits a copy of the ordinance to the department on or before September 1, 2013.

(2) By December 1, 2013, the department shall develop a model ordinance to guide local governments that intend to establish a local manufacturing development program. The model ordinance, which need not be adopted by a local government, must include:

(a) Procedures for a manufacturer to apply for a master development plan and procedures for a local government to review and approve a master development plan.

(b) Identification of those areas within the local government’s jurisdiction which are subject to the program.

(c) Minimum elements for a master development plan, including, but not limited to:

1. A site map.
2. A list proposing the site’s land uses.
3. Maximum square footage, floor area ratio, and building heights for future development on the site, specifying with particularity those features and facilities for which the local government will require the establishment of maximum dimensions.

4. Development conditions.

(d) A list of the development impacts, if applicable to the proposed site, which the local government will require to be addressed in a master development plan, including, but not limited to:

1. Drainage.
2. Wastewater.
3. Potable water.
4. Solid waste.
5. Onsite and offsite natural resources.
6. Preservation of historic and archaeological resources.

7. Offsite infrastructure.

8. Public services.

9. Compatibility with adjacent offsite land uses.

10. Vehicular and pedestrian entrance to and exit from the site.

11. Offsite transportation impacts.

(e) A provision vesting any existing development rights authorized by the local government before the approval of a master development plan, if requested by the manufacturer.

(f) Whether an expiration date is required for a master development plan and, if required, a provision stating that the expiration date may not be earlier than 10 years after the plan’s adoption.

(g) A provision limiting the circumstances that require an amendment to an approved master development plan to the following:

1. Enactment of state law or local ordinance addressing an immediate and direct threat to the public safety that requires an amendment to the master development order.

2. Any revision to the master development plan initiated by the manufacturer.

(h) A provision stating that the scope of review for any amendment to a master development plan is limited to the amendment and does not subject any other provision of the approved master development plan to further review.

(i) A provision stating that, during the term of a master development plan, the local government may

not require additional local development approvals for those development impacts listed in paragraph (d) that are addressed in the master development plan, other than approval of a building permit to ensure compliance with the state building code and any other applicable state-mandated life and safety code.

(j) A provision stating that, before commencing construction or site development work, the manufacturer must submit a certification, signed by a licensed architect, engineer, or landscape architect, attesting that such work complies with the master development plan.

(k) A provision establishing the form that will be used by the local government to certify that a manufacturer is eligible to participate in the local manufacturing development program adopted by that jurisdiction.

(3) A local manufacturing development program ordinance must, at a minimum, be consistent with subsection (2) and establish procedures for:

(a) Reviewing an application from a manufacturer for approval of a master development plan.

(b) Approving a master development plan, which may include conditions that address development impacts anticipated during the life of the development.

(c) Developing the site in a manner consistent with the master development plan without requiring additional local development approvals other than building permits.

(d) Certifying that a manufacturer is eligible to participate in the local manufacturing development program.

(4)(a) A local government that establishes a local manufacturing development program may not abolish the program until it has been in effect for at least 24 months.

(b) If a local government repeals its local manufacturing development program ordinance:

1. Any application for a master development plan which is submitted to the local government before the effective date of the repeal is vested and remains subject to the local manufacturing development program ordinance in effect when the application was submitted; and

2. The manufacturer that submitted the application is entitled to participate in the manufacturing development coordinated approval process established in s. 163.3253.

History.—s. 3, ch. 2013-224.

163.3253 Coordinated manufacturing development approval process.—The department shall coordinate the manufacturing development approval process with participating agencies, as set forth in this section, for manufacturers that are developing or expanding in a local government that has a local manufacturing development program.

(1) The approval process must include collaboration and coordination among, and simultaneous review by, the participating agencies of applications for the following state development approvals:

- (a) Wetland or environmental resource permits.
- (b) Surface water management permits.
- (c) Stormwater permits.

(d) Consumptive water use permits.

(e) Wastewater permits.

(f) Air emission permits.

(g) Permits relating to listed species.

(h) Highway or roadway access permits.

(i) Any other state development approval within the scope of a participating agency's authority.

(2)(a) When filing its application for state development approval, a manufacturer shall file with the department and each participating agency proof that its development or expansion is located in a local government that has a local manufacturing development program.

(b) If a local government repeals its local manufacturing development program ordinance, a manufacturer developing or expanding in that jurisdiction remains entitled to participate in the process if the manufacturer submitted its application for a local government development approval before the effective date of repeal.

(3) At any time during the process, if a manufacturer requests that the department convene a meeting with one or more participating agencies to facilitate the process, the department shall convene a meeting that the participating agencies shall attend.

(a) The department is not required to mediate between the participating agencies and the manufacturer, but may participate as necessary to accomplish the purposes set forth in s. 20.60(4)(f).

(b) The department shall not be a party to any proceeding initiated under ss. 120.569 and 120.57 that relates to approval or disapproval of an application for state development approval processed under this section.

(c) The department's participation in a coordinated manufacturing development approval process under this section shall have no effect on its approval or disapproval of any application for economic development incentives sought under s. 288.061 or another incentive requiring department approval.

(4) If a participating agency determines that an application is incomplete, the participating agency shall notify the applicant and the department in writing of the additional information necessary to complete the application.

(a) Unless the deadline is waived in writing by the manufacturer, a participating agency shall provide a request for additional information to the manufacturer and the department within 20 days after the date the application is filed with the participating agency.

(b) If the participating agency does not request additional information within the 20-day period, the participating agency may not subsequently deny the application based on the manufacturer's failure to provide additional information.

(c) Within 10 days after the manufacturer's response to the request for additional information, a participating agency may make a second request for additional information for the sole purpose of obtaining clarification of the manufacturer's response.

(5)(a) Unless the deadline is waived in writing by the manufacturer, each participating agency shall take final agency action on a state development approval within its authority within 60 days after a complete application

is filed. The 60-day period is tolled by the initiation of a proceeding under ss. 120.569 and 120.57.

(b) A participating agency shall notify the department if the agency intends to deny a manufacturer's application and, unless waived in writing by the manufacturer, the department shall timely convene an informal meeting to facilitate a resolution.

(c) Unless waived in writing by the manufacturer, if a participating agency does not approve or deny an application within the 60-day period, within the time allowed by a federally delegated permitting program, or, if a proceeding is initiated under ss. 120.569 and 120.57, within 45 days after a recommended order is submitted to the agency and the parties, the state development approval within the authority of the participating agency is deemed approved. A manufacturer seeking to claim approval by default under this subsection shall notify, in writing, the clerks of both the participating agency and the department of that intent. A manufacturer may not take action based upon the default approval until such notice is received by both agency clerks.

(d) At any time after a proceeding is initiated under ss. 120.569 and 120.57, the manufacturer may demand expeditious resolution by serving notice on an administrative law judge and all other parties to the proceeding. The administrative law judge shall set the matter for final hearing no more than 30 days after receipt of such notice. After the final hearing is set, a continuance may not be granted without the written agreement of all parties.

(6) Subsections (4) and (5) do not apply to permit applications governed by federally delegated or approved permitting programs to the extent that subsections (4) and (5) impose timeframes or other requirements that are prohibited by or inconsistent with such federally delegated or approved permitting programs.

(7) The department may adopt rules to administer this section.

History.—s. 4, ch. 2013-224.

PART III

COMMUNITY REDEVELOPMENT

- 163.330 Short title.
- 163.335 Findings and declarations of necessity.
- 163.336 Coastal resort area redevelopment pilot project.
- 163.340 Definitions.
- 163.345 Encouragement of private enterprise.
- 163.346 Notice to taxing authorities.
- 163.350 Workable program.
- 163.353 Power of taxing authority to tax or appropriate funds to a redevelopment trust fund in order to preserve and enhance the tax base of the authority.
- 163.355 Finding of necessity by county or municipality.
- 163.356 Creation of community redevelopment agency.
- 163.357 Governing body as the community redevelopment agency.

- 163.358 Exercise of powers in carrying out community redevelopment and related activities.
- 163.360 Community redevelopment plans.
- 163.361 Modification of community redevelopment plans.
- 163.362 Contents of community redevelopment plan.
- 163.365 Neighborhood and communitywide plans.
- 163.367 Public officials, commissioners, and employees subject to code of ethics.
- 163.370 Powers; counties and municipalities; community redevelopment agencies.
- 163.380 Disposal of property in community redevelopment area.
- 163.385 Issuance of revenue bonds.
- 163.387 Redevelopment trust fund.
- 163.390 Bonds as legal investments.
- 163.395 Property exempt from taxes and from levy and sale by virtue of an execution.
- 163.400 Cooperation by public bodies.
- 163.405 Title of purchaser.
- 163.410 Exercise of powers in counties with home rule charters.
- 163.415 Exercise of powers in counties without home rule charters.
- 163.430 Powers supplemental to existing community redevelopment powers.
- 163.445 Assistance to community redevelopment by state agencies.
- 163.450 Municipal and county participation in neighborhood development programs under Pub. L. No. 90-448.
- 163.463 Applicability of ch. 2002-294.

163.330 Short title.—This part shall be known and may be cited as the "Community Redevelopment Act of 1969."

History.—s. 1, ch. 69-305.

163.335 Findings and declarations of necessity.

(1) It is hereby found and declared that there exist in counties and municipalities of the state slum and blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability imposing onerous burdens which decrease the tax base and reduce tax revenues, substantially impairs or arrests sound growth, retards the provision of housing accommodations, aggravates traffic problems, and substantially hampers the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and blight is a matter of state policy and state concern in order that the state and its counties and municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities.

(2) It is further found and declared that certain slum or blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this part, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that other areas or portions thereof may, through the means provided in this part, be susceptible of conservation or rehabilitation in such a manner that the conditions and evils enumerated may be eliminated, remedied, or prevented; and that salvageable slum and blighted areas can be conserved and rehabilitated through appropriate public action as herein authorized and the cooperation and voluntary action of the owners and tenants of property in such areas.

(3) It is further found and declared that the powers conferred by this part are for public uses and purposes for which public money may be expended and police power exercised, and the necessity in the public interest for the provisions herein enacted is declared as a matter of legislative determination.

(4) It is further found that coastal resort and tourist areas or portions thereof which are deteriorating and economically distressed due to building density patterns, inadequate transportation and parking facilities, faulty lot layout, or inadequate street layout, could, through the means provided in this part, be revitalized and redeveloped in a manner that will vastly improve the economic and social conditions of the community.

(5) It is further found and declared that the preservation or enhancement of the tax base from which a taxing authority realizes tax revenues is essential to its existence and financial health; that the preservation and enhancement of such tax base is implicit in the purposes for which a taxing authority is established; that tax increment financing is an effective method of achieving such preservation and enhancement in areas in which such tax base is declining; that community redevelopment in such areas, when complete, will enhance such tax base and provide increased tax revenues to all affected taxing authorities, increasing their ability to accomplish their other respective purposes; and that the preservation and enhancement of the tax base in such areas through tax increment financing and the levying of taxes by such taxing authorities therefor and the appropriation of funds to a redevelopment trust fund bears a substantial relation to the purposes of such taxing authorities and is for their respective purposes and concerns. This subsection does not apply in any jurisdiction where the community redevelopment agency validated bonds as of April 30, 1984.

(6) It is further found and declared that there exists in counties and municipalities of the state a severe shortage of housing affordable to residents of low or moderate income, including the elderly; that the existence of such condition affects the health, safety, and welfare of the residents of such counties and municipalities and retards their growth and economic and social development; and that the elimination or improvement of such condition is a proper matter of state policy and state concern and is for a valid and desirable public purpose.

(7) It is further found and declared that the prevention or elimination of a slum area or blighted area as defined in this part and the preservation or enhancement of the tax base are not public uses or purposes for which private property may be taken by eminent domain and do not satisfy the public purpose requirement of s. 6(a), Art. X of the State Constitution.

History.—s. 2, ch. 69-305; ss. 1, 22, ch. 84-356; s. 1, ch. 98-201; s. 6, ch. 2006-11.

163.336 Coastal resort area redevelopment pilot project.—

(1) LEGISLATIVE INTENT.—

(a) The Legislature recognizes that some coastal resort and tourist areas are deteriorating and declining as recreation and tourist centers. It is appropriate to undertake a pilot project to determine the feasibility of encouraging redevelopment of economically distressed coastal properties to allow full utilization of existing urban infrastructure such as roads and utility lines. Such activities can have a beneficial impact on local and state economies and provide job opportunities and revitalization of urban areas.

(b) The Department of Environmental Protection shall administer a pilot project for redevelopment of economically distressed coastal resort and tourist areas. Such a pilot project shall be administered in the coastal areas of Florida's Atlantic Coast between the St. Johns River entrance and Ponce de Leon Inlet.

(2) PILOT PROJECT ADMINISTRATION.—

(a) To be eligible to participate in this pilot project, all or a portion of the area must be within:

1. The coastal building zone as defined in s. 161.54; and

2. A community redevelopment area, enterprise zone, brownfield area, empowerment zone, or other such economically deprived areas as designated by the county or municipality with jurisdiction over the area.

(b) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote redevelopment and revitalization within the pilot project areas.

(c) The Office of the Governor, the Department of Environmental Protection, and the Department of Economic Opportunity are directed to provide technical assistance to expedite permitting for redevelopment projects and construction activities within the pilot project areas consistent with the principles, processes, and timeframes provided in s. 403.973.

(d) The Department of Environmental Protection shall exempt construction activities within the pilot project area in locations seaward of a coastal construction control line and landward of existing armoring from certain siting and design criteria pursuant to s. 161.053. However, such exemption shall not be deemed to exempt property within the pilot project area from applicable local land development regulations, including but not limited to, setback, side lot line, and lot coverage requirements. Such exemption shall apply to construction and redevelopment of structures involving the coverage, excavation, and impervious surface criteria of s. 161.053, and related adopted rules, as follows:

1. This review by the department of applications for permits for coastal construction within the pilot project

area must apply to construction and redevelopment of structures subject to the coverage, excavation, and impervious surface criteria of s. 161.053, and related adopted rules. It is the intent of these provisions that the pilot project area be enabled to redevelop in a manner which meets the economic needs of the area while preserving public safety and existing resources, including natural resources.

2. The criteria for review under s. 161.053 are applicable within the pilot project area, except that the structures within the pilot project area shall not be subject to specific shore parallel coverage requirements and are allowed to exceed the 50 percent impervious surface requirement. In no case shall stormwater discharge be allowed onto, or seaward of, the frontal dune. Structures are also not bound by the restrictions on excavation unless the construction will adversely affect the integrity of the existing seawall or rigid coastal armoring structure or stability of the existing beach and dune system. It is specifically contemplated that underground structures, including garages, will be permitted. All beach-compatible material excavated under this subparagraph must be maintained on site seaward of the coastal construction control line. However, during the permit review process under s. 161.053, the department may favorably consider authorized sand placement on adjacent properties if the permittee has demonstrated every reasonable effort to effectively use all beach-quality material on site to enhance the beach and dune system and has prepared a comprehensive plan for beach and dune nourishment for the adjoining area.

3. The review criteria in subparagraph 2. will apply to all construction within the pilot project area lying seaward of the coastal construction control line and landward of an existing viable seawall or rigid coastal armoring structure, if such construction is fronted by a seawall or rigid coastal armoring structure extending at least 1,000 feet without any interruptions other than beach access points. For purposes of this section, a viable seawall or rigid coastal armoring structure is a structure that has not deteriorated, dilapidated, or been damaged to such a degree that it no longer provides adequate protection to the upland property when considering the following criteria, including, but not limited to:

a. The top must be at or above the still water level, including setup, for the design storm of 30-year return storm plus the breaking wave calculated at its highest achievable level based on the maximum eroded beach profile and highest surge level combination, and must be high enough to preclude runoff overtopping;

b. The armoring must be stable under the design storm of 30-year return storm including maximum localized scour, with adequate penetration; and

c. The armoring must have sufficient continuity or return walls to prevent flooding under the design storm of 30-year return storm from impacting the proposed construction.

4. Where there exists a continuous line of rigid coastal armoring structure on either side of unarmored property and the adjacent line of rigid coastal armoring structures are having an adverse effect on or threaten

the unarmored property, and the gap does not exceed 100 feet, the department may grant the necessary permits under s. 161.085 to close the gap.

5. Structures approved pursuant to this section shall not cause flooding of or result in adverse impacts to existing upland structures or properties and shall comply with all other requirements of s. 161.053 and its implementing rules.

6. Where there exists a continuous line of viable rigid coastal armoring structure on either side of a nonviable rigid coastal armoring structure, the department shall grant the necessary permits under s. 161.085 to replace such nonviable rigid coastal armoring structure with a viable rigid coastal armoring structure as defined in this section. This shall not apply to rigid coastal armoring structures constructed after May 1, 1998, unless such structures have been permitted pursuant to s. 161.085(2).

(3) **PILOT PROJECT EXPIRATION.**—The authorization for the pilot project and the provisions of this section expire December 31, 2014. The department and affected local governments shall provide for an independent analysis of the economic value and environmental impact of the pilot project and provide a report to the Speaker of the House of Representatives and the President of the Senate on or before February 1, 2008.

History.—s. 4, ch. 98-201; s. 1, ch. 2002-294; s. 3, ch. 2006-68; s. 13, ch. 2012-96.

163.340 Definitions.—The following terms, wherever used or referred to in this part, have the following meanings:

(1) “Agency” or “community redevelopment agency” means a public agency created by, or designated pursuant to, s. 163.356 or s. 163.357.

(2) “Public body” means the state or any county, municipality, authority, special district as defined in s. 165.031(7), or other public body of the state, except a school district.

(3) “Governing body” means the council, commission, or other legislative body charged with governing the county or municipality.

(4) “Mayor” means the mayor of a municipality or, for a county, the chair of the board of county commissioners or such other officer as may be constituted by law to act as the executive head of such municipality or county.

(5) “Clerk” means the clerk or other official of the county or municipality who is the custodian of the official records of such county or municipality.

(6) “Federal Government” includes the United States or any agency or instrumentality, corporate or otherwise, of the United States.

(7) “Slum area” means an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired by reason of dilapidation, deterioration, age, or obsolescence, and exhibiting one or more of the following factors:

(a) Inadequate provision for ventilation, light, air, sanitation, or open spaces;

(b) High density of population, compared to the population density of adjacent areas within the county or municipality; and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or

(c) The existence of conditions that endanger life or property by fire or other causes.

(8) "Blighted area" means an area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

(a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;

(b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;

(c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(d) Unsanitary or unsafe conditions;

(e) Deterioration of site or other improvements;

(f) Inadequate and outdated building density patterns;

(g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;

(h) Tax or special assessment delinquency exceeding the fair value of the land;

(i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;

(j) Incidence of crime in the area higher than in the remainder of the county or municipality;

(k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;

(l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;

(m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or

(n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

However, the term "blighted area" also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a) agree, either by interlocal agreement or agreements with the agency or by resolution, that the area is blighted. Such agreement or resolution shall only determine that the area is blighted. For purposes of qualifying for the tax credits authorized in chapter 220, "blighted area" means an area as defined in this subsection.

(9) "Community redevelopment" or "redevelopment" means undertakings, activities, or projects of a county, municipality, or community redevelopment agency in a community redevelopment area for the

elimination and prevention of the development or spread of slums and blight, or for the reduction or prevention of crime, or for the provision of affordable housing, whether for rent or for sale, to residents of low or moderate income, including the elderly, and may include slum clearance and redevelopment in a community redevelopment area or rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed, or rehabilitation or conservation in a community redevelopment area, or any combination or part thereof, in accordance with a community redevelopment plan and may include the preparation of such a plan.

(10) "Community redevelopment area" means a slum area, a blighted area, or an area in which there is a shortage of housing that is affordable to residents of low or moderate income, including the elderly, or a coastal and tourist area that is deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout or inadequate street layout, or a combination thereof which the governing body designates as appropriate for community redevelopment. For community redevelopment agencies created after July 1, 2006, a community redevelopment area may not consist of more than 80 percent of a municipality.

(11) "Community redevelopment plan" means a plan, as it exists from time to time, for a community redevelopment area.

(12) "Related activities" means:

(a) Planning work for the preparation of a general neighborhood redevelopment plan or for the preparation or completion of a communitywide plan or program pursuant to s. 163.365.

(b) The functions related to the acquisition and disposal of real property pursuant to s. 163.370(4).

(c) The development of affordable housing for residents of the area.

(d) The development of community policing innovations.

(13) "Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith and every estate, interest, right, and use, legal or equitable, therein, including but not limited to terms for years and liens by way of judgment, mortgage, or otherwise.

(14) "Bonds" means any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures, or other obligations.

(15) "Obligee" means and includes any bondholder, agents or trustees for any bondholders, or lessor demising to the county or municipality property used in connection with community redevelopment, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the county or municipality.

(16) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic and includes any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(17) "Area of operation" means, for a county, the area within the boundaries of the county, and for a municipality, the area within the corporate limits of the municipality.

(18) "Housing authority" means a housing authority created by and established pursuant to chapter 421.

(19) "Board" or "commission" means a board, commission, department, division, office, body or other unit of the county or municipality.

(20) "Public officer" means any officer who is in charge of any department or branch of the government of the county or municipality relating to health, fire, building regulations, or other activities concerning dwellings in the county or municipality.

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

(22) "Increment revenue" means the amount calculated pursuant to s. 163.387(1).

(23) "Community policing innovation" means a policing technique or strategy designed to reduce crime by reducing opportunities for, and increasing the perceived risks of engaging in, criminal activity through visible presence of police in the community, including, but not limited to, community mobilization, neighborhood block watch, citizen patrol, citizen contact patrol, foot patrol, neighborhood storefront police stations, field interrogation, or intensified motorized patrol.

(24) "Taxing authority" means a public body that levies or is authorized to levy an ad valorem tax on real property located in a community redevelopment area.

History.—s. 3, ch. 69-305; s. 1, ch. 77-391; s. 1, ch. 81-44; s. 3, ch. 83-231; ss. 2, 22, ch. 84-356; s. 83, ch. 85-180; s. 72, ch. 87-243; s. 33, ch. 91-45; s. 1, ch. 93-286; s. 1, ch. 94-236; s. 1447, ch. 95-147; s. 2, ch. 98-201; s. 1, ch. 98-314; s. 2, ch. 2002-294; s. 7, ch. 2006-11; s. 1, ch. 2006-307; s. 20, ch. 2013-15.

163.345 Encouragement of private enterprise.

(1) Any county or municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this part, shall afford maximum opportunity, consistent with the sound needs of the county or municipality as a whole, to the rehabilitation or redevelopment of the community redevelopment area by private enterprise. Any county or municipality shall give consideration to this objective in exercising its powers under this part, including the formulation of a workable program; the approval of community redevelopment plans, communitywide plans or programs for community redevelopment, and general neighborhood redevelopment plans (consistent with the general plan of the county or municipality); the development and implementation of community policing innovations; the exercise of its zoning powers; the enforcement of other laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements; the development of affordable housing; the disposition of any property acquired, subject to the limitations of s. 73.013; and the provision of necessary public improvements.

(2) In giving consideration to the objectives outlined in subsection (1), the county or municipality shall consider making available the incentives provided under the Florida Enterprise Zone Act and chapter 420.

History.—s. 4, ch. 69-305; s. 4, ch. 83-231; s. 2, ch. 94-236; s. 2, ch. 98-314; s. 26, ch. 2001-60; s. 12, ch. 2005-287; s. 8, ch. 2006-11.

163.346 Notice to taxing authorities.—Before the governing body adopts any resolution or enacts any ordinance required under s. 163.355, s. 163.356, s. 163.357, or s. 163.387; creates a community redevelopment agency; approves, adopts, or amends a community redevelopment plan; or issues redevelopment revenue bonds under s. 163.385, the governing body must provide public notice of such proposed action pursuant to s. 125.66(2) or s. 166.041(3)(a) and, at least 15 days before such proposed action, mail by registered mail a notice to each taxing authority which levies ad valorem taxes on taxable real property contained within the geographic boundaries of the redevelopment area.

History.—s. 8, ch. 84-356; s. 2, ch. 93-286; s. 13, ch. 95-310.

163.350 Workable program.—Any county or municipality for the purposes of this part may formulate for the county or municipality a workable program for utilizing appropriate private and public resources to eliminate and prevent the development or spread of slums and urban blight, to encourage needed community rehabilitation, to provide for the redevelopment of slum and blighted areas, to provide housing affordable to residents of low or moderate income, including the elderly, or to undertake such of the aforesaid activities or other feasible county or municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include provision for the prevention of the spread of blight into areas of the county or municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements, encouraging voluntary rehabilitation, and compelling the repair and rehabilitation of deteriorated or deteriorating structures; the development of affordable housing; the implementation of community policing innovations; and the clearance and redevelopment of slum and blighted areas or portions thereof.

History.—s. 5, ch. 69-305; s. 3, ch. 84-356; s. 3, ch. 94-236; s. 3, ch. 98-314.

163.353 Power of taxing authority to tax or appropriate funds to a redevelopment trust fund in order to preserve and enhance the tax base of the authority.—Notwithstanding any other provision of general or special law, the purposes for which a taxing authority may levy taxes or appropriate funds to a redevelopment trust fund include the preservation and enhancement of the tax base of such taxing authority and the furthering of the purposes of such taxing authority as provided by law.

History.—s. 21, ch. 84-356.

163.355 Finding of necessity by county or municipality.—No county or municipality shall exercise the community redevelopment authority conferred by this part until after the governing body has adopted a resolution, supported by data and analysis, which makes a legislative finding that the conditions in the area meet the criteria described in s. 163.340(7) or (8). The resolution must state that:

(1) One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist in such county or municipality; and

(2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.

History.—s. 6, ch. 69-305; s. 4, ch. 84-356; s. 4, ch. 94-236; s. 3, ch. 2002-294.

163.356 Creation of community redevelopment agency.—

(1) Upon a finding of necessity as set forth in s. 163.355, and upon a further finding that there is a need for a community redevelopment agency to function in the county or municipality to carry out the community redevelopment purposes of this part, any county or municipality may create a public body corporate and politic to be known as a “community redevelopment agency.” A charter county having a population less than or equal to 1.6 million may create, by a vote of at least a majority plus one of the entire governing body of the charter county, more than one community redevelopment agency. Each such agency shall be constituted as a public instrumentality, and the exercise by a community redevelopment agency of the powers conferred by this part shall be deemed and held to be the performance of an essential public function. Community redevelopment agencies of a county have the power to function within the corporate limits of a municipality only as, if, and when the governing body of the municipality has by resolution concurred in the community redevelopment plan or plans proposed by the governing body of the county.

(2) When the governing body adopts a resolution declaring the need for a community redevelopment agency, that body shall, by ordinance, appoint a board of commissioners of the community redevelopment agency, which shall consist of not fewer than five or more than nine commissioners. The terms of office of the commissioners shall be for 4 years, except that three of the members first appointed shall be designated to serve terms of 1, 2, and 3 years, respectively, from the date of their appointments, and all other members shall be designated to serve for terms of 4 years from the date of their appointments. A vacancy occurring during a term shall be filled for the unexpired term. As provided in an interlocal agreement between the governing body that created the agency and one or more taxing authorities, one or more members of the board of commissioners of the agency may be representatives of a taxing authority, including members of that taxing authority’s governing body, whose membership on the board of commissioners of the agency would be considered an additional duty of office as a member of the taxing authority governing body.

(3)(a) A commissioner shall receive no compensation for services, but is entitled to the necessary expenses, including travel expenses, incurred in the

discharge of duties. Each commissioner shall hold office until his or her successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the county or municipality, and such certificate is conclusive evidence of the due and proper appointment of such commissioner.

(b) The powers of a community redevelopment agency shall be exercised by the commissioners thereof. A majority of the commissioners constitutes a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws require a larger number. Any person may be appointed as commissioner if he or she resides or is engaged in business, which means owning a business, practicing a profession, or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged, within the area of operation of the agency, which shall be coterminous with the area of operation of the county or municipality, and is otherwise eligible for such appointment under this part.

(c) The governing body of the county or municipality shall designate a chair and vice chair from among the commissioners. An agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as it requires, and determine their qualifications, duties, and compensation. For such legal service as it requires, an agency may employ or retain its own counsel and legal staff. An agency authorized to transact business and exercise powers under this part shall file with the governing body, on or before March 31 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of such fiscal year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the county or municipality and that the report is available for inspection during business hours in the office of the clerk of the city or county commission and in the office of the agency.

(d) At any time after the creation of a community redevelopment agency, the governing body of the county or municipality may appropriate to the agency such amounts as the governing body deems necessary for the administrative expenses and overhead of the agency, including the development and implementation of community policing innovations.

(4) The governing body may remove a commissioner for inefficiency, neglect of duty, or misconduct in office only after a hearing and only if he or she has been given a copy of the charges at least 10 days prior to such hearing and has had an opportunity to be heard in person or by counsel.

History.—s. 2, ch. 77-391; s. 1, ch. 83-231; s. 6, ch. 84-356; s. 903, ch. 95-147; s. 4, ch. 98-314; s. 41, ch. 2001-266; s. 4, ch. 2002-294; s. 2, ch. 2006-307.

163.357 Governing body as the community redevelopment agency.—

(1)(a) As an alternative to the appointment of not fewer than five or more than seven members of the agency, the governing body may, at the time of the adoption of a resolution under s. 163.355, or at any time thereafter by adoption of a resolution, declare itself to be an agency, in which case all the rights, powers, duties, privileges, and immunities vested by this part in an agency will be vested in the governing body of the county or municipality, subject to all responsibilities and liabilities imposed or incurred.

(b) The members of the governing body shall be the members of the agency, but such members constitute the head of a legal entity, separate, distinct, and independent from the governing body of the county or municipality. If the governing body declares itself to be an agency which already exists, the new agency is subject to all of the responsibilities and liabilities imposed or incurred by the existing agency.

(c) A governing body which consists of five members may appoint two additional persons to act as members of the community redevelopment agency. The terms of office of the additional members shall be for 4 years, except that the first person appointed shall initially serve a term of 2 years. Persons appointed under this section are subject to all provisions of this part relating to appointed members of a community redevelopment agency.

(d) As provided in an interlocal agreement between the governing body that created the agency and one or more taxing authorities, one or more members of the board of commissioners of the agency may be representatives of a taxing authority, including members of that taxing authority's governing body, whose membership on the board of commissioners of the agency would be considered an additional duty of office as a member of the taxing authority governing body.

(2) Nothing in this part prevents the governing body from conferring the rights, powers, privileges, duties, and immunities of a community redevelopment agency upon any entity in existence on July 1, 1977, which has been authorized by law to function as a downtown development board or authority or as any other body the purpose of which is to prevent and eliminate slums and blight through community redevelopment plans. Any entity in existence on July 1, 1977, which has been vested with the rights, powers, privileges, duties, and immunities of a community redevelopment agency is subject to all provisions and responsibilities imposed by this part, notwithstanding any provisions to the contrary in any law or amendment thereto which established the entity. Nothing in this act shall be construed to impair or diminish any powers of any redevelopment agency or other entity as referred to herein in existence on the effective date of this act or to repeal, modify, or amend any law establishing such entity, except as specifically set forth herein.

History.—s. 2, ch. 77-391; s. 75, ch. 79-400; s. 2, ch. 83-231; s. 5, ch. 84-356; s. 3, ch. 2006-307.

163.358 Exercise of powers in carrying out community redevelopment and related activities. Each county and municipality has all powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including those powers

granted under s. 163.370. A county or municipality may delegate such powers to a community redevelopment agency created under s. 163.356, except the following, which continue to vest in the governing body of the county or municipality:

(1) The power to determine an area to be a slum or blighted area, or combination thereof; to designate such area as appropriate for community redevelopment; and to hold any public hearings required with respect thereto.

(2) The power to grant final approval to community redevelopment plans and modifications thereof.

(3) The power to authorize the issuance of revenue bonds as set forth in s. 163.385.

(4) The power to approve the acquisition, demolition, removal, or disposal of property as provided in s. 163.370(4) and the power to assume the responsibility to bear loss as provided in s. 163.370(4).

(5) The power to approve the development of community policing innovations.

(6) The power of eminent domain.

History.—s. 2, ch. 77-391; s. 70, ch. 81-259; s. 7, ch. 84-356; s. 34, ch. 91-45; s. 5, ch. 98-314; s. 9, ch. 2006-11.

163.360 Community redevelopment plans.—

(1) Community redevelopment in a community redevelopment area shall not be planned or initiated unless the governing body has, by resolution, determined such area to be a slum area, a blighted area, or an area in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, or a combination thereof, and designated such area as appropriate for community redevelopment.

(2) The community redevelopment plan shall:

(a) Conform to the comprehensive plan for the county or municipality as prepared by the local planning agency under the Community Planning Act.

(b) Be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area; zoning and planning changes, if any; land uses; maximum densities; and building requirements.

(c) Provide for the development of affordable housing in the area, or state the reasons for not addressing in the plan the development of affordable housing in the area. The county, municipality, or community redevelopment agency shall coordinate with each housing authority or other affordable housing entities functioning within the geographic boundaries of the redevelopment area, concerning the development of affordable housing in the area.

(3) The community redevelopment plan may provide for the development and implementation of community policing innovations.

(4) The county, municipality, or community redevelopment agency may itself prepare or cause to be prepared a community redevelopment plan, or any person or agency, public or private, may submit such a plan to a community redevelopment agency. Prior to its consideration of a community redevelopment plan, the community redevelopment agency shall submit

such plan to the local planning agency of the county or municipality for review and recommendations as to its conformity with the comprehensive plan for the development of the county or municipality as a whole. The local planning agency shall submit its written recommendations with respect to the conformity of the proposed community redevelopment plan to the community redevelopment agency within 60 days after receipt of the plan for review. Upon receipt of the recommendations of the local planning agency, or, if no recommendations are received within such 60 days, then without such recommendations, the community redevelopment agency may proceed with its consideration of the proposed community redevelopment plan.

(5) The community redevelopment agency shall submit any community redevelopment plan it recommends for approval, together with its written recommendations, to the governing body and to each taxing authority that levies ad valorem taxes on taxable real property contained within the geographic boundaries of the redevelopment area. The governing body shall then proceed with the hearing on the proposed community redevelopment plan as prescribed by subsection (6).

(6)(a) The governing body shall hold a public hearing on a community redevelopment plan after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the county or municipality. The notice shall describe the time, date, place, and purpose of the hearing, identify generally the community redevelopment area covered by the plan, and outline the general scope of the community redevelopment plan under consideration.

(b) For any governing body that has not authorized by June 5, 2006, a study to consider whether a finding of necessity resolution pursuant to s. 163.355 should be adopted, has not adopted a finding of necessity resolution pursuant to s. 163.355 by March 31, 2007, has not adopted a community redevelopment plan by June 7, 2007, and was not authorized to exercise community redevelopment powers pursuant to a delegation of authority under s. 163.410 by a county that has adopted a home rule charter, the following additional procedures are required prior to adoption by the governing body of a community redevelopment plan under subsection (7):

1. Within 30 days after receipt of any community redevelopment plan recommended by a community redevelopment agency under subsection (5), the county may provide written notice by registered mail to the governing body of the municipality and to the community redevelopment agency that the county has competing policy goals and plans for the public funds the county would be required to deposit to the community redevelopment trust fund under the proposed community redevelopment plan.

2. If the notice required in subparagraph 1. is timely provided, the governing body of the county and the governing body of the municipality that created the community redevelopment agency shall schedule and hold a joint hearing co-chaired by the chair of the governing body of the county and the mayor of the municipality, with the agenda to be set by the chair of the governing body of the county, at which the competing policy goals for the public funds shall be discussed. For

those community redevelopment agencies for which the board of commissioners of the community redevelopment agency are comprised as specified in s. 163.356(2), a designee of the community redevelopment agency shall participate in the joint meeting as a nonvoting member. Any such hearing must be held within 90 days after receipt by the county of the recommended community redevelopment plan. Prior to the joint public hearing, the county may propose an alternative redevelopment plan that meets the requirements of this section to address the conditions identified in the resolution making a finding of necessity required by s. 163.355. If such an alternative redevelopment plan is proposed by the county, such plan shall be delivered to the governing body of the municipality that created the community redevelopment agency and to the executive director or other officer of the community redevelopment agency by registered mail at least 30 days prior to holding the joint meeting.

3. If the notice required in subparagraph 1. is timely provided, the municipality may not proceed with the adoption of the plan under subsection (7) until 30 days after the joint hearing unless the governing body of the county has failed to schedule or a majority of the members of the governing body of the county have failed to attend the joint hearing within the required 90-day period.

4. Notwithstanding the time requirements established in subparagraphs 2. and 3., the county and the municipality may at any time voluntarily use the dispute resolution process established in chapter 164 to attempt to resolve any competing policy goals between the county and municipality related to the community redevelopment agency. Nothing in this subparagraph grants the county or the municipality the authority to require the other local government to participate in the dispute resolution process.

(7) Following such hearing, the governing body may approve the community redevelopment and the plan therefor if it finds that:

(a) A feasible method exists for the location of families who will be displaced from the community redevelopment area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families;

(b) The community redevelopment plan conforms to the general plan of the county or municipality as a whole;

(c) The community redevelopment plan gives due consideration to the utilization of community policing innovations, and to the provision of adequate park and recreational areas and facilities that may be desirable for neighborhood improvement, with special consideration for the health, safety, and welfare of children residing in the general vicinity of the site covered by the plans;

(d) The community redevelopment plan will afford maximum opportunity, consistent with the sound needs of the county or municipality as a whole, for the rehabilitation or redevelopment of the community redevelopment area by private enterprise; and

(e) The community redevelopment plan and resulting revitalization and redevelopment for a coastal tourist

area that is deteriorating and economically distressed will reduce or maintain evacuation time, as appropriate, and ensure protection for property against exposure to natural disasters.

(8) If the community redevelopment area consists of an area of open land to be acquired by the county or the municipality, such area may not be so acquired unless:

(a) In the event the area is to be developed in whole or in part for residential uses, the governing body determines:

1. That a shortage of housing of sound standards and design which is decent, safe, affordable to residents of low or moderate income, including the elderly, and sanitary exists in the county or municipality;

2. That the need for housing accommodations has increased in the area;

3. That the conditions of blight in the area or the shortage of decent, safe, affordable, and sanitary housing cause or contribute to an increase in and spread of disease and crime or constitute a menace to the public health, safety, morals, or welfare; and

4. That the acquisition of the area for residential uses is an integral part of and is essential to the program of the county or municipality.

(b) In the event the area is to be developed in whole or in part for nonresidential uses, the governing body determines that:

1. Such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives.

2. Acquisition may require the exercise of governmental action, as provided in this part, because of:

a. Defective, or unusual conditions of, title or diversity of ownership which prevents the free alienability of such land;

b. Tax delinquency;

c. Improper subdivisions;

d. Outmoded street patterns;

e. Deterioration of site;

f. Economic disuse;

g. Unsuitable topography or faulty lot layouts;

h. Lack of correlation of the area with other areas of a county or municipality by streets and modern traffic requirements; or

i. Any combination of such factors or other conditions which retard development of the area.

3. Conditions of blight in the area contribute to an increase in and spread of disease and crime or constitute a menace to public health, safety, morals, or welfare.

(9) Upon the approval by the governing body of a community redevelopment plan or of any modification thereof, such plan or modification shall be deemed to be in full force and effect for the respective community redevelopment area, and the county or municipality may then cause the community redevelopment agency to carry out such plan or modification in accordance with its terms.

(10) Notwithstanding any other provisions of this part, when the governing body certifies that an area is in need of redevelopment or rehabilitation as a result of an emergency under s. 252.34(3), with respect to which the

Governor has certified the need for emergency assistance under federal law, that area may be certified as a "blighted area," and the governing body may approve a community redevelopment plan and community redevelopment with respect to such area without regard to the provisions of this section requiring a general plan for the county or municipality and a public hearing on the community redevelopment.

History.—s. 7, ch. 69-305; s. 3, ch. 77-391; s. 5, ch. 83-231; s. 6, ch. 83-334; s. 9, ch. 84-356; s. 26, ch. 85-55; s. 3, ch. 93-286; s. 5, ch. 94-236; s. 3, ch. 98-201; s. 6, ch. 98-314; s. 63, ch. 99-2; s. 4, ch. 2006-307; s. 33, ch. 2011-139.

163.361 Modification of community redevelopment plans.—

(1) If at any time after the approval of a community redevelopment plan by the governing body it becomes necessary or desirable to amend or modify such plan, the governing body may amend such plan upon the recommendation of the agency. The agency recommendation to amend or modify a redevelopment plan may include a change in the boundaries of the redevelopment area to add land to or exclude land from the redevelopment area, or may include the development and implementation of community policing innovations.

(2) The governing body shall hold a public hearing on a proposed modification of any community redevelopment plan after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the agency.

(3)(a) In addition to the requirements of s. 163.346, and prior to the adoption of any modification to a community redevelopment plan that expands the boundaries of the community redevelopment area or extends the time certain set forth in the redevelopment plan as required by s. 163.362(10), the agency shall report such proposed modification to each taxing authority in writing or by an oral presentation, or both, regarding such proposed modification.

(b) For any community redevelopment agency that was not created pursuant to a delegation of authority under s. 163.410 by a county that has adopted a home rule charter and that modifies its adopted community redevelopment plan in a manner that expands the boundaries of the redevelopment area after October 1, 2006, the following additional procedures are required prior to adoption by the governing body of a modified community redevelopment plan:

1. Within 30 days after receipt of any report of a proposed modification that expands the boundaries of the redevelopment area, the county may provide notice by registered mail to the governing body of the municipality and the community redevelopment agency that the county has competing policy goals and plans for the public funds the county would be required to deposit to the community redevelopment trust fund under the proposed modification to the community redevelopment plan.

2. If the notice required in subparagraph 1. is timely provided, the governing body of the county and the governing body of the municipality that created the community redevelopment agency shall schedule and hold a joint hearing co-chaired by the chair of the governing body of the county and the mayor of the

municipality, with the agenda to be set by the chair of the governing body of the county, at which the competing policy goals for the public funds shall be discussed. For those community redevelopment agencies for which the board of commissioners of the community redevelopment agency are comprised as specified in s. 163.356(2), a designee of the community redevelopment agency shall participate in the joint meeting as a nonvoting member. Any such hearing shall be held within 90 days after receipt by the county of the recommended modification of the adopted community redevelopment plan. Prior to the joint public hearing, the county may propose an alternative modified community redevelopment plan that meets the requirements of s. 163.360 to address the conditions identified in the resolution making a finding of necessity required under s. 163.355. If such an alternative modified redevelopment plan is proposed by the county, such plan shall be delivered to the governing body of the municipality that created the community redevelopment agency and the executive director or other officer of the community redevelopment agency by registered mail at least 30 days prior to holding the joint meeting.

3. If the notice required in subparagraph 1. is timely provided, the municipality may not proceed with the adoption of a modified plan until 30 days after the joint hearing unless the governing body of the county has failed to schedule or a majority of the members of the governing body of the county have failed to attend the joint hearing within the required 90-day period.

4. Notwithstanding the time requirements established in subparagraphs 2. and 3., the county and the municipality may at any time voluntarily use the dispute resolution process established in chapter 164 to attempt to resolve any competing policy goals between the county and municipality related to the community redevelopment agency. Nothing in this subparagraph grants the county or the municipality the authority to require the other local government to participate in the dispute resolution process.

(4) A modification to a community redevelopment plan that includes a change in the boundaries of the redevelopment area to add land must be supported by a resolution as provided in s. 163.355.

(5) If a community redevelopment plan is modified by the county or municipality after the lease or sale of real property in the community redevelopment area, such modification may be conditioned upon such approval of the owner, lessee, or successor in interest as the county or municipality may deem advisable and, in any event, shall be subject to such rights at law or in equity as a lessee or purchaser, or his or her successor or successors in interest, may be entitled to assert.

History.—s. 4, ch. 77-391; s. 6, ch. 83-231; s. 904, ch. 95-147; s. 7, ch. 98-314; s. 5, ch. 2002-294; s. 5, ch. 2006-307.

163.362 Contents of community redevelopment plan.—Every community redevelopment plan shall:

(1) Contain a legal description of the boundaries of the community redevelopment area and the reasons for establishing such boundaries shown in the plan.

(2) Show by diagram and in general terms:

(a) The approximate amount of open space to be provided and the street layout.

(b) Limitations on the type, size, height, number, and proposed use of buildings.

(c) The approximate number of dwelling units.

(d) Such property as is intended for use as public parks, recreation areas, streets, public utilities, and public improvements of any nature.

(3) If the redevelopment area contains low or moderate income housing, contain a neighborhood impact element which describes in detail the impact of the redevelopment upon the residents of the redevelopment area and the surrounding areas in terms of relocation, traffic circulation, environmental quality, availability of community facilities and services, effect on school population, and other matters affecting the physical and social quality of the neighborhood.

(4) Identify specifically any publicly funded capital projects to be undertaken within the community redevelopment area.

(5) Contain adequate safeguards that the work of redevelopment will be carried out pursuant to the plan.

(6) Provide for the retention of controls and the establishment of any restrictions or covenants running with land sold or leased for private use for such periods of time and under such conditions as the governing body deems necessary to effectuate the purposes of this part.

(7) Provide assurances that there will be replacement housing for the relocation of persons temporarily or permanently displaced from housing facilities within the community redevelopment area.

(8) Provide an element of residential use in the redevelopment area if such use exists in the area prior to the adoption of the plan or if the plan is intended to remedy a shortage of housing affordable to residents of low or moderate income, including the elderly, or if the plan is not intended to remedy such shortage, the reasons therefor.

(9) Contain a detailed statement of the projected costs of the redevelopment, including the amount to be expended on publicly funded capital projects in the community redevelopment area and any indebtedness of the community redevelopment agency, the county, or the municipality proposed to be incurred for such redevelopment if such indebtedness is to be repaid with increment revenues.

(10) Provide a time certain for completing all redevelopment financed by increment revenues. Such time certain shall occur no later than 30 years after the fiscal year in which the plan is approved, adopted, or amended pursuant to s. 163.361(1). However, for any agency created after July 1, 2002, the time certain for completing all redevelopment financed by increment revenues must occur within 40 years after the fiscal year in which the plan is approved or adopted.

(11) Subsections (1), (3), (4), and (8), as amended by s. 10, chapter 84-356, Laws of Florida, and subsections (9) and (10) do not apply to any governing body of a county or municipality or to a community redevelopment agency if such governing body has approved and adopted a community redevelopment plan pursuant to s. 163.360 before chapter 84-356 became a law; nor do they apply to any governing body of a county or municipality or to a community redevelopment agency

if such governing body or agency has adopted an ordinance or resolution authorizing the issuance of any bonds, notes, or other forms of indebtedness to which is pledged increment revenues pursuant only to a community redevelopment plan as approved and adopted before chapter 84-356 became a law.

History.—s. 5, ch. 77-391; s. 7, ch. 83-231; ss. 10, 22, ch. 84-356; s. 5, ch. 93-286; s. 6, ch. 94-236; s. 6, ch. 2002-294.

163.365 Neighborhood and communitywide plans.—

(1) Any municipality or county or any public body authorized to perform planning work may prepare a general neighborhood redevelopment plan for a community redevelopment area or areas, together with any adjoining areas having specially related problems, which may be of such scope that redevelopment activities may have to be carried out in stages. Such plans may include, but not be limited to, a preliminary plan which:

- (a) Outlines the community redevelopment activities proposed for the area involved;
- (b) Provides a framework for the preparation of community redevelopment plans; and
- (c) Indicates generally the land uses, population density, building coverage, prospective requirements for rehabilitation and improvement of property and portions of the area contemplated for clearance and redevelopment.

A general neighborhood redevelopment plan shall, in the determination of the governing body, conform to the general plan of the locality as a whole and the workable program of the county or municipality.

(2) Any county or municipality or any public body authorized to perform planning work may prepare or complete a communitywide plan or program for community redevelopment which shall conform to the general plan for the development of the county or municipality as a whole and may include, but not be limited to, identification of slum or blighted areas, measurement of blight, determination of resources needed and available to renew such areas, identification of potential project areas and types of action contemplated, including the development of affordable housing if needed and appropriate for the area, and scheduling of community redevelopment activities.

(3) Authority is hereby vested in every county and municipality to prepare, adopt, and revise from time to time a general plan for the physical development of the county or municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related county or municipal planning activities, and to make available and to appropriate necessary funds therefor.

History.—s. 8, ch. 69-305; s. 7, ch. 94-236.

163.367 Public officials, commissioners, and employees subject to code of ethics.—

(1) The officers, commissioners, and employees of a community redevelopment agency created by, or designated pursuant to, s. 163.356 or s. 163.357 shall

be subject to the provisions and requirements of part III of chapter 112.

(2) If any such official, commissioner, or employee presently owns or controls, or owned or controlled within the preceding 2 years, any interest, direct or indirect, in any property which he or she knows is included or planned to be included in a community redevelopment area, he or she shall immediately disclose this fact in the manner provided in part III of chapter 112. Any disclosure required to be made by this section shall be made prior to taking any official action pursuant to this section.

(3) No commissioner or other officer of any community redevelopment agency, board, or commission exercising powers pursuant to this part shall hold any other public office under the county or municipality other than his or her commissionership or office with respect to such community redevelopment agency, board, or commission.

History.—s. 6, ch. 77-391; s. 76, ch. 79-400; s. 8, ch. 83-231; s. 905, ch. 95-147.

163.370 Powers; counties and municipalities; community redevelopment agencies.—

(1) Counties and municipalities may not exercise the power of eminent domain for the purpose of preventing or eliminating a slum area or blighted area as defined in this part; however, counties and municipalities may acquire property by eminent domain within a community redevelopment area, subject to the limitations set forth in ss. 73.013 and 73.014 or other general law.

(2) Every county and municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers in addition to others herein granted:

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

(b) To disseminate slum clearance and community redevelopment information.

(c) To undertake and carry out community redevelopment and related activities within the community redevelopment area, which may include:

1. Acquisition of property within a slum area or a blighted area by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition.

2. Demolition and removal of buildings and improvements.

3. Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, public areas of major hotels that are constructed in support of convention centers, including meeting rooms, banquet facilities, parking garages, lobbies, and passageways, and other improvements necessary for carrying out in the community redevelopment area the community redevelopment objectives of this part in accordance with the community redevelopment plan.

4. Disposition of any property acquired in the community redevelopment area at its fair value as provided in s. 163.380 for uses in accordance with the community redevelopment plan.

5. Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the community redevelopment plan.

6. Acquisition by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition of real property in the community redevelopment area which, under the community redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property.

7. Acquisition by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition of any other real property in the community redevelopment area when necessary to eliminate unhealthful, unsanitary, or unsafe conditions; lessen density; eliminate obsolete or other uses detrimental to the public welfare; or otherwise to remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

8. Acquisition, without regard to any requirement that the area be a slum or blighted area, of air rights in an area consisting principally of land in highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

9. Acquisition by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition of property in unincorporated enclaves surrounded by the boundaries of a community redevelopment area when it is determined necessary by the agency to accomplish the community redevelopment plan.

10. Construction of foundations and platforms necessary for the provision of air rights sites of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

(d) To provide, or to arrange or contract for, the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a community redevelopment; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it deems reasonable and appropriate which are attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a community redevelopment and related activities, and to include in any contract let in connection with such redevelopment and related activities provisions to fulfill such of the conditions as it deems reasonable and appropriate.

(e) Within the community redevelopment area:

1. To enter into any building or property in any community redevelopment area in order to make inspections, surveys, appraisals, soundings, or test

borings and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

2. To acquire by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition any personal or real property, together with any improvements thereon.

3. To hold, improve, clear, or prepare for redevelopment any such property.

4. To mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real property.

5. To insure or provide for the insurance of any real or personal property or operations of the county or municipality against any risks or hazards, including the power to pay premiums on any such insurance.

6. To enter into any contracts necessary to effectuate the purposes of this part.

7. To solicit requests for proposals for redevelopment of parcels of real property contemplated by a community redevelopment plan to be acquired for redevelopment purposes by a community redevelopment agency and, as a result of such requests for proposals, to advertise for the disposition of such real property to private persons pursuant to s. 163.380 prior to acquisition of such real property by the community redevelopment agency.

(f) To invest any community redevelopment funds held in reserves or sinking funds or any such funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control and to redeem such bonds as have been issued pursuant to s. 163.385 at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.

(g) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the Federal Government or the state, county, or other public body or from any sources, public or private, for the purposes of this part and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith; and to include in any contract for financial assistance with the Federal Government for or with respect to community redevelopment and related activities such conditions imposed pursuant to federal laws as the county or municipality deems reasonable and appropriate which are not inconsistent with the purposes of this part.

(h) To make or have made all surveys and plans necessary to the carrying out of the purposes of this part; to contract with any person, public or private, in making and carrying out such plans; and to adopt or approve, modify, and amend such plans, which plans may include, but are not limited to:

1. Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements.

2. Plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements.

3. Appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of community redevelopment and related activities.

(i) To develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight and developing and demonstrating new or improved means of providing housing for families and persons of low income.

(j) To apply for, accept, and utilize grants of funds from the Federal Government for such purposes.

(k) To prepare plans for and assist in the relocation of persons (including individuals, families, business concerns, nonprofit organizations, and others) displaced from a community redevelopment area and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the Federal Government.

(l) To appropriate such funds and make such expenditures as are necessary to carry out the purposes of this part; to zone or rezone any part of the county or municipality or make exceptions from building regulations; and to enter into agreements with a housing authority, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by such county or municipality pursuant to any of the powers granted by this part.

(m) To close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places and to plan or replan any part of the county or municipality.

(n) To organize, coordinate, and direct the administration of the provisions of this part, as they may apply to such county or municipality, in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such county or municipality may be most effectively promoted and achieved and to establish such new office or offices of the county or municipality or to reorganize existing offices in order to carry out such purpose most effectively.

(o) To develop and implement community policing innovations.

(3) The following projects may not be paid for or financed by increment revenues:

(a) Construction or expansion of administrative buildings for public bodies or police and fire buildings, unless each taxing authority agrees to such method of financing for the construction or expansion, or unless the construction or expansion is contemplated as part of a community policing innovation.

(b) Installation, construction, reconstruction, repair, or alteration of any publicly owned capital improvements or projects if such projects or improvements were scheduled to be installed, constructed, reconstructed, repaired, or altered within 3 years of the approval of the community redevelopment plan by the governing body pursuant to a previously approved public capital improvement or project schedule or plan of the governing body which approved the community redevelopment plan unless and until such projects or improvements

have been removed from such schedule or plan of the governing body and 3 years have elapsed since such removal or such projects or improvements were identified in such schedule or plan to be funded, in whole or in part, with funds on deposit within the community redevelopment trust fund.

(c) General government operating expenses unrelated to the planning and carrying out of a community redevelopment plan.

(4) With the approval of the governing body, a community redevelopment agency may:

(a) Prior to approval of a community redevelopment plan or approval of any modifications of the plan, acquire real property in a community redevelopment area by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition; demolish and remove any structures on the property; and pay all costs related to the acquisition, demolition, or removal, including any administrative or relocation expenses.

(b) Assume the responsibility to bear any loss that may arise as the result of the exercise of authority under this subsection, in the event that the real property is not made part of the community redevelopment area.

History.—s. 9, ch. 69-305; s. 7, ch. 77-391; s. 11, ch. 84-356; s. 7, ch. 93-286; s. 8, ch. 94-236; s. 8, ch. 98-314; s. 10, ch. 2006-11; s. 6, ch. 2006-307; s. 9, ch. 2007-5.

163.380 Disposal of property in community redevelopment area.—The disposal of property in a community redevelopment area which is acquired by eminent domain is subject to the limitations set forth in s. 73.013.

(1) Any county, municipality, or community redevelopment agency may sell, lease, dispose of, or otherwise transfer real property or any interest therein acquired by it for community redevelopment in a community redevelopment area to any private person, or may retain such property for public use, and may enter into contracts with respect thereto for residential, recreational, commercial, industrial, educational, or other uses, in accordance with the community redevelopment plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it deems necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this part. However, such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the community redevelopment plan by the governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the community redevelopment plan and may be obligated to comply with such other requirements as the county, municipality, or community redevelopment agency may determine to be in the public interest, including the obligation to begin any improvements on such real property required by the community redevelopment plan within a reasonable time.

(2) Such real property or interest shall be sold, leased, otherwise transferred, or retained at a value determined to be in the public interest for uses in

accordance with the community redevelopment plan and in accordance with such reasonable disposal procedures as any county, municipality, or community redevelopment agency may prescribe. In determining the value of real property as being in the public interest for uses in accordance with the community redevelopment plan, the county, municipality, or community redevelopment agency shall take into account and give consideration to the long-term benefits to be achieved by the county, municipality, or community redevelopment agency resulting from incurring short-term losses or costs in the disposal of such real property; the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by, the purchaser or lessee or by the county, municipality, or community redevelopment agency retaining the property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. In the event the value of such real property being disposed of is for less than the fair value, such disposition shall require the approval of the governing body, which approval may only be given following a duly noticed public hearing. The county, municipality, or community redevelopment agency may provide in any instrument of conveyance to a private purchaser or lessee that such purchaser or lessee is without power to sell, lease, or otherwise transfer the real property without the prior written consent of the county, municipality, or community redevelopment agency until the purchaser or lessee has completed the construction of any or all improvements which he or she has obligated himself or herself to construct thereon. Real property acquired by the county, municipality, or community redevelopment agency which, in accordance with the provisions of the community redevelopment plan, is to be transferred shall be transferred as rapidly as feasible in the public interest, consistent with the carrying out of the provisions of the community redevelopment plan. Any contract for such transfer and the community redevelopment plan, or such part or parts of such contract or plan as the county, municipality, or community redevelopment agency may determine, may be recorded in the land records of the clerk of the circuit court in such manner as to afford actual or constructive notice thereof.

(3)(a) Prior to disposition of any real property or interest therein in a community redevelopment area, any county, municipality, or community redevelopment agency shall give public notice of such disposition by publication in a newspaper having a general circulation in the community, at least 30 days prior to the execution of any contract to sell, lease, or otherwise transfer real property and, prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section, invite proposals from, and make all pertinent information available to, private redevelopers or any persons interested in undertaking to redevelop or rehabilitate a community redevelopment area or any part thereof. Such notice shall identify the area or portion thereof and shall state that proposals must be made by those interested within 30 days after the date of publication of the notice and that such further information as is available may be obtained at such

office as is designated in the notice. The county, municipality, or community redevelopment agency shall consider all such redevelopment or rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out; and the county, municipality, or community redevelopment agency may negotiate with any persons for proposals for the purchase, lease, or other transfer of any real property acquired by it in the community redevelopment area. The county, municipality, or community redevelopment agency may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this part. Except in the case of a governing body acting as the agency, as provided in s. 163.357, a notification of intention to accept such proposal must be filed with the governing body not less than 30 days prior to any such acceptance. Thereafter, the county, municipality, or community redevelopment agency may execute such contract in accordance with the provisions of subsection (1) and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such contract.

(b) Any county, municipality, or community redevelopment agency that, pursuant to the provisions of this section, has disposed of a real property project with a land area in excess of 20 acres may acquire an expanded area that is immediately adjacent to the original project and less than 35 percent of the land area of the original project, by purchase as provided in this chapter, and negotiate a disposition of such expanded area directly with the person who acquired the original project without complying with the disposition procedures established in paragraph (a), provided the county, municipality, or community redevelopment agency adopts a resolution making the following findings:

1. It is in the public interest to expand such real property project to an immediately adjacent area.

2. The expanded area is less than 35 percent of the land area of the original project.

3. The expanded area is entirely within the boundary of the community redevelopment area.

- (4) Any county, municipality, or community redevelopment agency may temporarily operate and maintain real property acquired by it in a community redevelopment area for or in connection with a community redevelopment plan pending the disposition of the property as authorized in this part, without regard to the provisions of subsection (1), for such uses and purposes as may be deemed desirable, even though not in conformity with the community redevelopment plan.

- (5) If any conflict exists between the provisions of this section and s. 159.61, the provisions of this section govern and supersede those of s. 159.61.

- (6) Notwithstanding any provision of this section, if a community redevelopment area is established by the governing body for the redevelopment of property located on a closed military base within the governing body's boundaries, the procedures for disposition of real property within that community redevelopment area shall be prescribed by the governing body, and

compliance with the other provisions of this section shall not be required prior to the disposal of real property.

History.—s. 11, ch. 69-305; s. 9, ch. 77-391; s. 13, ch. 84-356; s. 1, ch. 92-162; s. 906, ch. 95-147; s. 1, ch. 96-254; s. 9, ch. 98-314; s. 12, ch. 2006-11.

163.385 Issuance of revenue bonds.—

(1)(a) When authorized or approved by resolution or ordinance of the governing body, a county, municipality, or community redevelopment agency has power in its corporate capacity, in its discretion, to issue redevelopment revenue bonds from time to time to finance the undertaking of any community redevelopment under this part, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans or preliminary loans, and has power to issue refunding bonds for the payment or retirement of bonds or other obligations previously issued. For any agency created before July 1, 2002, any redevelopment revenue bonds or other obligations issued to finance the undertaking of any community redevelopment under this part shall mature within 60 years after the end of the fiscal year in which the initial community redevelopment plan was approved or adopted. For any agency created on or after July 1, 2002, any redevelopment revenue bonds or other obligations issued to finance the undertaking of any community redevelopment under this part shall mature within 40 years after the end of the fiscal year in which the initial community redevelopment plan is approved or adopted. However, in no event shall any redevelopment revenue bonds or other obligations issued to finance the undertaking of any community redevelopment under this part mature later than the expiration of the plan in effect at the time such bonds or obligations were issued. The security for such bonds may be based upon the anticipated assessed valuation of the completed community redevelopment and such other revenues as are legally available. Any bond, note, or other form of indebtedness pledging increment revenues to the repayment thereof shall mature no later than the end of the 30th fiscal year after the fiscal year in which increment revenues are first deposited into the redevelopment trust fund or the fiscal year in which the plan is subsequently amended. However, for any agency created on or after July 1, 2002, any form of indebtedness pledging increment revenues to the repayment thereof shall mature by the 40th year after the fiscal year in which the initial community redevelopment plan is approved or adopted. However, any refunding bonds issued pursuant to this paragraph may not mature later than the final maturity date of any bonds or other obligations issued pursuant to this paragraph being paid or retired with the proceeds of such refunding bonds.

(b) In anticipation of the sale of revenue bonds pursuant to paragraph (a), the county, municipality, or community redevelopment agency may issue bond anticipation notes and may renew such notes from time to time, but the maximum maturity of any such note, including renewals thereof, may not exceed 5 years from the date of issue of the original note. Such notes shall be paid from any revenues of the county, municipality, or community redevelopment agency available therefor and not otherwise pledged or from

the proceeds of sale of the revenue bonds in anticipation of which they were issued.

(2) Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under the provisions of this part are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, are exempted from all taxes, except those taxes imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

(3) Bonds issued under this section shall be authorized by resolution or ordinance of the governing body; may be issued in one or more series; and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either with or without coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places, be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics as may be provided by such resolution or ordinance or by a trust indenture or mortgage issued pursuant thereto. Bonds issued under this section may be sold in such manner, either at public or private sale, and for such price as the governing body may determine will effectuate the purpose of this part.

(4) In case any of the public officials of the county, municipality, or community redevelopment agency whose signatures appear on any bonds or coupons issued under this part cease to be such officials before the delivery of such bonds, such signatures are, nevertheless, valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery.

(5) In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this part, or the security therefor, any such bond reciting in substance that it has been issued by the county, municipality, or community redevelopment agency in connection with community redevelopment, as herein defined, shall be conclusively deemed to have been issued for such purpose, and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the provisions of this part.

(6) Subsections (1), (4), and (5), as amended by s. 14, chapter 84-356, Laws of Florida, do not apply to any governing body of a county or municipality or to a community redevelopment agency if such governing body or agency has adopted an ordinance or resolution authorizing the issuance of any bonds, notes, or other forms of indebtedness to which is pledged increment revenues pursuant only to a community redevelopment

plan as approved and adopted before chapter 84-356 became a law.

History.—s. 12, ch. 69-305; s. 12, ch. 73-302; s. 2, ch. 76-147; s. 10, ch. 77-391; s. 77, ch. 79-400; ss. 14, 22, ch. 84-356; s. 6, ch. 93-286; s. 9, ch. 94-236; s. 15, ch. 95-310; s. 7, ch. 2002-294.

163.387 Redevelopment trust fund.—

(1)(a) After approval of a community redevelopment plan, there may be established for each community redevelopment agency created under s. 163.356 a redevelopment trust fund. Funds allocated to and deposited into this fund shall be used by the agency to finance or refinance any community redevelopment it undertakes pursuant to the approved community redevelopment plan. No community redevelopment agency may receive or spend any increment revenues pursuant to this section unless and until the governing body has, by ordinance, created the trust fund and provided for the funding of the redevelopment trust fund until the time certain set forth in the community redevelopment plan as required by s. 163.362(10). Such ordinance may be adopted only after the governing body has approved a community redevelopment plan. The annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with the undertaking and carrying out of community redevelopment under this part. Such increment shall be determined annually and shall be that amount equal to 95 percent of the difference between:

1. The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area; and

2. The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund.

However, the governing body of any county as defined in s. 125.011(1) may, in the ordinance providing for the funding of a trust fund established with respect to any community redevelopment area created on or after July 1, 1994, determine that the amount to be funded by each taxing authority annually shall be less than 95 percent of the difference between subparagraphs 1. and 2., but in no event shall such amount be less than 50 percent of such difference.

- (b)1. For any governing body that has not authorized by June 5, 2006, a study to consider whether a finding of necessity resolution pursuant to s. 163.355 should be adopted, has not adopted a finding of necessity resolution pursuant to s. 163.355 by March 31, 2007, has not adopted a community redevelopment plan by June 7, 2007, and was not authorized to exercise community redevelopment powers pursuant to a delegation of

authority under s. 163.410 by a county that has adopted a home rule charter, the amount of tax increment to be contributed by any taxing authority shall be limited as follows:

- a. If a taxing authority imposes a millage rate that exceeds the millage rate imposed by the governing body that created the trust fund, the amount of tax increment to be contributed by the taxing authority imposing the higher millage rate shall be calculated using the millage rate imposed by the governing body that created the trust fund. Nothing shall prohibit any taxing authority from voluntarily contributing a tax increment at a higher rate for a period of time as specified by interlocal agreement between the taxing authority and the community redevelopment agency.

- b. At any time more than 24 years after the fiscal year in which a taxing authority made its first contribution to a redevelopment trust fund, by resolution effective no sooner than the next fiscal year and adopted by majority vote of the taxing authority's governing body at a public hearing held not less than 30 or more than 45 days after written notice by registered mail to the community redevelopment agency and published in a newspaper of general circulation in the redevelopment area, the taxing authority may limit the amount of increment contributed by the taxing authority to the redevelopment trust fund to the amount of increment the taxing authority was obligated to contribute to the redevelopment trust fund in the fiscal year immediately preceding the adoption of such resolution, plus any increase in the increment after the adoption of the resolution computed using the taxable values of any area which is subject to an area reinvestment agreement. As used in this subparagraph, the term "area reinvestment agreement" means an agreement between the community redevelopment agency and a private party, with or without additional parties, which provides that the increment computed for a specific area shall be reinvested in services or public or private projects, or both, including debt service, supporting one or more projects consistent with the community redevelopment plan that is identified in the agreement to be constructed within that area. Any such reinvestment agreement must specify the estimated total amount of public investment necessary to provide the projects or services, or both, including any applicable debt service. The contribution to the redevelopment trust fund of the increase in the increment of any area that is subject to an area reinvestment agreement following the passage of a resolution as provided in this sub-subparagraph shall cease when the amount specified in the area reinvestment agreement as necessary to provide the projects or services, or both, including any applicable debt service, has been invested.

2. For any community redevelopment agency that was not created pursuant to a delegation of authority under s. 163.410 by a county that has adopted a home rule charter and that modifies its adopted community redevelopment plan after October 1, 2006, in a manner that expands the boundaries of the redevelopment area, the amount of increment to be contributed by any taxing authority with respect to the expanded area shall be limited as set forth in sub-subparagraphs 1.a. and b.

(2)(a) Except for the purpose of funding the trust fund pursuant to subsection (3), upon the adoption of an ordinance providing for funding of the redevelopment trust fund as provided in this section, each taxing authority shall, by January 1 of each year, appropriate to the trust fund for so long as any indebtedness pledging increment revenues to the payment thereof is outstanding (but not to exceed 30 years) a sum that is no less than the increment as defined and determined in subsection (1) or paragraph (3)(b) accruing to such taxing authority. If the community redevelopment plan is amended or modified pursuant to s. 163.361(1), each such taxing authority shall make the annual appropriation for a period not to exceed 30 years after the date the governing body amends the plan but no later than 60 years after the fiscal year in which the plan was initially approved or adopted. However, for any agency created on or after July 1, 2002, each taxing authority shall make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the initial community redevelopment plan is approved or adopted.

(b) Any taxing authority that does not pay the increment revenues to the trust fund by January 1 shall pay to the trust fund an amount equal to 5 percent of the amount of the increment revenues and shall pay interest on the amount of the unpaid increment revenues equal to 1 percent for each month the increment is outstanding, provided the agency may waive such penalty payments in whole or in part.

(c) The following public bodies or taxing authorities are exempt from paragraph (a):

1. A special district that levies ad valorem taxes on taxable real property in more than one county.

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

3. A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.

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

5. A metropolitan transportation authority.

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

(d)1. A local governing body that creates a community redevelopment agency under s. 163.356 may exempt from paragraph (a) a special district that levies ad valorem taxes within that community redevelopment area. The local governing body may grant the exemption either in its sole discretion or in response to the request of the special district. The local governing body must establish procedures by which a special district may submit a written request to be exempted from paragraph (a).

2. In deciding whether to deny or grant a special district's request for exemption from paragraph (a), the local governing body must consider:

- a. Any additional revenue sources of the community redevelopment agency which could be used in lieu of the special district's tax increment.

- b. The fiscal and operational impact on the community redevelopment agency.

- c. The fiscal and operational impact on the special district.

- d. The benefit to the specific purpose for which the special district was created. The benefit to the special district must be based on specific projects contained in the approved community redevelopment plan for the designated community redevelopment area.

- e. The impact of the exemption on incurred debt and whether such exemption will impair any outstanding bonds that have pledged tax increment revenues to the repayment of the bonds.

- f. The benefit of the activities of the special district to the approved community redevelopment plan.

- g. The benefit of the activities of the special district to the area of operation of the local governing body that created the community redevelopment agency.

3. The local governing body must hold a public hearing on a special district's request for exemption after public notice of the hearing is published in a newspaper having a general circulation in the county or municipality that created the community redevelopment area. The notice must describe the time, date, place, and purpose of the hearing and must identify generally the community redevelopment area covered by the plan and the impact of the plan on the special district that requested the exemption.

4. If a local governing body grants an exemption to a special district under this paragraph, the local governing body and the special district must enter into an interlocal agreement that establishes the conditions of the exemption, including, but not limited to, the period of time for which the exemption is granted.

5. If a local governing body denies a request for exemption by a special district, the local governing body shall provide the special district with a written analysis specifying the rationale for such denial. This written analysis must include, but is not limited to, the following information:

- a. A separate, detailed examination of each consideration listed in subparagraph 2.

- b. Specific examples of how the approved community redevelopment plan will benefit, and has already benefited, the purpose for which the special district was created.

6. The decision to either deny or grant an exemption must be made by the local governing body within 120 days after the date the written request was submitted to the local governing body pursuant to the procedures established by such local governing body.

- (3)(a) Notwithstanding the provisions of subsection (2), the obligation of the governing body which established the community redevelopment agency to fund the redevelopment trust fund annually shall continue until all loans, advances, and indebtedness, if any, and interest thereon, of a community redevelopment agency incurred as a result of redevelopment in a community redevelopment area have been paid.

(b) Alternate provisions contained in an interlocal agreement between a taxing authority and the governing body that created the community redevelopment agency may supersede the provisions of this section with respect to that taxing authority. The community redevelopment agency may be an additional party to any such agreement.

(4) The revenue bonds and notes of every issue under this part are payable solely out of revenues pledged to and received by a community redevelopment agency and deposited to its redevelopment trust fund. The lien created by such bonds or notes shall not attach until the increment revenues referred to herein are deposited in the redevelopment trust fund at the times, and to the extent that, such increment revenues accrue. The holders of such bonds or notes have no right to require the imposition of any tax or the establishment of any rate of taxation in order to obtain the amounts necessary to pay and retire such bonds or notes.

(5) Revenue bonds issued under the provisions of this part shall not be deemed to constitute a debt, liability, or obligation of the public body or the state or any political subdivision thereof, or a pledge of the faith and credit of the public body or the state or any political subdivision thereof, but shall be payable solely from the revenues provided therefor. All such revenue bonds shall contain on the face thereof a statement to the effect that the agency shall not be obligated to pay the same or the interest thereon except from the revenues of the community redevelopment agency held for that purpose and that neither the faith and credit nor the taxing power of the governing body or of the state or of any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bonds.

(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the community redevelopment plan for the following purposes, including, but not limited to:

(a) Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.

(b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.

(c) The acquisition of real property in the redevelopment area.

(d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.

(e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.

(f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the

ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

(g) The development of affordable housing within the community redevelopment area.

(h) The development of community policing innovations.

(7) On the last day of the fiscal year of the community redevelopment agency, any money which remains in the trust fund after the payment of expenses pursuant to subsection (6) for such year shall be:

(a) Returned to each taxing authority which paid the increment in the proportion that the amount of the payment of such taxing authority bears to the total amount paid into the trust fund by all taxing authorities for that year;

(b) Used to reduce the amount of any indebtedness to which increment revenues are pledged;

(c) Deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or

(d) Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan which project will be completed within 3 years from the date of such appropriation.

(8) Each community redevelopment agency shall provide for an audit of the trust fund each fiscal year and a report of such audit to be prepared by an independent certified public accountant or firm. Such report shall describe the amount and source of deposits into, and the amount and purpose of withdrawals from, the trust fund during such fiscal year and the amount of principal and interest paid during such year on any indebtedness to which increment revenues are pledged and the remaining amount of such indebtedness. The agency shall provide by registered mail a copy of the report to each taxing authority.

History.—s. 11, ch. 77-391; s. 78, ch. 79-400; s. 9, ch. 83-231; s. 15, ch. 84-356; s. 27, ch. 87-224; s. 35, ch. 91-45; s. 4, ch. 93-286; s. 10, ch. 94-236; s. 1, ch. 94-344; s. 10, ch. 98-314; s. 8, ch. 2002-18; s. 8, ch. 2002-294; s. 7, ch. 2006-307.

163.390 Bonds as legal investments.—All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a county or municipality pursuant to this part or by any community redevelopment agency vested with community redevelopment powers. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize all persons, political subdivisions, and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

History.—s. 13, ch. 69-305; s. 12, ch. 77-391; s. 16, ch. 84-356.

163.395 Property exempt from taxes and from levy and sale by virtue of an execution.—

(1) All property of any county, municipality, or community redevelopment agency, including funds, owned or held by it for the purposes of this part are exempt from levy and sale by virtue of an execution; and no execution or other judicial process may issue against the same, nor shall judgment against the county, municipality, or community redevelopment agency be a charge or lien upon such property. However, the provisions of this section do not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this part by the county or municipality on its rents, fees, grants, or revenues from community redevelopment.

(2) The property of the county, municipality, or community redevelopment agency acquired or held for the purposes of this part is declared to be public property used for essential public and governmental purposes, and such property is exempt from all taxes of the municipality, the county, or the state or any political subdivision thereof. However, such tax exemption will terminate when the county, municipality, or community redevelopment agency sells, leases, or otherwise disposes of such property in a community redevelopment area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

History.—s. 14, ch. 69-305; s. 13, ch. 77-391; s. 17, ch. 84-356.

163.400 Cooperation by public bodies.—

(1) For the purpose of aiding in the planning, undertaking, or carrying out of community redevelopment and related activities authorized by this part, any public body may, upon such terms, with or without consideration, as it may determine:

(a) Dedicate, sell, convey, or lease any of its interest in any property or grant easements, licenses, or other rights or privileges therein to a county or municipality.

(b) Incur the entire expense of any public improvements made by such public body in exercising the powers granted in this section.

(c) Do any and all things necessary to aid or cooperate in the planning or carrying out of a community redevelopment plan and related activities.

(d) Lend, grant, or contribute funds to a county or municipality; borrow money; and apply for and accept advances, loans, grants, contributions, or any other form of financial assistance from the Federal Government, the state, the county, another public body, or any other source.

(e) Enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with the Federal Government, a county, a municipality, or another public body respecting action to be taken pursuant to any of the powers granted by this part, including the furnishing of funds or other assistance in connection with community redevelopment and related activities.

(f) Cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished; furnish, dedicate, close, vacate,

pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places; plan or replan or zone or rezone any part of the public body or make exceptions from building regulations; and cause administrative and other services to be furnished to the county or municipality.

If at any time title to or possession of any property in a community redevelopment area is held by any public body or governmental agency, other than the county or municipality, but including any agency or instrumentality of the United States, which is authorized by law to engage in the undertaking, carrying out, or administration of community redevelopment and related activities, the provisions of the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency. As used in this subsection, the term “county or municipality” also includes a community redevelopment agency.

(2) Any sale, conveyance, lease, or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement, or public bidding.

(3) For the purpose of aiding in the planning, undertaking, or carrying out of any community redevelopment and related activities of a community redevelopment agency or a housing authority hereunder, any county or municipality may, in addition to its other powers and upon such terms, with or without consideration, as it determines, do and perform any or all of the actions or things which, by the provisions of subsection (1), a public body is authorized to do or perform, including the furnishing of financial and other assistance.

(4) For the purposes of this section, or for the purpose of aiding in the planning, undertaking, or carrying out of community redevelopment and related activities of a county or municipality, such county or municipality may, in addition to any authority to issue bonds pursuant to s. 163.385, issue and sell its general obligation bonds. Any bonds issued by the county or municipality pursuant to this section shall be issued in the manner and within the limitations prescribed by the applicable laws of this state for the issuance and authorization of general obligation bonds by such county or municipality. Nothing in this section shall limit or otherwise adversely affect any other section of this part.

History.—s. 15, ch. 69-305; s. 14, ch. 77-391; s. 79, ch. 79-400; s. 18, ch. 84-356.

163.405 Title of purchaser.—Any instrument executed by any county, municipality, or community redevelopment agency and purporting to convey any right, title, or interest in any property under this part shall be conclusively presumed to have been executed in compliance with the provisions of this part insofar as title or other interest of any bona fide purchasers, lessees, or transferees of such property is concerned.

History.—s. 16, ch. 69-305; s. 15, ch. 77-391.

163.410 Exercise of powers in counties with home rule charters.—In any county which has adopted a home rule charter, the powers conferred by this part

shall be exercised exclusively by the governing body of such county. However, the governing body of any such county which has adopted a home rule charter may, in its discretion, by resolution delegate the exercise of the powers conferred upon the county by this part within the boundaries of a municipality to the governing body of such a municipality. Such a delegation to a municipality shall confer only such powers upon a municipality as shall be specifically enumerated in the delegating resolution. Any power not specifically delegated shall be reserved exclusively to the governing body of the county. This section does not affect any community redevelopment agency created by a municipality prior to the adoption of a county home rule charter. Unless otherwise provided by an existing ordinance, resolution, or interlocal agreement between any such county and a municipality, the governing body of the county that has adopted a home rule charter shall grant in whole or in part or deny any request from a municipality for a delegation of powers or a change in an existing delegation of powers within 120 days after the receipt of all required documentation, or such request shall be deemed granted unless this period is extended by mutual consent in writing by the municipality and county. Within 30 days after receipt of the request, the county shall notify the municipality by registered mail whether the request is complete or if additional information is required. Any request by the county for additional documentation shall specify the deficiencies in the submitted documentation, if any. The county shall notify the municipality by registered mail within 30 days after receiving the additional information whether such additional documentation is complete. If the meeting of the county commission at which the request for a delegation of powers or a change in an existing delegation of powers is unable to be held due to events beyond the control of the county, the request shall be acted upon at the next regularly scheduled meeting of the county commission without regard to the 120-day limitation. If the county does not act upon the request at the next regularly scheduled meeting, the request shall be deemed granted.

History.—s. 17, ch. 69-305; s. 1, ch. 83-29; s. 9, ch. 2002-294; s. 8, ch. 2006-307.

163.415 Exercise of powers in counties without home rule charters.—The powers conferred by this part upon counties not having adopted a home rule charter shall not be exercised within the boundaries of a municipality within said county unless the governing body of the municipality expresses its consent by resolution. Such a resolution consenting to the exercise of the powers conferred upon counties by this part shall specifically enumerate the powers to be exercised by the county within the boundaries of the municipality. Any power not specifically enumerated in such a resolution of consent shall be exercised exclusively by the municipality within its boundaries.

History.—s. 18, ch. 69-305.

163.430 Powers supplemental to existing community redevelopment powers.—The powers conferred upon counties or municipalities by this part shall be supplemental to any community redevelopment

powers now being exercised by any county or municipality in accordance with the provisions of any population act, special act, or under the provisions of the home rule charter for Miami-Dade County, or under the provision of the charter of the consolidated City of Jacksonville.

History.—s. 21, ch. 69-305; s. 29, ch. 2008-4.

163.445 Assistance to community redevelopment by state agencies.—State agencies may provide technical and advisory assistance, upon request, to municipalities, counties, and community redevelopment agencies for community redevelopment as defined in this part. Such assistance may include, but need not be limited to, preparation of workable programs, relocation planning, special statistical and other studies and compilations, technical evaluations and information, training activities, professional services, surveys, reports, documents, and any other similar service functions. If sufficient funds and personnel are available, these services shall be provided without charge.

History.—s. 25, ch. 69-305; s. 16, ch. 77-391; s. 19, ch. 84-356.

163.450 Municipal and county participation in neighborhood development programs under Pub. L. No. 90-448.—Nothing contained herein shall be construed to prevent a county or municipality which is engaging in community redevelopment activities hereunder from participating in the neighborhood development program under the Housing and Urban Development Act of 1968 (Pub. L. No. 90-448) or in any amendments subsequent thereto.

History.—s. 26, ch. 69-305; s. 19, ch. 85-80.

163.463 Applicability of ch. 2002-294.—

(1) Amendments to this part, as provided by this act, do not apply to any ordinance or resolution authorizing the issuance of any bond, note, or other form of indebtedness to which are pledged increment revenues pursuant to a community development plan, or amendment or modification thereto, as approved or adopted before July 1, 2002.

(2) Amendments to this part, as provided by this act, shall not apply to any ordinance, resolution, interlocal agreement, or written agreement effective before July 1, 2002, that provides for the delegation of community redevelopment powers.

(3) The amendments to ss. 163.340, 163.355, 163.361, and 163.362 by this act do not apply to or affect, directly or indirectly, any community development agency created before July 1, 2002, unless the community redevelopment area is expanded on or after July 1, 2002, in which case only the amendments to ss. 163.340 and 163.355 by this act shall apply only to such expanded area.

(4) The amendments to ss. 163.340, 163.355, 163.361, and 163.362 by this act do not apply to or affect, directly or indirectly, any municipality that has authorized a finding of necessity study by May 1, 2002, or has adopted its finding of necessity on or before August 1, 2002, and has adopted its community redevelopment plan on or before December 31, 2002.

(5) The amendments to ss. 163.340, 163.355, 163.361, and 163.362 by this act do not apply to or

affect, directly or indirectly, any municipality that has submitted before August 1, 2002, its finding of necessity, or application for approval of a community redevelopment plan, or an application to amend an existing community redevelopment plan to a county that has adopted a home rule charter.

(6) The amendments to ss. 163.355, 163.362, 163.385, and 163.387 by this act do not apply to or affect, directly or indirectly, any county as defined in s. 125.011(1) or any municipality located therein.

History.—s. 10, ch. 2002-294.

PART IV

NEIGHBORHOOD IMPROVEMENT DISTRICTS

- 163.501 Short title.
- 163.502 Legislative findings and purpose.
- 163.503 Definitions.
- 163.5035 Safe neighborhood improvement districts; compliance with special district provisions.
- 163.504 Safe neighborhood improvement districts; planning funds.
- 163.5055 Registration of district establishment; notice of dissolution.
- 163.506 Local government neighborhood improvement districts; creation; advisory council; dissolution.
- 163.508 Property owners' association neighborhood improvement districts; creation; powers and duties; duration.
- 163.511 Special neighborhood improvement districts; creation; referendum; board of directors; duration; extension.
- 163.512 Community redevelopment neighborhood improvement districts; creation; advisory council; dissolution.
- 163.513 Crime prevention through community policing innovations, environmental design, environmental security, and defensible space functions of neighborhood improvement districts.
- 163.514 Powers of neighborhood improvement districts.
- 163.5151 Fiscal management; budget preparation.
- 163.516 Safe neighborhood improvement plans.
- 163.517 Safe Neighborhoods Program.
- 163.519 Duties of Department of Legal Affairs.
- 163.521 Neighborhood improvement district inside enterprise zone; funding.
- 163.5215 Effect.
- 163.522 State redevelopment programs.
- 163.523 Safe neighborhood districts; cooperation and involvement of community organizations.
- 163.524 Neighborhood Preservation and Enhancement Program; participation; creation of Neighborhood Preservation and Enhancement Districts; creation of Neighborhood Councils and Neighborhood Enhancement Plans.

- 163.526 Neighborhood Councils and local government designated agency; powers and duties.

163.501 Short title.—This part may be cited as the “Safe Neighborhoods Act.”

History.—s. 55, ch. 87-243; s. 1, ch. 91-86.

163.502 Legislative findings and purpose.—

(1) The Legislature hereby finds and declares that among the many causes of deterioration in the business and residential neighborhoods of the state are the following: proliferation of crime, automobile traffic flow strangled by outmoded street patterns, unsuitable topography, faulty lot layouts, fragmentation of land uses and parking areas necessitating frequent automobile movement, lack of separation of pedestrian areas from automobile traffic, lack of separation of vehicle traffic lanes and railroad traffic, and excessive noise levels from automobile traffic.

(2) The Legislature further finds and declares that safe neighborhoods are the product of planning and implementation of appropriate environmental design concepts, comprehensive crime prevention programs, land use recommendations, and beautification techniques.

(3) The Legislature further finds and declares that the provisions of this part and the powers granted to local governments, property owners' associations, special dependent districts, and community redevelopment neighborhood improvement districts are desirable to guide and accomplish the coordinated, balanced, and harmonious development of safe neighborhoods; to promote the health, safety, and general welfare of these areas and their inhabitants, visitors, property owners, and workers; to establish, maintain, and preserve property values and preserve and foster the development of attractive neighborhood and business environments; to prevent overcrowding and congestion; to improve or redirect automobile traffic and provide pedestrian safety; to reduce crime rates and the opportunities for the commission of crime; and to provide improvements in neighborhoods so they are defensible against crime.

(4) It is the intent of the Legislature to assist local governments in implementing plans that employ crime prevention through community policing innovations, environmental design, environmental security, and defensible space techniques to establish safe neighborhoods. The Legislature, therefore, declares that the development, redevelopment, preservation, and revitalization of neighborhoods in this state, and all the purposes of this part, are public purposes for which public money may be borrowed, expended, loaned, and granted.

History.—s. 56, ch. 87-243; s. 2, ch. 91-86; s. 11, ch. 98-314.

163.503 Definitions.—

(1) “Safe neighborhood improvement district,” “district,” or “neighborhood improvement district” means a district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for

commercial, office, business, or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques, or through community policing innovations. Nothing in this section shall preclude the inclusion of public land in a neighborhood improvement district although the amount of land used for public facilities is excluded from the land use acreage calculations.

(2) "Association" means a property owners' association which is incorporated for the purpose of creating and operating a neighborhood improvement district.

(3) "Department" means the Department of Legal Affairs.

(4) "Board" means the board of directors of a neighborhood improvement district, which may be the governing body of a municipality or county or the officers of a property owners' association or the board of directors of a special neighborhood improvement district or community redevelopment neighborhood improvement district.

(5) "Environmental security" means an urban planning and design process which integrates crime prevention with neighborhood design and community development.

(6) "Crime prevention through environmental design" means the planned use of environmental design concepts such as natural access control, natural surveillance, and territorial reinforcement in a neighborhood or community setting which is designed to reduce criminal opportunity and foster positive social interaction among the legitimate users of that setting.

(7) "Defensible space" means an architectural perspective on crime prevention through physical design of the environment to create the ability to monitor and control the environment along individual perceived zones of territorial influence that result in a proprietary interest and a felt responsibility.

(8) "Enterprise zone" means an area designated pursuant to s. 290.0065.

(9) "Community policing innovation" means techniques or strategies as defined by s. 163.340.

History.—s. 57, ch. 87-243; s. 24, ch. 88-381; s. 3, ch. 91-86; s. 61, ch. 94-136; s. 12, ch. 98-314.

163.5035 Safe neighborhood improvement districts; compliance with special district provisions.

Any special district created pursuant to this part shall comply with all applicable provisions contained in chapter 189. In cases where a provision contained in this part conflicts with a provision in chapter 189, the provision in chapter 189 shall prevail.

History.—s. 4, ch. 91-86.

163.504 Safe neighborhood improvement districts; planning funds.—

(1) The governing body of any municipality or county may authorize the formation of safe neighborhood improvement districts through the adoption of a planning ordinance which specifies that such districts may be created by one or more of the methods established in ss. 163.506, 163.508, 163.511, and

163.512. No district may overlap the jurisdictional boundaries of a municipality and the unincorporated area of a county, except by interlocal agreement.

(2) If the governing body of a municipality or county elects to create a safe neighborhood improvement district, it shall be eligible to request a grant from the Safe Neighborhoods Program, created pursuant to s. 163.517 and administered by the Department of Legal Affairs, to prepare a safe neighborhood improvement plan for the district.

(3) Municipalities and counties may implement the provisions of this section without planning funds from the Department of Legal Affairs. However, nothing in this section shall be construed to exempt any district from the requirements of providing a safe neighborhood improvement plan pursuant to s. 163.516.

History.—s. 58, ch. 87-243; s. 25, ch. 88-381; s. 5, ch. 91-86; s. 10, ch. 93-120.

163.5055 Registration of district establishment; notice of dissolution.—

(1)(a) Each neighborhood improvement district authorized and established under this part shall within 30 days thereof register with both the Department of Economic Opportunity and the Department of Legal Affairs by providing these departments with the district's name, location, size, and type, and such other information as the departments may require.

(b) Each local governing body that authorizes the dissolution of a district shall notify both the Department of Economic Opportunity and the Department of Legal Affairs within 30 days after the dissolution of the district.

(2) This section shall apply to all neighborhood improvement districts established on or after July 1, 1987.

History.—s. 6, ch. 91-86; s. 18, ch. 2012-96.

163.506 Local government neighborhood improvement districts; creation; advisory council; dissolution.—

(1) After a local planning ordinance has been adopted authorizing the creation of local government neighborhood improvement districts, the local governing body of a municipality or county may create local government neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(a) Specifies the boundaries, size, and name of the district.

(b) Authorizes the district to receive a planning grant from the department.

(c) Authorizes the local government neighborhood improvement district to levy an ad valorem tax on real and personal property of up to 2 mills annually.

(d) Authorizes the use of special assessments to support planning and implementation of district improvements pursuant to the provisions of s. 163.514(16), including community policing innovations.

(e) Designates the local governing body as the board of directors of the district.

(f) Establishes an advisory council to the board of directors comprised of property owners or residents of the district.

(g) May prohibit the use of any district power authorized by s. 163.514.

(h) Requires the district to notify the Department of Legal Affairs and the Department of Economic Opportunity in writing of its establishment within 30 days thereof pursuant to s. 163.5055.

(2) The advisory council shall perform such duties as may be prescribed by the governing body and shall submit within the time period specified by the governing body, acting as the board of directors, a report on the district's activities and a proposed budget to accomplish its objectives. In formulating a plan for services or improvements the advisory board shall consult in public session with the appropriate staff or consultants of the local governing body responsible for the district's plan.

(3) As an alternative to designating the local governing body as the board of directors, a majority of the local governing body of a city or county may appoint a board of three to seven directors for the district who shall be residents of the proposed area and who are subject to ad valorem taxation in the residential neighborhood improvement district or who are property owners in a commercial neighborhood improvement district. The directors shall be appointed for staggered terms of 3 years. The initial appointments shall be as follows: one director for a 1-year term; one director for a 2-year term; and one director for a 3-year term. If more than three directors are to be appointed, the additional members shall initially be appointed for 3-year terms. Vacancies shall be filled for the unexpired portion of a term in the same manner as the initial appointments were made. Each director shall hold office until his or her successor is appointed and qualified unless the director ceases to be qualified or is removed from office. Upon appointment and qualification and in January of each year, the directors shall organize by electing from their number a chair and a secretary.

(4) A district may be dissolved by the governing body by rescinding the ordinance creating the district. The governing body shall consider rescinding the ordinance if presented with a petition containing the signatures of 60 percent of the residents of a district.

History.—s. 59, ch. 87-243; s. 26, ch. 88-381; s. 7, ch. 91-86; s. 907, ch. 95-147; s. 13, ch. 98-314; s. 19, ch. 2012-96.

163.508 Property owners' association neighborhood improvement districts; creation; powers and duties; duration.—

(1) After a local planning ordinance has been adopted authorizing the creation of property owners' association neighborhood improvement districts, the local governing body of a municipality or county may create property owners' association neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(a) Establishes that an incorporated property owners' association representing 75 percent of all owners of property within a proposed district meeting the requirements of this section has petitioned the governing body of the municipality or county for creation of a district for the area encompassed by the property owned by members of the association.

(b) Specifies the boundaries, size, and name of the district.

(c) Authorizes the governing body through mutual agreement with the property owners' association to:

1. Request a matching grant from the state's Safe Neighborhoods Program to prepare the first year's safe neighborhood improvement plan. The provider of the local match for the state grant shall be mutually agreed upon between the governing body and the property owners' association. The governing body may agree to provide the match as a no-interest-bearing loan to be paid back from assessments imposed by the association on its members or shareholders.

2. Provide staff and other technical assistance to the property owners' association on a mutually agreed-upon basis, contractual or otherwise.

3. Prepare the first year's safe neighborhood improvement plan, which shall comply with and be consistent with the governing body's adopted comprehensive plan.

(d) Provides for an audit of the property owners' association.

(e) Designates the officers of the incorporated property owners' association as the board of directors of the district.

(f) May prohibit the use of any district power authorized by s. 163.514.

(g) Requires the district to notify the Department of Legal Affairs and the Department of Economic Opportunity in writing of its establishment within 30 days thereof pursuant to s. 163.5055.

(2) In order to qualify for the creation of a neighborhood improvement district, the property owners shall form an association in compliance with this section, or use an existing property owners' association in compliance with this section, which shall be a corporation, for profit or not for profit, and of which not less than 75 percent of all property owners within the proposed area have consented in writing to become members or shareholders. Upon such consent by 75 percent of the property owners in the proposed district, all consenting property owners and their successors shall become members of the association and shall be bound by the provisions of the articles of incorporation, the bylaws of the association, the covenants, the deed restrictions, the indentures, and any other properly promulgated restrictions. The association shall have no member or shareholder who is not a bona fide owner of property within the proposed district. Upon receipt of its certificate of incorporation, the property owners' association shall notify the clerk of the city or county court, whichever is appropriate, in writing, of such incorporation and shall list the names and addresses of the officers of the association.

(3) Any incorporated property owners' association operating pursuant to this part shall have the power:

(a) To negotiate with the governing body of a municipality or county for closing, privatizing, or modifying the rights-of-way, and appurtenances thereto, within the district.

(b) To utilize various legal instruments such as covenants, deed restrictions, and indentures to preserve and maintain the integrity of property, land, and rights-of-way owned and conveyed to it within the district.

(c) To make and collect assessments against all property within the boundaries of the district pursuant to the provisions of s. 163.514(16) and to lease, maintain, repair, and reconstruct any privatized street, land, or common area within the district upon dedication thereof to the association.

(d) Without the joinder of any property owner, to modify, move, or create any easement for ingress and egress or for the purpose of utilities, if such easement constitutes part of or crosses district property. However, this shall not authorize the association to modify or move any easement which is created in whole or in part for the use or benefit of anyone other than association members, or which crosses the property of anyone other than association members, without the consent or approval of such person as required by law or by the instrument creating the easement. Nothing in this paragraph shall affect the rights of ingress or egress of any member of the association.

(4) A property owners' association neighborhood improvement district shall continue in perpetuity as long as the property owners' association created pursuant to this section exists under the applicable laws of the state.

History.—s. 60, ch. 87-243; s. 27, ch. 88-381; s. 8, ch. 91-86; s. 11, ch. 93-120; s. 20, ch. 2012-96.

163.511 Special neighborhood improvement districts; creation; referendum; board of directors; duration; extension.—

(1) After a local planning ordinance has been adopted authorizing the creation of special neighborhood improvement districts, the governing body of a municipality or county may declare the need for and create special residential or business neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(a) Conditions the implementation of the ordinance on the approval of a referendum as provided in subsection (2).

(b) Authorizes the special neighborhood improvement district to levy an ad valorem tax on real and personal property of up to 2 mills annually.

(c) Authorizes the use of special assessments to support planning and implementation of district improvements pursuant to the provisions of s. 163.514(16), including community policing innovations.

(d) Specifies the boundaries, size, and name of the district.

(e) Authorizes the district to receive a planning grant from the department.

(f) Provides for the appointment of a 3-member board of directors for the district.

(g) May authorize a special neighborhood improvement district to exercise the power of eminent domain pursuant to chapters 73 and 74. Any property identified for eminent domain by the district shall be subject to the approval of the local governing body before eminent domain procedures are exercised.

(h) May prohibit the use of any district power authorized by s. 163.514.

(i) Requires the district to notify the Department of Legal Affairs and the Department of Economic Opportunity in writing of its establishment within 30 days thereof pursuant to s. 163.5055.

(j) May authorize a special neighborhood improvement district to develop and implement community policing innovations in consultation with the local law enforcement agency having jurisdiction within the district boundaries.

(2) A referendum to implement a special residential or business neighborhood improvement district shall be held within 120 days after the occurrence of one of the following:

(a) The governing body of the municipality or county declares, by the enactment of a separate ordinance pursuant to subsection (1), that there is a need for a special residential or business neighborhood improvement district to function within a proposed area; or

(b) A petition containing the signatures of 40 percent of the electors of a proposed special residential neighborhood improvement district area or 20 percent of the property owners of a proposed special business neighborhood improvement district area is presented to the county commission of a county, if the proposed area is located in the unincorporated area of the county, or to the governing body of a municipality, if the proposed area is located within the incorporated limits of the municipality. The petition shall define the proposed area and shall state that it is for the purpose of calling a referendum to determine whether a special residential or business neighborhood improvement district should be created in such proposed area.

(3)(a) The referendum to implement a special residential neighborhood improvement district ordinance shall be held as prescribed in this subsection.

(b) Within 45 days from the date the governing body of the municipality or county, whichever is appropriate, enacts an ordinance pursuant to subsection (1), or is presented with a petition pursuant to paragraph (2)(b), so that the boundaries of the proposed improvement district are defined, the city clerk or the supervisor of elections, whichever is appropriate, shall certify such ordinance or petition and compile a list of the names and last known addresses of the electors in the proposed special residential neighborhood improvement district from the list of registered voters of the county as of the last day of the month preceding that in which the ordinance was enacted or the petition was presented, and the same shall constitute the registration list for the purposes of the referendum required under this subsection, except as otherwise provided in this subsection.

(c) Within 45 days from compilation of the voter registration list pursuant to paragraph (b), the city clerk or the supervisor of elections shall notify each such elector of the general provisions of this section, including the taxing authority and the date of the upcoming referendum. Notification shall be by United States mail and, in addition thereto, by publication one time in a newspaper of general circulation in the county or municipality in which the district is located.

(d) Any resident of the district whose name does not appear on the list compiled pursuant to paragraph (b) may register to vote as provided by law. The registration list shall remain open for 75 days after enactment of the ordinance defining the special neighborhood

improvement district or after presentation of the petition calling for creation of the district.

(e)1. Within 15 days after the closing of registration, the city clerk or the supervisor of elections shall send a ballot to each elector at his or her last known mailing address by first-class United States mail. The ballot shall include:

a. A description of the general provisions of this section applicable to special residential neighborhood improvement districts; and

b. Immediately following said information, the following:

“Do you favor the creation of the _____
Special Residential Neighborhood Improvement
District and approve the levy of up to 2 mills of
ad valorem taxes by such proposed district?”

____Yes, for the Special Residential Neighborhood
Improvement District.

____No, against the Special Residential Neighbor-
hood Improvement District.”

2. Ballots shall be returned by United States mail, or by personal delivery.

(f) All ballots received within 120 days after enactment of the ordinance or presentation of the petition defining the district shall be tabulated by the city clerk or the supervisor of elections, who shall certify the results thereof to the city council or county commission no later than 5 days after said 120-day period.

(g) The electors shall be deemed to have approved of the provisions of this section at such time as the city clerk or the supervisor of elections certifies to the governing body of the municipality or county that approval has been given by a majority of the electors voting in the referendum.

(4)(a) The referendum to implement a special business neighborhood improvement district ordinance shall be held as prescribed in this subsection.

(b) Within 45 days from the date the governing body of the municipality or county, whichever is appropriate, enacts an ordinance pursuant to subsection (1), or is presented with a petition pursuant to paragraph (2)(b), so that the boundaries of the proposed improvement district are defined, the city clerk or the supervisor of elections, whichever is appropriate, shall certify such ordinance or petition and compile a list of the names and last known addresses of the freeholders in the proposed special business neighborhood improvement district from the tax assessment roll of the county applicable as of the thirty-first day of December in the year preceding the year in which the ordinance was enacted or the petition was presented, and the same shall constitute the registration list for the purposes of the freeholders' referendum required under this subsection, except as otherwise provided in this subsection.

(c) Within 45 days from compilation of the freeholders' registration list pursuant to paragraph (b), the city clerk or the supervisor of elections shall notify each such freeholder of the general provisions of this section, including the taxing authority and the date of the upcoming referendum, and the method provided for

submitting corrections to the registration list should the status of the freeholder have changed since the compilation of the tax rolls. Notification shall be by United States mail and, in addition thereto, by publication one time in a newspaper of general circulation in the county or municipality in which the district is located.

(d) Any freeholder whose name does not appear on the tax rolls compiled pursuant to paragraph (b) may register to vote with the city clerk or the supervisor of elections. The registration list shall remain open for 75 days after enactment of the ordinance defining the special business neighborhood improvement district or after presentation of the petition calling for creation of the district.

(e)1. Within 15 days after the closing of the registration list, the city clerk or the supervisor of elections shall send a ballot to each registered freeholder at his or her last known mailing address by first-class United States mail. The ballot shall include:

a. A description of the general provisions of this section applicable to special business neighborhood improvement districts;

b. The assessed value of the freeholder's property;

c. The percent of the freeholder's interest in such property; and

d. Immediately following said information, the following:

“Do you favor the creation of the _____
Special Business Neighborhood Improvement Dis-
trict and approve the levy of up to 2 mills of ad
valorem taxes by such proposed district?”

____Yes, for the Special Business Neighborhood
Improvement District.

____No, against the Special Business Neighbor-
hood Improvement District.”

2. Ballots shall be returned by United States mail or by personal delivery.

(f) All ballots received within 120 days after enactment of the ordinance or presentation of the petition defining the district shall be tabulated by the city clerk or the supervisor of elections, who shall certify the results thereof to the city council or county commission no later than 5 days after said 120-day period.

(g) The freeholders shall be deemed to have approved of the provisions of this section at such time as the city clerk or the supervisor of elections certifies to the governing body of the municipality or county that approval has been given by freeholders representing in excess of 50 percent of the assessed value of the property within the special business neighborhood improvement district.

(5)(a) The city clerk or the supervisor of elections, whichever is appropriate, shall enclose with each ballot sent pursuant to this section two envelopes: a secrecy envelope, into which the elector or freeholder shall enclose the marked ballot; and a mailing envelope, into which the elector or freeholder shall then place the secrecy envelope, which shall be addressed to the city clerk or the supervisor of elections. The back side of the

mailing envelope shall bear a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before Marking Ballot and Completing Voter's Certificate.

VOTER'S CERTIFICATE

I, _____, am a duly qualified and registered _____ (voter or freeholder, whichever is appropriate) of the proposed _____ (name) (Special Residential or Business, whichever is appropriate) Neighborhood Improvement District; and I am entitled to vote this ballot. I do solemnly swear or affirm that I have not and will not vote more than one ballot in this election. I understand that failure to sign this certificate and have my signature witnessed will invalidate my ballot.

(Voter's Signature)

Note: Your Signature Must Be Witnessed By One Witness 18 Years of Age or Older as provided in the Instruction Sheet.

I swear or affirm that the elector signed this Voter's Certificate in my presence.

(Signature of Witness)

(Address)

(City/State)

(b) The certificate shall be arranged on the back of the mailing envelope so that the lines for the signatures of the elector or freeholder and the attesting witness are across the seal of the envelope; however, no statement shall appear on the envelope which indicates that a signature of the elector, freeholder, or witness must cross the seal of the envelope. The elector or freeholder and the attesting witness shall execute the certificate on the envelope.

(6) The city clerk or the supervisor of elections shall enclose with each ballot sent to an elector or freeholder pursuant to this section separate printed instructions in substantially the following form:

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

1. VERY IMPORTANT. In order to ensure that your ballot will be counted, it should be completed and returned as soon as possible so that it can reach the city clerk or the supervisor of elections no later than 7 p.m. on the (final day of the 120-day period given here).

2. Mark your ballot in secret as instructed on the ballot.

3. Place your marked ballot in the enclosed secrecy envelope.

4. Insert the secrecy envelope into the enclosed mailing envelope, which is addressed to the city clerk or the supervisor of elections.

5. Seal the mailing envelope and completely fill out the Voter's Certificate on the back of the mailing envelope.

6. VERY IMPORTANT. Sign your name on the line provided for "(Voter's Signature)."

7. VERY IMPORTANT. In order for your ballot to be counted, it must include the signature and address of a witness 18 years of age or older affixed to the Voter's Certificate.

8. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

(7) The business and affairs of a special neighborhood improvement district shall be conducted and administered by a board of three directors who shall be residents of the proposed area and who are subject to ad valorem taxation in the district. Upon their appointment and qualification and in January of each year, the directors shall organize by electing from their number a chair and a secretary, and may also employ staff and legal representatives as deemed appropriate, who shall serve at the pleasure of the board and may receive such compensation as shall be fixed by the board. The secretary shall keep a record of the proceedings of the district and shall be custodian of all books and records of the district. The directors shall not receive any compensation for their services, nor may they be employed by the district.

(8) Within 30 days of the approval of the creation of a special neighborhood improvement district, if the district is in a municipality, a majority of the governing body of the municipality, or if the district is in the unincorporated area of the county, a majority of the county commission, shall appoint the three directors provided for herein for staggered terms of 3 years. The initial appointments shall be as follows: one for a 1-year term, one for a 2-year term, and one for a 3-year term. Each director shall hold office until his or her successor is appointed and qualified unless the director ceases to be qualified to act as a director or is removed from office. Vacancies on the board shall be filled for the unexpired portion of a term in the same manner as the initial appointments were made.

(9) Reappointment of the directors shall be accomplished in the same manner as the original appointments by the governing body of the municipality or county 2 months prior to the reappointment date.

(10) The governing body of a municipality or county may remove a director for inefficiency, neglect of duty, or misconduct in office only after a hearing and only if he or she has been given a copy of the charges at least 10 days prior to such hearing and has had an opportunity to be heard in person or by counsel. A vacancy so created shall be filled as provided herein.

(11) The district may employ a manager, who shall be a person of recognized ability and experience, to serve at the pleasure of the district. The manager may employ such employees as may be necessary for the proper administration of the duties and functions of the district. However, the district shall approve such positions and fix compensation for such employees. The district may contract for the services of attorneys, engineers, consultants, and agents for any lawful purpose of the district.

(12) The directors shall be subject to the code of ethics for public officers and employees as set forth in part III of chapter 112 and to the requirements of the public records law and public meetings law in chapters 119 and 286, respectively.

(13) Any special neighborhood improvement district created pursuant to this part shall cease to exist at the end of the tenth fiscal year of operation. Such a district

may continue in operation for subsequent 10-year periods if the continuation of the district is approved at a referendum conducted pursuant to this part. Said referendum shall be held upon one of the occurrences specified in subsection (2). Should the district cease to exist, all property owned by the district shall become property of the municipality or county in which the district is located.

(14) In the event the district is dissolved, the property owners in the district shall make alternate arrangements acceptable to the debtholders and local governments pertaining to payment of debts.

History.—s. 61, ch. 87-243; s. 28, ch. 88-381; s. 9, ch. 91-86; s. 908, ch. 95-147; s. 10, ch. 96-57; s. 14, ch. 98-314; s. 29, ch. 2003-415; s. 21, ch. 2012-96.

163.512 Community redevelopment neighborhood improvement districts; creation; advisory council; dissolution.—

(1) Upon the recommendation of the community redevelopment agency and after a local planning ordinance has been adopted authorizing the creation of community redevelopment neighborhood improvement districts, the local governing body of a municipality or county may create community redevelopment neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(a) Specifies the boundaries, size, and name of the district.

(b) Authorizes the district to receive a planning grant from the department.

(c) Authorizes the use of the community redevelopment trust fund created pursuant to s. 163.387 for the purposes of implementing the safe neighborhood improvement plan and furthering crime prevention through community policing innovations, environmental design, environmental security, and defensible space techniques, if expenditures from the community redevelopment trust fund are consistent with the community redevelopment plan created pursuant to s. 163.360.

(d) Designates the community redevelopment board of commissioners established pursuant to s. 163.356 or s. 163.357 as the board of directors for the district.

(e) Establishes an advisory council to the board of directors comprised of property owners or residents of the district.

(f) May prohibit the use of any district power authorized by s. 163.514.

(g) Requires that the safe neighborhood improvement plan be consistent with the community redevelopment plan created pursuant to s. 163.360, and permits the safe neighborhood improvement plan to be included in the community redevelopment plan as an optional element.

(h) Requires that the boundaries of the community redevelopment district be contained in whole within the community redevelopment area established pursuant to ss. 163.355 and 163.356.

(i) Requires the district to notify the Department of Legal Affairs and the Department of Economic Opportunity in writing of its establishment within 30 days thereof pursuant to s. 163.5055.

(2) The advisory council shall perform such duties as may be prescribed by the community redevelopment

board established pursuant to s. 163.356 and shall submit within the time period specified by the board of directors a report on the district's activities and a proposed budget to accomplish its objectives. In formulating a plan for services or improvements, the advisory council shall consult in public session with the appropriate staff or consultants of the community redevelopment board responsible for the district's plan.

(3) A district may be dissolved by the local governing body by rescinding the ordinance creating the district. The governing body shall consider rescinding the ordinance if presented with a petition containing the signatures of 60 percent of the residents of a district.

History.—s. 10, ch. 91-86; s. 15, ch. 98-314; s. 22, ch. 2012-96.

163.513 Crime prevention through community policing innovations, environmental design, environmental security, and defensible space functions of neighborhood improvement districts.—All boards of local governments, property owners' associations, special neighborhood improvement districts, and community redevelopment neighborhood improvement districts created pursuant to this part shall:

(1) Collect data on the types, frequency, severity, and location of criminal activity occurring in the district, including determination, from surveys and other research techniques, of the level of crime as perceived by neighborhood residents and comparison of the types of crime in the district on a per capita, citywide, and countywide basis.

(2) Provide an analysis of crimes related to land use and environmental and physical conditions of the district, giving particular attention to factors which support or create opportunities for crime, which impede natural surveillance, which encourage free circulation through the district, or which hinder the defense of social territories perceived by residents as under control. Any factor used to define or describe the conditions of the physical environment can serve as the basis of a crime-to-environment relationship. These factors include streets, alleys, sidewalks, residential blocks, position of dwellings on a block, single vs. multifamily dwellings, abandoned houses, parking areas and parking lots, informal pathways, functional areas of the environment, traffic flow patterns, and the existence of barriers such as fences, walls, gullies, and thick vegetation.

(3) Determine, from surveys and other data collection techniques, areas within the district where modification or closing of, or restriction of access to, certain streets in a manner consistent with crime prevention through community policing innovations, environmental design, environmental security, and defensible space principles would assist crime prevention and enhance neighborhood security for property owners and residents.

(4) Formulate and maintain on a current basis for each district short-range and long-range projects and plans which the crime-to-environment analysis, including surveys and citizen participation, has determined are applicable and utilize crime prevention through community policing innovations, environmental design, environmental security, and defensible space strategies and tactics which will improve the attractiveness and

security of the district by reducing criminal activity, will stabilize neighborhoods and enhance property values within the district, will promote proper use and informal control of residential streets within the district, will improve public facilities and amenities and provide for territorial control of streets and areas within the district by legitimate users, and will increase the probability that persons who commit crimes in the district will be apprehended.

(5) Prepare and initiate actions deemed most suitable for implementing safe neighborhood improvement plans, including modifications to existing street patterns and removal, razing, renovation, reconstruction, remodeling, relocation, and improvement of existing structures and facilities, and addition of new structures and facilities, and coordination with other agencies providing relevant informational, educational, and crime prevention services. The preparation of actions for implementation shall utilize crime prevention through community policing innovations, environmental design, environmental security, and defensible space strategies and tactics.

(6) Participate in the implementation and execution of safe neighborhood improvement plans, including any establishment, acquisition, construction, ownership, financing, leasing, licensing, operation, and management of publicly owned or leased facilities deemed beneficial in effecting such implementation for the public purposes stipulated in s. 163.502. However, this subsection shall not give the board, association, or district any power or control over any city or county property unless and until assigned to it by the city or county governing body. This subsection shall not be construed to give neighborhood improvement districts the power to restrict access to or prohibit the use of public facilities for lawful purposes.

(7) Ensure that all capital improvements within the district are consistent with the capital improvement elements of the applicable local government comprehensive plans.

History.—s. 62, ch. 87-243; s. 11, ch. 91-86; s. 16, ch. 98-314.

163.514 Powers of neighborhood improvement districts.—Unless prohibited by ordinance, the board of any district shall be empowered to:

(1) Enter into contracts and agreements and sue and be sued as a body corporate.

(2) Have and use a corporate seal.

(3) Acquire, own, convey, or otherwise dispose of, lease as lessor or lessee, construct, maintain, improve, enlarge, raze, relocate, operate, and manage property and facilities of whatever type to which it holds title and grant and acquire licenses, easements, and options with respect thereto.

(4) Accept grants and donations of any type of property, labor, or other thing of value from any public or private source.

(5) Have exclusive control of funds legally available to it, subject to limitations imposed by law or by any agreement validly entered into by it.

(6) Cooperate and contract with other governmental agencies or other public bodies.

(7) Contract for services of planning consultants, experts on crime prevention through community policing innovations, environmental design, environmental security, or defensible space, or other experts in areas pertaining to the operations of the board of directors or the district.

(8) Contract with the county or municipal government for planning assistance, and for increased levels of law enforcement protection and security, including additional personnel.

(9) Promote and advertise the commercial advantages of the district so as to attract new businesses and encourage the expansion of existing businesses.

(10) Promote and advertise the district to the public and engage in cooperative advertising programs with businesses located in the district.

(11) Improve street lighting, parks, streets, drainage, utilities, swales, and open areas, and provide safe access to mass transportation facilities in the district.

(12) Undertake innovative approaches to securing neighborhoods from crime, such as crime prevention through community policing innovations, environmental design, environmental security, and defensible space.

(13) Privatize, close, vacate, plan, or replan streets, roads, sidewalks, and alleys, subject to the concurrence of the local governing body and, if required, the state Department of Transportation.

(14) Prepare, adopt, implement, and modify a safe neighborhood improvement plan for the district.

(15) Identify areas with blighted influences, including, but not limited to, areas where unlawful urban dumping or graffiti are prevalent, and develop programs for eradication thereof.

(16)(a) Subject to referendum approval, make and collect special assessments pursuant to ss. 197.3632 and 197.3635 to pay for improvements to the district and for reasonable expenses of operating the district, including the payment of expenses included in the district's budget, subject to an affirmative vote by a majority of the registered voters residing in the district. Such assessments shall not exceed \$500 for each individual parcel of land per year. Notwithstanding the provisions of s. 101.6102, the referendum to approve the special assessment shall be by mail ballot.

(b) In order to implement this subsection, the city clerk or the supervisor of elections, whichever is appropriate, shall compile a list of the names and last known addresses of the electors in the neighborhood improvement district from the list of registered voters of the county as of the last day of the preceding month. The same shall constitute the registration list for the purposes of a referendum. Within 45 days after compilation of the voter registration list, the city clerk or the supervisor of elections shall notify each elector of the general provisions of this section, including the taxing authority and the date of the upcoming referendum. Notification shall be by United States mail and, in addition thereto, by publication one time in a newspaper of general circulation in the county or municipality in which the district is located.

(c) Any resident of the district whose name does not appear on the list compiled pursuant to paragraph (b) may register to vote as provided by law. The registration

list shall remain open for 75 days after the notification required in paragraph (b).

(d) Within 15 days after the closing of registration, the city clerk or the supervisor of elections shall send a ballot to each elector at his or her last known mailing address by first-class United States mail. The ballot shall include:

1. A description of the general provisions of this section applicable to the neighborhood improvement district; and

2. Immediately following said information, the following:

“Do you favor the imposition of a special assessment of not greater than \$500 for each individual parcel of land per year to pay for the expenses of operating the neighborhood improvement district?”

____ Yes, for the special assessment.

____ No, against the special assessment.”

(e) Ballots shall be returned by United States mail or by personal delivery.

(f) All ballots received within 60 days after the closing of registration shall be tabulated by the city clerk or the supervisor of elections, who shall certify the results thereof to the city governing body or county commission no later than 5 days after said 60-day period.

(17) Exercise all lawful powers incidental to the effective and expedient exercise of the foregoing powers.

History.—s. 63, ch. 87-243; s. 29, ch. 88-381; s. 12, ch. 91-86; s. 909, ch. 95-147; s. 17, ch. 98-314.

163.5151 Fiscal management; budget preparation.—

(1) Subject to agreement with the local governing body, all funds of the districts created pursuant to this part shall be received, held, and secured in the same manner as other public funds by the appropriate fiscal officers of the municipality in which the district is located, or the county if the district is located in the unincorporated portion of the county. The funds of the district shall be maintained under a separate account, shall be used for purposes authorized by this part, and shall be disbursed only by direction of or with approval of the district pursuant to requisitions signed by the manager or other designated chief fiscal officer of the district and countersigned by at least one other member of the board.

(2) The district bylaws shall provide for maintenance of minutes and other official records of its proceedings and actions; for preparation and adoption of an annual budget for each ensuing fiscal year; for internal supervision and control of its accounts, which function the appropriate city or county fiscal officers may perform for the district at its request; and for an external audit at least annually by an independent certified public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the district. A copy of the external audit shall be filed with the city clerk or the clerk of the court, whichever is appropriate, within 90 days

after the end of each fiscal year. The bylaws shall specify the means by which each of these functions is to be performed and, as to those functions assigned to district personnel, the manner and schedule of performance.

(3) Each special neighborhood improvement district shall establish its budget pursuant to the provisions of chapter 200. Prior to adoption of the final budget and setting of the millage rate to be levied by the board, the board shall submit a tentative budget and proposed millage rate of the district to the governing body of the municipality in which the district is located, or to the county if the district is located in the unincorporated portion of the county, for approval or disapproval. Such governing body shall have the power to modify the budget or millage submitted by the board. Subsequent to approval, the board shall adopt its final budget and millage rate in accordance with the requirements of chapter 200.

(4) At the option of the county property appraiser for the county within which the neighborhood improvement district is located, the assessments levied by the district shall be collected in the same manner as all ad valorem taxes if so requested by the local governing body pursuant to s. 197.363.

History.—s. 64, ch. 87-243; s. 30, ch. 88-381; s. 13, ch. 91-86.

163.516 Safe neighborhood improvement plans.

(1) A safe neighborhood improvement plan is mandated for all neighborhood improvement districts. The plan shall contain at least the following elements:

- (a) Demographics of the district.
- (b) Crime activity data and analysis.
- (c) Land use, zoning, housing, and traffic analysis.
- (d) Determination of the problems of the crime-to-environment relationship and the stability of the neighborhood improvement district.
- (e) Statement of the district's goal and objectives.
- (f) Assessment of crime prevention through community policing innovations, environmental design, environmental security, and defensible space strategies and tactics that will be applied to the crime-to-environment relationship problems.
- (g) Cost estimates and the methods of financing.
- (h) Outline of program participants and their functions and responsibilities.
- (i) Schedule for executing program activities.
- (j) Evaluation guidelines.

(2) Every safe neighborhood improvement plan shall show, by diagram and by general explanation:

(a) Such property as is intended for use as public parks, recreation areas, streets, public utilities, and public improvements of any nature.

(b) Specific identification of any publicly funded capital improvement projects to be undertaken within the district.

(c) Adequate assurances that the improvements will be carried out pursuant to the plan.

(d) Provision for the retention of controls and the establishment of any restrictions or covenants running with land sold or leased for private use for such periods of time and under such conditions as the governing body of the municipality in which the district is located,

or the county if the district is located in the unincorporated portion of the county, deems necessary to effectuate the purposes of this part.

(e) Projected costs of improvements, including the amount to be expended on publicly funded capital improvement projects in the district and any indebtedness of the district, the county, or the municipality proposed to be incurred if such indebtedness is to be repaid with district revenues.

(f) Promotion of advertising programs to be undertaken by the district or in conjunction with businesses in the district.

(g) Suggested physical improvements necessary for the safety of residents in or visitors to the district.

(h) Law enforcement and security plans for the district.

(3) The safe neighborhood improvement plan shall:

(a) Be consistent with the adopted comprehensive plan for the county or municipality pursuant to the Community Planning Act. No district plan shall be implemented unless the local governing body has determined said plan is consistent.

(b) Be sufficiently complete to indicate such land acquisition, demolition and removal of structures, street modifications, redevelopment, and rehabilitation as may be proposed to be carried out in the district.

(c) Provide some method for and measurement of the reduction of crime within the district.

(4) The county, municipality, or district may prepare or cause to be prepared a safe neighborhood improvement plan, or any person or agency, public or private, may submit such a plan to a district. Prior to its consideration of a safe neighborhood improvement plan, the district shall submit such plan to the local governing body for review and written approval as to its consistency with the local government comprehensive plan. The district must be notified of approval or disapproval within 60 days after receipt of the plan for review, and a revised version of the plan may be submitted to satisfy any inconsistencies. The district may not proceed with the safe neighborhood improvement plan until final approval is given by the local governing body.

(5) Prior to adoption of the safe neighborhood improvement plan, the board shall hold a public hearing on the plan after public notice thereof by publication in a newspaper of general circulation in the county or municipality in which the district is located. The notice shall describe the time, date, place, and purpose of the hearing; identify the boundaries of the district; and outline the general scope of the plan.

(6) The board, after the public hearing, may approve the safe neighborhood improvement plan if it finds:

(a) The plan has been approved as consistent with the local comprehensive plan by the local governing body; and

(b) The plan will improve the promotion, appearance, safety, security, and public amenities of the neighborhood improvement district as stipulated in s. 163.502.

(7) If, at any time after approval of the safe neighborhood improvement plan, it becomes desirable to amend or modify the plan, the board may do so. Prior

to any such amendment or modification, the board shall obtain written approval of the local governing body concerning conformity to the local government comprehensive plan and hold a public hearing on the proposed amendment or modification after public notice thereof by publication in a newspaper of general circulation in the county or municipality in which the district is located. The notice shall describe the time, place, and purpose of the hearing and generally describe the proposed amendment or modification.

(8) Pursuant to s. 163.3184, the governing body of a municipality or county shall hold two public hearings to consider the board-adopted safe neighborhood improvement plan as an amendment or modification to the municipality's or county's adopted local comprehensive plan.

(9) A safe neighborhood improvement plan for each district shall be prepared and adopted by the municipality or county prior to the levy and expenditure of any of the proceeds of any tax assessment or fee authorized to such districts other than for the preparation of the safe community or business improvement plan.

History.—s. 65, ch. 87-243; s. 14, ch. 91-86; s. 14, ch. 92-129; s. 18, ch. 98-314; s. 34, ch. 2011-139.

163.517 Safe Neighborhoods Program.—

(1) The Safe Neighborhoods Program is hereby created. The purpose of the program shall be to provide planning grants and technical assistance on a 100-percent matching basis to the neighborhood improvement districts authorized by this part. Planning grants shall be awarded to eligible applicants, pursuant to the process described in subsections (2) and (3), as follows:

(a) Property owners' association neighborhood improvement districts may receive up to \$20,000.

(b) Local government neighborhood improvement districts may receive up to \$100,000.

(c) Special neighborhood improvement districts may receive up to \$50,000.

(d) Community redevelopment neighborhood improvement districts may receive up to \$50,000.

(2) Applications for planning grants from the Safe Neighborhoods Program shall be considered when the following criteria are met:

(a) Verification that the local governing body has passed an ordinance creating neighborhood improvement districts.

(b) Verification of commitment to provide matching funds for purposes of planning for neighborhood improvement districts. A local match may include in-kind services such as office space and supplies. The fair market value of such in-kind services must be documented.

(3) All applications determined to be eligible for consideration shall be reviewed, evaluated, and rank ordered based on the following criteria:

(a) Evidence of commitment from neighborhood organizations, homeowners, property owners, business or merchant's associations, or concerned individuals to participate in the activities of their neighborhood improvement districts.

(b) Need of the community for neighborhood improvement districts for purposes of reducing crime, including the degree to which crime data indicates an

escalation of criminal activities which impact area physical and economic conditions, identification of environmental factors which support criminal activities, previous crime prevention plans and efforts which impact the physical environment, excessive traffic counts for residential roads, and crime rates in enterprise zones and in business and commercial areas.

(c) Need of the community for state planning funds to successfully implement neighborhood improvement districts, including consideration of the community's existing planning, law enforcement, and other appropriate local services and resources.

(4) Population distribution of Florida's cities and counties shall be considered in order to give communities of all sizes an opportunity to benefit from the matching funds provided by the Safe Neighborhoods Program for the establishment of neighborhood improvement districts. No more than one neighborhood improvement district within the boundaries of a local government shall be awarded a planning grant in any given funding cycle.

(5) Each neighborhood improvement district which receives funds under this section shall submit an audit to the department. Such audits shall be submitted no less than one time per year. Neighborhood improvement districts must submit an audit to the department at least 30 days prior to making application for additional planning grants. A local government audit performed in accordance with the provisions of chapter 218, covering the period of the grant, may be submitted to satisfy this requirement.

History.—s. 66, ch. 87-243; s. 36, ch. 91-45; s. 15, ch. 91-86; s. 9, ch. 93-120; s. 47, ch. 2012-116.

163.519 Duties of Department of Legal Affairs. The Department of Legal Affairs shall:

(1) Develop program design and criteria for funding neighborhood improvement districts.

(2) Carry out the development, promulgation, and revision of rules required for the operation of the Safe Neighborhoods Program, the capital improvements provisions contained in s. 163.521, and any other duties assigned to the department by this part.

(3) Develop application and review procedures.

(4) Provide advice and technical assistance to local government units, property owners' associations, and boards of directors for special neighborhood improvement districts and community redevelopment neighborhood improvement districts in their efforts to promote the goals of the Safe Neighborhoods Act and to apply for planning grants.

(5) Review and evaluate applications for planning and technical assistance.

(6) Provide for contract management, including the review of contract closeout reports for accountability and conformance with state law and the required administrative procedures.

(7) Evaluate program performance in light of state objectives and future trends and opportunities and prepare recommendations for the Legislature.

(8) Act as the repository of crime prevention through community policing innovations; environmental design strategies, principles, and tactics; environmental

security plans and procedures; defensible space techniques; and safe neighborhood improvement plans.

(9) Utilize staff to provide crime prevention through community policing innovations, environmental design, environmental security, and defensible space training.

(10) Provide for consultant contracts for statewide training on safe neighborhood development for planners, engineers, local officials, property owners' associations, and boards of directors of special neighborhood improvement districts.

(11) Review and approve or disapprove safe neighborhood improvement plans prior to the adoption by the local governing body of any safe neighborhood improvement plan created pursuant to s. 163.516. Plans shall be submitted to the department for review and approval or disapproval. All such reviews shall:

(a) Ensure that appropriate plan elements are based on crime prevention through community policing innovations, environmental design, environmental security, or defensible space.

(b) Ensure that appropriate plan elements are consistent with crime prevention through community policing innovations, environmental design, environmental security, and defensible space functions of neighborhood improvement districts as listed in s. 163.513.

(c) Be completed within 60 days after receipt by the department with a detailed explanation of any deficiencies. The district shall submit the required modifications within 60 days after notification of the deficiencies, unless there is compelling evidence that an extension should be granted. After that time the department may withhold any payments to the neighborhood improvement district until compliance is made and may withhold submission to the Legislature of any capital improvement requests made pursuant to s. 163.521.

History.—s. 68, ch. 87-243; s. 17, ch. 91-86; s. 12, ch. 93-120; s. 19, ch. 98-314; s. 45, ch. 2010-102.

163.521 Neighborhood improvement district inside enterprise zone; funding.—The local governing body of any municipality or county in which the boundaries of an enterprise zone include a neighborhood improvement district in whole or in part, prior to October 1 of each year, may request the Department of Legal Affairs to submit within its budget request to the Legislature provisions to fund capital improvements. A request may be made for 100 percent of the capital improvement costs for 25 percent of the area of the enterprise zone which overlaps the district. The local governing body may also request a 100-percent matching grant for capital improvement costs for the remaining 75 percent of the area of the enterprise zone which overlaps the district. Local governments must demonstrate the capacity to implement the project within 2 years after the date of the appropriation. Funds appropriated under this provision may not be expended until after completion and approval of the safe neighborhood improvement plan pursuant to ss. 163.516 and 163.519(11). Capital improvements contained within the request submitted by the local governing body must be specifically related to crime prevention through community policing innovations, environmental design, environmental security, and defensible space and must

be reviewed by the department for compliance with the principles of crime prevention through community policing innovations, environmental design, environmental security, and defensible space. The department shall rank order all requests received for capital improvements funding based on the necessity of the improvements to the overall implementation of the safe neighborhood plan; the degree to which the improvements help the plan achieve crime prevention through community policing innovations, environmental design, environmental security, and defensible space objectives; the effect of the improvements on residents of low or moderate income; and the fiscal inability of local government to perform the improvements without state assistance.

History.—s. 69, ch. 87-243; s. 31, ch. 88-381; s. 18, ch. 91-86; s. 20, ch. 98-314.

163.5215 Effect.—The provisions of this part shall not be construed to modify, limit, expand, or supersede any existing laws relating to the closing or abandonment of public roads, the denial of access to areas for public ingress or egress, or the use of public facilities.

History.—s. 19, ch. 91-86.

163.522 State redevelopment programs.—

(1) Any county or municipality which has nominated an area as an enterprise zone pursuant to s. 290.0055 which has been so designated pursuant to s. 290.0065 is directed to give consideration to the creation of a neighborhood improvement district within said area.

(2) Any county or municipality which has authorized the creation of a community redevelopment area pursuant to part III of this chapter is directed to give consideration to the creation of a neighborhood improvement district within said area.

History.—s. 70, ch. 87-243; s. 20, ch. 91-86; s. 62, ch. 94-136.

163.523 Safe neighborhood districts; cooperation and involvement of community organizations.

To the extent possible, local governments may cooperate and seek the involvement of community organizations such as churches, chambers of commerce, community development corporations, civic associations, neighborhood housing services, urban leagues, and other not-for-profit organizations in the creation of safe neighborhood improvement districts under this part. Any neighborhood improvement district may enter into agreements with any of such community organizations to undertake any of the activities authorized under this part, except the preparation of safe neighborhood improvement plans. To this end, the district may compensate any such organization for the value of its service. However, such compensation shall not exceed 1 percent of the total annual budget of the district. The community organization may also contract with the district to provide maintenance services for projects implemented in the district. The fee for such services shall not exceed 2 percent of the total budget for the district's project for which services are to be rendered. All service agreements made with community organizations shall have a renewable term of no longer than 3 years. A district may receive funds from such

organizations in connection with the performance of any of the functions authorized in this part.

History.—s. 32, ch. 88-381.

163.524 Neighborhood Preservation and Enhancement Program; participation; creation of Neighborhood Preservation and Enhancement Districts; creation of Neighborhood Councils and Neighborhood Enhancement Plans.—

(1) The governing body of any municipality or county may authorize its participation in the Neighborhood Preservation and Enhancement Program through the adoption of a local ordinance. After a local ordinance has been adopted authorizing the participation of the local government in the Neighborhood Preservation and Enhancement Program, the local government shall notify the residents within the boundaries of the local government about the program. The local government shall designate or create an agency that shall be responsible for the enforcement of Neighborhood Enhancement Plans. This agency may be the local code enforcement board, county sheriff, municipal police department, or any other agency the local government feels will provide adequate enforcement of the adopted Neighborhood Enhancement Plans.

(2) Neighborhood Preservation and Enhancement Districts shall be created as follows:

(a) Residents of a particular neighborhood may initiate the creation of a district in their area by notifying the local government planning agency. The planning agency shall assist those residents to define the boundaries and size of the district; or

(b) The municipality or county may initiate the creation of a district by identifying those areas which are in need of enhancement and approaching the residents of the identified neighborhood to encourage the formation of a Neighborhood Preservation and Enhancement District. The identified neighborhood and the municipality or county shall define the district's boundaries and size.

(3) After the boundaries and size of the Neighborhood Preservation and Enhancement District have been defined, the local government shall pass an ordinance authorizing the creation of the Neighborhood Preservation and Enhancement District. The ordinance shall contain a finding that the boundaries of the Neighborhood Preservation and Enhancement District meet the provisions of s. 163.340(7) or (8)(a)-(n) or do not contain properties that are protected by deed restrictions. Such ordinance may be amended or repealed in the same manner as other local ordinances.

(4) The residents within the Neighborhood Preservation and Enhancement District shall create a Neighborhood Council. The Neighborhood Council shall consist of five members who reside in the district chosen by residents of the district in an election at a noticed public meeting, subject to approval by the local governing body. The five members shall choose among themselves a president, vice president, secretary, and other officers as needed.

(5) The Neighborhood Council and local government planning agency shall be eligible to receive grants

from the Safe Neighborhoods Program as provided in s. 163.517.

(6) The Neighborhood Council and the local government planning agency shall prepare a Neighborhood Enhancement Plan. The Neighborhood Enhancement Plan shall consist of at least the following elements:

- (a) Boundaries and size of the district.
- (b) Total population and number of households in the district.
- (c) Land use zoning and housing in the district.
- (d) Statement of goals and objectives of the district.
- (e) Strategies and policies to enhance the district.
- (f) Minimum standards for property maintenance, building codes, and community aesthetics.
- (g) Strategies to implement and evaluate the plan.

(7) The Neighborhood Enhancement Plan shall be consistent with the intent of the adopted comprehensive plan for the county or municipality.

(8) The Neighborhood Enhancement Plan shall not regulate any activity that is subject to regulation under chapter 378, and it shall not contain any requirements that are inconsistent with, or more stringent than, requirements established by any state agency or water management district.

(9) The Neighborhood Enhancement Plan shall be adopted by ordinance by the local governing body. The standards and requirements of the Neighborhood Enhancement Plan shall be reasonable considering the existing character of the community and local economic conditions.

(10) Prior to the adoption of the Neighborhood Enhancement Plan, the local government planning agency and Neighborhood Council shall hold a joint public hearing on the plan after public notice by the local government by publication in a newspaper of general circulation in the county or municipality in which the district is located. The notice shall describe the time, date, place, and purpose of the hearing; identify the boundaries of the district; and outline the general scope of the plan as required by law.

(11) If at any time after approval of the Neighborhood Enhancement Plan, it becomes desirable to amend or modify the plan, the local governing body may do so. Prior to any such amendment or modification, the local government planning agency and the Neighborhood Council shall hold a joint public hearing on the proposed amendment or modification after public notice by the local government by publication in a newspaper of general circulation in the county or municipality in which the district is located. The notice shall describe the time, place, and purpose of the hearing and shall generally describe the proposed amendment or modification.

(12) Nothing in this section shall supersede or conflict with s. 823.14.

History.—s. 1, ch. 95-289; s. 12, ch. 2004-5.

163.526 Neighborhood Councils and local government designated agency; powers and duties.—

(1) The Neighborhood Councils shall have all of the following powers and duties:

- (a) All those specified in ss. 163.514 and 163.5151.
- (b) To record all complaints of alleged violations of the standards and codes specified within the

Neighborhood Enhancement Plan brought by any resident of the district.

(c) To identify plan violations and problem areas.

(d) If the alleged complaint or problem is found to be valid, to notify that property owner of noncompliance with the plan.

(e) If the property owner does not adequately respond to the notification of the plan violation within a reasonable amount of time, to negotiate informally with the property owner to reach an agreement to bring the property owner into compliance with the plan.

(f) If the negotiation process fails to remedy the alleged violation of the plan, to report the alleged violation to the designated agency of the local government.

(g) If after 30 days the council is dissatisfied with the response of the designated agency of the local government, to request written notification from the designated agency of the steps taken to remedy the alleged violation.

(h) If the council is still dissatisfied 30 days after receipt of written notification, to request an audience before the local governing body to resolve its differences with the designated agency.

(i) To hold public meetings at least once quarterly to: solicit and listen to suggestions and complaints regarding alleged violations of the Neighborhood Enhancement Plan; discuss alleged violations and issues of concern in the neighborhood; and listen and respond to complaints regarding the activity or inactivity of the Neighborhood Council. At least three members must be present at the public meeting to constitute a quorum. No resident or property owner in the district shall be prohibited from addressing the council.

(2) The designated agency of the local government shall have all of the following powers and duties:

(a) Upon receipt of an alleged plan violation from the Neighborhood Council, the designated agency of the local government shall provide the Neighborhood Council with written acknowledgment of receipt of the alleged violation.

(b) The designated agency of the local government shall notify the property owner that the owner may be in violation of the requirements and standards of the Neighborhood Enhancement Plan. The designated agency is entitled to exercise all the powers under chapter 162 to enforce any alleged plan violation.

(c) The designated agency shall, at the request of the Neighborhood Council, provide written notification of the steps taken to remedy the alleged violation.

(3) If requested, the local governing body shall, pursuant to this section, grant the Neighborhood Council an audience to resolve the council's differences or dissatisfaction with the designated agency.

History.—s. 2, ch. 95-289.

PART V

REGIONAL TRANSPORTATION AUTHORITIES

- 163.565 Short title.
- 163.566 Definitions.

- 163.567 Regional transportation authorities.
- 163.568 Purposes and powers.
- 163.569 Exemption from regulation.
- 163.570 Special region taxation.
- 163.571 Issuance of bonds.
- 163.572 Expansion of area.

163.565 Short title.—This part shall be known and may be cited as the “Regional Transportation Authority Law.”

History.—s. 1, ch. 71-373; s. 1, ch. 73-278.

163.566 Definitions.—As used in this part, and unless the context clearly indicates otherwise:

(1) “Authority” means a body politic and corporate created pursuant to this part.

(2) “Member” means the municipality, county, or political subdivision which, in combination with another member or members, comprises the authority.

(3) “Board of directors,” hereinafter referred to as the board, means the governing body of the authority.

(4) “Director” means a person appointed to the board by a member. No person who serves without salary as a director or in any other appointed position of the authority shall be in violation of s. 99.012 by reason of holding such office.

(5) “Regional transportation area” means that area the boundaries of which are identical to the boundaries of the political subdivisions or other legal entities which constitute the authority.

(6) “Municipality” means any city with a population of over 50,000 within the regional transportation area.

(7) “County” means any county within the regional transportation area.

(8) “Public transportation” means transportation of passengers by means, without limitation, of a street railway, elevated railway or guideway, subway, motor vehicle, motor bus, or any bus or other means of conveyance operating as a common carrier within the regional transportation area, including charter service therein.

(9) “Public transportation system” means, without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, plants, vehicle parking or other facilities, and rights-of-way, or any combination thereof, used or useful for the purposes of public transportation.

(10) “Operator” means any person engaged in, or intending to engage in, the business of providing public transportation, but does not include a person engaged primarily in the transportation of children to or from school or a person or entity furnishing transportation solely for his or her or its employees or customers.

(11) “Transportation facility” or “transportation facilities” means the property or property rights, both real and personal, of a type used for the establishment of public transportation systems which have heretofore been, or may hereafter be, established by public bodies for the transportation of people and property from place to place.

(12) “Population” means the population as determined under the provisions of s. 186.901.

History.—s. 2, ch. 71-373; s. 1, ch. 73-278; s. 1, ch. 77-174; s. 28, ch. 87-224; s. 33, ch. 91-107; s. 910, ch. 95-147.

163.567 Regional transportation authorities.—

(1) Any two or more contiguous counties, municipalities, other political subdivisions, or combinations thereof in this state are authorized and empowered to convene a charter committee for the purpose of developing a charter under which a regional transportation authority, hereinafter referred to as “authority,” may be constituted, composed, and operated as delineated in this part. However, no county, municipality, or other political subdivision may be a member in more than one authority created under this part.

(2) Upon the decision by such governing bodies to convene the committee, each shall appoint one representative for the first 100,000 population or fraction thereof over 50,000, plus one additional representative for each additional 100,000 population to the charter committee, except that the population of any participating municipality shall be subtracted from the county’s population in determining county representation. The committee shall meet for the purpose of preparing the authority’s charter. The charter, in addition to the purposes and powers provided in s. 163.568, shall contain:

(a) The formula for representation and voting of the members based on population, but in no event shall the Governor’s appointees have less than one vote each.

(b) Any limitations on the authority’s powers of eminent domain beyond those limitations contained in s. 163.568 and deemed necessary for the authority’s purposes.

(c) The duration of the authority and the method by which it may be terminated or withdrawn from by any participating member prior to the stated date of termination, if any.

(d) The manner in which the authority members will provide from their treasuries the financial support for the authority.

(e) A method or formula for equitably providing for and allocating and financing the capital and operating costs, including payments to reserve funds authorized by law and payments of principal and interest on obligations.

(f) The manner in which strict budgeting and accountability of all funds shall be provided for and the manner in which reports, including an annual independent audit, of all receipts and disbursements shall be prepared and presented to each participating member.

(g) Any other necessary and proper matters agreed upon by the charter committee.

(3) The charter and all subsequent amendments thereto shall be duly executed by the governing bodies of all members and shall be filed with the Department of State, at which time the authority shall be activated and legally constituted.

(4) When the charter is filed with the Department of State, the Governor shall be notified that such action has been taken, and the Governor shall within 20 days appoint two members to the authority. Within 25 days from the filing of the charter, each member shall appoint its director or directors, and the first meeting of the authority shall be held.

(5) In addition to other funding as prescribed in this part, any member joining the authority shall agree to provide the authority with funds to be used only for planning and administration for a period not to exceed 5 years from such time as the authority was formally constituted. These total funds shall not exceed \$300,000 per annum, and the cost shall be duly apportioned among the members by a ratio based on population. Any member may, of its own accord, pay more than its apportioned share of the funds.

(6) After the authority has been in existence for a period of not less than 12 months, municipalities having less than 50,000 population may be admitted as fully participating members if agreed upon by at least a three-fourths vote of all the members of the board of directors.

(7) Subsequent to the activation of the authority, contiguous counties, municipalities, or other political subdivisions not participating initially may become members of the authority with the same benefits as the initial members, upon approval by a majority vote of the board.

(8) The board of directors of the authority shall consist of at least one director representing each member, and two directors appointed by the Governor. In no event shall the board be composed of less than five directors, including the two appointed by the Governor. Each member shall initially appoint one director for a 3-year term. Of those members appointing more than one director, the remaining directors shall be appointed initially for a term of 2 years. Thereafter, all directors shall be appointed for 3-year terms.

(9) Each director shall hold office until his or her successor has been appointed and qualified. A vacancy occurring during a term shall be filled only for the balance of the unexpired term. The first directors shall be selected as provided above. An appointment to fill a vacancy shall be made within 20 days after the occurrence of the vacancy or before expiration of the term, whichever is applicable. If no appointment is made within the prescribed time by the appointing member, the board, by a majority vote, shall appoint an eligible person to the board with like effect as if the appointment were made by the member. However, if the board does not appoint an eligible person within 10 days, the appointment shall then be made by the Governor within 10 days thereafter. Any director shall be eligible for reappointment.

(10) The board shall elect one of its directors as chair and one as vice chair to serve for 1 year in that capacity or until their successors are elected. A majority of the directors shall constitute a quorum. A vacancy on the board shall not impair its right to exercise all of its powers and perform all of its duties. Any vacancy not filled within the period prescribed by this section shall be filled by appointment of the board. Upon the effective date of his or her appointment, or as soon thereafter as practicable, each director shall enter upon his or her duties.

(11) A director of the board may be removed from office by the Governor or by the appointing member for misconduct, malfeasance, misfeasance, or neglect of

duty in office. Any vacancy so created shall be filled as provided above.

(12) The authority may employ an executive administrator, who shall be a person of recognized ability and experience, to serve at the pleasure of the authority. The executive administrator may employ such employees as may be necessary for the proper administration of the duties and functions of the authority and may determine the qualifications of such persons; however, the board shall approve such positions and fix compensation for employees. The authority may contract for the services of attorneys, engineers, consultants, and agents for any purpose of the authority, including engineering, architectural design, management, feasibility, transportation planning, and other studies concerning the design of facilities and the acquisition, construction, extension, operation, maintenance, regulation, consolidation, and financing of transportation systems in the area.

(13) Directors of the board shall be entitled to receive their travel and other necessary expenses incurred in connection with the business of the authority, as provided in s. 112.061, but they shall receive no salaries or other compensation.

History.—s. 3, ch. 71-373; s. 1, ch. 73-278; s. 911, ch. 95-147.

163.568 Purposes and powers.—

(1) The authority created and established by this part is granted the authority to purchase, own, or operate, or provide for the operation of, transportation facilities; to contract for transit services; to exercise power of eminent domain limited to right-of-way and contiguous transportation facility acquisition and subject to any further limitations set forth in the authority charter; to conduct studies; and to contract with other governmental agencies, private companies and individuals. However, no public transportation system shall be purchased, owned, or operated that would be in the continued business of competing with existing private charter transportation companies for charter business, nor shall a new system be implemented where an existing transportation system of the same mode is operating a comparable service without first purchasing said existing system through negotiation.

(2) The authority is granted the authority to exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, complain and defend in all courts.

(b) To adopt, use, and alter at will a corporate seal.

(c) To acquire, purchase, hold, lease as a lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer and dispose of any property or interest therein acquired by it.

(d) To fix, alter, charge, and establish rates, fares, and other charges for the services and facilities within the area, which rates, fees, and charges shall be equitable and just.

(e) To acquire and operate, or provide for the operation of, local transportation systems, public or private, within the area, the acquisition of such system to be by negotiation and agreement between the authority and the owner of the system to be acquired.

(f) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(g) To enter into management contracts with any person or persons for the management of a public transportation system owned or controlled by the authority for such period or periods of time, and under such compensation and other terms and conditions, as shall be deemed advisable by the authority.

(h) Without limitation, to borrow money and issue evidence of indebtedness and to accept gifts or grants or loans of money or other property and to enter into contracts, leases, or other transactions with any federal agency, the state, any agency of the state, or any other public body of the state.

(i) To develop transportation plans, and to coordinate its planning and programs with those of appropriate municipal, county, and state agencies and other political subdivisions of the state. All transportation plans are subject to review and approval by the Department of Transportation and by the regional planning agency, if any, for consistency with programs or planning for the area and region.

(j) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this part or any other law.

(k) To prescribe and promulgate necessary rules and regulations consistent with the provisions of this part and the requirements of chapter 120.

History.—s. 4, ch. 71-373; s. 1, ch. 73-278.

163.569 Exemption from regulation.—The public transportation systems and facilities operating in and under the authority of this part shall be exempt from any of the regulatory provisions of chapter 350.

History.—s. 5, ch. 71-373; s. 1, ch. 73-278; s. 20, ch. 85-80.

163.570 Special region taxation.—

(1) Any regional transportation authority created hereunder shall be deemed a special tax district and shall be authorized to levy an ad valorem tax based on full valuation of real property not to exceed 3 mills on the taxable real property in the areas affected by such authority, with the approval of the county commission or equivalent governing body of such area, at a rate sufficient to produce an amount that may be necessary for effectuating the purposes of this part, if such millage level is approved by a majority of the members of such authority and by referendum. Property taxes determined and levied under this section shall be certified by the authority to the appropriate auditor and extended, assessed, and collected in like manner as provided by general law for such political subdivisions. The proceeds under this section shall be remitted by the tax collector to the treasurer of the authority who shall credit them to the funds of the authority for use in effectuating the purposes of this part. At any time after

making a tax levy under this section and certifying the same to the corresponding governing body represented by the membership on the authority, the authority may issue tax anticipation notes of indebtedness in anticipation of the collection of such taxes.

(2) No tax authorized by this part shall be levied unless the same shall be approved by a majority of the electors of each county, municipality, or other political subdivision, voting in elections to be held within the geographical area of the special tax district. A tax shall be authorized only in such political subdivisions as are approved by electors from within the counties or municipalities or other political subdivisions who are members of the regional authority.

History.—s. 6, ch. 71-373; s. 1, ch. 73-278.

163.571 Issuance of bonds.—Any transportation authority created hereunder may issue bonds to carry out the authorized powers or purposes of this part. In the creation of bonded indebtedness the procedure therefor shall be in conformity with the constitution and laws of the state.

History.—s. 7, ch. 71-373; s. 1, ch. 73-278.

163.572 Expansion of area.—Upon a resolution adopted by the governing body of any adjoining county, municipality, or other political subdivision, the authority may, subject to the provisions of s. 163.567(1), by a majority vote of its membership, include such territory in its regional transportation area.

History.—s. 8, ch. 71-373; s. 1, ch. 73-278.

PART VI

COLLABORATIVE CLIENT INFORMATION SYSTEMS

163.61 “Agency” defined.

163.62 Collaborative client information system; establishment.

163.63 Steering committee; security policy information sharing agreements.

163.64 Sharing of client information.

163.65 Agencies receiving government funding encouraged to participate.

163.61 “Agency” defined.—For the purposes of ss. 163.61-163.65, the word “agency” has the meaning ascribed in s. 119.011.

History.—s. 43, ch. 97-286.

163.62 Collaborative client information system; establishment.—Notwithstanding any general or special law to the contrary, the agencies of one or more local governments may establish a collaborative client information system. State agencies and private agencies may participate in the collaborative information system. Data related to the following areas may be included in the collaborative information system, although the system is not limited to only these types of information: criminal justice, juvenile justice, education, employment training, health, and human services.

History.—s. 44, ch. 97-286.

163.63 Steering committee; security policy information sharing agreements.—

(1) The counties involved in the creation and administration of a collaborative client information system shall form a steering committee, consisting of representatives of all agencies and organizations participating in the system, to govern the organization and administration of the collaborative system. Each steering committee shall determine its procedures for governance of the organization, participation in the collaborative information system, and administration of the data in the system. Each steering committee also must develop a security policy to be followed by all agencies participating in the collaborative system to ensure the integrity of the data in the collaborative information system and to guarantee the privacy, to the extent possible, of all clients served by an agency that participates in the collaborative system.

(2) Before sharing confidential information with other members of the information collaborative, each member of the steering committee shall sign an agreement specifying, at a minimum, the following information:

- (a) What information each agency will share with the collaborative;
- (b) How the information will be shared;
- (c) How clients will be notified that an agency participates in the collaborative;
- (d) Who in each agency will have access to the information;

(e) The purposes to be served by sharing the information;

(f) Assurances from each agency that it will maintain the confidentiality of the information as required by law; and

(g) Other information decided upon by members of the information cooperative.

History.—s. 45, ch. 97-286.

163.64 Sharing of client information.—Notwithstanding any law to the contrary, an agency that participates in the creation or administration of a collaborative client information system may share client information, including confidential client information, with other members of the collaborative system as long as the restrictions governing the confidential information are observed by any other agency granted access to the confidential information. An agency that participates in a collaborative information system is not required to have a release signed by its affected clients before sharing confidential information with other members of the collaborative system.

History.—s. 46, ch. 97-286.

163.65 Agencies receiving government funding encouraged to participate.—An agency that receives moneys from a federal, state, or local agency is encouraged to participate in any collaborative client information system that is available within the service area of the agency.

History.—s. 47, ch. 97-286.